

ORDINANCE NO. 2004-01

PERRY TOWNSHIP

AN ORDINANCE OF THE TOWNSHIP OF PERRY, FAYETTE COUNTY, PENNSYLVANIA, PURSUANT TO ACT 98 OF 1992 AND ACT 93 OF 1994, AS AMENDED, PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF THE MUNICIPALITY TO BE HELD AS SECURITY AGAINST THE MUNICIPALITY'S 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 AND ACT 93 OF 1994 IN THE TOWNSHIP OF PERRY.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992, effective September 7, 1992, and Act 93 of 1994, effective on January 12, 1995, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims; and

WHEREAS, it is the purpose of this 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 Township of Perry, Fayette County, Pennsylvania, 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 Township of Perry;

IT IS THEREFORE ORDAINED AND ENACTED, by the Board of Supervisors of the Township of Perry as follows:

SECTION 1: The township secretary or such other person, firm or corporation hereafter authorized by the Supervisors of the Township of Perry, is hereby appointed as the designated officer who is 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 for fire damage to a structure located within the Township of Perry (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500.00, unless the named insured or Insurance Agent is furnished by the municipal treasurer with a municipal certificate pursuant to Section 508(B) of Act 98 of 1992, as amended by Act 93 of 1994 and unless there is compliance with Section 508(C) and (D) of Act 98 of 1992, as amended by Act 93 of 1994 and the provisions of this Ordinance.

SECTION 3: Where pursuant to Section 508(B)(1)(I) of Act 98 of 1992, as amended by Act 93 of 1994, the municipal treasurer or tax collector issues a certificate or verbal notification 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, provided however,

that if the loss as agreed upon by the named insured and the Insuring Agent equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building or other structures, the following procedures must be followed:

(1) The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the Municipality 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 Municipality shall be \$2,000.00; or

(2) If at the time of a loss report, the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the transfer formula set forth in subparagraph (1) of Section 3 of this Ordinance, the Insuring Agent shall transfer to the Municipality 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 may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and the designated officer shall return the amount of

the funds transferred to the Municipality in excess of the estimate to the named insured, if the Municipality has not commenced to remove, repair or secure the building or other structure.

(5) Upon receipt of proceeds by the Municipality under this section, the following shall apply:

(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 Municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Municipality in connection with such removal, repair or securing of the building or any proceeding related thereto; and

(b) Upon receipt of the transferred funds and the name and address of the named insured, the designated officer shall contact the named insured, certify that the proceeds have been received by the Municipality and notify the named insured that the procedures under this subsection shall be followed. It is the obligation of the Insuring Agent when transferring the proceeds to provide the Municipality with the name and address of the named insured; and



(c) When repair, removal or securing of the building or other structure has been completed in accordance with all applicable regulations and orders of the Municipality and the required proof of such completion has been received by the designated officer, the fund shall be returned to the named insured, if the Municipality has not incurred any costs for repairs, removal or securing. If the Municipality has incurred costs for repair, removal or securing of the building or other structure, the costs shall be paid from the fund and if excess funds remain, the Municipality shall transfer the remaining funds to the named insured; and

(d) To the extent that interest is earned on proceeds held by the Municipality pursuant to this Section, and not returned to the named insured, such interest shall belong to the Municipality. 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 the section shall be construed to limit the ability of the Municipality to recover any deficiency or to prohibit the Municipality 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 Board of Supervisors of the Township of Perry may by resolution adopt procedures and regulations to implement Act 98 of 1992, Act 93 of 1994, 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 person, firm or corporation violating any of the provisions of this Ordinance shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not more than \$300.00 for each such violation and upon default of payment of such fines, shall be sentenced to undergo a term of imprisonment for a period not exceeding thirty (30) days.

**SECTION 6:** The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

**SECTION 7:** All ordinances or part of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as such conflicting ordinance provisions affect this Ordinance.

**SECTION 8:** This Ordinance shall become effective five (5) days after enactment hereof.

ORDAINED AND ENACTED at a duly assembled public meeting by the Board of Supervisors of the Township of Perry, Fayette County, Pennsylvania, this 3 rd day of February, 2004.

TOWNSHIP OF PERRY

BY:

BY:

BY:

ATTEST:


Secretary

(SEAL)

CERTIFICATE

I, the undersigned Secretary PERRY TOWNSHIP, Fayette County, Pennsylvania, do hereby certify that the foregoing and attached is a true and correct copy of an Ordinance of said PERRY TOWNSHIP, which was duly enacted by the affirmative vote of a majority of a quorum of the members of the Governing Body of said PERRY TOWNSHIP at a meeting thereof on February 3, 2004, duly recorded in the Ordinance Book of said PERRY TOWNSHIP and Notice of the Board of Supervisors' intention to adopt said Ordinance was duly published, as required by law, in a newspaper circulating generally in said PERRY TOWNSHIP, and said Ordinance is in full force and effect.

WITNESS my hand and seal of PERRY TOWNSHIP the 3 rd day of February, 2004.

  
Janet L. Galla,

Secretary

(SEAL)

