

ORDINANCE NO. 156

AN ORDINANCE OF TOWNSHIP OF SOUTH HEIDELBERG, PURSUANT TO ACT 93 OF 1994 PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF THE TOWNSHIP AS A PORTION OF THE INSURANCE PROCEEDS TO BE HELD AS 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 ACT 93 OF 1994 IN THE TOWNSHIP OF SOUTH HEIDELBERG.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 93 of 1994 effective on January 13, 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 said legislation to deter the commission of arson and related crimes and, to discourage the abandonment of property; and

WHEREAS, the Township of South Heidelberg (the "Township") desires to adopt an ordinance pursuant to Section 508 of the Insurance Company Law of 1921, as amended, to provide for the payment of proceeds from certain fire loss claims to the Municipality;

It is THEREFORE ORDAINED and ENACTED by the Supervisors of the Township of South Heidelberg as follows:

1. Authorized Officer. The Manager of the Township or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

2. Prohibition of Payment of Fire Insurance Proceeds. 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 where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred Dollars (\$7,500), unless the Insuring Agent is furnished by the Township treasurer with a municipal certificate pursuant to Section 508 (B) of Act 98 of 1992 and unless there is compliance with Section 508 (C) and (D) of Act 98 of 1992 and the provisions of this Ordinance.

3. Procedure for Payment of Fire Insurance Proceeds. Where pursuant to Section 508(b)(1)(i) of Act 93 of 1994, the Township treasurer issues a certificate 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 agreed upon by the named insured and the Insuring Agent equals or exceeds 50 percent of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

(a) The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the Township in the aggregate of \$2,000 for each \$15,000 of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim is \$5,000 or less, the amount transferred to the Township shall be \$2,000; or

(b) If at the time of a proof of loss agreed to between the named insured and the Insuring Agent, the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the Insuring Agent shall transfer to the Township from the insurance proceeds the amount specified in the estimate.

(c) The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.

(d) 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 Township in excess of the estimate to the named insured, if the Township has not commenced to remove, repair or secure the building or other structure.

(e) Upon receipt of proceeds under this section, the Township shall do the following:

(1) 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 Township. Such costs shall include, without limitation, any 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; and

(2) It is the obligation of the Insuring Agent when transferring the proceeds to 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 designated officer shall contact the named insured, certify that the proceeds have been received by the Township and notify the named insured that the procedures under this subsection shall be followed; and

(3) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable

regulations and orders of the Township and the required proof of such completion received by the designated officer, and if the Township has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Township has incurred costs for repairs, removal or securing of the building or other 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; and

(4) To the extent that interest is earned on proceeds held by the Township pursuant to this Section, and not returned to the named insured, such interest shall belong to the Township. 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.

(f) Nothing in this section shall be construed to limit the ability of the Township to recover any deficiency. Furthermore, nothing in this subsection 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.

4. Additional Regulations. The Supervisors may by resolution adopt procedures and regulations to implement Act 98 of 1992 and this Ordinance and may by resolution fix reasonable fees to be charged for Township activities or services provided pursuant to Act 98 of 1992 and this Ordinance; including but not limited to issuance of certificates and bills.

5. Penalties. Any owner of property, any named insured or any Insuring Agent who violates this Ordinance shall be subject to a criminal penalty up to One Thousand Dollars (\$1,000) per violation and may be subject to imprisonment to the extent allowed by law for the punishment of summary offenses. Each violation of any provision of this Ordinance, and each day the same is continued, shall be deemed a separate offense. The enforcement of the violation shall be by action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The township solicitor may assume charge of the prosecution without the consent of the district attorney as required under Pa.R.C.P. No. 83C.

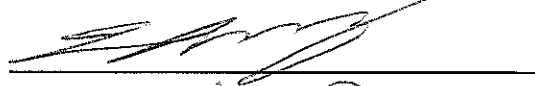
6. Severability. The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be held to be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

7. Repealer. All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affects this Ordinance.

8. Effective Date. This Ordinance shall become effective five (5) days from the date of enactment.

ORDAINED AND ENACTED at a duly assembled public meeting by the Supervisors,
this 16th day of April, 1997.

BOARD OF SUPERVISORS OF THE
TOWNSHIP OF SOUTH HEIDELBERG



Philip Preston

Richard E Hummel

Attest:

Richard E. Hummel

Secretary

(SEAL)