

CHAPTER 67

FIRE INSURANCE ORDINANCE

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HISTORY: Adopted by the Board of Supervisors of the Township of Paradise 3-18-2019 by Ordinance No. 258.

§ 67-1. Title.

This Chapter shall be known and cited as the "Paradise Township Fire Insurance Ordinance."

§ 67-2. Escrow procedures for payment of fire insurance proceeds.

A. Payment of claim procedure.

- (1) 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 Township of Paradise (hereinafter the "municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Township Treasurer or such official's designee with a municipal certificate pursuant to Section 508(b) of Act 98 of 1992, as amended (see 40 P.S. 638(b)) and unless there is compliance with Sections 508(c) and (d) of Act 98 of 1992 as amended (see 40 P.S. § 638(c)) and the provisions of this article.
- (2) After full compliance with the requirements of Section 508(b)(1)(i) of Act 98 of 1992 as amended (see 40 P.S. § 638(b)(1)), the insurer shall pay the claim of the named insured, provided however, that if the loss agreed upon by the named insured and the insurer equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building structure, the following procedures shall be followed:
 - (a) The insurer shall transfer from the insurance proceeds to the Township Treasurer

or such official's designee the aggregate of \$2,000 for each \$15,000 of a claim and for each fraction of that amount of a claim, provided that this section is to be applied such that if the claim is \$15,000 or less, the amount transferred to the municipality shall be \$2,000; and that, 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 to the municipality from the insurance proceeds the amount based upon the estimate.

- (b) The transfer of proceeds shall be on a prorated basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to the municipality shall be disbursed in accordance with the policy terms.
- (3) After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and the Township Treasurer or such official's designee shall return the amount of the funds transferred to the municipality 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.
- (4) Upon receipt of proceeds under this section, the municipality shall do the following:
- (a) The Township Treasurer or such official's designee shall place the proceeds in the separate fund to be used solely as security against the total costs of removing, repairing, or securing the building or structure which are incurred by the municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair or securing of the building or any proceedings related thereto.
 - (b) It is the obligation of the insurer when transferring the proceeds to provide the municipality with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the Township Treasurer or such official's designee 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 subsection shall be followed.
 - (c) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the municipality and the required proof of such completion received by the Township Treasurer or such official's designee, and if the municipality has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. 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.

- (d) To the extent that interest is earned on proceeds held by the municipality pursuant to this section, and retained by it, such interest shall belong to the municipality. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.
- (5) Nothing in this section shall be construed to limit the ability of the municipality to recover any deficiency. Furthermore, nothing in this article 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.

§ 67-3. Payment of delinquent taxes from fire insurance proceeds.

A. Payment of claims procedure.

- (1) 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 Township of Paradise where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer and the named insured comply with the provisions of Section 508(b) of Act 98 of 1992 as amended (see 40 P.S. § 638(b)) and the provisions of this article.

(2) Certificate.

- (a) The Township Treasurer or such official's designee 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 either of the following within 14 working days of the request:

[1] A certificate or, at the discretion of the municipality, 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, assessments, penalties or user charges against the property and that, as of the date of the Township Treasurer or such official's designee's certificate or verbal notification, the municipality has not 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

[2] 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 Township Treasurer or such official's designee's certificate, the amount of the total costs, if any, certified to the Township

Treasurer or such official's designee that have been incurred by the municipality for the removal, repair or securing of a building or other structure on the property. For the purposes of this clause, the municipality shall provide to the Township Treasurer or such official's designee the total amount, if any, of such costs, if available, or the amount of costs known to the municipality at the time of the Township Treasurer or such official's designee's certificate.

- (b) 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.
- (3) Upon the receipt of a certificate pursuant to §67-3.A(2)(a)[1] of this article, the insurer shall pay the claim of the named insured in accordance with the policy terms.
- (4) Upon the receipt of a certificate and bill pursuant to §67-3.A(2)(a)[2] of this article, the insurer shall return the bill to the Township Treasurer or such official's designee and transfer to the Township Treasurer or such official's designee an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill.
- (5) Nothing in this section shall be construed to limit the ability of the municipality to recover any deficiency.

§ 67-4. Transfer of proceeds.

The transfer of proceeds to the Township Treasurer or such official's designee shall be on a pro rata basis by all insurers with applicable policies of insurance providing protection for fire loss.

§ 67-5. Adoption of implementation procedures; fees.

The Paradise Township Board of Supervisors may by resolution adopt additional procedures and regulations to implement Section 508 (see 40 P.S. § 638) and this article and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Section 508 (see 40 P.S. § 638) and this article, including but not limited to issuance of certificates and bills.

§ 67-6. Statutory authority.

This Chapter and the objectives leading to its enactment are authorized by Sections 1506, 1517 and 1533 of the Pennsylvania Second Class Township Code and 40 P.S. § 638.

§ 67-7. Definitions.

Except as defined in this Code (see Chapter 1, General Provisions, Article II, Definitions), all words shall carry the customary meaning. For the purpose of this Chapter the following definition shall apply:

FIRE LOSS or CLAIM FOR FIRE DAMAGE - Any loss occurring after the effective date of this Chapter and covered under a policy of fire insurance, including any endorsements or riders to the policy.

§ 67-8. Application.

The provisions of this chapter shall supplement local laws, ordinances or regulations existing in the township or those of the Commonwealth of Pennsylvania. Where a provision of this chapter is found to be in conflict with any provision of a local law, ordinance, code or regulation or those of the Commonwealth of Pennsylvania, the provision which are more restrictive or which establish the higher standard shall prevail.

§ 67-9. Violations and penalties.

Any owner of property, any named insured or any insurer who violates this article shall be subject to a penalty of up to \$1,000 per violation.

2. If any section, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The Township reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

3. This ordinance shall become effective five (5) days after enactment.