

**TOBYHANNA TOWNSHIP  
MONROE COUNTY, PENNSYLVANIA  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF TOBYHANNA TOWNSHIP, MONROE COUNTY, PENNSYLVANIA AMENDING CHAPTER 9, FIRE COMPANIES, OF THE TOBYHANNA TOWNSHIP CODE OF ORDINANCES FOR PROVIDING APPROPRIATE REPORTING INFORMATION, DATA, AND SIMILAR INFORMATION FOR PUBLIC REVIEW AND MECHANISMS TO THE TOWNSHIP TO PROVIDE OVERSIGHT AND MANAGEMENT TO ANY FIRE COMPANY SERVING TOBYHANNA TOWNSHIP.**

BE IT ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF TOBYHANNA TOWNSHIP, MONROE COUNTY, PENNSYLVANIA, AND IT IS HEREBY ENACTED AND ORDAINED BY THE AUTHORITY OF THE SAME AS FOLLOWS:

**Chapter 9. Fire Company**

**§ 9-1. Purpose and scope of authority.**

In accordance with Section 1801 and 1803 of the Pennsylvania Second Class Township Code,<sup>[1]</sup> the purpose of Chapter 9 is to establish fire protection in Tobyhanna Township; ensure basic oversight, control measures, procedures and regulations governing conditions which could impede or interfere with effective fire services in the Township; and to authorize and permit activities for volunteer fire fighter personnel for workers' compensation purposes. Notwithstanding anything contained in this chapter to the contrary, neither the recognition of the fire companies nor the authorization or permission herein granted to the fire companies shall be construed as constituting the fire company as an agent, agency, department or employee of Tobyhanna Township, except insofar as such effect is provided under the provisions of the Pennsylvania Workers' Compensation Act, [2] or the Pennsylvania Political Subdivision Tort Claims Act.<sup>[3]</sup>

[1] *See 53 PS. §§ 66801 and 66803.*

[2] *See 77 PS. § 1 et seq.*

[3] *See 42 Pa.C.S.A. § 8541 et seq.*

**§ 9-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated below:

**CAPITAL EXPENDITURE**

An outlay of funds to acquire fixed assets or additions to them, when an example of fixed assets may be major road and highway repairs; road rebuilding projects; parking lot construction; sidewalk and pedestrian paths; stormwater drainage and storm management

facilities; construction of public buildings and similar permanent structures; major building improvement and infrastructure systems in public buildings; the purchase of public land; the purchase of major equipment; engineering or architectural studies and services related to a public improvement; and all outlays financed by long-term debt. In Tobyhanna Township a capital expenditure typically is an item that costs in excess of \$4,000 and has a useful life of multiple years.

### **FIRE BOARD**

A group of appointed officials organized on a temporary basis by the Board of Supervisors for the general purposes of appropriately overseeing and coordinating the management of a fire company recognized in Chapter 9 but has failed to comply with the requirements of Chapter 9 and has been found by the Board of Supervisors to be delinquent and unable to provide adequate fire protection services to the Township. Specific tasks and duties of the Fire Board are established by resolution of the Board of Supervisors, which may include but may not be limited to providing for the improvement, advancement, and development of the fire services within a delinquent fire company and/or establish funding priorities and mechanisms and to do any and all necessary business for the delinquent fire company to provide adequate fire service in the Township.

### **FIRE COMPANY**

Any organized fire company which responds in Tobyhanna Township for the purpose of extinguishment of a fire or other emergency involving protection of life and/or property or when its assistance has been requested by the officer in charge of the incident.

### **FIRE COMPANY VEHICLES**

Any motor vehicle controlled by a volunteer fire company, the principal purposes of said vehicle being the fighting of fires or supplying of related services including emergency services. Essential fire company vehicles include those such as a Class A pumper, rescue vehicle, tanker, ladder truck as well as Brush, Utility, Command, Traffic and Multi- Purpose vehicles. All other vehicles are nonessential in nature. Vehicles shall be listed on the inventory provided to Board of Supervisors as discussed herein.

### **FIRE POLICE**

A Pennsylvania Special Fire Police Officer is a member of a volunteer fire company empowered by the municipality to handle emergency situations throughout the Commonwealth of Pennsylvania.

### **JUNIOR MEMBERS OF A VOLUNTEER FIRE DEPARTMENT**

A youth development program run by the fire department. The objective of such a program is to provide training for young men and women interested in serving their community and preparing to become active fire fighters upon reaching the age of eighteen (18). Pennsylvania Child Labor Laws define what minors under the age of 18 may and may not participate in.

### **MUTUAL AID**

A formal or informal agreement by two or more fire companies to agree to cooperatively provide upon request such aid, fire protection and suppression personnel and to make available such equipment or facilities as may be needed for the suppression of fires or the duties and responsibilities associated with saving lives and property within the jurisdictional areas of the requesting department; provided that the personnel, equipment or facilities requested are not otherwise required within a fire company's jurisdiction.

**NFPA**

National Fire Protection Association.

**OFFICER IN CHARGE**

The officer in charge of the fire company or designee in whose district the emergency occurs or, in his absence, the next ranking officer following the chain of command established by the rules of the fire company in whose district the emergency occurs.

**VOLUNTEER FIRE COMPANIES**

A fire company organized, recognized and existing under the laws of the Commonwealth of Pennsylvania and authorized to act within Tobyhanna Township.

**VOLUNTEER FIRE FIGHTER**

An active member, including probationary members, of a volunteer fire company who is a member in good standing of said volunteer fire company.

**§ 9-3. Fire companies recognized.**

The Tobyhanna Township Volunteer Fire Company and the Pocono Summit Volunteer Fire Company (hereafter "fire companies") organized and existing in the Township of Tobyhanna, Monroe County, Pennsylvania, are hereby designated as the officially recognized fire company for the Township.

**§ 9-4. Authorized duties and permitted activities of fire company.**

Volunteer fire fighters in Tobyhanna Township, including fire police, junior fire fighters, and any paid firefighter who performs the services of a volunteer firefighter during off-duty hours, are deemed to be Tobyhanna Township employees only when actively engaged in authorized duties as fire fighters; or while going to or returning from a fire emergency call which the fire company attended, including travel from and the direct return to a firefighter's home, place of business or other place when he/she shall have been when call or alarm was received. The authorized duties and activities listed in Chapter 9, § 9-4, are the sole duties and activities authorized by the Board of Supervisors of Tobyhanna Township to be performed by volunteer fire companies or their members. Any other activities performed by volunteer fire companies, or their members shall be deemed as outside of the scope of the office or duties of volunteer fire companies and undertaken at the sole risk of the company and individual members, unless authorized in writing by the Board of Supervisors. Authorized duties and activities are as follows:

- A. The fire company is hereby authorized to provide such services to the Township as may

be necessary for the protection of property and persons situated therein, which include, by way of example and not of limitation, the extinguishment and prevention of loss of life and property from fire, motor vehicle accident, medical emergencies, hazardous materials incidents and other dangerous situations.

- B. The fire company is permitted to provide nonemergency and public service functions to the Township, such as, by way of example and not of limitation, removing water from property after storms and assisting in the removal, abatement and prevention of damage or injury to persons or property, whether through natural causes or man-made situations.
- C. The fire company is permitted to conduct and participate in such training activities and drills, either within or outside of the Township, as may be deemed necessary by the officer of the fire company to maintain proficiency in providing services.
- D. The fire company is generally permitted to respond to calls and provide services to municipalities outside of the Township with which it maintains mutual response agreements.
- E. The fire company is permitted to engage in inspections and tours of private property, when invited, for fire prevention, planning and training purposes, preplanning, public education programs, testing of fire protection equipment or systems, open houses, and other fire prevention activities, when authorized by the Officer in charge or his/her designee.
- F. The fire company may conduct scheduled special work details at fire stations related to maintenance activities and recruitment programs.
- G. Engage in fund-raising activities for the fire company when authorized by an officer or officers of the fire company and attend parades and similar civic activities when authorized by the Board of Supervisors.
- H. The fire company may not enter into any agreement with municipalities or fire companies, other than mutual aid contracts, located outside of the jurisdictional limits of Tobyhanna Township without written permission from the Tobyhanna Township Board of Supervisors.
- I. Junior Fire members may participate in all aspects of fire suppression training except interior live fire extinguishment, rescue training, water supply training, safety training wildland firefighting and wilderness search and rescue training. Training activities involving entry into a hazardous atmosphere are excluded from the permitted activities. Volunteer Fire Companies may regulate the junior firefighting program of their department but must adhere to all Pennsylvania labor laws.

**§ 9-5. Other activities of members.**

In addition to actually participating in the activities of the fire companies as authorized in § 9-4 above, the members of the fire companies are also authorized by the Township to do all necessary

activities as set by the officer in charge of the Department or the Board of Supervisors

**§ 9-6. Interference with fire-suppression forces.**

- A. Interference with volunteer fire company operations. In accordance with Pennsylvania Title 18 and this chapter, it shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any volunteer fire company emergency vehicle in any way or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any volunteer fire company operation.
- B. Compliance with orders. A person shall not willfully fail or refuse to comply with any lawful order or direction of the officer in charge or designee to interfere with the compliance attempts of another individual.
- C. Vehicles crossing fire hose. A vehicle shall not be driven or propelled over any unprotected fire hose of a fire company when laid down on any street, alleyway, private drive or any other vehicular roadway without the consent of the officer in charge or designee of said operation.
- D. Unlawful boarding or tampering with fire company emergency equipment. A person shall not, without proper authorization from the officer in charge or designee of said fire company emergency equipment, cling to, attach himself to, climb upon or into, board or swing upon any fire company emergency vehicle, whether the same is in motion or at rest, sound the siren, horn, bell or other sound-producing device thereon or manipulate or tamper with or attempt to manipulate or tamper with any levers, valves, switches, starting device, brakes, pumps or any equipment or protective clothing on or a part of any fire company emergency vehicle.

**§ 9-7. Control of equipment and funds.**

- A. All tax revenue appropriations made by Tobyhanna Township to or for the use of the fire company, whether of money or property, and all equipment purchased by the fire company by use of such appropriations or purchased by Tobyhanna Township for use by the fire company, shall be deemed to be and shall continue to be the property of Tobyhanna Township. It is recognized that Pocono Summit Volunteer Fire Company owns certain vehicles, as per a listing provided to the Township, that are exempt from this section.
- B. None of the fire apparatus or capital equipment owned by the fire companies or by Tobyhanna Township shall be permanently removed or sold without the consent of the Board of Supervisors of Tobyhanna Township; and, except for the conduct of activities authorized or permitted in § 9- 4, none of the fire-fighting apparatus or equipment shall be temporarily removed from the Township without the prior approval of the Board of Supervisors.
- C. No capital expenditures over \$10,000.00 shall be made by the fire companies, which shall require it's borrowing of money or the pledge of Township credit without the prior written submission and consent of the Board of Supervisors.

- D. On or prior to September 1st, each year the fire companies shall submit to the Board of Supervisors of Tobyhanna Township its proposed budget of revenues and expenses for the forthcoming fiscal year for review by the Board of Supervisors.
- E. All Fire Companies shall submit a complete list of fire vehicles each year no later than ten (10) days prior to the Reorganizational Meeting in January.

**§ 9-8. List of expenditures.**

The official fire protection companies recognized by this Ordinance of the Tobyhanna Township Board of Supervisors shall provide Tobyhanna Township with an annual report of the use of the appropriated moneys from the Township for each completed year including but not limited to an annual financial report (financial statement) and budget before any further payments are made to the fire companies for the current year. Once every three years the official fire protection companies recognized by this Ordinance of the Tobyhanna Township Board of Supervisors shall provide Township of Tobyhanna with audited financial statements. The audited financial statements shall be provided annually to the Township.

**§ 9-9. Annual financial reporting; fire company reporting, appropriations and disbursements.**

- A. Required financial reporting and Township appropriations. In accordance with Section 1803 of the Pennsylvania Second Class Township Code<sup>1</sup>I and as required herein, all fire companies recognized in § 9-3 shall bi-annually submit to the Board of Supervisors a report of use of appropriated moneys for each completed year of operation before any further payments are made to the fire company for the current year in such sum(s) that in the opinion of said Board of Supervisors may be necessary in support of fire company facilities and training in accordance with Section 1803(a) of the Pennsylvania Second Class Township Code.

*See 53 PS. § 66803.*

- B. Disbursements. Appropriated funds derived from local taxes levied in accordance with Section 1803(a) of the Pennsylvania Second Class Township Code and appropriated to the Fire Tax Fund shall be disbursed by the Board of Supervisors to a fire company employing either of two methods:
  - (1) Requests for funds to be paid to vendors shall be made to the Board of Supervisors at their regularly scheduled meetings. If approved by the Board of Supervisors, the Township shall disburse check(s) to the fire company written to vendor(s): or
  - (2) Reimbursement for expenses paid to vendors by the fire company shall occur after the Board of Supervisors has reviewed the list of invoices paid and approved such prepaid expenses at its regular scheduled meeting
- C. Fire Relief funds shall be dispersed by the Board of Supervisors based on a call volume basis to be reevaluated on a five (5) year basis of total fire calls.
- D. Other fire company regulations and reporting requirements. In accordance with Section

1803(b) of the Pennsylvania Second Class Township Code, I<sup>2</sup>I the Board of Supervisors establishes the following regulations and reporting requirements for fire companies serving the Township. Compliance with the following standards by a fire company is required to ensure the Board of Supervisors is able to monitor activities and performance of the fire company and to meet fundamental fire services performance expectations and maintain good working order, as anticipated by the Board of Supervisors. Failure to comply with these standards may cause the Board of Supervisors to initiate a notice of delinquency of service in accordance with Chapter 9, § 9-10. The requirements for fire companies are as follow:

- (1) The fire company shall be recognized by the Township, as per§ 9-3 in this chapter.
- (2) A charter has been granted to such fire company by the proper court under the laws of the Commonwealth of Pennsylvania.
- (3) Such fire company shall own at least one motorized apparatus which complies with today's minimum standards such as, but not limited to current National Fire Protection Association (NFPA) standards or as licensed by the Pennsylvania State Department of Health.
- (4) Such fire company shall have communications equipment capable of receiving and transmitting on the frequencies designated by Tobyhanna Township and/or the Monroe County Emergency Management Agency (EMA) as the fire and rescue band frequency for the Township. The aforesaid communications system is approved, if, required by law, federal and state permits, licenses and/or approvals are obtained.
- (5) All apparatus owned by the Tobyhanna Township Volunteer Fire Company, or the Pocono Summit Volunteer Fire Company shall meet the minimum requirements as set forth in§ 9-7 of this chapter.
- (6) Such fire company shall have an alarm system that is deemed adequate to alert its volunteer fire fighters.
- (7) Such fire company shall maintain, within the boundaries of the Township, a suitable building of sufficient size to house fully equipped, approved apparatus meeting the requirements set forth in§ 9-7 of this section.
- (8) The officer in charge and all designated line officers of such fire company are full-time residents of Tobyhanna Township or a municipality contiguous thereto.
- (9) All bylaws, and amendments thereto, of a fire company recognized in § 9-3 of this chapter shall be provided to the Township and kept current and on file with the Township Secretary. All amendments to any bylaws shall be presented to the Township within 45 days of adoption.
- (10) Such fire company shall annually provide to the Township a certification of insurance (COI) from its insurance carrier and an up-to-date certificate of inspection.
- (11) Such fire company shall annually, within thirty days following their election of

officers, provide to the Township a complete membership list that will include the officer in charge and all designees or other ranked officers/positions. The membership list will also include all active volunteer fire fighters in good standing with the fire company.

- (12) Such fire company shall provide to the Township a listing of all fire apparatus (vehicles) that carry hose, ladders and contain pumps used in fire suppression in the Township. Such fire company shall annually test all fire pumps in accordance with Section 1911, Standard for Service Tests on Automotive Fire Department, of the NFPA standards and provide a test report to the Township Board of Supervisors indicating the date, time, duration and results of each pump test. The fire pump testing schedule shall be established by the Officer in charge to insure the equipment meets the intent of the requirements of NFPA. At a minimum, pumping equipment testing shall be scheduled and conducted within a twenty-four-month testing period. The results of all pump tests shall be kept on record and readily available for a period of five years.
- (13) Such fire company will provide a registered inventory of all ladders owned by the fire company and used in fire suppression in the Township. Such fire company shall annually test or cause to be tested all ground ladders used in fire suppression in accordance with NFPA 1932 standards and provide a report to the Township Board of Supervisors indicating the date, time, duration and results of each ladder test. The ladder testing schedule shall be established by the Officer in charge to insure the ladder meets the intent of the requirements of NFPA. At a minimum, ladder testing shall be scheduled and conducted within a twenty-four-month testing period. The results of all ladder tests shall be kept on record and readily available for a period of five years.
- (14) Such fire company shall annually test or cause to be tested all fire hoses used in fire suppression in accordance with Section 1962, Standards for Testing of Fire Hose, of the NFPA standards and provide a report to the Township Board of Supervisors indicating the date, time, duration and results of each hose test. The fire hose testing schedule shall be established by the Officer in charge to insure the equipment meets the intent of the requirements of NFPA. At a minimum, fire hose testing shall be scheduled and conducted within a twenty-four-month testing period. The results of all hose tests shall be kept on record and readily available for a period of five years.
- (15) Such fire company shall, at a minimum, provide activity reports and/or incident reports to the Board of Supervisors on regular monthly basis illustrating the number of calls, type of calls and number of fire fighters responding and similar information in a standard presentation format. The Volunteer Fire Companies must cooperate in aiding the Township to prepare a current ISO report. At the end of each year standard activity report summary will be provided to the Board of Supervisors for review.

*See 53 PS. § 66803(b).*

- (16) The Township Board of Supervisors shall determine, at its discretion, which expenses shall be borne by the volunteer fire company or by the Township.



(17) The Township Board of Supervisors must be provided at the second meeting of each month a National Fire Incident Reporting System report from each volunteer fire company. Said NFIRS report shall be provided to the Board of Supervisors in writing as well as the Pennsylvania State Fire Commissioner.

E. Other financial reporting. In order to maintain an understanding of the fire company's financial needs, the fire company shall annually submit a report of its financial condition for the calendar year and an adopted budget for the fire company.

**§ 9-10. Election of officers.**

- (a) The members of the Fire Company are further authorized to elect from their membership such officers as may be provided in the bylaws of the fire company. The Board of Supervisors must be provided the qualifications and fire education and training of all members
- (b) All firefighters are required to hold, at a minimum, a Certification of Firefighter I (NFPA 1001). All line officers are required to hold, at a minimum, a Certificate of Firefighter II (NFPA 1001). Fire Essentials shall be acceptable.
- (c) All firefighters are required to hold National Incident Management System (NIMS) certification (100, 200, 700, 800).
- (d) All Chiefs also are required to hold National Incident Management System (NIMS) certification (300, 400).

**§ 9-11. Delinquency of fire service.**

A. The Tobyhanna Township Board of Supervisors provides for fire protection in Tobyhanna Township and requires that a fire company recognized under § 9-3 of this chapter operate and be managed in accordance with the laws of the Commonwealth of Pennsylvania, Chapter 9 of the Township Code, the fire company's bylaws, and the standards of fire protection of the NFPA. Failure to adhere to these expectations and requirements or failure to do what law or duty requires constitutes a delinquency of service. Should the Township Board of Supervisors believe that for any reason the fire company is in noncompliance and not providing adequate fire protection to the Township, the Board of Supervisors shall direct the Township Manager and/or other designee to investigate and examine the reasons for noncompliance using the following process:

- (1) The Township Manager and/or other designee will contact the fire company's Chief Administrative Official, in writing and indicate the findings by the Township of noncompliance in a noncompliance notification letter.
- (2) Within the noncompliance notification letter, the Township Manager or other designee

will coordinate with the fire company's Chief Administrative Official the date(s), times and place to hold a meeting to discuss the findings, service concerns and/or compliance concerns and deficiencies with the Fire Company.

- (3) Within 10 days following the meeting with the fire company's Chief Administrative Office, Liaison Committee or duly appointed representatives, the Township Manager and/or other designee will present, in writing, to the Board of Supervisors all findings and the current disposition of all findings as a result of the meeting. A copy of the findings and disposition comments will also be forwarded to the fire company.
- (4) Following receipt by the fire company of the findings summary letter, the fire company will have 15 days to contact the Township Manager and schedule a presentation for the next Board of Supervisors meeting for the purpose of discussing the findings and the disposition of the findings and responding to the compliance issues.
- (5) If the fire company adequately addresses the noncompliance findings and agrees to any corrective actions or measures approved by the Board of Supervisors related to the findings and the disposition of the findings, the fire company shall be deemed to be in compliance. Upon appropriate motion and approval by the Board of Supervisors, the Township Manager and/or other designee will provide written notification of compliance.
- (6) If noncompliance is sustained, the Board of Supervisors by majority motion may issue a notice of delinquency of service and initiate the delinquency of service process outlined in § 9-10B and other actions provided in § 9-10. The Board of Supervisors may also issue a notice of delinquency of service to ensure public safety is maintained in the Township.

B. Delinquency of service. In the event that a fire company established to provide fire protection or other emergency services and recognized in § 9-3 by Tobyhanna Township, or any successor organization, shall at any time after the establishment of this chapter fail to maintain the fire- protection service with a reasonable level of working order, in accordance with established standards, guidelines and agreements to operate and manage in accordance with the laws of the Commonwealth of Pennsylvania, Chapter 9 of the Township Code, the fire company's bylaws, and NFPA, the Board may serve written notice of delinquency of service upon the fire company and its officers stating:

- (1) The manner in which the fire company has failed to maintain public fire-protection service in a reasonable condition and issues related to noncompliance and delinquency of service.
- (2) A demand that such deficiencies, issues of noncompliance and delinquency of service related to this chapter and the fire protection of Tobyhanna Township be corrected within 30 days.
- (3) A schedule for presenting to the Board of Supervisors an explanation for such deficiencies, issues of noncompliance and delinquency of service related to this chapter and the fire protection of Tobyhanna Township.

(4) The date and places of public hearing, which shall be held within 45 days of the notice.

C. Public hearing for delinquency of service. At such a hearing, the Board of Supervisors may amend the terms of the original notice of delinquency of service concerning the deficiencies and may give an extension of time within which the fire company shall correct them. If the deficiencies or any modifications thereof were not corrected within 30 days of the notice of delinquencies referred to above or within any agreed-upon extension of time, the Township Board of Supervisors may intervene in the operation of the fire company through a resolution establishing a Fire Board in accordance with the provision of this chapter.

D. Formation of the Fire Board. If after the public hearing for delinquency of service, the Board of Supervisors determines that delinquencies exist and that a fire company is not performing effectively and providing adequate fire-protection services, the Board of Supervisors may form a Fire Board as follows:

(1) The Fire Board shall be established by resolution passed by the Board of Supervisors and shall be maintained for an initial period of one year. The Fire Board shall be established and have authority over all functions of fire-protection service currently maintained by the delinquent fire company including, but not limited to, the administration, collection of revenues, payment of charges, organization of officers and similar administrative and operational functions. The Fire Board will provide direct guidance and direction over the delinquent fire company in addressing all operational problems that have contributed in whole or in part to the delinquency of service. If a Fire Board is established by resolution, the delinquent fire company shall be subject to the jurisdiction and control of the Fire Board and shall at all times conform to any and all rules and regulations adopted by said Board, anything in the constitution and bylaws of any fire company to the contrary notwithstanding.

(2) Rights of the fire company. Establishment of the Fire Board shall not constitute a taking or disbandment of the fire company, nor vest in the Township any rights above those provided for by the Pennsylvania Second Class Township Code and other relevant laws of the Commonwealth of Pennsylvania.

(3) Duties and responsibilities. The specific duties and mission of the Fire Board shall be established in detail by a resolution passed by the Board of Supervisors. At a minimum, the Fire Board shall accomplish the following:

(a) The Fire Board shall retain fire company operability and shall maintain such minimum standards of operation of the fire company as the Township Board of Supervisors may prescribe and shall develop plans and make suggestions for improving such standards and shall report such plans and suggestions to the Township Board of Supervisors.

(b) Authority. The Fire Board shall have the authority to remove, appoint or affirm all fire company officers, ancillary boards and committee members to serve in various capacities as specified in the fire company bylaws.

(c) The Fire Board shall have approval authority over all fire company financial

expenditures and administrative matters.

- (d) The Fire Board shall appoint its own clerk(s) or administrative officers from the membership of the fire company to implement day-to-day tasks of the fire company and who shall serve at the pleasure of the Fire Board.
  - (e) The Fire Board shall determine the tasks to be performed and the powers entitled to the officer in charge and administrative officers during the period of delinquency.
  - (f) **Organization of the Fire Board.** The Fire Board shall consist of five members with each Fire Board member having staggered terms from one to five years. Thereafter a new member shall be appointed by the Board of Supervisors each year for a term of five years, or until a successor is appointed and qualified, with no more than two members being reappointed or replaced during any future calendar year. The organizational procedures will continue to remain in effect until the Board of Supervisors deems the delinquency of service to be corrected.
- E. **Correction of delinquency; burden of proof.** Before the expiration of one year from the determination of delinquency and formation of the Fire Board, the Township shall, upon its initiative or upon request of a fire company representative, call a public meeting upon notice to the fire company. At the public hearing, the fire company shall be provided with an opportunity to show cause as to why the Fire Board shall not, at the option of the Township, continue for a succeeding year. If the Board of Supervisors shall determine that the fire company is capable to resume service and to maintain compliance with the laws of the Commonwealth of Pennsylvania, Chapter 9 of the Township Code, the fire company's bylaws, and NFPA or other deficiencies, the Township Board of Supervisors shall by resolution cease to maintain the formation of the Fire Board at the end of said year, or a date to be mutually determined by the fire company and the Township which is suitable for the effective transition. If the Board shall determine, at the recommendation of the Fire Board, that the fire company is still delinquent, the Board of Supervisors shall, at its discretion, continue to reaffirm the Fire Board for a next succeeding year and, subject to a similar hearing and determination, in each year thereafter in accordance with this section.
- F. Any and all costs to the Township incurred as a result of administering and operating the fire company (e.g., mailing expenses, staff time, travel) and any additional penalties or fees set by the Township shall be paid by fire company or Fire Board.

**§ 9-12. Municipal liability.**

- A. Unless otherwise provided in this chapter or by action of the Tobyhanna Township Board of Supervisors, no fire company recognized in § 9-3 of this chapter or its officers, members, representatives, agents, servants or employees shall have the power or authority, either actual, apparent or implied, to contractually bind or create contractual liability on the part of Tobyhanna Township or any other municipal entity.
- B. It is recognized that a Fire Company, as specified in § 9-3, when engaged in activities and duties specified in § 9-4, is a governmental agency and that its officers, members, representatives, agents, servants or employees are included within the provisions of the Political Subdivision Immunity Act, 42 Pa.C.S.A. § 8541 et seq., and, as such, said

Tobyhanna Township fire company, its officers, members, representatives, agents, servants and employees are entitled to immunity from tort liability under the Pennsylvania Political Subdivision Tort Claims Act and to all rights and privileges as provided in said act.

**§ 9-13. Violations and penalties.**

Any person who shall violate any provisions of this Chapter 9, § 9-6 shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$1,000. Each day that a violation continues beyond the date fixed for compliance shall constitute a separate offense. It is further provided that, upon judgment against any person by summary conviction, or by proceedings by summons on default of payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to the county prison for a period not exceeding 30 days.

**§ 9-14. Establishment of Fire Commission**

The Board of Supervisors may establish the Tobyhanna Township Fire Commission and will determine commission membership and commission status at their discretion.

EFFECTIVE DATE. This Ordinance shall become effective five (5) days after final enactment.

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

TOBYHANNA TOWNSHIP  
BOARD OF SUPERVISORS

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

\_\_\_\_\_  
David Carbone, Member

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

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

Attest: \_\_\_\_\_  
Crystal Butler, Township Secretary

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