

RUSH TOWNSHIP, SCHUYLKILL COUNTY
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 210

AN ORDINANCE OF RUSH TOWNSHIP, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, REGULATING THE NOMINATION, APPROVAL AND REMOVAL OF SPECIAL FIRE POLICE OFFICERS, INCLUDING REQUIREMENTS OF ATTAINMENT OF AGE OF 21 YEARS, GOOD-STANDING MEMBERSHIP IN A VOLUNTEER FIRE COMPANY, BEING LEGALLY LICENSED TO DRIVE IN THE COMMONWEALTH OF PENNSYLVANIA, PROVIDING INFORMATION RELATING TO CHILD ABUSE CLEARANCES AND CRIMINAL BACKGROUND CHECKS, MEETING CERTAIN TRAINING REQUIREMENTS, AND CONFIRMING THE RIGHT IN THE BOARD OF SUPERVISORS TO REMOVE PERSONS AS FIRE POLICE OFFICERS AT ANY TIME FOR ANY REASON; AND CONTAINING SEVERABILITY AND EFFECTIVE DATE CLAUSES.

WHEREAS, Section 1914 of the Second Class Township Code, 53 P.S. Section 66914, states that a board of supervisors may confirm any members of a volunteer fire company to serve as Special Fire Police officers, and the chairperson of the board may swear in Special Fire Police officers; and

WHEREAS, Section 1914 references the act of June 18, 1941 (P.L. 137, No. 74) as the legislative act governing the powers of Special Fire Police officers; and

WHEREAS, the act of June 18, 1941 (P.L. 137, No. 74) was commonly referred to as the Health and Safety Act, and was repealed by the Pennsylvania legislature in 2011, and was replaced by a statute commonly referred to as the Emergency Management Services Code (EMS Code), found at 35 Pa.C.S.A. Sections 7431-7437; and

WHEREAS, Section 7434 of the EMS Code reiterates the conferral of power on the board of supervisors to confirm the nomination of any Special Fire Police officers found in Section 1914 of the Second Class Township Code; and

WHEREAS, the Pennsylvania Commonwealth Court, an appellate-level Court in the Commonwealth of Pennsylvania, whose decisions are binding precedent on the respective County Courts of Common Pleas, and which thus establishes rules and regulations governing the everyday conduct of certain entities such as Second Class Townships, in the case of Tyrone Fire Patrol Company, No. 1 v. Tyrone Borough, 92 A.3d 79 (Pa.Cmwlt. 2014), ruled that a municipal governing body performs an administrative function when it removes Special Fire Police officers and such governing body has the authority, through a municipal ordinance, to remove Special Fire Police officers at the municipality's discretion, at any time, for any reason; and

WHEREAS, Rush Township desires to codify via this Ordinance its power to remove individuals serving as Special Fire Police officers, as well as certain prerequisites for approval to the position;

NOW, THEREFORE, be it ORDAINED as follows:

Section 1. The Fire Chief of the Volunteer Fire Company serving Rush Township, the Hometown Fire Company, shall nominate from time to time active members of the Hometown Fire Company to serve as Special Fire Police officers, and such nominated members shall be confirmed by the Rush Township Board of Supervisors, and any such individuals so confirmed shall be sworn into their positions by the Chairperson of the Board of Supervisors, as required by law.

Section 2. No person shall be nominated as a Special Fire Police officer who has not attained the age of twenty-one (21) years.

Section 3. No person shall be nominated as a Special Fire Police officer who is not a member in good standing of the Hometown Fire Company.

Section 4. No person shall be nominated as a Special Fire Police officer who does not hold a valid Pennsylvania driver's license.

Section 5. Any person nominated as a Special Fire Police officer shall present to the Rush Township Secretary prior to the Board of Supervisors voting on such person's nomination a copy of the person's driver's license, a copy of a PA Child Abuse History Clearance, and a Pennsylvania State Police criminal background check (PATCH).

Section 6. Any person serving as a Special Fire Police officer at the time this Ordinance is enacted shall within ninety (90) days of its enactment present to the Rush Township Secretary a copy of the person's driver's license, a copy of a PA Child Abuse History Clearance, and a Pennsylvania State Police criminal background check (PATCH).

Section 7. Any person serving as a Special Fire Police officer shall serve at the pleasure of the Rush Township Board of Supervisors, and the Board of Supervisors shall have the authority to remove any person serving as a Special Fire Police officer at any time for any reason. (Removal from the position of Special Fire Police officer does not affect said removed person's membership in the Hometown Fire Company).

Section 8. If after the enactment of this Ordinance the Hometown Fire Company changes its name, or any additional volunteer fire company/companies is/are created within the boundaries of Rush Township and is/are recognized by Rush Township as providing fire

protection within its borders, the requirements of this Ordinance that relate to the Hometown Fire Company shall be applicable to any such future volunteer fire company/companies.


Section 9. The Rush Township Board of Supervisors may hereafter enact from time to time by Resolution training requirements, for example in the form of in-person or virtual classes, or obtaining certain certifications, that any person nominated as a Special Fire Police officer must meet.

Section 10. If a court of competent jurisdiction finds any section or part of this Ordinance illegal and/or unenforceable, the rest and remainder of this Ordinance shall remain in full force and effect with the illegal and/or unenforceable section or part removed.

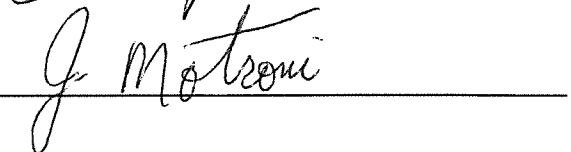
Section 11. This Ordinance shall be effective on the date of its enactment or on the first day allowed by law thereafter, whichever occurs first.

ORDAINED and ENACTED this 19th day of May, 2022.

RUSH TOWNSHIP BOARD OF SUPERVISORS







Secretary - Attest