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ORDINANCE NO.   4   OF 1993

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AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF AVOCA, PURSUANT TO ACT 90 OF 1992 PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF THE BOROUGH OF AVOCA 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 98 OF 1992 IN THE BOROUGH OF AVOCA.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992 effective on September 7, 1992 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, to discourage the abandonment of property, and to prevent urban blight and deterioration; and

WHEREAS, the Borough of Avoca 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 Borough of Avoca.

IT IS ORDAINED AND ENACTED by the Borough Council of the Borough of Avoca as follows:

SECTION I:     The Borough Secretary  
is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

SECTION II: ~~No insurance company, association or exchange~~  
~~(hereinafter the "Insuring Agent")~~ doing business in the Common-  
wealth of Pennsylvania shall pay a claim of a named insured for  
fire damage to a structure located within the Borough of Avoca  
~~(hereinafter the "Municipality")~~ where the amount recoverable for  
the fire loss to the structure under all policies exceeds Five  
Thousand <sup>\$7500</sup> ~~(\$5,000.00)~~ Dollars unless the named insured or Insuring  
Agent is furnished by the Borough Secretary  
(1994)\*7500 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.

SECTION III: Where pursuant to Section 508(B)(1)(I) of Act  
98 of 1992, the Boro Secretary 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 is agreed upon by the named insured and  
the Insuring Agent equals or exceeds sixty (60%) percent of the  
aggregate limits of liability on all fire policies covering the  
building restructure, the following procedures must be followed:

(1) The Insuring Agent shall transfer from the  
insurance proceeds to the designated officer of the Borough of  
Avoca in the aggregate of <sup>2,000</sup> \$1,000.00 for each <sup>15,000.00 (1994)</sup> \$20,000.00 of a  
claim and for each fraction of that amount of a claim, this  
section to be applied such that if the claim is \$20,000.00 or  
<sup>15,000.00</sup>

less, the amount transferred to the Borough of Avoca shall be \$1,000.00; or

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

(5) Upon receipt of proceeds under this section, the Borough of Avoca shall do the following:

(a) The designated 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 Borough of

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

(b) It is the obligation of the Insuring Agent when transferring the proceeds to provide the Borough of Avoca 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 Borough of Avoca 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 Borough of Avoca and the required proof of such completion received by the designated officer, and if the Borough of Avoca has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Borough of Avoca 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 Borough of Avoca shall transfer the remaining funds to the named insured; and

(6) Nothing in this section shall be construed to limit the ability of the Borough of Avoca to recover any

deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Borough of Avoca and the named insured from entering into an agreement that permits the transfer of funds to the named insured of some other reasonable disposition of the damaged property has been negotiated.

SECTION IV: The Borough Council of the Borough of Avoca 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 municipal activities or services provided pursuant to Act 98 of 1992 and this Ordinance; including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

SECTION V: 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.

SECTION VI: 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 VII: All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affects this Ordinance.

SECTION VIII: This Ordinance shall become effective immediately.

AVOCA BOROUGH COUNCIL

ATTEST:

BY: Joseph J. [Signature]  
President

Ann Baclosky  
Secretary

APPROVED 15 DAY OF April, 1993.