

ORDINANCE NO. 1 OF 2018
"FIRE INSURANCE ESCROW ORDINANCE"

AN ORDINANCE OF THE BOROUGH OF NEW FLORENCE, COUNTY OF WESTMORELAND AND COMMONWEALTH OF PENNSYLVANIA, REQUIRING FIRE INSURERS TO ESCROW INSURANCE PROCEEDS WITH THE BOROUGH AS SECURITY AGAINST THE COST OF REMEDIATING THE INSURED PREMISES AND PROVIDING FOR PROCEDURES AND FEES AND FURTHER PROVIDING FOR PENALTIES IN VIOLATION THEREOF.

WHEREAS, the Borough of New Florence has determined that it desires to discourage arson and abandonment of property and to prevent blight and deterioration within the Borough; and

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992 and Act 93 of 1994, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims and has enacted amendments thereto; and

WHEREAS, The Borough of New Florence is authorized to adopt this Ordinance and regulate these issues pursuant to the Insurance Company Act of 1921, as amended, (40 P.S. 638);

NOW THEREFORE, the following is ORDAINED and ENACTED;

SECTION 1:

The Borough Treasurer (hereinafter "Treasurer"), or such official's designee is hereby appointed as the designated officer, authorized to carry out all responsibilities and duties stated herein.

SECTION 2:

No insurance company, association or exchange (hereinafter the "Insuring Agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured, to the named insured, for fire damage to a structure located within New

Florence Borough (hereinafter "Borough") where the amount recoverable for the fire loss to the structure, under all policies exceeds Seven Thousand Five Hundred (\$7,500.00) Dollars, unless the Insuring Agent is furnished by the Treasurer with a municipal certificate.

SECTION 3:

A. Where the Treasurer issues a certificate and bill for the delinquent taxes, assessments, penalties, user charges against the property and the amount of total costs incurred by the Borough for removal, repair or securing of a building or other structure on the property, the Insuring Agent shall return the bill with payment of such bill from the insurance proceeds.

B. Where the Treasurer issues a certificate indicating that there are not delinquent taxes, assessments, penalties, or user charges against real property and the Borough has incurred no costs or expenses for the removal, repair or securing of the property, the Insuring Agent shall pay the claim of the named insured, provided however, that if the loss agreed upon by the named insured and the Insuring Agent equals or exceeds sixty (60%) percent of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:

1. The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the Borough in the aggregate of \$2,000.00 for each \$15,000.00 of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim is \$15,000.00 or less, the amount transferred to the Borough shall be \$2,000.00; or
2. If at the time of a proof of loss agreed to between the named insured and the Insuring Agent the named insured has submitted a contractor's

signed estimate of the costs of removing, repairing or securing the building or other structure, the Insuring Agent shall transfer to the Borough, from the insurance proceeds, the amount specified in the estimate.

3. The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure.
4. After the transfer, the named insured shall submit a contractor's signed estimate within sixty (60) days, of the costs of removing, repairing or securing the building or other structure, and designated officer shall return the amount of the funds transferred to the Borough 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.
5. Upon receipt of proceeds under this section, the Borough shall do the following:
 - a. The designated officer shall place the proceeds in a 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 Borough. Such costs shall include, all reasonable and customary engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair, or securing of the building or any proceedings related thereto; and
 - b. It is the obligation of the Insuring Agent, when transferring the proceeds to provide the Borough with the name and address of the named insured, certify that he proceeds have been received by

the Borough and notify the named insured that the procedures under this subsection shall be followed; and

- 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 Borough and the required proof of such completion received by the designated officer and if the Borough has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Borough 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 Borough shall transfer the remaining funds to the named insured; and
 - d. To the extent that interest is earned on proceeds held by the Borough pursuant to this Section, and not returned to the named insured, such interest shall belong to the Borough. 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.
6. Nothing in this Section shall be construed to limit the ability of the Borough to recover any deficiency. Furthermore, 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 4:

The Council of the Borough may, by resolution, adopt procedures and regulations to implement Act 98 of 1992 as amended and this Ordinance may, by resolution, fix reasonable fees to be charged for municipal activities and services provided pursuant to Act 98 of 1992 as amended and this Ordinance, including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

SECTION 5:

Any owner of property, any named insured or any Insuring Agent who violates this Ordinance shall be subject to a penalty of up to \$1,000.00 per violation. The Borough shall retain all causes of action available at law or in equity to enforce the enforce compliance with this Ordinance.

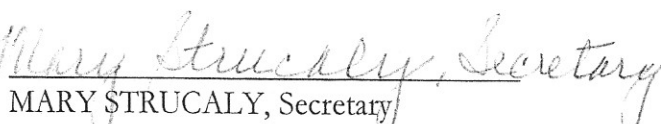
SECTION 6:

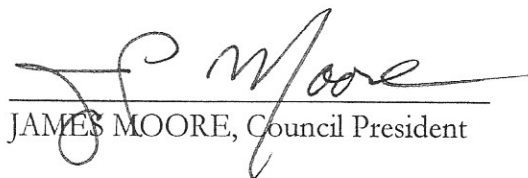
The provisions of this Ordinance are severable and if any provision should be declared invalid or unenforceable for any reason, the remaining provisions shall continue in full force and effect.

SECTION 7:

All Ordinances or parts thereof, conflicting with any provisions of this Ordinance are hereby repealed insofar as to those conflicting provisions.

ATTEST:

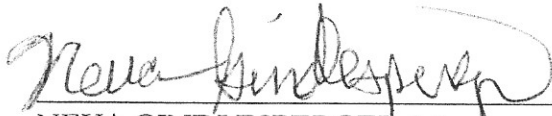

MARY STRUCALY, Secretary


JAMES MOORE, Council President

Dated: 1/16/18

MAYOR

I APPROVE THIS ORDINANCE THIS 16th DAY OF
January, 2018.


NEVA GINDLESPERGER, Mayor