

**LOWER MAKEFIELD TOWNSHIP
BUCKS COUNTY, PENNSYLVANIA**

ORDINANCE NO.

AN ORDINANCE OF THE TOWNSHIP OF LOWER MAKEFIELD, BUCKS COUNTY, PENNSYLVANIA, PROVIDING THAT, IN CERTAIN FIRE LOSSES, THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF LOWER MAKEFIELD TOWNSHIP TO BE HELD AS SECURITY AGAINST THE TOTAL COST OF REMOVING, REPAIRING, OR SECURING THE DAMAGED BUILDING, PROVIDING FOR PENALTIES FOR VIOLATION AND SETTING FORTH PROCEDURES AND REQUIREMENTS PERTAINING TO DEPOSIT OF INSURANCE PROCEEDS AND IMPLEMENTATION OF THIS ORDINANCE IN LOWER MAKEFIELD TOWNSHIP.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992 and Act 93 of 1994, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims and has enacted amendments thereto; 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, Township of Lower Makefield (“Township”) 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;

WHEREAS, the Township is a township of the second class, organized and operating in accordance with the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Township has full authority and power to enact certain ordinances which the Township deems necessary and appropriate for the benefit of its residents.

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Supervisors of Lower Makefield Township, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

SECTION 1 – TITLE. The title of this Ordinance shall be known as the Lower Makefield Township Fire Insurance Escrow Ordinance.

SECTION 2 – PURPOSE. The purpose of this Ordinance is to provide financial security for recovery of Township claims for delinquent taxes, assessments, municipal liens, service fees and costs of removal or security of a building damaged by fire, from fire insurance proceeds payable as a result of a fire loss to a building or premises; to deter the commission of arson and related crimes; and to discourage abandonment of fire-damaged property to prevent blight.

SECTION 3 – ADMINISTRATION. The Township Finance Director, Assistant Finance Director, such official’s designee or such other official as approved by the Township is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

SECTION 4 – DISPOSITION OF INSURANCE COVERING FIRE DAMAGED STRUCTURES. In accordance with the applicable provisions of the Act, 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 Lower Makefield Township where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred (\$7,500.00) Dollars, unless the Insuring Agent has complied with the requirements set forth in Section 508 (b) of Act 98 of 1992 as amended and unless there is compliance with Section 508 (c) of Act 98 of 1992 as amended and the provisions of this Ordinance.

SECTION 5 – CERTIFICATION OF AMOUNTS DUE TO TOWNSHIP. In accordance with the provisions of the Fire Insurance Escrow Act, the Township Finance Director shall, within fourteen (14) working days of a request by an Insurer or insured, furnish to an Insurer with insurance coverage on the subject property either:

- A. Written notification or certificate that no delinquent taxes, assessments, liens, penalties or user charges exist against the property as of the date of the fire loss, and that, as of the date of the written notification, the Township had not incurred any costs for the removal, repair or securing of any building or other structure on the property damaged by said fire; or
- B. Written notification or certificate with a bill showing the amount of delinquent taxes, assessments, liens, penalties and user charges that have not been paid as against the property as of the date of written notification and also showing, as of the date of the written notification, the amount of the total costs, if any, incurred by the Township for the removal, repair or securing of a building or other structure on the property damaged by said fire.

SECTION 6 – INSURER PAYMENT OF AMOUNTS DUE FOR TAXES, LIENS, AND EXPENSES. Upon the receipt of a written notification or certificate and bill pursuant to Section 5B above, the Insurer shall return the bill along with payment to the Township Finance Director in the amount necessary to pay the delinquent taxes, assessments, penalties, charges, and costs as shown on the bill. Upon receipt of such amount, the Township shall apply or credit the payment to the items shown in the bill.

SECTION 7 – INSURANCE PROCEEDS TO BE DELIVERED TO TOWNSHIP TO SECURE PAYMENT OF FUTURE TOWNSHIP EXPENSES. In accordance with the provisions of the Fire Insurance Escrow Tax, if the fire loss is greater than \$7,500.00, and equals or exceeds 60% of the aggregate coverage under all fire insurance policies covering the building or structure, as determined in accordance with the provisions of the Fire Insurance Escrow Act the Insurer(s) shall transfer from the insurance proceeds to the Township Finance Director such

amounts as shall be determined in accordance with the formula set forth in Section 508(c) of the Fire Insurance Escrow Act:

1. The Insuring Agent shall transfer from the insurance proceeds to the Township Finance Director an aggregate of \$2,000.00 for each \$15,000.00 of a claim, and each fraction of that amount of a claim, ; or

2. The Insuring Agent shall transfer to the Township from the insurance proceeds that amount of a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure between the named insured and contractor at the time of the loss report, ; or

3. Such other amount as calculated in accordance with the provisions of the Act. Transfer of proceeds under multiple insurance policies shall be made on a pro-rata basis by all Insurers insuring the building or property.

SECTION 8 - DISPOSITION OF INSURANCE PROCEEDS BY TOWNSHIP. The insurance proceeds transferred to the Township under authority of Section 508(c) of the Act and Section 7 of this Ordinance shall be accounted for and used in the following manner:

A. The Township Finance Director 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 other structure as incurred by the Township. Such costs shall include, without limitation, engineering, legal or administrative costs incurred by the Township in connection with such removal, repair, or securing of the building or any proceedings related thereto;

B. The Insurer, when transferring the funds, shall provide the Township 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 Finance Director shall contact the named insured of the process for disposition of the funds;

C. When repairs, removal or securing of the building, structure or premises have been completed in accordance with all applicable regulations and orders of the Township and the required proof of such completion has been received by the Township, and if the Township has not incurred any costs for repairs, removal or securing of the building or other structure, the funds shall be returned to the named insured. If the Township has incurred costs for repairs, removal or securing of the building or structure, the costs shall be paid from the fund and, if excess funds remain, the Township shall transfer the remaining funds to the named insured. If a deficiency is incurred by the Township, the Township shall have the right and all available remedies to collect any deficiency.

SECTION 9 – INSURANCE INFORMATION TO BE REPORTED. At the request of the Township or its representative, any person who owns a building or structure damaged by fire or who is a named insured under a fire insurance policy covering such building or structure, shall provide information to the Township regarding the Insurer or Insurers providing fire insurance coverage on the building or structure within the Township which has been damaged by fire and shall further provide information to the Township concerning the insurance, the loss and any other pertinent information relating thereto.

SECTION 10 – RIGHT TO RECOVER TOWNSHIP COSTS PRESERVED. Nothing in the Ordinance shall be construed to limit the ability of the Township to recover any costs, expenses or charges not covered by the insurance proceeds. Nothing in this Ordinance shall be construed to prohibit the Township 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 11 – NOTICE OF VIOLATION. In the event a person or an insurer fails or refuses to comply with the requirements of this Ordinance and Section 508 of the Act, a written notice of such violation shall be given. The notice of violation shall identify the property, the insured, the insurer, the violation, the remedial action required, the time allowed for remedial action, and the penalty to be assessed for failure to correct the violation.

SECTION 12 – PENALTY. Any owner of property, any named insured or any Insuring Agent who violates this Ordinance shall be subject to a penalty of up to \$1,000.00 per violation.

The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the provisions of the Code of Ordinances of Lower Makefield Township.

This Ordinance shall become effective the day after its legal adoption. Upon adoption, a copy of this Ordinance shall be filed with the Pennsylvania Department of Community Affairs, together with the name, position and phone number of the municipal officer responsible for compliance with the terms of this Ordinance.

ENACTED AND ORDAINED BY THE TOWNSHIP OF LOWER MAKEFIELD THIS
____ DAY OF _____ 2023.

BOARD OF SUPERVISORS
TOWNSHIP OF LOWER MAKEFIELD

By: _____
Chairperson

ATTEST:

David Kratzer Township Manager

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