

**BOROUGH OF LILLY
COUNTY OF CAMBRIA
STATE OF PENNSYLVANIA**

ORDINANCE NO. 2007-1

**AN ORDINANCE REGULATING THE PAYMENT OF
FIRE INSURANCE PROCEEDS FOR STRUCTURES WITHIN THE
BOROUGH OF LILLY**

BE IT ENACTED AND ORDAINED THAT:

1. This Ordinance is intended to and shall comply with the Act of July 9, 1992, P.L. 678, No. 98, as amended, 40 P.S. § 638 *et seq.*
2. Designated Officer. The Secretary of the Borough of Lilly, hereinafter referred to as the Secretary, is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties of the Borough of Lilly, hereafter referred to as the Borough, as stated herein.
3. Duties of Insurance Companies, Associations and Exchanges. No insurance company, association or exchange (hereinafter referred to as the insurer) doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough where the amount recoverable for the fire loss to the structure under all policies exceeds seven thousand five hundred dollars (\$7,500) unless the insurer is furnished with a certificate pursuant to Section 4 of this Ordinance and unless there is compliance with the procedures set forth in Sections 5 and 6 of this Ordinance.
4. Certification. The Secretary shall, upon the written request of the named insured specifying the tax description of the property, name and address of the insurer and the date agreed upon by the insurer and the named insured as the date of the receipt of a loss report of the claim, furnish the insurer with either of the following within fourteen (14) working days of the request:
 - (A) a certificate or, at the discretion of the Borough, a verbal notification which shall be confirmed in writing by the insurer to the effect that, as of the date specified in the request, there are no delinquent taxes, municipal utilities, assessments, penalties or user charges against the property and that, as of the date of the Borough's certificate or verbal notification, no municipality has certified any amount as total costs incurred by the municipality for the removal, repair or securing of a building or other structure on the property; or

(B) a certificate and bill showing the amount of delinquent taxes, municipal utilities, assessments, penalties and user charges against the property as of the date specified in the request that have not been paid as of the date of the certificate and also showing, as of the date of the Borough's certificate, the amount of the total costs, if any, certified to the Borough that have been incurred by a municipality for the removal, repair or securing of a building or other structure on the property. For the purposes of this Ordinance, the municipality shall certify to the Secretary the total amount, if any, of such costs. A tax, municipal utility, assessment, penalty or user charge becomes delinquent at the time and on the date a lien could otherwise have been filed against the property by the municipality under applicable law.

5. Proceeds not to be Escrowed. (A) Upon the receipt of a certificate pursuant to Section 4(A) of this Ordinance, the insurer shall pay the claim of the named insured in accordance with the policy terms, unless the loss agreed to between the named insured and the insurer equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure. In the case of such a loss, the insurer, the insured property owner and the municipality shall follow the procedures set forth in Sections 6 and 7 of this Ordinance.

(B) Upon receipt of a certificate and bill pursuant to Sections (4)(B) of this Ordinance, the insurer shall return the bill to the Borough and transfer to the Borough an amount from the insurance proceeds necessary to pay the taxes, municipal utilities, assessments, penalties, charges and costs as shown on the bill. The municipality shall receive the amount and apply or credit it to payment of the items shown on the bill.

6. Proceeds to be Escrowed. When the loss agreed to between the named insured and the insurer equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure, the insurer shall transfer from the insurance proceeds to the Borough in the aggregate two thousand dollars (\$2,000) for each fifteen thousand dollars (\$15,000) and each fraction of that amount of a claim, or, if at the time of a loss report the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer from the insurance proceeds the amount specified in the estimate. The transfer of proceeds shall be on a pro rata basis by all insurers insuring the building or other structure. Policy proceeds remaining after the transfer to the municipality shall be disbursed in accordance with the policy terms. The named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the Secretary shall return the amount of the fund in excess of the

estimate to the named insured if the municipality has not commenced to remove, repair or secure the building or other structure.


7. Use of Escrow Proceeds. Upon receipt of proceeds by the municipality the Secretary shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the municipality. When transferring the funds as required in Section 6 of this Ordinance, an insurer shall provide the municipality with the name and address of the named insured, whereupon the municipality shall contact the named insured, certify that the proceeds have been received by the municipality and notify the named insured that the procedures under this section shall be followed. The fund shall be returned to the named insured when repairs, removal or securing of the building or other structure have been completed and the required proof received by the Secretary if the municipality has not incurred any costs for repairs, removal or securing. If the municipality has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the fund, and, if excess funds remain, the municipality shall transfer the remaining funds to the named insured. Nothing in this section shall be construed to limit the ability of a municipality to recover any deficiency. Further, nothing in this section shall be construed to prohibit the municipality and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.
8. Discharge of Insurer. Proof of payment by the insurer under a policy in accordance with Section 7 of this Ordinance is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the insurer.
9. Insurance Policy Controls. Nothing in this Ordinance shall be construed to make the insurer liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this Ordinance or to make a municipality or public official an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this Ordinance.
10. Subrogation and Assignment. The insurer making payments of policy proceeds under this Ordinance for delinquent taxes or structure removal liens or removal expenses incurred by a municipality shall have the full benefit of such payment, including all rights of subrogation and of assignment.
11. Liberal Construction. This Ordinance shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent blight and deterioration.

12. Fee and Further Procedures by Resolution. The Borough Council may, by resolution, adopt procedures and regulations to implement said Act 98 of 1992, as amended, and this Ordinance, and may, by resolution, fix reasonable fees, as costs, to be charged for the Borough activities or services provided pursuant to said Act 98 of 1992, as amended, and this Ordinance, including, but not limited to, the issuance of certificates and bills, performance of inspections and opening of separate fund accounts. Nothing herein shall prohibit or limit the Borough from recovering costs incurred, whether or not such costs have been fixed by resolution.
13. Penalties for Violation. Any owner of property, named insured, or insurance company, association or exchange, and any individual acting on behalf of any such owner, insured or insurer who violates this Ordinance shall, upon conviction, be guilty of a summary offense and shall pay all costs which should have been paid to the Borough pursuant to this Ordinance and said Act 98 of 1992, with interest, together with all costs of enforcement, including reasonable attorney's fees, and a fine of \$500.00.
14. Effective Date. This Ordinance shall become effective five (5) days after its enactment and ordination.

ENACTED AND ORDAINED THIS 4th day of September, 2007.

COUNCIL OF THE BOROUGH
OF LILLY

ATTEST:


Secretary (SEAL)

BY: 
President


Borough Solicitor

Gerald P. Neugebauer, Jr., Esquire
1224 W. Second Street
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