

DARBY BOROUGH
DELAWARE COUNTY, PENNSYLVANIA

ORDINANCE NO. 760

AN ORDINANCE OF THE BOROUGH OF DARBY RECOGNIZING THE AUTHORITY OF DARBY FIRE COMPANY NO. 1 AND DARBY FIRE COMPANY NO. 2 TO RECOVER REASONABLE COSTS FOR FIREFIGHTING MATERIALS, EQUIPMENT AND HAZARDOUS ABATEMENT MATERIALS INVOLVING ANY AND ALL HAZARDOUS ABATEMENT MATERIAL INCIDENTS, ENVIRONMENTAL INCIDENTS, OR SAFETY AND RESCUE INCIDENTS, FIREFIGHTING INCIDENTS AND VEHICULAR ACCIDENTS FROM INSURANCE COMPANIES INVOLVED.

WHEREAS, Darby Borough Ordinance No. 676 recognizes and designates Darby Fire Company No. 1 and Darby Fire Company No. 2 as the officially recognized fire companies of the Borough of Darby (collectively referred to as "Darby Fire Companies"); and

WHEREAS, the Darby Fire Companies respond to hazardous material incidents; and

WHEREAS, said responses, on occasion, involve the use of hazardous materials abatement equipment, as well as hazardous materials abatement materials; and

WHEREAS, the Darby Fire Companies respond to other safety and rescue incidents, including but not limited to, firefighting and vehicular accidents; and

WHEREAS, it is the intention of the Borough Council to recognize the authority of the Darby Fire Companies to seek collection and reimbursement for reasonable costs of responding to such incidents from insurance companies; and

WHEREAS, the Borough Council finds that individual property owners may maintain insurance coverage within their own casualty insurance policies, homeowner's policies and/or other applicable policies that would provide reimbursement to the Darby Fire Companies for firefighting and other services rendered to the individual property owners and businesses in response to emergency service requests.

NOW, THEREFORE, the Borough of Darby Council ORDAINS as follows:

SECTION 1: This Ordinance shall be known as the "Darby Borough Fire Company Recovery Ordinance"

SECTION 2: All "Whereas" clauses set forth above are hereby incorporated herein as though the same were more fully set forth at length.

SECTION 3: The Darby Fire Companies are authorized and directed by and through their officers and authorized representatives, to ascertain what insurance coverage may be applicable and available under any given circumstance, and to take all necessary and affirmative steps to apply for and receive reimbursement from any insurance carrier where a property owner, or business owner is or may be insured to reimburse the Darby Fire Companies for any costs and/or expenses incurred for services, supplies and/or equipment used for or provided to the property owner or business owner by the Darby Fire Companies.

SECTION 4: The Borough of Darby further authorizes the Darby Fire Companies to recover reasonable costs of firefighting for the firefighting materials and equipment and hazardous abatement materials involved in any and all hazardous abatement material incidents as are recoverable under the Hazardous Material Emergency Planning and Response Act.

SECTION 5: However, and notwithstanding anything herein to the contrary, under no circumstances shall any property owner receive a bill from the Darby Fire Companies for fire protection or other services provided by the Darby Fire Companies except in cases of false alarms and/or fires which are intentionally set by the property owner.

SECTION 6: This Ordinance shall be liberally construed to accomplish its purposes to compensate and/or reimburse the Darby Fire Companies from insurance proceeds or costs and/or expenses incurred while providing services pursuant to their duties for the Darby Fire Companies.

SECTION 7: This Ordinance shall take effect immediately.

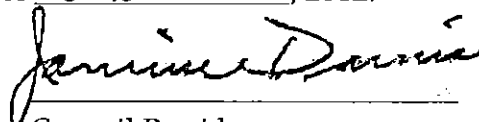
SECTION 8: Collection of Costs and Fees. The costs and fees as outlined in this Ordinance shall be recovered directly by the Darby Fire Companies by direct billing of the Darby Fire Companies by an attorney, collection service or agency contracted by the Darby Fire Companies. In addition to the costs and fees as outlined in this Ordinance, the Darby Fire Companies or any attorney or collection service or agency contracted by the Darby Fire Companies shall be authorized to collect any reasonable interest and administration fees for collecting the costs and fees.

SECTION 9: Enforcement. In the event any insurance carrier or person fails to pay any bill or invoice within 30 days of the mailing or delivery of such notice of charges, the Darby Fire Companies or any attorney or agency contracted by the Darby Fire Companies who mailed or delivered the bill or invoice may enforce the provisions of this Ordinance by filing a civil action at law in a court of competent jurisdiction for the collection of any amounts due to the Darby Fire Companies together with statutory interest, court costs, collection fees and reasonable attorney fees. The remedies provided herein shall be in addition to any other relief, remedies or penalties that may be appropriate or provided by law.

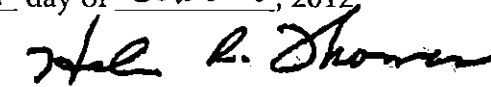
SECTION 10: Severability. If any section, paragraph, clause or provision of this Ordinance shall be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or in part as it was the intent of Board of Supervisors to adopt said Ordinance even is said provision was not included.

SECTION 11: Repealer. All other Ordinances or parts thereof which are contradictory with the provisions hereof, are repealed to the extent of such inconsistencies.


PASSED by the Borough of Darby Council this 17th of October, 2012.


Council President


APPROVED by the Borough of Darby Mayor, this 17th day of October, 2012.


Mayor

ENACTED this 17th day of October, 2012.


Secretary

I HEREBY CERTIFY that the foregoing Ordinance was advertised in the Delaware County Times on October 4, 2012, a newspaper of general circulation in Darby Borough, and was passed at a duly authorized meeting of the Borough of Darby Council held on October 17, 2012, approved by the Mayor and enacted as set forth above.


Secretary