

TOWNSHIP OF CUMRU

ORDINANCE NO. 704

AN ORDINANCE OF THE TOWNSHIP OF CUMRU, PURSUANT TO SECTION 508 OF THE ACT OF MAY 17, 1921 (P.L. 682, NO. 284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921, ADDED JULY 9, 1992 (P.L. 678, NO. 93), 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 FOR 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 THE ACT IN THE TOWNSHIP OF CUMRU.

WHEREAS, the Pennsylvania General Assembly provided for the escrow of proceeds of fire insurance policies in order to secure the repair, removal and securing of property incurring a fire loss; and

WHEREAS, the General Assembly amended Section 508 of the Insurance Company Law of 1921 in 1994, such Section now being codified as 40 Pennsylvania Statutes Section 638 (the "Fire Escrow Law"); 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 Township of Cumru desires to adopt an ordinance pursuant to the Fire Escrow Law to provide for the establishment of an escrow account or accounts to receive certain payments of proceeds from fire loss claims in the municipality:

It is THEREFORE ORDAINED AND ENACTED by the Board of Commissioners of the Township of Cumru as follows:

ARTICLE 1

1.1 The Township Manager, or his/her designee, (hereinafter, the "Municipal Officer") is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties of the municipality stated herein.

1.2 A "fire loss" or claim for fire damage is defined as any loss occurring after the effective date of this Ordinance and covered under a policy of fire insurance, including any endorsements or riders to the policy.

## ARTICLE 2

2.1 No insurance company, association or exchange (hereinafter the "Insurer") 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 Cumru (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred Dollars (\$7,500.00), unless the insurer is furnished by the Municipal Officer with a municipal certificate pursuant to the Fire Escrow Law and unless there is compliance with the Fire Escrow Law and the provisions of this Ordinance.

2.2 After full compliance with the requirements of the Fire Escrow Law, 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 sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building structure, the following procedures shall be followed:

A. The Insurer shall transfer from the insurance proceeds to the Municipal Officer the aggregate of Two Thousand Dollars (\$2,000.00) for each Fifteen Thousand Dollars (\$15,000.00) of a claim and for each fraction of that amount of a claim, provided (1) that this section is to be applied such that if the claim is Fifteen Thousand Dollars (\$15,000.00) or less, the amount transferred to the Municipality shall be Two Thousand Dollars (\$2,000.00); and (2) that, 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 foregoing transfer formula, the Insurer shall transfer to the Municipality from the insurance proceeds the amount based upon the estimate.

B. The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to the Municipality shall be disbursed in accordance with the policy terms.

2.3 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.

2.4 Upon receipt of proceeds under this section, the Municipality shall do the following:

A. The Municipal Officer shall place the proceeds in the 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 proceeds related thereto; and

B. It is the obligation of the Insurer when transferring the proceeds to provide the Municipality 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 Municipal 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; 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 Municipality and the required proof of such completion received by the Municipal Officer, and if the Municipality has not incurred any costs for repairs, removal or securing, the funds shall be returned to the named insured. If the Municipality has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the funds, 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 retained by it, 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 turned.

2.5 Nothing in this section shall be construed to limit the ability of the Municipality to recover any deficiency. Furthermore, nothing in this Ordinance shall be construed 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.

### ARTICLE 3

3.1 The Township of Cumru may by resolution adopt procedures and regulations to implement the Fire Escrow Law and this Ordinance and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to the Fire Escrow Law and this Ordinance; including, but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

### ARTICLE 4

4.1 Any owner of property, any named insured or any insurer who violates this Ordinance shall be subject to a penalty of up to Six Hundred Dollars (\$600.00) per violation.

ARTICLE 5

5.1 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.

ARTICLE 6

6.1 All Ordinances or parts of Ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affects this Ordinance.

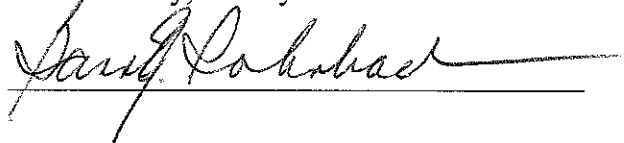
ARTICLE 7

7.1 This Ordinance shall become effective on the 15<sup>th</sup> day of JUNE, 2011.

7.2 A certified copy of this Ordinance shall be filed with the Department of Community and Economic Development on or before its effective date.

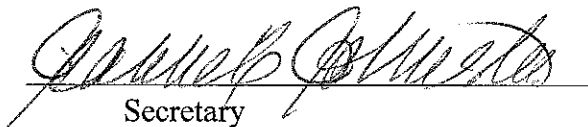
ORDAINED AND ENACTED at a duly assembled public meeting by the Township of Cumru this 19<sup>th</sup> day of April, 2011.

TOWNSHIP OF CUMRU,  
Berks County, Pennsylvania



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Attest:



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Secretary