

# Supreme Court of Pennsylvania

## Court of Common Pleas Civil Cover Sheet

**Monroe**

County

For Prothonotary Use Only:

Docket No:

TIME STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION

### Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition  
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:  
Tobyhanna Township

Lead Defendant's Name:  
Tobyhanna Twp. Volunteer Fire Company

Are money damages requested? ☐ Yes ☒ No

Dollar Amount Requested: ☐ within arbitration limits  
(check one) ☐ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

A

Name of Plaintiff/Appellant's Attorney: Harry T. Coleman, Esquire

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

**Nature of the Case:** Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

SECTION

### TORT (do not include Mass Tort)

- ☐ Intentional  
☐ Malicious Prosecution  
☐ Motor Vehicle  
☐ Nuisance  
☐ Premises Liability  
☐ Product Liability (does not include mass tort)  
☐ Slander/Libel/ Defamation  
☐ Other:  
\_\_\_\_\_

### CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff  
☐ Debt Collection: Credit Card  
☐ Debt Collection: Other  
\_\_\_\_\_  
☐ Employment Dispute: Discrimination  
☐ Employment Dispute: Other  
\_\_\_\_\_  
☐ Other:  
\_\_\_\_\_

### CIVIL APPEALS

- Administrative Agencies  
☐ Board of Assessment  
☐ Board of Elections  
☐ Dept. of Transportation  
☐ Statutory Appeal: Other  
\_\_\_\_\_  
☐ Zoning Board  
☐ Other:  
\_\_\_\_\_

B

### MASS TORT

- ☐ Asbestos  
☐ Tobacco  
☐ Toxic Tort - DES  
☐ Toxic Tort - Implant  
☐ Toxic Waste  
☐ Other:  
\_\_\_\_\_

### REAL PROPERTY

- ☐ Ejectment  
☐ Eminent Domain/Condemnation  
☐ Ground Rent  
☐ Landlord/Tenant Dispute  
☐ Mortgage Foreclosure: Residential  
☐ Mortgage Foreclosure: Commercial  
☐ Partition  
☐ Quiet Title  
☐ Other:  
\_\_\_\_\_

### MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration  
☐ Declaratory Judgment  
☐ Mandamus  
☐ Non-Domestic Relations  
☐ Restraining Order  
☐ Quo Warranto  
☐ Replevin  
☒ Other:  
Injunction  
\_\_\_\_\_

### PROFESSIONAL LIABILITY

- ☐ Dental  
☐ Legal  
☐ Medical  
☐ Other Professional:  
\_\_\_\_\_

TOBYHANNA TOWNSHIP

Government Center

105 Government Center Way

Pocono Pines, PA 18350

Plaintiff,

vs.

TOBYHANNA TOWNSHIP

VOLUNTEER FIRE COMPANY

1560 Route 940

P.O. Box 388

Pocono Pines, PA 18350

Defendant.

COURT OF COMMON PLEAS

MONROE COUNTY

PENNSYLVANIA

No.:

INJUNCTION ACTION

**NOTICE TO PLEAD**

*You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action by entering a written appearance personally or by attorney and filing in writing with the Court your defenses of objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.*

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

Northern Pennsylvania Legal  
P.O. Box 186  
Harrisburg, PA 17108-0186  
717-253-1031

Monroe County Bar Association  
Find a Lawyer Program  
913 Main Street  
Stroudsburg, PA 18360  
(570) 424-1340

TOBYHANNA TOWNSHIP	:	
Government Center	:	
105 Government Center Way	:	COURT OF COMMON PLEAS
Pocono Pines, PA 18350	:	MONROE COUNTY
	:	PENNSYLVANIA
	:	
Plaintiff,	:	
vs.	:	No.:
	:	
TOBYHANNA TOWNSHIP VOLUNTEER	:	INJUNCTION ACTION
FIRE COMPANY	:	
1560 Route 940	:	
P.O. Box 388	:	
Pocono Pines, PA 18350	:	
	:	
Defendant.	:	

.....

### **COMPLAINT FOR INJUNCTION**

NOW COME the Plaintiff, Tobyhanna Township, by and through counsel, Harry T. Coleman, Esquire, and hereby brings this action for Injunctive Relief and submits the following:

1. Petitioner, Tobyhanna Township is municipal entity, organized under the laws of the Commonwealth of Pennsylvania with a principal and legal address located at 105 Government Center Way, Pocono Pines, PA 18350.
2. Tobyhanna Township is classified as a Second-Class Township under the Pennsylvania Township Code.
3. Respondent, Tobyhanna Township Volunteer Fire Company (“TTVFC”), originally known as Pocono Pines Fire Company, is a Pennsylvania not for profit corporation originally incorporated on November 3, 1930. A Charter issued by the Court of Common Pleas of Monroe County through Decree of March 3, 1947. (See Exhibit “A” attached).

4. TTVFC was formed for the purpose of fighting fire and the protection of property from damage and destruction by fire. The business of TTVFC is to be transacted in Pocono Pines, Tobyhanna Township. (See Petition for Amendment of Charter at Paragraph 3, Exhibit "A", and Monroe County Deed Book 159, page 339.)

5. Fire Company maintains its legal address at 1560 Route 940, Pocono Pines, in Tobyhanna Township with its main station at that address and a station located in Blakeslee, Tobyhanna Township.

6. On February 4, 1985, the Tobyhanna Township Board of Supervisors requested the Monroe County Board of Elections to place a non-binding advisory question on the ballot to ask Township residents if they favor a real estate tax for purpose of purchasing firefighting apparatus and fire fighting vehicles for Tobyhanna Township Volunteer Fire Company and the Pocono Summit Volunteer Fire Company. (See Resolution attached hereto as Exhibit "B").

7. The voters of Tobyhanna Township approved the non-binding referendum, and a fire tax was created that funded the two volunteer fire companies serving the Tobyhanna Township.

8. Since 1986, TTVFC has had designated funds annually and in fact, received funds for fire apparatus and fire fighting vehicles. The residents of Tobyhanna Township are entitled to a financial accounting as to what funds from the fire tax remain in the accounts of TTVFC. A hearing is requested.

9. On August 15, 2022, the Board of Supervisors of Tobyhanna Township unanimously passed a motion to adopt a Fire Ordinance Amendment, effective five (5) days after passage. A copy of the Ordinance No. 571 is incorporated herein by reference and attached as Exhibit "C" ("Fire Ordinance").

10. Prior to the adoption of the Fire Ordinance Amendment on August 15, 2022, TTVFC indicated that if the Township Board of Supervisors adopted the Ordinance, TTVFC would not serve as a recognized fire company within Tobyhanna Township (See Exhibit “D” attached).

11. This voluntary action by TTVFC decertified TTVFC as a recognized and authorized volunteer fire company within Tobyhanna Township.

12. By the voluntary actions of TTVFC, Tobyhanna Township no longer considers TTVFC as a designated volunteer fire company within the Township and that the Township will no longer recognize TTVFC as an Operating Fire Protection entity of the Township.

13. Pursuant to Section 9-1 of the Tobyhanna Township Code (Fire Company recognized), the Tobyhanna Township Board of Supervisors shall recognize an official fire protection unit by resolution. Fire protection units not recognized by resolution of the Tobyhanna Township Board of Supervisors shall no longer be official fire protection units for Tobyhanna Township and are unauthorized to respond to any fires or emergencies within Tobyhanna Township. [Amended 11-19-2019 by Ord. No. 558]

14. Prior to August 15, 2022, TTVFC and Pocono Summit Volunteer Fire Company were recognized by Tobyhanna Township as designated volunteer fire companies.

15. Prior to the withdrawal of TTVFC through the aforesaid correspondence of counsel and the effective passage of the Fire Ordinance, TTVFC is no longer a recognized volunteer fire company within the Township.

16. The Township of Tobyhanna, by virtue of the voluntary withdrawal as a recognized volunteer fire company by TTVFC as set forth herein, need not meet the procedural requirements applicable to the reduction, removal, or decertification of a fire company as set forth above based upon the voluntary withdrawal by TTVFC.

17. As a result of the lacking governmental immunity, TTVFC is required to pay for insurance at their own expense beyond January 1, 2023.

18. TTVFC, by virtue of their stated intent not to adhere to the Fire Ordinance, cannot continue with their purpose of controlling and extinguishing fires within the jurisdictional limits of the Township of Tobyhanna. A Hearing is requested.

19. The Second-Class Township Code necessarily implied the power and the responsibility to organize an effective fire protection service for the benefit of the township's inhabitants.

20. Under the Second-Class Township Code, Tobyhanna Township, following the decision of TTVFC to withdraw as a volunteer fire company within the Township, the Township is fully within its administrative powers to seek the relief sought herein.

21. TTVFC has the use of gas codes for gas payable by the Township. A financial accounting of the gas usage for the time frame following TTVFC withdrawal as a volunteer fire company in the Township. A Hearing is requested.

22. The residents of Tobyhanna Township have contributed significantly toward the purchase of the vehicles of TTVFC. A Hearing is requested with the Court to determine the legal and equitable ownership of the vehicles of TTVFC.

23. TTTVFC currently maintains its business operations rent free at buildings owned by the Township. A Hearing is requested to establish a time frame for TTVFC to quit the properties.

24. Tobyhanna Township Code Section § 9-3 (List of expenditures) states .the official fire protection unit(s) recognized by resolution of the Tobyhanna Township Board of Supervisors shall provide the Township of Tobyhanna 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. [Amended 1-6-2020 by Ord. No. 561].

25. It is requested that a financial audit be conducted of the books and records of TTVFC to determine what funds are remaining, if any, from the Fire Tax. A Hearing is requested.

26. On information and belief, TTVFC has a stated intent to provide fire services.

27. It is requested a Hearing be conducted to develop evidence and testimony on this issue and that TTVFC precluded from operating any vehicles until such time as the issue of ownership, legal and equitable, of the vehicles is established by the Court.

28. The Court is requested to issue a Decree prohibiting TTVFC from operating or being dispatched to fight fires within the jurisdictional limits of Tobyhanna Township. A Hearing is requested.

29. Petitioner has no adequate remedy at law.

30. Petitioner's right to relief is clear.

31. Petitioner will suffer continuing harm by not receiving the relief requested. No harm will result to Respondent by granting the relief requested by Petitioner. To the contrary, the residents of the Township of Tobyhanna will be harmed by the required actions of Petitioner.

32. Petitioner is suffering and will continue to suffer irreparable harm due to Respondent's actions.

WHEREFORE, Petitioner Tobyhanna Township requests that this Honorable Court invoke its Equitable powers and declare the following:

- (A) Issue a Stay prohibiting TTVFC from utilizing any vehicles until a hearing and further Decree issues.



- (B) Issue a Stay prohibiting TTVFC from making any expenditures until such time as a forensic audit is conducted on the books and records of TTVFC and a further Decree issue.
- (C) Issue a Decree prohibiting TTVFC from operating as a Fire Protection entity within the jurisdictional limits of Tobyhanna Township.
- (D) Declare TTVFC as a nonoperating Fire Protection entity in Tobyhanna Township and to preclude TTVFC from responding to any calls until such time as Hearing is conducted to determine the ownership rights in fire protection equipment and an accounting is conducted to determine what funds of TTVFC shall revert to the citizens of Tobyhanna Township.
- (E) The liability insurance for all fire company vehicles used by TTVFC and worker's compensation insurance for TTVFC members be immediately cancelled.

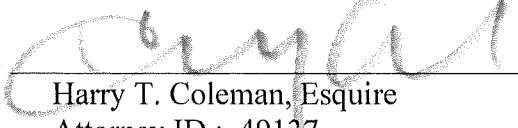
WHEREFORE, your Petitioner respectfully requests that a Decree be entered in their favor and against the Respondent. A Proposed Decree is attached.

Dated: August 24, 2022

Respectfully submitted,

LAW OFFICE OF HARRY T. COLEMAN

By:

  
Harry T. Coleman, Esquire

Attorney ID.: 49137

41 N. Main Street

3<sup>rd</sup> Floor, Suite 316


Carbondale, PA 18407

570-282-7440

570-282-7606, fax

[Harry@harrycolemanlaw.com](mailto:Harry@harrycolemanlaw.com)

By:

  
Owen M. Coleman, Esquire

Attorney ID.: 327826

41 N. Main Street

3<sup>rd</sup> Floor, Suite 316

Carbondale, PA 18407

570-282-7440

570-282-7606, fax

[Owen@harrycolemanlaw.com](mailto:Owen@harrycolemanlaw.com)

*Attorneys for Petitioner Tobyhanna  
Township*

**EXHIBIT “A”**

**CERTIFICATE OF SUMMARY OF RECORD**  
**COMMONWEALTH OF PENNSYLVANIA**  
**DEPARTMENT OF STATE - CORPORATION BUREAU**  
**588 NORTH OFFICE BUILDING, HARRISBURG, PA 17128**

**FEE \$40.00**

Unless  
 Accompanying  
 Another  
 Filing

**PLEASE CHECK ONE:**

- ☐ DOMESTIC LIMITED PARTNERSHIP  
☐ DOMESTIC NON PROFIT CORPORATION  
☐ DOMESTIC PROFESSIONAL CORPORATION  
 ENTER LICENSE NUMBER →

**1 NAME OF CORPORATION OR LIMITED PARTNERSHIP**

Tobyhanna Township Volunteer Fire Co. 00114

**2 ADDRESS OF REGISTERED OFFICE OR PRINCIPAL PLACE OF BUSINESS IN PENNSYLVANIA (P.O. BOX NUMBER NOT ACCEPTABLE)**

Government Center, P.O. Box 388, Pocono Pines PA 18350  
 CITY COUNTY STATE 064 ZIP CODE

**3 THE STATUTE BY OR UNDER WHICH THE CORPORATION OR LIMITED PARTNERSHIP WAS FORMED**

The Act of April 29, 1874

**4 THE CORPORATION - LIMITED PARTNERSHIP WAS ORIGINALLY FORMED ON UNDER THE NAME OF:**

Pocono Pines Fire Co.

November 3, 1930  
 (DATE)

**5 THE ORIGINAL STATEMENT, ARTICLES, CERTIFICATE OR OTHER ORIGINAL DOCUMENTS WERE RECORDED OR FILED ON**  
November 14, 1930 **IN:** Monroe County, PA **Record Book** 112 **page** 396  
 (DATE)

**6 (IF APPLICABLE) THE MANNER IN WHICH THE CORPORATION WAS FORMED WAS BY:**

☐ SPECIAL ACT (Sec 4 3) ☒ DECREE OF Court of Common Pleas ENTERED (DATE) 11/3/1930  
 (Name of Court)

☐ LETTERS PATENT GRANTED ON \_\_\_\_\_ ☐ FILING OF \_\_\_\_\_ IN THE \_\_\_\_\_

**7 CHECK IF APPLICABLE**

☒ CURRENTLY EFFECTIVE ORGANIZATION DOCUMENTS (OR AMENDED OR RESTATED ARTICLES) ARE ATTACHED HERewith AS EXHIBIT A

- Copy of certification of a charter issued by the Court of Common Pleas of Monroe County, PA.
- Copy of certified copy of articles of amendment changing the name from Pocono Pines Fire Co. to Tobyhanna Township Volunteer Fire Co. entered March 3, 1947.

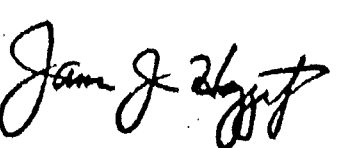
**8 EACH NAME BY WHICH THE CORPORATION WAS KNOWN AND THE EFFECTIVE DATES ARE AS FOLLOWS:**

NAME	EFFECTIVE DATE
Pocono Pines Fire Co.	November 3, 1930
Tobyhanna Township Volunteer Fire Co.	March 3, 1947

**IN TESTIMONY WHEREOF, THE (UNDERSIGNED CORPORATE OFFICERS/PARTNERS HAVE SIGNED AND SEALED THE CERTIFICATE OF SUMMARY OF RECORD THIS** 24th **DAY OF** May 1989

Robert R. Knuth **TREASURER** May 25, 1989  
Richard J. Miller **Secretary** May 25, 1989

**FOR OFFICE USE ONLY.**

090 FILED MAY 30 1989 	002 CODE	003 REV BOX	SEQUENTIAL NO.	100 MICROFILM NUMBER 89411661
	REVIEWED BY	004 SICC	AMOUNT	001 CORPORATION NUMBER 358317-004
	DATE APPROVED	CERTIFY TO	INPUT BY	LOG IN
	DATE REJECTED	<input type="checkbox"/> REV. <input type="checkbox"/> L&I	VERIFIED BY	LOG OUT
	MAILED BY DATE			LOG OUT (REFILE)

INCORPORATION OF POCONO PINES FIRE COMPANY.

DECREE.

89111673

AND NOW, March 3rd, 1947, the articles of amendment having been presented to the court together with a certified copy of the resolution authorizing the proposed amendment, proof of the advertisement required by law, and a certificate of registration of the proposed change of corporate name and approval from the Department of State, and the Court being of the opinion that the amendment is lawful, will be beneficial and not injurious to the community and does not conflict with the requirements of the nonprofit corporation law, the court so certifies, and orders and decrees that the articles of amendment are approved and that upon the recording of the articles and the order, the amendment specified in the petition shall be a part of the charter and the corporation shall hereafter be known as "Tobyhanna Township Volunteer Fire Company."

BY THE COURT:

Fred W. Davis, P. J.

FROM THE RECORD

*Claude E. W. [unclear]* Prothy. Clerk  
*Alvin M. Ridgeway* Dep. Prothy. Clerk

89411680

DSCB: 15-7905 (Rev. 11-72)-2

IN TESTIMONY WHEREOF, the undersigned corporation has caused these Articles of Amendment to be signed by a duly authorized officer and its corporate seal, duly attested by another such officer, to be hereunto affixed this 18th day of April, 19 89.

Tobyhanna Township Volunteer Fire Co.  
(NAME OF CORPORATION)

By:

[Signature]  
(SIGNATURE)

[Signature]  
(TITLE: PRESIDENT, VICE PRESIDENT, ETC.)

Attest:

[Signature]  
(SIGNATURE)

[Signature]  
(TITLE: SECRETARY, ASSISTANT SECRETARY, ETC.)

(CORPORATE SEAL)

## INSTRUCTIONS FOR COMPLETION OF FORM:

- Any necessary copies of Form DSCB:17.2 (Consent to Appropriation of Name) or Form DSCB:17.3 (Consent to Use of Similar Name) shall accompany Articles of Amendment effecting a change of name.
- Any necessary governmental approvals shall accompany this form.
- If the action was authorized by a body other than the board of directors Paragraph 6 should be modified accordingly.
- 15 Pa.C.S. 17906(c) requires that the corporation shall advertise its intention to file or the filing of Articles of Amendment. Proofs of publication of such advertising should not be delivered to the Department, but should be filed with the minutes of the corporation.

DEPT. OF STATE  
89 APR 28 AM 9:23  
RECEIVED

89411666

For Amend-  
ment to  
Charter,  
Change of  
Name, See  
Deed Book  
Vol. 159  
Page 339

Court of Common Pleas ) TO THE HONORABLE, THE JUDGES OF THE  
To ) COURT OF COMMON PLEAS OF MONROE  
Pocono Pines Fire Co. ) COUNTY, PENNSYLVANIA.

Be it known, that the sub-  
scribers having associated themselves together for the purpose  
of organizing a Pocono Pines Fire Company and being desirous of  
becoming incorporated agreeable to the provisions of the Act  
of the General Assembly of the Commonwealth of Pennsylvania,  
entitled "An Act to Provide for the Incorporation and Regulation  
of Certain Corporations," approved the 29th day of April, A. D.  
1874, and the supplements thereto, do hereby declare that the  
following are the purposes and conditions for and upon which  
they desire to be incorporated:

1. The name of the corporation shall be "Pocono Pines Fire  
Company."

2. The purpose for which the corporation is formed is that  
of maintaining a fire company for the purpose of fighting fire,  
and the protection of property from damage and destruction by  
fire

3. The place where the business of the corporation is to  
be transacted is Pocono Pines, in the Township of Tobyhanna,  
Monroe County, Pennsylvania.

4. The corporation shall have perpetual succession by its  
corporate name.

5. The yearly income of the corporation other than that  
derived from real estate shall not exceed Five Thousand Dollars  
(\$5000.00).

6. The corporation shall have no capital stock. The names  
and residences of the subscribers are:

Names	Residences
Arthur Walker	Pocono Pines, Pa.
E. O. Elvidge	Pocono Pines, Pa.
S. Freeman Dyson	Pocono Pines, Pa.

89411667

Claude Bush

Pocono Pines, Pa.

Names

Residences

J. E. Doney

Pocono Pines, Pa.

Alford Bunting

Pocono Pines, Pa.

A. A. Wilson

Pocono Pines, Pa.

Curvin Miller

Pocono Pines, Pa.

Russell Williams

Pocono Pines, Pa.

A. B. Herrick

Pocono Lake, Pa.

Adam Bonser

Pocono Pines, Pa.

O. A. Sansenbach

Pocono Lake, Pa.

A. T. Blakeslee

Preserve, Pa.

Frank Smith

Pocono Pines, Pa.

O. A. Majer

Pocono Pines, Pa.

Frank Fischer

Pocono Lake, Pa.

H. M. Clawson

Pocono Pines, Pa.

William Fischer

Pocono Pines, Pa.

Otto Fischer

Pocono Pines, Pa.

Edgar Altomose

Pocono Pines, Pa.

Douglas Franks

Pocono Pines, Pa.

Howard Smith

Pocono Pines, Pa.

State of Pennsylvania

George Hafner

Pocono Lake, Pa.

Austin Kresge

Pocono Pines, Pa.

B. G. Smith

Pocono Pines, Pa.

7. The corporation is to be managed by a Board of

Directors consisting of fifteen members who shall be the officers of said corporation, and the names and residences of the Board of Directors for the first year are:

O. A. Sansenbach, President

Pocono Lake, Pa.

Alford Bunting, Vice President

Pocono Pines, Pa.

A. A. Wilson, Second Vice President

Pocono Pines, Pa.

Claude Bush, Secretary

Pocono Pines, Pa.

Adam Bonser, Treasurer

Pocono Pines, Pa.



Curvin Miller 89111668 Pocono Pines, Pa.  
 J. E. Doney Pocono Pines, Pa.  
 Russell Williams Pocono Pines, Pa.  
 Frank Smith Pocono Pines, Pa.  
 Arthur Walker Pocono Pines, Pa.  
 Edward Elvidge Pocono Pines, Pa.  
 F. S. Dyson Pocono Pines, Pa.  
 A. E. Herriok Pocono Pines, Pa.  
 William Fischer Pocono Pines, Pa.  
 Howard Smith Pocono Pines, Pa.

§. Admission to membership and the requirements thereof shall be as prescribed by the By-Laws, subject to the provisions of the Constitution and Laws of the United States and of the Commonwealth of Pennsylvania.

Witness our hands and seals this 21st day of May A. D. 1930.

Clarence A. Major (SEAL)  
 Alford Bunting (SEAL)  
 James E. Doney (SEAL)  
 Edward G. Elvidge (SEAL)  
 S. Freeman Dyson (SEAL)  
 State of Pennsylvania)  
 County of Monroe,

Before me, the subscriber, a Justice of the Peace in and for the said County of Monroe, personally appeared Claude Bush, Edw. G. Elvidge, Alford Bunting three of the subscribers to the above and foregoing Certificate of Incorporation of "Pocono Pines Fire Company", and in due form of law acknowledged the same to be their act and deed and the act and deed of their said associates according to the Act of Assembly in such cases made and provided.

Witness my hand and official seal, this 21st day of May, A. D. 1930.

(Official Seal) George Bayer, J. P.  
 My Com. Exp. Mon. 1st Mon. Jan. 1936.

Tobyhanna Township Volunteer Fire Department  
Application For Recognition Of Exemption Under  
Section 501 (c) (3)

89-1116..

(Attachment 2)

IN THE COURT OF COMMON  
PLEAS OF MONROE COUNTY

IN THE MATTER OF THE  
APPLICATION FOR AMENDMENT  
OF ARTICLES OF INCORPORATION  
OF POCONO PINES FIRE  
COMPANY

Certified copy of  
DECREED

OFFICE OF THE  
PROTHONOTARY  
AND  
CLERK OF THE COURT  
OF MONROE COUNTY

Sworn to and subscribed before me this November 1st day of  
November, 1930.

89411674

(Notarial Seal) Helen T. Hughes, Notary Public.

My commission expires Mar. 8, 1931.

STATEMENT OF ADVERTISING COSTS

Fred W. Davis, Atty. Gen.,

Charter Notice.

Pocono Pines Fire Co.

To: Sun Printing Company, Inc., Dr.

For publishing the notice or publication attached  
hereto on the above stated dates \$ 6.00

Probating same \$ .50

Total \$ 6.50

PUBLISHER'S RECEIPT FOR ADVERTISING COSTS.

The Sun Printing Company, Inc., publishers of The Morning  
Sun, a newspaper of general circulation, hereby acknowledges  
receipt of the aforesaid notice and publication cost and  
certifies that the same have been duly paid.

SUN PRINTING COMPANY, INC.,

Publishers of The Morning Sun, a Newspaper  
of General Circulation.

By Edgar M. Lazarus

COPY OF NOTICE OF PUBLICATION  
CHARTER NOTICE

IN THE COURT OF COMMON PLEAS OF MONROE COUNTY, Pennsylvania  
Notice is hereby given that an appli- 1930, at 10  
o'clock A. M. by Clarence A. court on Monday, November 3rd, Maj  
Alfred Bunting, James E. Doney cation will be made to the above  
named Edward G. Elvidge and S. Freeman Dyson under an Act of  
Assembly of the Commonwealth of Pennsylvania, entitled an "Act  
Provide for the Incorporation and Regulation of Certain Corpora-  
tions", approved April 29, 1874, and the supplements thereto for  
the charter of an intended corporation to be called "Pocono  
Pines Fire Company," the character and object of which is the

purposes and upon the terms and under the name therein stated.

BY THE COURT

Saml. L. E. Shull, P. J.

89111670

CHARTER NOTICE

IN THE COURT OF COMMON PLEAS OF MONROE COUNTY, PENNSYLVANIA.

Notice is hereby given that an application will be made to the above named court on Monday, November 3rd, 1930, at 10 o'clock A. M. by Clarence A. Majer, Alfred Bunting, James E. Doney, Edward G. Elvidge and S. Freeman Dyson under an Act of Assembly of the Commonwealth of Pennsylvania, entitled an "Act to Provide for the Incorporation and Regulation of Certain Corporations", approved April 29, 1874, and the supplements thereto for the charter of an intended corporation to be called "Pocono Pines Fire Company", the character and object of which is the maintaining of a fire company for the purpose of fighting fire and the protection of property from damage and destruction by fire, and for these purposes to have, possess and enjoy all of the rights, benefits and privileges of said Act of Assembly and the supplements thereto.

The proposed charter, together with the certificate of the Secretary of the Commonwealth of Pennsylvania setting forth the above mentioned name is filed and recorded in said office, is now on file in the Prothonotary's Office.

Fred W. Davis, Solicitor.

OFFICE OF THE SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA

Harrisburg, September 29, 1930.

Pennsylvania, ss:

I Do Hereby Certify, That the name, title or designation "Pocono Pines Fire Company" was this day filed and recorded in this office as the title of a proposed corporation of the first class in accordance with the provisions of the Act, entitled "An Act to provide for the registration and protection of names,

89111671

titles or designations of association, societies, orders, foundations, federations, organizations and corporations, of the first class," approved May 16th, 1923, and that a search of the records of this office fails to disclose any conflict between the aforesaid title and any other name, title or designation heretofore registered under the provisions of the said Act.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of the Secretary's office to be affixed, the date and year above written.

(Official Seal) Geo. D. Thorn, Deputy Secretary of the Commonwealth.

No. \_\_\_\_\_ Term, 19\_\_.

PROOF OF PUBLICATION OF NOTICE IN THE RECORD, Under Act No. 587, Approved May 16, 1929.

State of Pennsylvania, ss:  
County of Monroe, ss:

N. A. Prantz, Secretary of the Monroe Publishing Company, of the County and State aforesaid, being duly sworn, deposes and says that The Record, a newspaper of general circulation published at 18 N. 7th Street, Borough of Stroudsburg, County and State aforesaid, was established April 2, 1894, since which date The Record has been regularly issued in said County, and the printed notice or publication attached hereto is exactly the same as was printed and published in the regular editions and issues of the said The Record on the following dates, viz: 3rd, 10th and the 17th day of October, A. D. 1930.

Affiant further deposes that he is an officer duly authorized by the Monroe Publishing Company, a corporation, publisher of said The Record, a newspaper of general circulation, to verify the foregoing statement under oath, and affiant is not interested in the subject matter of the aforesaid notice or advertisement, and that all allegations in the foregoing statements as to time, place and character of publication are true.

89.111672

N. A. Frantz, Secretary, The Record.

Sworn to and subscribed before me this 18th day of October 1930.

(Notarial Seal) Margarie A. Elliott, Notary Public.

My commission expires March 5, 1933. My Commission expires:

Statement of Advertising Costs Pocono Pines Fire Company, Fred W. Davis, Attorney.

To Monroe Publishing Company, Dr.

For publishing the notice or publication attached hereto on the above dates \$ 10.00

Probating same 50

Total 10.50

PUBLISHER'S RECEIPT FOR ADVERTISING COSTS

The Monroe Publishing Company, publisher of The Record, newspaper of general circulation, hereby acknowledges receipt of the aforesaid notice and publication cost and certifies that the same have been duly paid.

MONROE PUBLISHING COMPANY, a Corporation published at 22 North Publisher of The Record a Newspaper of 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 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2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, 2699, 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724, 2725, 2726, 2727, 2728, 2729, 2730, 2731, 2732, 2733, 2734, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2743, 2744, 2745, 2746, 2747, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2755, 2756, 2757, 2758, 2759, 2760, 2761, 2762, 2763, 2764, 2765, 2766, 2767, 2768, 2769, 2770, 2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789, 2790, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2800, 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813, 2814, 2815, 2816, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 2832, 2833, 2834, 2835, 2836, 2837, 2838, 2839, 2840, 2841, 2842, 2843, 2844, 2845, 2846, 2847, 2848, 2849, 2850, 2851, 2852, 2853, 2854, 2855, 2856, 2857, 2858, 2859, 2860, 2861, 2862, 2863, 2864, 2865, 2866, 2867, 2868, 2869, 2870, 2871, 2872, 2873, 2874, 2875, 2876, 2877, 2878, 2879, 2880, 2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2889, 2890, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899, 2900, 2901, 2902, 2903, 2904, 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3071, 3072, 3073, 3074, 3075, 3076, 3077, 3078, 3079, 3080, 3081, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3089, 3090, 3091, 3092, 3093, 3094, 3095, 3096, 3097, 3098, 3099, 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120, 3121, 3122, 3123, 3124, 3125, 3126, 3127, 3128, 3129, 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147, 3148, 3149, 3150, 3151, 3152, 3153, 3154, 3155, 3156, 3157, 3158, 3159, 3160, 3161, 3162, 3163, 3164, 3165, 3166, 3167, 3168, 3169, 3170, 3171, 3172, 3173, 3174, 3175, 3176, 3177, 3178, 3179, 3180, 3181, 3182, 3183, 3184, 3185, 3186, 3187, 3188, 3189, 3190, 3191, 3192, 3193, 3194, 3195, 3196, 3197, 3198, 3199, 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213, 3214, 3215, 3216, 3217, 3218, 3219, 3220, 3221, 3222, 3223, 3224, 3225, 3226, 3227, 3228, 3229, 3230, 3231, 3232, 3233, 3234, 3235, 3236, 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3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413, 3414, 3415, 3416, 3417, 3418, 3419, 3420, 3421, 3422, 3423, 3424, 3425, 3426, 3427, 3428, 3429, 3430, 3431, 3432, 3433, 3434, 3435, 3436, 3437, 3438, 3439, 3440, 3441, 3442, 3443, 3444, 3445, 3446, 3447, 3448, 3449, 3450, 3451, 3452, 3453, 3454, 3455, 3456, 3457, 3458, 3459, 3460, 3461, 3462, 3463, 3464, 3465, 3466, 3467, 3468, 3469, 3470, 3471, 3472, 3473, 3474, 3475, 3476, 3477, 3478, 3479, 3480, 3481, 3482, 3483, 3484, 3485, 3486, 3487, 3488, 3489, 3490, 3491, 3492, 3493, 3494, 3495, 3496, 3497, 3498, 3499, 3500, 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513, 3514, 3515, 3516, 3517, 3518, 3519, 3520, 3521, 3522, 3523, 3524, 3525, 3526, 3527, 3528, 3529, 3530, 3531, 3532, 3533, 3534, 3535, 3536, 3537, 3538, 3539, 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3549, 3550, 3551, 3552, 3553, 3554, 3555, 3556, 3557, 3558, 3559, 3560, 3561, 3562, 3563, 3564, 3565, 3566, 3567, 3568, 3569, 3570, 3571, 3572, 3573, 3574, 3575, 3576, 3577, 3578, 3579, 3580, 3581, 3582, 3583, 3584, 3585, 3586, 3587, 3588, 3589, 3590, 3591, 3592, 3593, 3594, 3595, 3596, 3597, 3598, 3599, 3600, 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613, 3614, 3615, 3616, 3617, 3618, 3619, 3620, 3621, 3622, 3623, 3624, 3625, 3626, 3627, 3628, 3629, 3630, 3631, 3632, 3633, 3634, 3635, 3636, 3637, 3638, 3639, 3640, 3641, 3642, 3643, 3644, 3645, 3646, 3647, 3648, 3649, 3650, 3651, 3652, 3653, 3654, 3655, 3656, 3657, 3658, 3659, 3660, 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, 3670, 3671, 3672, 3673, 3674, 3675, 3676, 3677, 3678, 3679, 3680, 3681, 3682, 3683, 3684, 3685, 3686, 3687, 3688, 3689, 3690, 3691, 3692, 3693, 3694, 3695, 3696, 3697, 3698, 3699, 3700, 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713, 3714, 3715, 3716, 3717, 3718, 3719, 3720, 3721, 3722, 3723, 3724, 3725, 3726, 3727, 3728, 3729, 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737, 3738, 3739, 3740, 3741, 3742, 3743, 3744, 3745, 3746, 3747, 3748, 3749, 3750, 3751, 3752, 3753, 3754, 3755, 3756, 3757, 3758, 3759, 3760, 3761, 3762, 3763, 3764, 3765, 3766, 3767, 3768, 3769, 3770, 3771, 3772, 3773, 3774, 3775, 3776, 3777, 3778, 3779, 3780, 3781, 3782, 3783, 3784, 3785, 3786, 3787, 3788, 3789, 3790, 3791, 3792, 3793, 3794, 3795, 3796, 3797, 3798, 3799, 3800, 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813, 3814, 3815, 3816, 3817, 3818, 3819, 3820, 3821, 3822, 3823, 3824, 3825, 3826, 3827, 3828, 3829, 3830, 3831, 3832, 3833, 3834, 3835, 3836, 3837, 3838, 3839, 3840, 3841, 3842, 3843, 3844, 3845, 3846, 3847, 3848, 3849, 3850, 3851, 3852, 3853, 3854, 3855, 3856, 3857, 3858, 3859, 3860, 3861, 3862, 3863, 3864, 3865, 3866, 3867, 3868, 3869, 3870, 3871, 3872, 3873, 3874, 3875, 3876, 3877, 387

State of Pennsylvania )  
County of Monroe, )

SS.

89-111669

Personally appeared before me, this 21st day of May, A. D. 1930, Claude Bush, Edw. G. Elvidge Alford Bunting who being duly sworn, according to law, depose and say that the statements contained in the foregoing instrument are true.

Notice is hereby given  
Claude Bush  
Edw. G. Elvidge  
Alford Bunting

Sworn and subscribed before me the day and year aforesaid  
(Official Seal) George Bayer, J. P.  
My Com. Exp. 1st Mond. Jan. 1936.

DEORER.

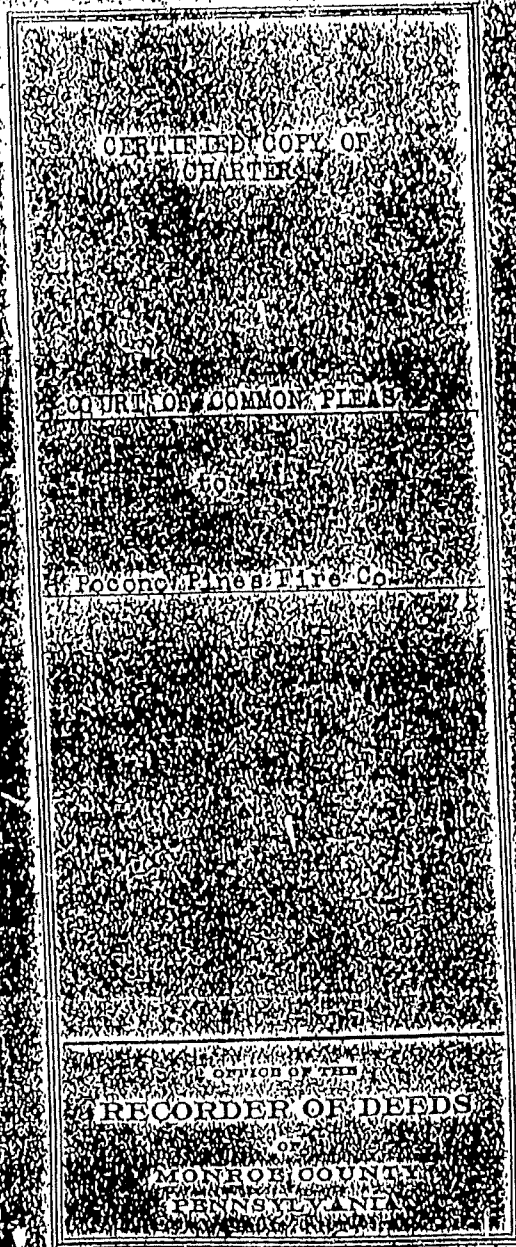
And now, Nov. 3rd, 1930, the within Charter and Certificate of Incorporation and Certificate of the Secretary of the Commonwealth as to registration of names, having been presented to me, the President Judge of said County, accompanied by due proof of publication of notice of this application as required by the Act of Assembly, and Rule of this Court in such case made and provided, I do hereby certify that I have examined and perused the said writing and have found the same to be, in proper form and within the purposes named in the first clause specified in Section One of the Act of General Assembly of the Commonwealth of Pennsylvania, entitled an Act to Provide for the Incorporation and Regulation of Certain Corporations, approved April 29, 1874, and the Supplements thereto.

And the same appearing to be lawful and not injurious to the community, it is, therefore, ordered and decreed that the said Charter be approved and upon the recording of the said Charter and its endorsement and this Order in the Office of the Recorder of Deed, in and for the County of Monroe, which is now hereby ordered, the subscribers thereto and their associations and successors shall thenceforth be a corporation for the

Tobyhanna Township Volunteer Fire Department  
Application For Recognition Of Exemption Under  
Section 501 (c) (3)

30111665

ATTACHMENT II





State of Pennsylvania,  
County of Monroe,

88:

9-11-1676

I, FLOYD BUTZ,

Recorder

of Doada, do, in and for said County, do hereby certify that

the above, foregoing and attached is a true and correct copy of

Charter

Deeds

Agreement

Letter of Attorney

dated the third day

of November, A. D. 1850, from Court of

Common Pleas to Monro Pines Fire Co.

so full and complete as the same was entered and remains of record in Deed Book

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IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said office at

Stroudsburg, this third day of February, A. D. 1948.

Floyd Butz

Recorder of Deeds

By Kathryn Bush Deputy Recorder of Deeds

89111673

maintaining of a fire company for the purpose of fighting fire and the protection of property from damage and destruction by fire, and for these purposes to have, possess and enjoy all of the rights, benefits and privileges of said Act of Assembly and the supplements thereto.

The proposed charter, together with the certificate of the Commonwealth of Pennsylvania setting forth the above mentioned name is filed and recorded in said office, is now on file in the Prothonotary's Office.

Fred W. Davis, Solicitor.

Recorded November 14, 1930. Chester A. Coleman Recorder.

Com

and complete as the same as entered in the

112 Page 396

WITNESSES WHEREAS

are this tenth

**EXHIBIT "B"**

RESOLUTION RELATIVE TO THE REQUEST TO  
THE MONROE COUNTY BOARD OF ELECTIONS  
FOR THE PLACEMENT ON AN ADVISORY QUESTION  
ON THE MAY 21, 1985 PRIMARY BALLOT.

WHERE AS, the Board of Supervisors of Tobyhanna Township has received requests from the Tobyhanna Township Volunteer Fire Company and the Pocono Summit Volunteer Fire Company.

AND WHERE AS, said fire companies have requested the Board of Supervisors to place in effect a one mill real estate tax, for the purpose of purchasing fire fighting apparatus and fire fighting vehicles for said fire companies.

THEREFORE, the Board of Supervisors of Tobyhanna Township, in consideration of said requests,

HEREBY RESOLVE, that they shall request the Monroe County Board of Elections to place the following non-binding advisory question, to the residents of Tobyhanna Township, on the May 21, 1985 primary ballot. The question is proposed to read:

Notice: Your vote on the following question is not legally binding on any government body or official, and is merely advisory.

Do you favor an additional one (1) mill real estate tax, for the purpose of purchasing fire fighting apparatus and fire fighting vehicles for the Tobyhanna Township Volunteer Fire Company and the Pocono Summit Volunteer Fire Company?

THIS RESOLUTION, is enacted and ordained this fourth day of February, 1985, at a regular meeting of the Board of Supervisors of Tobyhanna Township, Monroe County Pennsylvania.

M. V. Keiper, Chairman  
M. V. Keiper, Chairman

Ricky D. Smith  
Ricky D. Smith, Vice-Chairman

Trudi Q. Denlinger  
Trudi Q. Denlinger

ATTEST:

Karen J. Burkheimer  
Secretary

[SEAL]

**EXHIBIT “C”**

TOBYHANNA TOWNSHIP  
MONROE COUNTY, PENNSYLVANIA  
ORDINANCE NO. 571

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, [21] 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 its 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> 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, <sup>121</sup> 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.

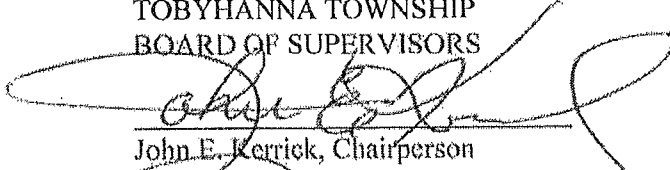
**§ 9-14. Establishment of Fire Commission**

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 15<sup>th</sup> day of August, 2022.

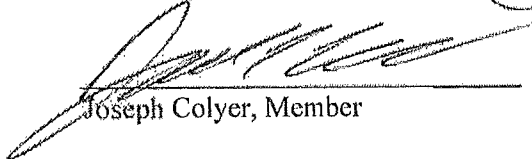
TOBYHANNA TOWNSHIP  
BOARD OF SUPERVISORS


  
John E. Kerrick, Chairperson

  
David Carbone, Member

  
Brendon J.E. Carroll, Member

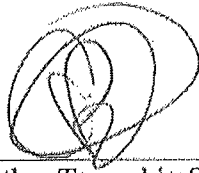
  
Rachel Schickling, Member

  
Joseph Colyer, Member

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

ATTEST:

I do hereby certify that this is a true and correct copy of Ordinance No. 571 of Tobyhanna Township that was adopted by the Tobyhanna Township Board of Supervisors on August 15, 2022.

A handwritten signature in dark ink, consisting of several overlapping loops and a final flourish, positioned above a horizontal line.

---

Crystal Butler, Township Secretary

**EXHIBIT "D"**

# RAWLE & HENDERSON LLP

FRED B. BUCK  
215-575-4317  
fbuck@rawle.com



THE WIDENER BUILDING  
ONE SOUTH PENN SQUARE  
PHILADELPHIA, PA 19107

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August 12, 2022

*Via Email:* [harry@harrycolemanlaw.com](mailto:harry@harrycolemanlaw.com)

Harry Coleman, Esquire  
41 N. Main Street, Suite 316  
Carbondale, PA 18407

**Re: Tobyhanna Township Volunteer Fire Company**

Dear Harry:

This will follow-up on my email of August 8. I received your marked up draft of the proposed ordinance on July 31. On April 16, 2022, I e-mailed you Tobyhanna Township Volunteer Fire Company's proposed edits. Those edits were discussed at two separate Board meetings most recently on July 20, 2022. The latest draft incorporates almost none of those edits. It incorporates only one provision that was prepared by TTVFC and presented to the Board on July 20 under which TTVFC will transfer possession of all Township funded equipment to the Township if, in TTVFC's sole discretion, it is no longer able to effectively provide firefighting services to the Township..

TTVFC has attempted to work in good faith in collaboration with the Township Board of Supervisors to arrive at a mutually acceptable ordinance that, first and foremost, allows the Fire Company to continue to do what it has faithfully done for the last 92 years – provide fire protection services to the citizens of Tobyhanna Township. We believe the latest draft of the proposed ordinance, and the actions of the Board of Supervisors in dismissing TTVFC's suggestions for the ordinance, may compromise the company's ability to provide efficient and effective fire protection services to Tobyhanna Township. .

The purpose of this letter is to notify you and, through you, the members of the Board of Supervisors, that Tobyhanna Township Volunteer Fire Company fully intends to continue to provide fire protection services to the citizens of Tobyhanna Township and will always respond to a fire or other emergency when dispatched to do so. However, if the ordinance is adopted in its

# RAWLE & HENDERSON LLP

August 12, 2022

Page 2

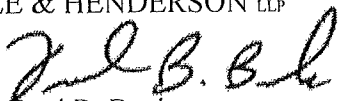
present form the Fire Company will not agree to operate as the officially recognized fire company for the Township.

I will be pleased to discuss this with you in advance of the Board meeting on August 15.

Very truly yours,

RAWLE & HENDERSON LLP

By:

  
Fred B. Buck

FBB/db

### VERIFICATION

The language of the foregoing *Complaint* may be that of counsel and not necessarily my own. However, I have read the foregoing document and the factual information contained therein is true and correct to the best of my personal knowledge. To the extent that the content of the foregoing document is that of counsel, I have relied upon counsel in making this Verification and said content is true and correct to the best of my information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

Date: 8/23/2022

  
\_\_\_\_\_  
Robert Bartal, Manager



**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: August 24, 2022

LAW OFFICE OF HARRY T. COLEMAN

By: 

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TOBYHANNA TOWNSHIP  
Government Center  
105 Government Center Way  
Pocono Pines, PA 18350

Plaintiff,

vs.

TOBYHANNA TOWNSHIP VOLUNTEER  
FIRE COMPANY  
1560 Route 940  
P.O. Box 388  
Pocono Pines, PA 18350

Defendant,

: IN THE COURT OF COMMON PLEAS  
:  
: MONROE COUNTY  
:  
: PENNSYLVANIA  
:  
:  
:  
:  
:  
:

INJUNCTION ACTION

NO.

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CERTIFICATE OF SERVICE

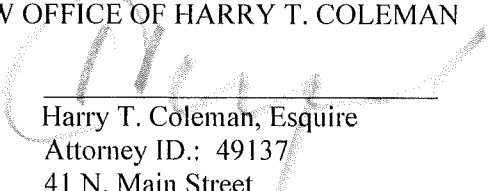
I, Harry T. Coleman, Esquire, counsel for Plaintiff, Tobyhanna Township, hereby certify that on this date, I caused to be served a true and correct copy of the foregoing **Complaint for Injunction**, Via Electronic EFile upon the following Via Electronic Delivery:

Fred B. Buck, Esquire  
Rawle and Henderson, LLP  
1339 Chestnut Street  
Philadelphia, PA 1910  
Via email: fbuck@rawle.com  
*Attorney for TTVFC*

Dated: August 24, 2022

LAW OFFICE OF HARRY T. COLEMAN

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\_\_\_\_\_  
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