

SHOHOLA TOWNSHIP  
PIKE COUNTY, PENNSYLVANIA  
ORDINANCE NO. 85

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF SHOHOLA TOWNSHIP, PIKE COUNTY, PENNSYLVANIA REQUIRING APPROPRIATE REPORTING INFORMATION, DATA, AND SIMILAR INFORMATION FOR PUBLIC REVIEW AND PROVIDING PROCEDURES FOR TOWNSHIP OVERSIGHT AND MANAGEMENT OF ANY FIRE COMPANY RECEIVING TAX FUNDING FROM SHOHOLA TOWNSHIP.

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

1.0     GENERAL PROVISIONS.

1.1     Purpose.

The purpose of this Ordinance is to ensure basic oversight, control measures, procedures and regulations governing conditions which could impede or interfere with effective fire services in the Township and/or result in inefficient, imprudent, or improper use of taxpayer monies; to limit unnecessary insurance risk and liability of the Township in the operation of fire department vehicles insured by the Township; to require proof of qualifications and drug screenings for fire department personnel engaged in operation of vehicles, to authorize and permit activities for volunteer fire fighter personnel for workers' compensation purposes; and to limit the scope of insurance risk and liability for *ultra vires* activities unrelated to official fire department business to be conducted within the Township.

1.2     Authority.

Consistent with the powers granted to the Board of Supervisors under Sections 1801 and 1803 of the Pennsylvania Second Class Township Code, the purpose of this Ordinance is to provide for fire protection within Shohola Township and to efficiently and effectively appropriate monies for the maintenance of fire companies, the purchase and maintenance of fire apparatus, for the construction, repair, and maintenance of fire company houses, for the training of fire company personnel, and to ensure the financially responsible and sustainable use of appropriated monies.

1.3     Operational Independence Of Fire Departments; No Agency.

Regardless of the funding sources of a Fire Company or whether such Fire Company is established as a corporation or entity separate from the Township, and notwithstanding anything contained in this chapter to the contrary, neither the recognition of a fire company nor the authorization or permission herein granted to a fire company shall establish that fire company as an

agent, agency, department or employee of Shohola Township (except as it relates to fire personnel considered employees for workers' compensation purposes as set forth in Section 3.3).

#### 1.4 Non-Applicability To Financially Independent Fire Company.

The restrictions, regulations, and controls of this Ordinance shall only apply to a Township Funded Fire Company ("TFFC") or a Township Insured Fire Company ("TIFC"), and shall not apply to a Financially Independent Fire Company.

#### 2.0 DEFINITIONS.

**CAPITAL EXPENDITURE** – Expenditure of funds on permanent or long-term fixed assets, or improvements of or additions to them, including but not limited to: driveway and parking lot resurfacing (except routine patching); driveway and parking lot construction; resurfacing or construction of sidewalks and pedestrian paths (except routine patching); construction of stormwater drainage and storm management facilities; construction of public buildings and similar permanent structures and improvements and additions to them; the purchase of land; the purchase of equipment; engineering or architectural studies and services related to planned improvements; and all expenditures financed by long-term debt. Capital Expenditures do not include routine maintenance of existing assets, or Emergency Capital Expenditures as defined below.

**EMERGENCY CAPITAL EXPENDITURES** – Those expenditures, regardless of the purpose or cost, which a Fire Company must make to protect life or to prevent an imminent risk of injury or substantial damage to vehicles, equipment, or other capital assets, and which must be made so promptly that incurring delay in seeking Board of Supervisors approval would likely result in such damage, risk, or harm to be avoided. This definition contemplated that Emergency Capital Expenditures shall be rare and exceptional.

**FINANCIALLY INDEPENDENT FIRE COMPANY** – A Fire Company is neither a Township Insured Fire Company nor a Township Funded Fire Company. In order to be considered a Financially Independent Fire Company, a Fire Company: (1) must derive one hundred percent (100%) of its funding from donations, private sources, public sources other than tax funds of Shohola Township, (2) must maintain its own insurance (including but not limited to general liability, workers' compensation, and vehicle coverages), (3) must fully, and in writing, hold harmless and indemnify Shohola Township in relation to all of its activities without exception or qualification; and (4) must provide proof of financial responsibility, as demanded from time to time by Shohola Township, for its agreement to hold harmless and indemnify.

**FIRE COMPANY** – Any company or entity organized under the laws of the Commonwealth of Pennsylvania and authorized by the Board of Supervisors to conduct firefighting activities within Shohola Township.

**FIRE COMPANY PROPERTY** – Any real property, fixture upon real property, or movable personal property purchased, owned, possessed, or controlled by a Fire Company.



**FIRE COMPANY VEHICLES** – Any motor vehicle, commercial vehicle, off-road vehicle, tractor, ATV/UTV, boat, fire truck, ambulance, or other motorized conveyance purchased, owned, possessed, or controlled by a Fire Company.

**FIREFIGHTER** – A paid or unpaid member of a volunteer Fire Company while actively engaged as a fireman or firewoman, or while going to or returning from a fire which the Fire Company attended, or while repairing or doing other work about or on the fire apparatus or buildings and grounds of the fire company upon the authorization of the chief of the Fire Company or other person in charge or while answering emergency calls for any purpose, or while riding upon the fire apparatus which is owned or used by the Fire Company or while performing any other duties of such Fire Company as authorized by the municipality or while performing duties imposed by section 15, Act of April 27, 1927 (P.L. 465, No. 299), referred to as the Fire and Panic Act.

**MUTUAL AID** – A formal or informal agreement by two or more fire company 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/her absence, the next ranking officer following the chain of command established by the rules of the fire company in whose district the emergency occurs.

**TOWNSHIP FUNDED FIRE COMPANY (“TFFC”)** – A Fire Company which, at any time in the immediately preceding five (5) years, has been funded in whole or in part by disbursements from Shohola Township, or from any tax levied by Shohola Township.

**TOWNSHIP INSURED FIRE COMPANY (“TIFC”)** – A Fire Company which owns, leases, or otherwise maintains Township Insured Fire Company Property or Township Insured Fire Company Vehicles, or which is otherwise insured under any policy of general liability, workers’ compensation, casualty, or other insurance policy or pooled trust under which Shohola Township is a named insured or is otherwise financially responsible for premiums, contributions, deductibles, and/or copays.

**TOWNSHIP INSURED FIRE COMPANY PROPERTY** – Any Fire Company Property which is insured under a policy of insurance, self-insured retention, and/or pooled trust of which the Township is a named insured, participant, or for which the Township otherwise pays premiums or under which the Township has financial responsibility.

**TOWNSHIP INSURED FIRE COMPANY VEHICLE** – Any Fire Company Vehicle which is insured under any policy of insurance, self-insured retention, and/or pooled trust of which the Township is a named insured, participant, or for which the Township otherwise pays premiums or to or under which the Township has financial responsibility.

### 3.0 ACTIVITIES.

#### 3.1 Authorized Activities Of Township Funded and Township Insured Fire Companies.

Township Funded Fire Companies and Township Insured Fire Companies shall only be authorized to provide such services to the Township as may be necessary for the protection of property and persons situated therein, including:

- a. 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. Provision of nonemergency and public service functions to the Township, such as 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. Conducting and participating in such training activities and drills, either within or outside of the Township, as may be deemed necessary by the Officer in Charge of the Fire Company to maintain proficiency in providing services;
- d. Responding to calls and providing services to municipalities outside of the Township with which it maintains Mutual Aid agreements;
- e. Engaging in inspections and tours of private property in the Township, 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. Scheduling special work details at fire stations related to maintenance activities and recruitment programs;
- g. Engaging in fund-raising activities for the Fire Company when authorized by an officer or officers of the fire company such as coin drops, filling of swimming pools for a fee, carnivals, bingo and small games of chance, and fundraising barbecues;
- h. Attending parades and similar civic activities when authorized by the Board of Supervisors;
- i. Procuring property and vehicles that are necessary to perform its authorized activities; and
- j. Engaging in those activities specifically enumerated by the Board of Supervisors upon motion, resolution, or ordinance.



3.2 Unauthorized Activities Of Township Funded and Township Insured Fire Companies; Prohibited Activities.

Township Funded Fire Companies and Township Insured Fire Companies are not authorized to engage in those activities which are not specifically listed above, and are further specifically prohibited from the following:

- a. Engaging in any illegal activity;
- b. Engaging in any activity outside of the geographic boundaries of Shohola Township, unless: responding to a fire call pursuant to a Mutual Aid Agreement; attending a training, parade, engaging in other official activity generally authorized by the Board of Supervisors at its annual organization meeting; or other for which the Board of Supervisors may grant specific, written authority at a public meeting;
- c. Using or allowing use of TIFC Property for personal use of its members or third parties;
- d. Using or allowing use of TIFC Vehicles for personal use of its members or third parties;
- e. Engaging in any other activity not directly related to the provision of firefighting activities which places the Township at risk of harm, loss, or for which the Township may be financially responsible;
- f. Allowing any Firefighter to engage in any activity which requires certification or qualification, and for which that person does not hold a the required certificate or qualification;
- g. Allowing any Firefighter or other personnel to operate TIFC Property or TIFC Vehicles when that person is not sufficiently certified, qualified, or licensed, or subsequent to a failed or refused drug/alcohol test; or
- h. Engaging in any other activity not directly related to the provision of firefighting activities which places the TIFC at risk of harm, loss, or financial responsibility.

3.3 Firefighters To Be Considered Township Employees While Engaging In Authorized Activities; Not Township Employees While Engaging In Unauthorized Activities.

A Firefighter employed by or actively volunteering for a TIFC shall be deemed an employee of Shohola Township for purposes of workers' compensation coverage while engaged in Authorized Activities as defined by this Ordinance. A Firefighter shall not be deemed an employee of Shohola Township for purposes of workers' compensation coverage while engaged in any unauthorized or prohibited activity. This section relates to workers' compensation coverage only, and nothing herein shall be construed to

create any employment contract or obligation to provide wages or benefits directly from Shohola Township.

3.4 Non-Firefighters Do Not Qualify As Township Employees.

No Fire Company personnel other than Firefighters as defined herein shall be considered Township employees for purposes of workers' compensation coverage.

4.0 FINANCES, FINANCIAL REPORTING, AND TAX DISBURSEMENTS.

4.1 Control of Equipment and Funds.

Shohola Township shall have and retain certain oversight and control over all property, vehicles, and expenditures for equipment and funds of a Township Funded Fire Company or Township Insured Fire Company as follows:

- a. No TFFC Property or Vehicle exceeding a value of five thousand dollars (\$5,000.00) shall be purchased, acquired, obtained, sold, removed, transferred, conveyed, leased, leant, donated, gifted, or otherwise alienated without the express consent of the Board of Supervisors by motion, resolution, or ordinance;
- b. Notwithstanding the above, a TFFC may immediately replace any equipment consumed, depleted, or damaged during emergency response (*i.e.*, turnout gear, Scott packs, and other similar equipment) without Township approval. However, the Fire Company shall report such use and replacement to the Township upon submission of its mandatory financial reports, and upon request of the Township shall provide proof of the consumption, depletion, or damage to the equipment replaced.
- c. No Capital Expenditures may be made by a TIFC or TFFC without the express consent of the Board of Supervisors by motion, resolution, or ordinance, except Emergency Capital Expenditures;
- d. Prior to making an Emergency Capital Expenditure, the Chief or an officer of a TIFC or TFFC shall attempt to contact and consult with one Township Supervisor regarding whether an emergency exists and whether a special meeting of the Board of Supervisors may be called in a sufficiently prompt manner to consider and approve the expenditure. Following such consultation, or a good faith attempt to so consult, the Fire Company may proceed with the expenditure if it reasonably concludes that an emergency exists and that there is insufficient time to seek Board approval.
- e. No contracts or agreements requiring the expenditure of a TFFC funds shall be formed or entered into without the express consent of the Board of Supervisors by motion, resolution, or ordinance;



- f. No financial obligation of any kind requiring the expenditure of Township funds, including any acquisition, activity, or event which increases the insurance premiums or financial obligations of the Township, shall be created by a TFFC without the express consent of the Board of Supervisors by motion, resolution, or ordinance; and
- g. No TIFC Property or Vehicle shall be added to any policy of insurance, or be the subject of any self-insured retention and/or pooled trust in which the Township participates or otherwise bears financial responsibility, without the express written approval of the Board of Supervisors.

#### 4.2 Financial and Asset Reporting.

On or prior to November 1<sup>st</sup> of each and every year, a TFFC shall submit to the Board of Supervisors of Shohola Township a report of its year-to-date expenditures along with a proposed budget of revenues and expenses for the forthcoming fiscal year and a complete list of Fire Company Property, Fire Company Vehicles, and ongoing expenditures, debts and other financial obligations.

A TIFC is exempt from this requirement, except that a TIFC bears the sole responsibility to report all Fire Company Property and Fire Company Vehicles which it requests to be included as listed property and/or vehicles to be covered by insurance maintained by Shohola Township. Shohola Township shall bear no financial responsibility for any vehicle that is not covered by insurance.

#### 4.3 Reporting of Certifications and Qualifications.

On or prior to August 1 of each and every year, a TFFC or TIFC shall submit to the Board of Supervisors of Shohola Township:

- a. A complete list of its Firefighters and other personnel;
- b. A written designation of Firefighters and other personnel permitted to operate TIFC Property and TIFC Vehicles;
- c. As to all Firefighters, a master list of certifications and qualifications held by each, with copies of certificates to be held on file by the Fire Company and made available for Township inspection upon request;
- d. As to all personnel authorized to operate TIFC Vehicles, a copy of a current and sufficiently endorsed driver's license for each.

#### 4.4 Background Checks and Random Drug/Alcohol Screening of Designated Personnel.

All Firefighters and other personnel authorized to operate TIFC Property or TIFC Vehicles shall be subject to background checks (including criminal history and and random drug/alcohol

screening as required by Shohola Township. Shohola Township shall bear the cost of such background checks and testing. No Firefighters or other personnel refusing a background check (or refusing to authorize same) or drug screening shall be permitted to operate any Township Insured Fire Company Property or Township Insured Fire Company Vehicle.

#### 4.5 Other Reports Reasonably Required.

The Board of Supervisors may require a TIFC or TFFC to provide other data, information, or reports (*e.g.*, detailing the number and location of calls to which the Fire Company responded, specific financial information, call response times, *etc.*) which will assist the Board of Supervisors in ensuring that TIFC property and vehicles are used in a manner that does not impose an unreasonable financial risk to Shohola Township and that funds allocated to a TFFC are properly and efficiently used only to provide adequate and professional fire protection services.

#### 4.6 Allocation of Funds.

The Board of Supervisors may allocate tax funds collected for fire protection purposes to any TFFC providing fire services within Shohola Township. Allocations shall be considered by the Board of Supervisors on a quarterly basis, to be made in January, April, August, and October of each year provided that the Fire Company is in compliance with his Ordinance.

#### 4.7 Withholding of Funds.

Notwithstanding Section 4.6 above, Shohola Township shall not be required to make any specific allocation of tax funds to any Fire Company. The Board of Supervisors may, for good cause, refuse to allocate tax funds to any Fire Company. Good cause to withhold funds may include, but is not limited to, the following:

- a. Failure of a TIFC or TFFC to comply with the reporting requirements set forth herein;
- b. Failure of a TIFC or TFFC to secure approval of the Board of Supervisors for purchase of Fire Company Property as required herein;
- c. Failure of a TIFC or TFFC to secure approval of the Board of Supervisors for purchase of Fire Company Vehicles as required herein;
- d. Failure of a TIFC or TFFC to provide consistent, professional, and skilled fire protection services within the geographic boundaries of Shohola Township; or
- e. Failure of a TIFC or TFFC to properly supervise, direct, train, and instruct its personnel.



In the event of such withholding, if the tax funds at issue were collected for the specific purpose of funding fire protection services, the withheld funds shall not be used for any purpose but may be retained by the Township until such time that the Board of Supervisors concludes that the circumstances underlying the withholding have been remedied and/or abated.

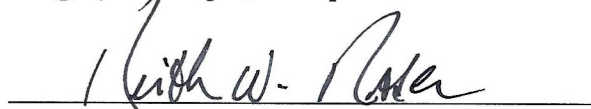
5.0 ENACTMENT.


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

ENACTED AND ORDAINED this 14<sup>th</sup> day of September, 2023.

SHOHOLA TOWNSHIP BOARD OF SUPERVISORS

  
Gregory P. Hooper, Chairperson

  
Keith W. Raser, Vice-Chairman

  
George C. Fluhr, Supervisor

ATTEST:

  
Diana Blume, Township Secretary