

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE TOWNSHIP OF TOBYHANNA, COUNTY OF MONROE, COMMONWEALTH OF PENNSYLVANIA, RELATING TO THE USE AND REGULATION OF SHORT-TERM RENTAL (STR) UNITS WITHIN THE TOWNSHIP AND ESTABLISHING APPLICATION AND PERMIT STANDARDS AND PROCEDURES, PROVIDING FOR ADMINISTRATION AND ENFORCEMENT INCLUDING PENALTIES, AND OTHER MATTERS PERTAINING THERETO.**

**WHEREAS** §1506 of the Second-Class Township Code, Act of May 1, 1993, P.L. 103, No. 69, as amended by the Act of November 9, 1995, P.L. 350, No. 60, found at 53 P.S. §66506, entitled "General Powers," authorizes the Board of Supervisors to make and adopt ordinances necessary for the proper management, care and control of Tobyhanna Township, and the maintenance of the health and welfare of the Township and its citizens; and

**WHEREAS** §1517 of the Second-Class Township Code, found at 53 P.S. §66517, entitled "Building and Housing Regulations", inter alia, authorizes the Board of Supervisors to enact codes and ordinances to govern and regulate the occupation, maintenance, sanitation, lighting, ventilation, toilet facilities, use and inspection of all buildings and housing used for occupancy; and

**WHEREAS** §1527 of the Second-Class Township Code, found at 53 P.S. §66527, entitled "Public Safety", inter alia, authorizes the Board of Supervisors to adopt ordinances to secure the safety of persons or property within the Township; and

**WHEREAS** §1529 of the Second-Class Township Code, found at 53 P.S. §66529, entitled "Nuisances", inter alia, authorizes the Board of Supervisors to, by ordinance, prohibit nuisances.

**WHEREAS** Short-Term Rentals of Dwellings have become a significant segment of the local tourism economy, and

**WHEREAS** Short-Term Rentals of Dwellings provide a community benefit by expanding the number and type of lodging facilities available and assist Owners of single-family homes by providing revenue which may be used for maintenance, upgrades and deferred costs; and

**WHEREAS** while the majority of these Short-Term Rentals operate without a problem, there have been numerous complaints to the Township regarding excessive noise, parking, litter, and concerns regarding security, public safety, and trespass; and

**WHEREAS** the transitory nature of Occupants of Short-Term Rentals makes enforcement against the Occupants difficult; and

**WHEREAS** the provisions of this Ordinance are necessary to prevent the continued burden on Township and community services and impacts on residential neighborhoods posed by Short-Term Rentals; and

**WHEREAS** the provisions of this Ordinance are necessary to provide for a system of inspections and for issuance and renewal of licenses and to establish penalties for violations.

**NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Board of Supervisors of Tobyhanna Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted pursuant to the above authority, as follows:

**Section 1 - Title**

- A. This Chapter shall be known as and may be cited as "The Tobyhanna Township Short-Term Rental Ordinance." ("STR").

**Section 2 - Scope**

- A. The provisions of this Chapter shall apply to all residential dwelling units, conversions of non-residential structures to residential dwellings, and all existing premises within the Township of Tobyhanna.
- B. The owner of the subject property shall be responsible for compliance with the provisions of this Chapter and the failure of an owner, operator, agency, managing agency, local contact person, or occupants to comply with the provisions of this Chapter shall be deemed as noncompliance.
- C. A short-term rental (STR) permit shall be issued only in the name of the owner of the short-term rental.
- D. A separate STR permit shall be required for each short-term rental unit.
- E. A subsequent STR Permit shall not issue to a short-term rental owner until the passage of ninety (90) days following any prior permit having been issued to that same owner.
- F. Tobyhanna Township, in order to promote the health, safety and welfare of the Township, reserves the right to limit the amount of short-term rental properties in the Township to a per centage of residences within all residential districts.
- G. This Chapter shall not apply to a resort, camp, hotel/motel/inn, bed and breakfast, or boarding- or rooming house, as defined within the Zoning Ordinance.
- H. Camps, cabins and cottages that predate the township Zoning Ordinance are exempt from this Chapter.

- I. The Township Supervisors, under the authority granted by Section 1506 - General Powers, Section 1517 - Building and Housing Regulations, Section 1527 - Public Safety, and Section 1529 - Nuisances, of the Pennsylvania Second Class Township Code, Act of May 3, 2016, 1933 (P.L. 103, No. 69), reenacted and amended July 10, 1947 (P.L. 1481, No. 567), as amended, hereby adopt the following rules and regulations governing Short-Term Rentals within the boundaries of the municipality.

### **Section 3 – Interpretation**

- A. This Chapter is not intended to, and does not, excuse any STR owner from compliance with the Township of Tobyhanna Zoning Ordinance, as amended. Whenever possible, this Chapter and the Zoning Ordinance should be construed and interpreted as being consistent, and not in conflict.
- B. This Chapter is not intended to and does not supersede the declarations or covenants in a planned community where a short-term rental may be located.

### **Section 4 - Definitions**

For the purposes of this Chapter, words and terms used herein shall be interpreted as follows:

**ANNUAL TERM** – Twelve month rolling period in which an application is valid.

**BEDROOM** - A room or space permitted and designed to be used for sleeping purposes with two means of egress. Space used for eating, cooking, bathrooms, toilet rooms, closets, halls, storage or utility rooms and similar uses are not considered Bedrooms. Space used or intended for general and informal everyday use such as a living room, den, and sitting room or similar space is not to be considered a Bedroom.

**DWELLING UNIT** - A building or portion thereof providing complete housekeeping facilities for one family or a group of unrelated persons using such facilities in common.

**OCCUPANT(S)** – An Overnight Guest.

**OVERNIGHT GUEST** - Any individual lodging overnight at a Short-Term Rental for a period of thirty (30) days or less.

**PARKING SPACE** – Area used for the parking of a registered motor vehicle.

**PERSON(S) IN CHARGE** – Person(s) or agent(s) with authority to represent the owner for purposes of emergency and non-emergency contact and communication regarding the owner’s Short-Term Rental.

**SHORT-TERM RENTAL PERMIT APPLICATION** – An application by Township of Tobyhanna which must be completed, by the STR owner or operator.

SHORT-TERM RENTAL PERMIT RENEWAL APPLICATION – An application required by Township of Tobyhanna which must be completed by the STR owner or operator for the renewal of a Short-Term Rental Permit after the Annual Term.

SHORT-TERM ONLINE PLATFORM(S) - Any online search engine, digital service and/or brokerage firm that facilitates interactions between two or more distinct but interdependent sets of users who interact through the service via the internet, with the digital service provider promoting and acting as an agent in offering, providing, and managing rental opportunities for specifically identified short-term rental properties. This includes a person or entity that provides a means through which an operator may offer a dwelling unit for short-term rental use, and from which the person or entity financially benefits.

SHORT-TERM RENTAL - Any Dwelling Unit utilized rented for the purpose of overnight lodging for a period of less than thirty (30) days, and which meets the definition of "Hotel" for the purpose of imposing an excise tax by the County of Monroe as defined in the County of Monroe Ordinance No. 2004-03, as amended.

SHORT-TERM RENTAL CAPACITY LIMIT – The maximum overnight occupancy of a STR.

SHORT-TERM RENTAL OPERATOR – Person(s) or agent with authority to make decisions with regard to the management of the short-term rental. The STR Operator may be the owner, the Person(s) in Charge or a designated representative who can legally bind the STR owner in their absence.

SHORT-TERM RENTAL PERMIT - Permission granted by the Township to utilize a Dwelling Unit for Short-Term Rental Use.

SHORT-TERM RENTAL PERIOD The minimum time-period allowed for renting a Short-Term Rental Unit.

SHORT-TERM RENTAL PLATFORM – Any online platform and/or brokerage firm promoting and acting as an agent in offering, providing, and managing rental opportunities for specifically identified short-term rental properties.

TRANSIENT USE OF RESIDENTIAL PROPERTY- Transient use of residential property means the profit-making use, by any person, of residential property for transient lodging uses where the term of occupancy, possession, or tenancy of the property by the person entitled to such occupancy, possession or tenancy is less than 30 consecutive calendar days.

VIOLATIONS – Any action or inaction by the STR Owner or Renter that is non-compliant with any provision of STR Ordinance.

### **Section 5 - Permit Required – Non-Transferability**

- A. No owner of any property in Township of Tobyhanna shall operate a Short-Term Rental in Tobyhanna Township without first obtaining a Short-Term Rental Permit from the

Township. Operation of a Short-Term Rental without such Short-Term Rental Permit is a violation of this Chapter. If the ownership of the property changes, either directly by sale or deed transfer, or indirectly by death, change in ownership of the entity owning the property, sheriff sale or court order, the new owner must apply for a license under the provisions of this Ordinance prior to renting the property as a short-term rental.

- B. The issuance of a Short-Term Rental Permit is not a warranty that the premises are lawful, safe, habitable, or in compliance with this Chapter. Nor are there any guarantees for the protection of the owner or STR owner's property.

### **Section 6 – Claim of Contract Impairment**

- A. It is not the intent of this ordinance to impair any existing contracts, leases, or reservations that are evidenced in writing.

### **Section 7 - Permit Requirements**

- A. Short-Term Rental Permit applications shall contain the following information:
  - (1) The address of the subject property intended for rental.
  - (2) The name, address, telephone number and email address of the owner.
  - (3) The name, address and 24-hour telephone number of all Person(s) in Charge.
  - (4) Floor plan as submitted to the Monroe County Assessor's Office identifying rooms on all floors, specific location of bedrooms, and location of any pools labeled as either in-ground or above-ground.
  - (5) The total number of permitted bedrooms.
  - (6) If the building is a multi-unit structure, the total number of dwelling units in the structure and the number of dwelling units being used as Short-Term Rentals.
  - (7) A diagram or aerial photograph showing the location and number of on-site parking spaces that comply with the definitions contained within this STR Ordinance.
  - (8) If not on a central sewer system, a septic system evaluation certifying the existing system is functioning as intended and proof the tank was pumped within the past three (3) years for approval by the Township.
  - (9) If on a central sewer system, a "will serve" letter from the owner of the central sewer system certifying that sufficient capacity is present for use of the property as a Short-Term Rental with the number of bedrooms noted in the body of the letter.

- (10) Copy of current Monroe County Hotel Room Excise Tax Certificate or proof of same with tax identification numbers deleted.
- (11) Copy of current Pennsylvania Sales and Use Tax Permit Certificate or proof of same with tax identification numbers deleted.
- (12) To the extent permitted by the STR Platform, all STR owners are required to post the STR Permit Number in a designated field provided by the STR Platform and if no designated field for the Permit Number exists, then the Permit Number must appear within the property description.
- (13) Copy of written notice to the homeowners' association (HOA), indicating the intent to make an application for and use the subject residential property for a Short-Term Rental, when applicable.
- (14) Signatures of the owner, STR Operator and Person(s) in Charge if designated.
- (15) Each owner shall maintain at least \$500,000.00 in general liability insurance on the short-term rental for the full duration of their license term and provide proof of same to the Township.
- (16) All short-term rental owners are strongly encouraged to maintain a noise monitoring device as this technology creates verifiable records to collaborate nuisance complaints and improve enforcement abilities.
- (17) All short-term rentals shall be equipped with the following:
  - (a) Smoke detector in each bedroom;
  - (b) Smoke detectors outside each bedroom in common hallways;
  - (c) Smoke detectors on each floor;
  - (d) GFI outlets for outlets located within six (6) feet of water source;
  - (e) Aluminum or metal exhaust from dryer;
  - (f) Carbon monoxide detector if open flame (oil or gas) furnace, gas or wood fireplace, or wood- burning stove;
  - (g) Carbon monoxide detector if garage is attached;
  - (h) Fire Extinguisher in kitchen
  - (i) Stairs (indoor and outdoor) in good condition;
  - (j) All windows shall be in good working order; and
  - (k) Fireplace's within the premises shall be cleaned every two years.

- B. A Short-Term Rental Permit shall be issued only to the owner of the Short-Term Rental property.
- C. A separate Short-Term Rental Permit is required for each Dwelling Unit. With respect to Two-Family or Multi-Family Dwellings, a separate Permit shall be required for each Dwelling Unit being rented as a Short-Term Rental.
- D. Short-Term Rental Permits are subject to renewal at the expiration of the annual term, provided all conditions of the initial application and all subsequent renewal application requirements, as set forth in this STR Ordinance are met, or until any of the conditions of the Short-Term Rental Permit which are governed by this Chapter are changed, whichever shall first occur. Short-Term Rental permits may be applied for up to sixty (60) days before the start of the annual term expiration of a Short-Term Rental Permit.
- E. The STR owner must communicate with the Township prior to any renovation being completed. This notification shall not be construed as approval through zoning, building, or any other department or agency.
- F. The Township will prescribe forms and procedures for the processing of Permit Applications under this Ordinance.
- G. Verification that the subject property has obtained a license from Monroe County and the Pennsylvania Department of Revenue to collect and remit sales taxes and confirmation from the taxing authority that all taxes remissions are current and up to date.

### **Section 8 - Short-Term Rental Standards**

- A. The STR Capacity Limit will be limited to two (2) per bedroom if the permitted septic requirements are consistent with the house design but shall not exceed a total of ten (10) persons. The STR Capacity Limit must be accurately reflected on all advertising and marketing materials whether printed or online.
- B. A person must be twenty-five (25) years of age to contractually rent a STR unit.
- C. Declaration page of a paid-up insurance policy indicating at least \$500,000 liability insurance to cover the commercial use of a Short-Term Rental for the full duration of the permit term.
- D. The number of bedrooms permitted for a Short-Term Rental shall not exceed the number of bedrooms approved for the Dwelling Unit on the sewage permit issued for such property. Where there is no sewage permit on record, the Short-Term Rental shall be limited to three (3) bedrooms unless proof is provided to the Township that the septic system is adequate to handle additional flows. Any Short-Term Rental advertising more than three (3) bedrooms shall provide proof that the septic system is adequate to handle such flows by having the system approved by the Township, or by providing a septic permit previously issued by a Township.

- E. If a sewage system malfunction occurs, Short-Term Rental of the Dwelling Unit shall be discontinued until the malfunction is corrected in accordance with Township and Pennsylvania Department of Environmental Protection requirements.
- F. Outdoor parking for renters shall be limited to available parking spaces on the Short-Term Rental property, in compliance with the current provisions of the zoning ordinance parking regulations and definitions. In no event shall parking for STR guests include spaces in any private, community, or public street right-of-way or on any lawns or vegetated areas.
- G. The STR owner and/or Person in Charge is responsible for the actions of all occupants and will ensure compliance with this chapter as well as any other applicable laws and regulations.
- H. A Person in Charge must either reside or have an office located within a thirty (30) minute drive of the Rental Unit, must provide a 24-hour emergency contact number, and be able and willing to come to the Short-Term Rental within thirty (30) minutes following notification to address any issue, and be able to act as legal agent for the owner. The Person in Charge may be the owner of the Short-Term Rental. The Township shall be notified, in writing, prior to a change in the identity of the Person in Charge. The owner of a Short-Term Rental may designate more than one Person in Charge.
- I. Neither Short-Term Rental occupants nor guests shall engage in disorderly conduct, disturb the peace and quiet of any nearby neighborhood or person by loud, unusual, or excessive noise, by tumultuous or offensive conduct, public indecency, threatening, traducing, quarreling, challenging to fight, or fighting, or creating a dangerous or physically offensive condition.
- J. Overnight occupancy of recreational vehicles, camper trailers and tents at the property where the Short-Term Rental is located shall not be allowed.
- K. Outdoor overnight sleeping of occupants or guests of the Short-Term Rental is prohibited.
- L. Rentals shall be a minimum of two (2) nights and three (3) days.
- M. A Short-Term Rental shall not have any outside appearance indicating a change of use from the surrounding residential uses.
- N. Fireworks and floating lanterns are prohibited.
- O. Subleasing all or a portion of the dwelling unit is prohibited.
- P. All Short-Term Rentals shall have a clearly visible and legible packet of information posted for review within the dwelling unit containing the following information:



- (1) The name of the owner of the unit or the Person in Charge and a telephone number at which that party can be reached on a 24-hour basis.
- (2) The E-911 address of the property consistent with existing Township Ordinances..
- (3) The maximum number of occupants permitted to stay in the dwelling unit at any time in accordance with the STR Capacity Limit.
- (4) The maximum number of all vehicles allowed to park on the property in accordance with the Parking Space definition and the requirement that all guest parking must be in the available and designated parking areas on the property and not in or along any private, community or public street right-of-way or on any lawn or vegetated area on the property.
- (5) The trash pick-up day and notification that trash and refuse shall not be left or stored outside of designated receptacles on the exterior of the property must be conveyed to the renter by the owner. The owner must ensure trash receptacles are promptly removed from the curb following trash pick-up and trash clean-up is a priority. Failure to adhere to clean up following 24 hours after pick-up shall subject the owner to violation provisions of this Ordinance.
- (6) Notification that an occupant or guest may be cited and fined for creating a disturbance, exceeding permitted noise limits or for violating other provisions of the Township of Tobyhanna Code, including parking and occupancy limits.
- (7) Notification that STR occupants and guests are required to make the property available for inspection by the Township upon request and upon reasonable notice being provided.
- (8) A full copy of the Township of Tobyhanna Short-Term Rental Ordinance.
- (9) A copy of the Township of Tobyhanna Short-Term Rental Permit for the subject property.

Q. All STRs will comply with all applicable zoning and building codes as well as requirements of all lawful agencies.

R. Compliance with the requirements of this section shall be considered conditions of a Short-Term Rental Permit, the violation of which may result in a revocation of that permit by the Township and/or fines and penalties as prescribed in section 15.

## **Section 9 - Fees, Term and Renewal**

A. Short-Term Rental fees, payable to Township of Tobyhanna upon the filing of a Short-Term Rental Permit application, shall be in such amount as may be established by resolution duly adopted by the Board of Supervisors.

- B. Any Short-Term Rental Permit is good for a period not to exceed one (1) year on a rolling basis and must be renewed annually. Short-Term Rental Permit renewal fees, payable to the Township of Tobyhanna upon the filing of a Short-Term Rental Permit renewal application, shall be in such amount as may be established by resolution duly adopted by the Board of Supervisors.
- C. STR Permit renewal applications shall include any updated information regarding any Improvements Requiring STR Permit Modification from the immediately preceding application with respect to matters governed by this Ordinance.

### **Section 10 - Enforcement Officer**

- A. The Township of Tobyhanna Board of Supervisors may appoint an enforcement officer for the purpose of enforcement of this article. The enforcement officer shall have the responsibility and authority to administer and enforce all provisions of this Chapter.
- B. In the interest of protecting and promoting the public health, safety, and welfare, and minimizing the burden on Township and community services and the negative impacts on residential neighborhoods posed by short-term rentals, a violation of any of the provisions of this Ordinance is declared to be a public nuisance.

### **Section 11 – Inspections Required**

- A. All STRs shall be subject to oversight by the Township and the owner must verify application information, permit, permit renewal and/or operating requirements.
- B. Inspections may be conducted for ensuring compliance and enforcement with this Chapter.
- C. The issuance of a STR Permit is not a guarantee that the premises is lawful, safe, habitable, or in compliance with this Chapter.

### **Section 12 - Marketing**

- A. All advertising for rentals (including but not limited to, online platforms, personal websites, broker sites, etc.) must display the county and state license numbers prominently as well as the STR Capacity Limit.
- B. The marketing of an STR in which the advertised occupancy exceeds the maximum occupancy requirements permitted by this Chapter, or which promotes any other activity which is prohibited by this Chapter, shall be a violation of this Chapter and subject to appropriate fines and penalties.

### **Section 13 - Notice of Violation**

- A. In the event of a violation of this Chapter, the Township shall send a written Notice of Violation to the owner by personal delivery or by both United States first class and certified mail.

- B. The Enforcement Notice shall identify the premises, which is the subject of the violation, enumerate the conditions which constitute the violation, cite the specific sections of this Chapter which are violated, indicate the action required to correct the violation, and provide a time frame (established by the Township based upon the nature of the violation) to correct the violation.

#### **Section 14 - Nuisance**

- A. In the interest of promoting the public health, safety, and welfare of the Township of Tobyhanna residents and guests and minimizing the burden on Township and community services and impacts on residential neighborhoods posed by STRs, a violation of any of the provisions of this Chapter is declared to be a public nuisance.

#### **Section 15 - Violations and Penalties**

- A. If there is reason to believe that any provision of this Chapter is being violated, the Township may or may, upon consent, cause entry onto property for the purpose of inspection of the entire premises, properties, buildings, and/or structures located within the Township for ascertaining the existence of violations.
- B. In matters where the nature of an alleged violation potentially harms the safety, security, and welfare of the occupants or the surrounding community, and provided there is no apparent immediate emergent threat, an inspection of the interior of a building or structure will be conducted, and prior arrangements must be made with the STR Owner or Person in Charge to secure access thereof with forty-eight (48) hours' notice.
- C. In the event evidence of a violation with a more immediate threat is presented to the Township, the Zoning Officer with the assistance of the local police has the right to reasonably waive the rule requiring a minimum of forty-eight (48) hours' notice.
- D. This Chapter shall be enforced by action brought before a Magisterial District Judge in the same manner provided for in the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.
- E. Any person, partnership, corporation, or other entity who or which violates or permits a violation of the provisions of this Chapter shall, upon conviction in a summary proceeding, pay a fine of not less than \$1,000.00 nor more than \$3,000.00 per violation, plus all court costs and reasonable attorney's fees incurred by the Township of Tobyhanna in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses.
- F. Each day or portion thereof ending at 11:59 p.m., that a violation exists or continues shall constitute a separate violation.
- G. The appropriate officers or agents of the Township of Tobyhanna are hereby authorized to seek equitable relief, including injunction to enforce compliance with this Chapter.

- H. All fines, penalties, costs, and reasonable attorney's fees collected for the violation of this Chapter shall be paid to Tobyhanna Township for its general use.
- I. In addition to, but not in limitation of, the provisions of Subsection A and Section 13, the Township may either revoke, or deny an application to renew, a STR Permit for three (3) uncured or repeated violations of this Chapter in any rolling twelve (12) calendar month period.
- J. The revocation or denial to renew a Short-Term Rental Permit shall continue for one (1) year for the first set of two (2) uncured or repeated violations and continues for three (3) years for any subsequent set of violations.
- K. False/nuisance reporting shall be prohibited by this ordinance. Any person who reports an alleged violation of this Ordinance to the Township knowing that it did not occur shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000.00, together with costs, including reasonable attorney fees.

#### **Section 16 - Owners Severally Responsible**

- A. If the premises are owned by more than one owner, each owner shall severally be subject to prosecution for a violation of this Chapter.

#### **Section 17 - Appeals**

- A. Appeals of a determination of the Township under this Chapter to deny any application for, or to renew an STR Permit, or to revoke a STR Permit, shall be filed with the Board of Supervisors within thirty (30) days of the date of the denial of application or revocation of permit. Appeals shall be processed as follows:
  - (1) All appeals shall be in writing and signed by the Appellant on forms prescribed by the Township, and shall be accompanied by a fee, the amount of which shall be established by resolution duly adopted by the Board of Supervisors, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.
  - (2) Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, and the relief sought. Every appeal shall refer to the specific provision of circumstances of the case.
- B. The Board of Supervisors shall conduct hearings and make decisions pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353), known as the "Local Agency Law," and in accordance with the following requirements:
  - (1) Written notice shall be given to the Appellant, the Township, and to any person who has made timely request for same. Written notices shall be given at such time and in

such manner as shall be prescribed by rules of the Board of Supervisors, but not less than fifteen (15) days prior to the hearing.

- (2) The hearing shall be held within sixty (60) days from the date the appeal is filed unless the Appellant has agreed in writing to an extension of time.
- (3) The hearings shall be conducted by the Board of Supervisors. The decision or, where no decision is called for, the findings shall be in writing by the Board of Supervisors within forty-five (45) days after the conclusion of the hearing, unless the Appellant has agreed in writing to an extension of time, and shall be communicated to the Appellant and any other parties who have entered their written appearance and requested a copy of the decisions, at the addresses provided by them either by personal delivery or by United States First Class mail postage prepaid.
- (4) The Chairman or Acting Chairman of the Board of Supervisors or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.
- (5) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- (6) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- (7) The Board of Supervisors may, but is not required to, make a stenographic record of the proceedings.
- (8) In the event a stenographic record of the proceedings is not provided by the Board of Supervisors, a stenographic record shall be made and kept at the request of any party agreeing to pay the costs thereof.
- (9) Any party or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.
- (10) The Board of Supervisors shall not communicate, directly or indirectly, with any party or any party's representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or any party's representative unless all parties are given opportunity to be present.

## **Section 18 - Severability**

- A. If any section, provision, or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion.
- B. The Township reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

**Section 19 – Repealer**

- A. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

**Section 20-Failure to Enforce Not a Waiver**

The failure of the Township to enforce any provision of this ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

**Section 21 - Effective Date**

This Ordinance shall become effective ninety (90) days after enactment.

**ENACTED AND ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, A.D., 2022.

ATTEST:

**TOWNSHIP OF TOBYHANNA  
BOARD OF SUPERVISORS:**

\_\_\_\_\_  
Crystal Butler, Township Secretary

\_\_\_\_\_  
John E. Kerrick, Chairperson

\_\_\_\_\_  
David Carbone, Vice Chairperson

\_\_\_\_\_  
Brendon J. E. Carroll, Member

\_\_\_\_\_  
Rachel Schickling, Member

\_\_\_\_\_  
Joseph Colyer, Member