

**BOROUGH OF ST. CLAIR  
SCHUYLKILL COUNTY, PENNSYLVANIA**

ORDINANCE NO. 416

**AN ORDINANCE OF THE BOROUGH OF ST. CLAIR,  
SCHUYLKILL COUNTY, PENNSYLVANIA, TO  
ESTABLISH A FIRE INSURANCE ESCROW FOR  
REMOVAL, REPAIR OR SECURING OF DAMAGED  
BUILDINGS AND PAYMENT OF DELINQUENT TAXES  
AND OTHER MUNICIPAL CLAIMS**

The Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania (the "Borough"), hereby enacts and ordains as follows:

WHEREAS, Section 1201 of the Borough Code, 53 P.S. §46201, entitled "General Powers", authorizes the Borough to make and adopt ordinances necessary for the proper management, care and control of the Borough, and the maintenance of the health and welfare of the Borough and its citizens; and

WHEREAS, Section 1202 of the Borough Code, found at 53 P.S. §46202, entitled "Specific Powers", authorizes the Borough to adopt ordinances to secure the safety of persons or property within the Borough; and

WHEREAS, the St. Clair Borough Council finds it necessary to establish a Fire Insurance Escrow for the removal, repair or securing of buildings within the Borough of St. Clair damaged by fire, and the payment of delinquent taxes and other municipal claims, which is authorized by the Commonwealth of Pennsylvania Fire Insurance Escrow Act, Act 93 of 1994, P.L. 682, No. 284 section 508, found at 40 P.S. 638, entitled "Municipal certificate required prior to payment of fire loss claims"; and

WHEREAS, the St. Clair Borough Council wishes to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration; and

WHEREAS, in order to promote the preservation of peace and good order and to protect the public health, safety, welfare and property of all persons, the Borough of St. Clair hereby adopts this Ordinance.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, in accordance with the general powers permitted by the Borough Code (53 P.S. §46201, et seq.) and the statutes noted above, as follows:

**Section 101. Title**

This ordinance shall be known as the “St. Clair Borough Fire Insurance Escrow Ordinance”.

**Section 102. Citation**

This ordinance may be cited as the “St. Clair Borough Fire Insurance Escrow Ordinance”.

**Section 103. Scope**

The provisions of this Ordinance shall apply to all buildings located within the Borough of St. Clair.

**Section 104. Intent**

The St. Clair Borough Council finds it necessary to establish a Fire Insurance Escrow for the removal, repair or securing of buildings within the Borough of St. Clair damaged by fire, and the payment of delinquent taxes and other municipal claims, which is authorized by the Commonwealth of Pennsylvania Fire Insurance Escrow Act, Act 93 of 1994, P.L. 682, No. 284

Section 508, found at 40 P.S. 638, entitled "Municipal certificate required prior to payment of fire loss claims". The St. Clair Borough Council wishes to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration. In order to promote the preservation of peace and good order and to protect the public health, safety, welfare and property of all persons, the Borough of St. Clair intends to adopt this Ordinance.

**Section 105. Definitions**

The following words, terms and phrases when used in this Ordinance shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

BOROUGH – The Borough of St. Clair, Schuylkill County, Pennsylvania.

INSURER – Any insurance company, association or exchange doing business in the Commonwealth of Pennsylvania.

MUNICIPAL CLAIMS – Any delinquent taxes, assessments, penalties or user charges against a property.

MUNICIPAL EXPENSES – Any expenses which the Borough has incurred as costs for removal, repair or securing of a building or other structure on the property.

TREASURER – The Treasurer of the Borough of St. Clair, Schuylkill County, Pennsylvania.

**Section 106. Use of Fire Insurance Proceeds**

No insurer 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 \$7,500.00, unless the insurer is furnished by the Treasurer with a Certificate

pursuant to Section 508(b) of the Insurance Company Law of 1921, as amended by Act 98 of 1992 and Act 93 of 1994 (collectively the "Act") and Section 4(A) of this Ordinance, and unless there is compliance with the procedures set forth in Section 508(c) and 508(d) of the Act and Sections 107, 108 and 109 of this Ordinance.

**Section 107. Tax Delinquencies and Expenses**

Where there are municipal claims or municipal expenses against the property, the Treasurer of the Borough shall immediately render a bill for such claims and expenses, if not done so already. 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.

**Section 108. Issuance of Certificate**

**Section 108.1.** Upon written request by 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 of the Borough shall furnish the insurer with a Certificate within fourteen (14) days after the request of the insured either:

**Section 108.1.1.** Stating that there are no unpaid municipal claims or municipal expenses against the property; or

**Section 108.1.2.** Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

**Section 109. Payment of Claim and Escrow Account**

**Section 109.1.** When all municipal claims and municipal expenses have been paid pursuant to Sections 106, 107 and 108 of this Ordinance, and the insurer has received a Certificate stating such from the Treasurer pursuant to Section 108.1 of this Ordinance, 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:

**Section 109.1.1.** The insurer shall transfer from the insurance proceeds to the Treasurer, in the aggregate, \$2,000.00 for each \$15,000.00 of such claim or fraction thereof.

**Section 109.1.2.** If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, a contractor's signed estimate of the cost of removing, repairing or securing a building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer to the Treasurer 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.

**Section 109.1.3.** Upon receipt of the above described portion of the insurance proceeds, the Treasurer shall do the following:

**Section 109.1.3.1.** 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.

**Section 109.1.3.2.** 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 section have been followed.

**Section 109.1.3.3.** After the transfer, the named insured may submit to the Borough a contractor's signed estimate of the cost of removing, repairing or securing a building or other structure, in which event the Treasurer shall, if such estimate is deemed by the Treasurer to be reasonable, return to the insured the amount of the funds transferred to the Borough 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.

**Section 109.1.3.4.** Pay to the Treasurer for reimbursement to the Borough's General Fund, the amount of municipal expenses paid by the Borough.

**Section 109.1.3.5.** Pay the remaining balance in the fund without interest to the named insured upon receipt of a Certificate by the Treasurer that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable Codes, Regulations and Ordinances of the Borough.

**Section 109.1.3.6.** 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 Ordinances, 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 110. Proof of Payment**

Proof of payment by the insurer of proceeds under a policy in accordance with Section 109 of this Ordinance is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the insurer with Section 109 of this Ordinance.

**Section 111. Limits of Liability**

Nothing in this Ordinance shall be construed to make an insurer 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 112. Insurance Company Rights Reserved**

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

**Section 113. 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 114. Notification of Pennsylvania Department of Community and Economic Development**

The Borough Secretary shall transmit a certified copy of this Ordinance promptly to the Pennsylvania Department of Community and Economic Development together with the name, position and phone number of the Borough official responsible for compliance with this Ordinance.

**Section 115. Penalties**

Any person or entity, who shall violate any provision of this Ordinance, shall be, upon conviction thereof, sentenced to pay a fine of not more than One Thousand Dollars (\$1,000.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. In addition to any penalty imposed in accordance with this Ordinance, the property owner shall be required to correct the violation(s) of any and all applicable rules and regulations of the Borough, which are discovered at the premises.

**Section 116. Repeal of Ordinances**

Any ordinance, parts of ordinances, resolution or parts of resolutions conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance's provisions.

**Section 117. Savings Clause**

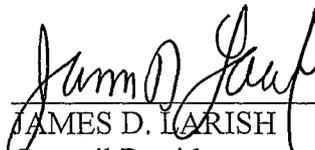
The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, paragraph, section or subsection is declared void or inoperable for any reason by any Court, it shall not affect any other part or portion other than the part or portion declared void or inoperable.

**Section 118. Effective Date**

This Ordinance shall become effective five (5) days after the adoption hereof.

DULY ENACTED AND ORDAINED by Borough Council of the Borough of St. Clair,  
Schuylkill County, Pennsylvania, this 2<sup>nd</sup> day of December, 2014, in  
lawful session duly assembled.

ST. CLAIR BOROUGH

  
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JAMES D. LARISH  
Council President

ATTEST:

  
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ROLAND PRICE, JR.  
Borough Secretary

Approved by me this 2<sup>nd</sup> day of December, 2014.

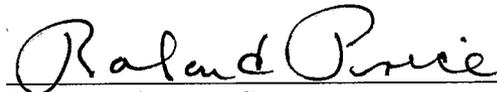
  
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RICHARD E. TOMKO  
Mayor

**IN RE: AN ORDINANCE OF THE BOROUGH OF ST. CLAIR, SCHUYLKILL COUNTY, PENNSYLVANIA, TO ESTABLISH A FIRE INSURANCE ESCROW FOR REMOVAL, REPAIR OR SECURING OF DAMAGED BUILDINGS AND PAYMENT OF DELINQUENT TAXES AND OTHER MUNICIPAL CLAIMS**

**CERTIFICATION**

I hereby certify that the within Ordinance is a true and correct copy of an Ordinance enacted by Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, on the 2nd day of December, 2014.

SEAL



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Roland Price, Jr., Secretary  
St. Clair Borough Hall  
16 South Third Street  
St. Clair, PA 17970  
Telephone No. (570) 429-0640