

ORDINANCE NO. 522

BOROUGH OF PARKESBURG  
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF PARKESBURG, CHESTER COUNTY, PENNSYLVANIA OF 2017 AS AMENDED BY ACT 93 OF 1994 PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURER HAVING A POLICY WITH RESPECT TO SUCH LOSS SHALL TRANSFER INSURANCE PROCEEDS TO THE TREASURER OR OTHER PERSON SO DESIGNATED BY THE BOROUGH MANAGER OF THE BOROUGH TO BE USED TO PAY DELINQUENT TAXES AND OTHER MUNICIPAL CLAIMS OR HELD AS SECURITY AND USED TO PAY THE TOTAL COST OF REMOVING, REPAIRING OR SECURING THE DAMAGED BUILDING AND PROVIDING FOR FEES; SETTING FORTH RELATED PROCEDURES TO IMPLEMENT SAID ACT INCLUDING AN APPEAL BOARD WITH RIGHTS OF APPEAL; AND PROVIDING FOR PENALTIES FOR VIOLATION

BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Parkesburg, Chester County, Pennsylvania, pursuant to powers permitted by the Borough Code and Act 93 of 1994 (40 P.S. §638 et seq.) as follows:

**SECTION 1:            USE OF FIRE INSURANCE PROCEEDS**

1. No insurance company, association of exchange (hereinafter "insurer") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located with the Borough of Parkesburg, Pennsylvania where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500.00, unless the insurer is furnished by the Treasurer or other person so designated by the Borough Manager of the Borough of Parkesburg with a Certificate pursuant to Section 508(b) of the Insurance Company Law of 1921 as amended by Act 98 of 1992 and Act 92 of 1994 (collectively the "Act") and unless there is compliance with the procedures set forth in Section 508(c) and 508(d) of the Act.

2. Where there are delinquent taxes, assessments, penalties or user charges against the property ("municipal claims"), or there are expenses which the Borough has incurred as costs for removal, repair or securing of a building or other structure on the property (collectively "municipal expenses"), the Treasurer or other person so designated by the Borough Manager of the Borough of Parkesburg shall immediately render a bill for such work, if not already done. Upon written request of the named insured specifying the description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Treasurer or the other person so designated by the Borough Manager of the Borough of Parkesburg shall furnish a Certificate within fourteen (14) days after the request to the insurer either:

- A. Stating that there are no unpaid municipal claims or municipal expenses against the property; or
- B. Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed for such claims under applicable law. Upon receipt of a Certificate and bill pursuant to subsection A of this section, the insurer shall transfer to the Treasurer or other person so designated by the Borough Manager of the Borough of Parkesburg an amount from the insurance proceeds sufficient to pay said sums prior to making payment to the named insured, subject to the provisions of subsection 3 hereto.

3. When all municipal claims and municipal expenses have been paid pursuant to subsection 2 of this section or when the Treasurer or other person so designated by the Borough Manager of the Borough of Parkesburg has issued a Certificate described in subsection 2A. indicating that there are no municipal claims or municipal expenses against the property, 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 or structure, the following procedures must be followed:

- A. The insurer shall transfer from the insurance proceeds to the Treasurer or other person so designated by the Borough Manager of the Borough of Parkesburg in the aggregate, \$2,000.00 for each \$15,000.00 of such claim or fraction thereof;
- B. If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Borough, a contractor's signed estimate of the cost 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 Treasurer or other person so designated by the Borough Manager of the Borough of Parkesburg from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro-rata basis by all insurers insuring the building or other structure.
- C. Upon receipt of the above described portion of the insurance proceeds, the Treasurer or other person so designated by the Borough Manager of the Borough of Parkesburg Chester County, Pennsylvania shall do the following:

- i) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Borough to be required in removing, repairing or securing the building or structure as required by this Ordinance. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair or securing or any proceedings related thereto;
- ii) Mail to the named insured at the address received from the insurer a notice that the proceeds have been received by the Borough and that the procedures under this subsection shall be followed;
- iii) After the transfer, the named insured may submit to the Borough of Parkesburg a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Treasurer or other person so designated by the Borough Manager of the Borough of Parkesburg to be reasonable return to the insured the amount of the funds transferred to the Borough of Parkesburg in excess of that amount required to pay the municipal expenses; provided, however, that the Borough has not commenced to remove, repair or secure the building or other structure in which case the Borough will complete the work;
- iv) Pay to the Treasurer or other person so designated by the Borough Manager of the Borough of Parkesburg for reimbursement to the Borough General Fund, the amount of the municipal expenses paid by the Borough.
- v) Pay the remaining balance in the fund without interest to the named insured upon receipt of a Certificate issued by the Treasurer or person so designated by the Borough Manager of the Borough of Parkesburg that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable Codes and Regulations of the Borough.
- vi) Nothing in this section shall be construed to limit the ability of the Borough to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this Ordinance, or to insurance proceeds, by an action at law or in equity to enforce the Borough Codes or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Borough may deem responsible.

**SECTION 2:            LIMITS OF LIABILITY**

Nothing in this Ordinance shall be construed to make an insurance company, association or exchange 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 the Borough or any public official of the Borough 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.

**SECTION 3:            INSURANCE COMPANY RIGHTS RESERVED**

An insurance company, association or exchange making payment of policy proceeds under this Ordinance for delinquent taxes or structural removal liens or removal expenses incurred by the Borough of Parkesburg shall have full benefit of such payment including all rights of subrogation and of assignment.

**SECTION 4:            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 urban blight and deterioration.

**SECTION 5:            NOTIFICATION OF PENNSYLVANIA DEPARTMENT OF  
COMMUNITY AND ECONOMIC DEVELOPMENT**

The Secretary of the Borough of Parkesburg shall transmit a certified copy of this Ordinance promptly to the Pennsylvania Department of Community and Economic Development.

**SECTION 6:            PENALTY**

Any owner of property, any named insured or insurer who violates the provisions of this Ordinance or who shall fail to comply with any of the requirements hereof shall be sentenced upon conviction thereof to pay a fine not greater than \$1,000.00 plus costs and in default of payment of said fine and costs to a term or imprisonment not to exceed thirty (30) days. Each day in which an offense shall continue shall be deemed a separate offense.

**SECTION 7:            REVIEW BOARD AND RIGHTS OF APPEAL**

If the owner of property has an objection to the Borough's administration of this Ordinance, the property owner shall have the right to file a written objection with the Borough which will be reviewed by the Fire Escrow Board of Appeals. Any objection shall be limited to a challenge to the administration of the Ordinance and shall not be used for purposes of asserting any defense to claims of non-compliance by the Borough. The Borough shall - within twenty (20) business days of receipt of a written and proper objection by the

property owner - schedule and conduct a hearing by the Fire Escrow Board of Appeals. The objection must be in writing and must specify the objection to the administration of the Ordinance and the proposed corrective action thereto and must be accompanied by a check made payable to the Borough in an amount determined by Resolution of Borough Council to be sufficient to cover the costs of a hearing. The Fire Escrow Board of Appeals shall consist of three adult resident citizens of the Borough chosen by Council for staggered three (3) year terms. The Fire Escrow Board of Appeals shall create a record of its proceedings at which both a representative of the Borough and the property owner shall be present. Thereafter, the Fire Escrow Board of Appeals shall render a written "adjudication" in accordance with the Local Agency Law and subject to rights of appeal to the Court of Common Pleas of Chester County pursuant to the authority for same as set forth therein.

**SECTION 8:           SEVERABILITY**

The provisions of this Ordinance are severable. If any sentence, clause or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision been included herein.

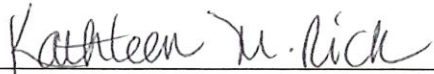
**SECTION 9:           EFFECTIVE DATE**

This Ordinance shall be effective upon passage in accordance with the requirements of the Borough Code.

**SECTION 10:         REPEALER**

Any Ordinances, or parts of Ordinances in conflict herewith be and the same are hereby repealed.


ENACTED AND ORDAINED this 16<sup>th</sup> day of January, 2017.

  
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KATHLEEN M. RICK, President

ATTEST:

  
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WENDY A. KEEGAN, Secretary

Approved this 16<sup>th</sup> day of January, 2017

  
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JOHN P. HAGAN, II, Mayor