

AN ORDINANCE REGULATING FIRE PREVENTION AND PROTECTION IN THE TOWNSHIP OF ELDRED; REQUIRING TOWNSHIP APPROVAL OF THE SELECTION OF THE KUNKLETOWN VOLUNTEER FIRE COMPANY PRESIDENT AND FIRE CHIEF; AND PROVIDING FOR OTHER MISCELLANEOUS MATTERS

WHEREAS, Eldred Township, Monroe County, Pennsylvania, is a Pennsylvania second class township, organized and operating under the Pennsylvania Second Class Township Code ("Township Code"), 53 P.S. Sec. 65101, et seq.; and

WHEREAS, pursuant to Sec. 1505 of the Township Code, 53 P.S. Sec. 66505, the corporate powers of the Township shall be exercised by the Township Board of Supervisors; and

WHEREAS, Section 1506 of the Township Code, 53 P.S. Section 66506, authorizes the Board of Supervisors to make and adopt any ordinances, by-laws, rules and regulations not inconsistent with or restrained by the Constitution and the laws of this Commonwealth necessary for the proper management, care and control of the Township, and its finances and maintenance of peace, good government, health, and welfare of the Township and its citizens, trade, commerce and manufactures; and

WHEREAS, Sec. 1553 of the Township Code, 53 P.S. Sec. 66553, provides, in part, that the Township shall be responsible for insuring that fire services are provided within the Township by the means and to the extent determined by the Township, including the appropriate financial and administrative assistance for such service; and

WHEREAS, Sec. 1803(b) of the Township Code, 53 P.S. Sec. 66803(b), authorizes the Board of Supervisors to make rules and regulations, by Ordinance, for the government of fire companies which are located within the Township, and their officers; and

WHEREAS, the Kunkletown Volunteer Fire Company (the "Fire Company") is located in the Village of Kunkletown, Eldred Township, Pennsylvania, and provides fire prevention and protection services in the Township on a volunteer basis; and

WHEREAS, the Fire Company has adopted a Constitution, B Bylaws and Rules of Order ("Bylaws"), last revised August 6, 2015, governing the Fire Company's organization, and

WHEREAS, the Fire Company's Bylaws provide, in part, for executive officers, including a President, who shall preside at all meetings of the Company, enforce a strict observance of the By-Laws, and exact a rigid compliance to the By-Laws, see that all Committees and Officers perform their respective duties, appoint all Committees and Officers not otherwise provided for, give the casting vote on matters before the Company when a tie may occur except at an election for Officers, sign all vouchers drawn on the Treasurer, by a vote of the Company, order all special meetings as provided by law, and perform such other duties as the Company or the office shall require; and

WHEREAS, the Fire Company's Bylaws provide, in part, for line officers and a chain of command in the event of fire emergency or alarm, with the Fire Chief having primary command in such circumstances; and

WHEREAS, the Township annually makes financial contributions to the Fire Company in support of such fire prevention and protection services, and is responsible for the provision of workmen's compensation insurance for the Fire Company's volunteers; and

WHEREAS, due to the Township's financial contributions to the Fire Company, and the responsibility of the Township to insure that appropriate fire prevention and protection services are available to serve the needs of Township residents in times of emergency, the Board of Supervisors finds that it is appropriate that the Board approve the individuals to serve as the Fire Company's President and Fire Chief, but without, otherwise, unnecessarily interfering with the Fire Company's internal affairs.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Eldred Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, to wit:

1. Kunkletown Volunteer Fire Company (the "Fire Company"), located in the Village of Kunkletown, Eldred

Township, Pennsylvania, is charged with the responsibility of providing fire prevention and protection service in the Township of Eldred. No other fire company, volunteer or otherwise, shall be permitted to organize or operate within Eldred Township unless the Eldred Township Board of Supervisors (the "Board") grants prior approval to such fire company. The foregoing, however, is not intended to terminate any Mutual Aid Agreements currently in place, all of which may remain in place, and shall continue.

2. The Fire Company's selection of its President and Chief shall be subject to the annual approval of the Board at its annual reorganization meeting. No individual shall serve as the Fire Company's President or Chief without the Board's approval, except individuals selected by the Fire Company to serve as President or Fire Chief prior to Board consideration for approval at the Board's annual reorganization meeting may serve in an "acting" capacity, but shall still be subject to Board approval in accordance with this Ordinance. Further, the Board may withdraw its approval of any individual serving as President or Fire Chief, at any time, and without advance notice, with or without cause, as the Board of Supervisors, in its sole discretion, deems to be in the best interests of the Township. If the Board withdraws its approval as to a particular individual, that individual shall no longer be considered President or Fire Chief, and the offices of President or Fire Chief, as the case may be, shall be deemed vacant.

3. No later than December 15<sup>th</sup> of each calendar year the Fire Company shall inform the Board, in writing, of the name of the individuals the Fire Company desires to serve as its President and Fire Chief for the following calendar year. The Board will then consider approval of the selected individuals at the Board's re-organization meeting. The Fire Company shall promptly respond to any Township request for information regarding the selected individuals' qualifications to serve as President and Fire Chief.

4. If the Board shall vote not to approve any selected individual, or a vacancy in the office of President or Fire Chief shall occur, the Fire Company shall provide, within 30 days, the Board with the name of a new individual to serve as President or Fire Chief, as the case may be, for the Board's approval. If the Fire Company shall fail to provide the name of a new individual within such time, then the Board may appoint a

Fire Company member to the office President or Fire Chief, as the case may be, for the remaining calendar year, subject to the Board's authority to withdraw its approval.

5. The provisions of this Ordinance shall preempt and supersede any provisions of the Bylaws of the Fire Company which are inconsistent with the terms of this Ordinance.

6. The Bylaws of the Fire Company shall be amended within ninety (90) days of the enactment of this Ordinance to further implement the intent of the Board of Supervisors and directives of this Ordinance.

7. No person shall interfere with or participate, in any way, in firefighting activities or respond to any alarm of fire unless such person is required to so participate or respond by the Fire Chief of the Fire Company; unless such person is a member of said Fire Company, or an officer or employee of the Township, or the Pennsylvania State Police; or is otherwise provided in paragraph 8, below.

8. Nothing contained in this Ordinance shall be construed to prevent any individual from engaging in fire prevention or in emergency or volunteer firefighting prior to the arrival of the Fire Company at the scene of a fire. However, upon the arrival of the officer in charge of the Fire Company, such persons must, in all respects, obey the instructions of the officer in charge, including an instruction to relinquish their firefighting activities.

9. Any person who shall violate any of the provisions of this Ordinance, or any person who takes part in or assists, in any way, in such violation, shall be liable upon conviction before a District Magistrate to pay a fine or penalty to the Township of Eldred, and for the use of the Township of Eldred, in an amount not to exceed \$1,000 or be sentenced to imprisonment in the County prison not exceeding thirty (30) days, as provided by law. Each day of violation shall be considered a separate offense, for which the fine and penalty stated herein may be imposed on a daily basis.

10. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any remaining provisions,

sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that such remainder shall be and shall remain in full force and effect.

11. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any ordinance in force prior to adoption of this Ordinance.

12. This ordinance shall take effect five (5) days after the date of its enactment.

ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of Eldred Township, Monroe County, Pennsylvania this 9 th day of November, 2016.

BOARD OF SUPERVISORS

Mary Anne Clauser  
Chairperson

Jo Ann Bush  
Vice Chairperson

[Signature]  
Supervisor

(TOWNSHIP SEAL)

Ann Delopold  
TOWNSHIP OF ELDRED

Township Secretary