

Borough of Lilly

LILLY, PENNSYLVANIA

Ordinance No.: 2012-20

*An Ordinance of The Borough Of Lilly
Authorizing the Escrow of Fire Insurance
Proceeds from Fire Damaged Properties
as Security for the Costs of Removal,
Repair or Securing the Damaged Structure*

WHEREAS, the Pennsylvania General Assembly provided for the escrow of proceeds of fire insurance policies in order to secure the repair, removal and securing of property incurring a fire loss; and

WHEREAS, the General Assembly amended Section 508 of the Insurance Company Law of 1921 in 1994, such Section now being codified as 40 Pennsylvania Statutes Section 638 (the "Fire Escrow Law"); and

WHEREAS, it is the purpose of said legislation to deter the commission of arson and related crimes, to discourage the abandonment of property, and to prevent blight and deterioration; and

WHEREAS, the Borough of Lilly desires to adopt an Ordinance pursuant to the Fire Escrow Law to provide for the establishment of an escrow account or accounts to receive certain payments of proceeds from fire loss claims in the Borough.

NOW THEREFORE, the Borough of Lilly Council hereby **ORDAINS AND ENACTS** as follows:

Section 1. Certificate Required for Payment of Claims

No insurance company, association or exchange (hereinafter 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 of Lilly (hereinafter "Borough") where the amount recoverable for the fire loss to the structure under all policies exceeds seven thousand five hundred dollars (\$7,500.00) unless the Insurer is furnished by the Borough with a certificate pursuant to Section 2 hereof and unless there is compliance with the Fire Escrow Law and this Ordinance.

Section 2. Borough Certificates

The Borough Treasurer 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 to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the Treasurer's certificate no municipality has certified any amount as totals 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, 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 Treasurer's certificate, the amount of the total costs, if any, certified to the Treasurer that have been incurred by a municipality for the removal, repair or securing of a building or other structure on the property. A tax, 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.

Section 3. Payment from the Insurer

- (a) Upon the receipt of a certificate pursuant to Section 2(a) of this Ordinance, the Insurer shall pay the claim of the named insured in accordance with the policy terms, subject to Section 4 hereof.

- (b) Upon receipt of a certificate and bill pursuant to Section 2(b) of this Ordinance, the Insurer shall return the bill to the Treasurer and transfer to the Treasurer an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill, subject to Section 4 hereof.

Section 4. Escrow Fund

- (a) When the loss agreed to between the named insured and the Insurer equals or exceeds sixty percent (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 designated officer of the Borough in the aggregate two thousand dollars (\$2,000.00) for each fifteen thousand dollars (\$15,000.00) 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 Borough 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 designated officer shall return the amount of the fund in excess of the estimate to the named insured if the Borough has not commenced to remove, repair or secure the building or other structure.
- (b) Upon receipt of proceeds by the Borough as authorized by this section, the designated officer 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 Borough. When transferring the funds as required in Section 4(a) hereof, an Insurer shall provide the Borough with the name and address of the named insured, whereupon the Borough shall contact the named insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedures pursuant to this Ordinance 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 of completion has been received by the designated officer, if the Borough has not incurred any costs for repairs, removal or securing. If the Borough has incurred costs for repair, removal or securing of the building or other structure, the costs shall be paid from the fund and, if excess funds remain, the Borough 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 subsection shall be construed to prohibit the Borough 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.

Section 5. Borough Engineer Inspection

The Borough, at its option, may authorize the Borough engineer to inspect the property prior to the escrow funds being released to the named insured. If the removal, repair or securing of the fire-damaged property is not in conformance with any applicable Borough Ordinances; then and in that case, the Borough shall have the option of requiring the owner to complete the work recommended by the Borough engineer or to apply escrowed funds to have the work completed. If any funds remain, same shall be released to the named insured.

Section 6. Designation of Officer

The Borough Secretary/Treasurer is hereby appointed as the officer of the Borough authorized to carry out the duties of this Ordinance.

Section 7. All Remedies Reserved

Nothing in this Ordinance shall be construed to limit the remedies available to the Borough to recover any deficiency in the costs incurred by the Borough in the removal, repair or securing of the property.

Section 8. Adoption of Procedures, Regulations or Fees

The Borough may by Resolution adopt procedures and regulations to implement the Fire Escrow Law and this Ordinance and may by Resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to the Fire Escrow Law and this Ordinance.


Section 9. Penalties

Any person or Insurer who violates the provisions of this Ordinance or otherwise fails to comply with any of the requirements hereof shall be assessed a civil penalty in the maximum

amount of one thousand dollars (\$1,000.00) plus all court costs including reasonable attorney's fees. Each day in which on offense shall continue shall be deemed a separate offense.

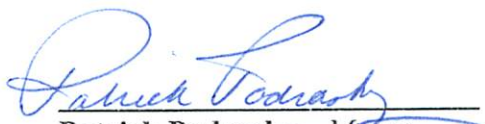
ORDAINED AND ENACTED this nineteenth day of December, 2012

BOROUGH OF LILLY

By: 
Richard R. Sweeney - President

Attest:  (Seal)
Claudine M. Falger - Secretary

APPROVED, this 19 day of December, 2012


Patrick Podrasky - Mayor