

Note:
Repealed 9/21/95

**ORDINANCE NO. 114-94
RUSH TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA**

AN ORDINANCE ADOPTING THE BUILDING OFFICIALS AND CODE ADMINISTRATORS NATIONAL FIRE PREVENTION CODE OF 1993 AS AN ORDINANCE OF THE TOWNSHIP.

WHEREAS, the Rush Township Board of Supervisors recognize that development within the Township limits requires the establishment of a uniform code for fire prevention standards, safety and the regulation of certain hazardous materials; and,

WHEREAS, Second Class Township Code 53 P.S. 65741.2 permits the adoption a standard or nationally recognized codes by reference; and,

WHEREAS, Building Officials and Code Administrators International, Inc. has prepared a Fire Prevention Code of 1993 (BOCA).

NOW, THEREFORE, BE IT ORDAINED THIS 8th **DAY OF** December, 1994, by the Rush Township Board of Supervisors as follows:

1. That the "BOCA National Fire Prevention Code, of 1993" being the ninth edition prepared by the Building Officials & Code Administrators International, Inc. (hereinafter referred to in this Ordinance as "BOCA Code"), it is hereby adopted by the Rush Township Board of Supervisors and incorporated by reference as a Fire and Safety code for Rush Township, Schuylkill County, Pennsylvania, and enforceable as such.

2. That the following sections and subsections of the said BOCA Code together with certain provisions shall be amended as follows:

(a) Administration F-101.1: Title shall be amended to read "These regulations

shall be known as the Fire Prevention Code of Rush Township, Schuylkill County, Pennsylvania, hereinafter referred to as "this code" or "BOCA Code".

(b) All references in the said code to "the chief appointing authority of the jurisdiction " or "appointing authority" shall be deleted and "The Rush Township Board of Supervisors" shall be inserted therefor.

(c) Section "F-101.4 - Compliance:" shall be deleted in its entirety and the following shall be substituted:

"F-101.3 - Compliance: existing structures and premises that do not comply with these provisions may nevertheless be approved by the Code Enforcement Officer if they provide a minimum or at least an equivalent level of safety as intended by this Ordinance. Such existing structures and premises that do not provided such a minimum level shall be altered or repaired to provide that minimum level of safety as herein required."

(d) Section "F-105.2 - Appointment:" shall be deleted in its entirety and following substituted:

"F-105.2 - Appointment: The Code Official shall be appointed by the Rush Township Board of Supervisors, and shall serve at the pleasure of those Supervisors. The Code Official shall be reappointed at each Township reorganization meeting."

(e) Section "F-105.3 - Organization:" shall be deleted in its entirety and the following shall be substituted:

"F-105.3 - Organization: The Rush Township Board of Supervisors may appoint such other officers, technical assistants, inspectors and other employees as shall be

necessary for the administration of this Code including a deputy who shall exercise all the powers of Code Official during the temporary absence or disability of the Code Official.

(f) Section "F-105.4-Deputy" shall be deleted in its entirety.

(g) Section "F-112.3 -Penalty for Violations:" shall be amended as follows:

The phrase "shall be guilty of a misdemeanor and upon conviction thereof shall be punished by" shall be deleted and the following substituted for it:

"shall be guilty of a summary offense and upon conviction thereof shall be punished by a fine not to exceed one thousand (\$1,000.00) dollars or by".

(h) Section "F-113.1- Application for Appeal" shall be amended as follows:

After the last sentence, the following sentence shall be added:

"The Appellant shall be responsible for all costs of appeal including the payment of costs of a stenographic record and stenographer, if such is desired by either the Board or the Appellant. The Township may require an estimate of such costs to be paid in advance by the Appellant before holding any hearing on the appeal."

(i) Section "F-113.2 - Membership of the board:" and Section "F-113.2.1 - Qualifications:" shall be deleted in their entirety and the following substituted:

"Section F-113.2 - Membership of the board: The board of appeals shall consist of five members appointed by the Rush Township Board of Supervisors as follows: one for five years; one for four years; one for three years; one for two years; and, one for one year. One member or all Supervisors may serve as members of the board of appeal. Thereafter, each new member shall serve for five years or until a successor has been appointed. A supervisor may appoint and vote for himself for appointment. Any three

members of the board of appeals shall constitute a quorum for purposes of conducting business of the board, and a vote of the majority of the quorum shall constitute a valid decision of the board. Vacancies on the Board shall be filled by the Rush Township Board of Supervisors as soon as reasonably practical, but the occurrence of a vacancy shall not prevent the Board of Appeals from acting."

"F.-113.2.1 Qualifications: The five individuals comprising the board of appeals may consist of individuals who have the following professions, disciplines or experience:

A registered design professional such as a registered architect, builder of superintendent of building construction with at least ten years experience,

A registered design professional with structural engineering or architectural experience,

A registered design professional with mechanical or plumbing engineering experience, or a mechanical or plumbing contractor with at least ten years experience,

A registered design professional with electrical engineering experience, or an electrical contractor with at least ten years experience,

A registered design professional with fire protection engineering experience, or a fire protection contractor with at least ten years experience, the local fire chief or assistant chief,

or other such individuals who are qualified by experience or education in the building trades or fire prevention."

(j) Section "F-113.2.5 - Secretary:" shall be deleted in its entirety and the

following shall be substituted:

"Section F-113.2.5: The board of appeals shall designate one of its members to serve as secretary to the board who shall keep a detailed record of all of its proceedings and file a copy of same with the Township Secretary."

(k) Section "F-113.2.6 - Compensation:" of members shall be deleted in its entirety and the following shall be substituted:

"Section F-113.2.6 - Compensation of members: Compensation of the members of the board of appeals shall be determined by the Rush Township Board of Supervisors for the term of the member by resolution."

(l) Section "F-113.5:" shall be deleted in its entirety.

(m) Section "F-113.7 - Court Review:" shall be amended and the word "aggrieved" shall be inserted after the word "any" and the first sentence shall read in relevant part: "any aggrieved person".

(n) Section "F-107.8 - Payment of fees:" shall be deleted and the following language substituted therefor:

"Section F-107.8 - Payment of Fees: The Rush Township Board of Supervisors may adopt by Resolution a schedule of fees to be charged, including, but not limited to, fees for permits, and inspections or review of documents. Factors to be considered in setting such fees may be the size, cost and/or extent of the condition sought to be permitted, whether the conditions to be permitted are existing or projected construction, the extent of inspections necessary to insure compliance, the number and complexity of the documents to be reviewed, the presence of hazardous materials, the need for the township to obtain

outside expert review and other such relevant factors. A permit shall not be issued until the designated fees have been paid. The Board of Supervisors may from time to time amend the schedule of fees by Resolution and the current schedule shall be posted at the Township Building and a copy shall be made available to interested parties upon request to the Code Enforcement Officer."

(o) "Appendix A" of the BOCA Code consisting of a "Recommended Ordinance" is adopted by the Township in connection with this Ordinance.

(p) The following sections are amended as follows:

Section I - add "Township of Rush" to the "_____";

Section VI - add "Pennsylvania" to the "_____";

Section XX shall be deleted.

3. It shall be a defense to any violation under this section that the repair or reconstruction or a change required by this Ordinance shall in and of itself be a violation of the nationally prescribed safety standards such as that developed by the United States government, i.e., in the Occupational Safety and Health Administration regulations, the Commonwealth of Pennsylvania Department of Environmental Resources regulations or Pennsylvania Department of Labor and Industry regulations. It shall also be a defense to a conviction under this Ordinance that any condition that is allegedly in violation of this Ordinance has actually received the specific approval of OSHA, Pennsylvania Department of Labor and Industry, or a similar organization, and the non-conforming structure or premises is brought into compliance within ninety (90) days of notice of the non-compliance being given by the Code Enforcement Officer. Reasonable extensions of time may be given

by the Code Enforcement Officer so long as such non-compliance does not pose an immediate threat to the health or safety of the occupants of the non-complying structures or premises or to the residents of Rush Township.

4. All other ordinances of Rush Township which are inconsistent with this Ordinance are hereby repealed.

5. The provisions of this Ordinance shall be severable, and if any section, part of section or provision thereof shall be held to be unconstitutional, illegal or otherwise invalid, such decision shall not affect the validity of any of the remaining sections, parts of sections or provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal or otherwise invalid provision not been a part thereof.

6. This Ordinance including the incorporated code and incorporated appendix shall take effect immediately as authorized by the Second Class Township Code.

ADOPTED AND ORDAINED the date and year first written above.

**BOARD OF SUPERVISORS
RUSH TOWNSHIP**

Ronald J. Warner
Raymond A. Breyer
Ronald Motroni

ATTEST:

Carol Ann Spet
Secretary
(Township Seal)