

ORDINANCE NO. 592

**BOROUGH OF BENTLEYVILLE
WASHINGTON COUNTY, PENNSYLVANIA**

AN ORDINANCE OF THE BOROUGH OF BENTLEYVILLE, PURSUANT TO ACT 98 OF 1992 PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO THE SECRETARY OF THE BOROUGH OF BENTLEYVILLE AS A PORTION OF THE INSURANCE PROCEEDS TO BE HELD AS SECURITY AGAINST THE TOTAL COST OF REMOVING, REPAIRING OR SECURING THE DAMAGED BUILDING, PROVIDING FOR FEES, PROVIDING FOR PENALTIES FOR VIOLATION AND SETTING FORTH PROCEDURES AND REQUIREMENTS PERTAINING TO SUCH INSURANCE PROCEEDS AND TO THE IMPLEMENTATION OF ACT 98 OF 1992 IN THE BOROUGH OF BENTLEYVILLE.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992 effective on September 7, 1992, amending the Insurance Company Law of 1921 to provide procedures for payment of certain fire loss claims; 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 urban blight and deterioration; and

WHEREAS, the Borough of Bentleyville desires to adopt an ordinance pursuant to Section 508 of the Insurance Company Law of 1921 to provide for the payment of proceeds from certain fire loss claims to the Borough of Bentleyville.

NOW THEREFORE, pursuant to the authority conferred upon it by the Borough Code as amended, the Borough Council of the Borough of Bentleyville, Washington County, Pennsylvania, does hereby ENACT AND ORDAIN the following:

SECTION 1: TITLE This Ordinance shall be known as the "Act 98 of 1992 Ordinance".

SECTION 2: PURPOSE The subject matter of this Ordinance is establishment of regulations relating to Act 98 of 1992 and providing for the payment of proceeds from certain fire loss claims to the Borough of Bentleyville (hereafter the "Borough").

SECTION 3: SECRETARY/DESIGNEE The Secretary or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties started herein.

SECTION 4: FIRE DAMAGE/INSURANCE CLAIMS 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 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 Five Thousand (\$5,000.00) Dollars, unless the Insuring Agent is furnished by the Secretary with a municipal certificate pursuant to Section 508 (B) of Act 98 of 1992 (and unless there is compliance with Section 508 (C) and (D) of Act 98 of 1992 and the provisions of this Ordinance.

SECTION 5: PROOF OF LOSS Where pursuant to Section 508 (B) (1) of Act 98 of 1992 the Secretary issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the Insuring Agent shall pay the claim of the named insured, providing however, that if the loss agreed upon by the named insured and the Insuring Agent equals or exceeds Eighty (80%) Percent of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

- (A) The Insuring Agent shall transfer from the insurance proceeds to the Secretary of the Borough in the aggregate of One Thousand (\$1,000) Dollars for each Twenty Thousand (\$20,000) Dollars of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim is Twenty Thousand (\$20,000) Dollars or less, the amount transferred to the Borough shall be One Thousand (\$1,000) Dollars; or
- (B) If at the time of proof of loss agreed to between the name 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.
- (C) The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.
- (D) 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 Secretary 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.
- (E) Upon receipt of proceeds under this section, the Borough shall do the following:

- (1) The Secretary 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, without limitation, any engineering, legal or administrative costs of incurred by the Borough in connection with such removal, repair or securing of the building or proceedings related hereto; and
- (2) 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. Upon receipt of the transferred funds and the name and address of the named insured, the Secretary shall contact the names insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedures under this subsection shall be followed; and
- (3) 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 Secretary, and if the Borough has not incurred any costs for the 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
- (4) 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.
- (5) 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 of some other reasonable disposition of the damaged property has been negotiated.

SECTION 6: REGULATIONS The Borough of Bentleyville may by resolution adopt procedures and regulations to implement Act 98 of 1992 and this Ordinance and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 and this Ordinance; including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

SECTION 7: VIOLATIONS Any owner of property, any named insured or any Insuring Agent who violates this Ordinance shall be subject to a penalty of up to Six Hundred (\$600) Dollars per violation.

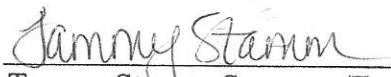
SECTION 8: SEVERABILITY The provisions of this Ordinance are hereby declared servable, and if any of its provisions shall be held to be invalid or unconstitutional, or otherwise void for any reason, such decision shall not affect or impair any of the remaining provisions hereof; it is hereby declared to be the intent of the Borough that this Ordinance would have been adopted if such invalid, unconstitutional, or otherwise void provision had not been included herein.

SECTION 9: REPEALER Any Ordinance containing any provision inconsistent herewith to the extent that such provisions are inconsistent, those provisions are also hereby repealed.

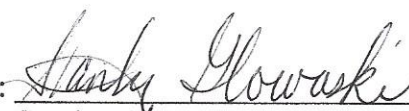
SECTION 10: EFFECTIVE DATE This Ordinance shall become effective immediately.

ORDAINED AND ENACTED into law by the Council of Bentleyville Borough in lawful session assembled this 5th day of February, 2019.

ATTEST:

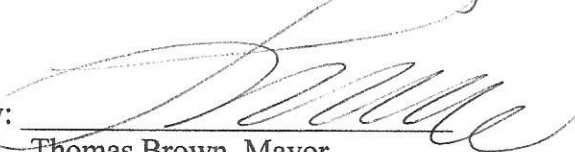


Tammy Stamm, Secretary/Treasurer

By: 

Stanley Glowaski, President

EXAMINED AND APPROVED by me this 5th day of February, 2019.

By: 

Thomas Brown, Mayor