

**ORDINANCE NO. 1251**

**AN ORDINANCE OF THE BOROUGH OF EMMAUS, LEHIGH COUNTY, PENNSYLVANIA, ALLOWING THE EAST PENN SCHOOL DISTRICT TO ASSUME HIRING AND OVERSIGHT OF SCHOOL CROSSING GUARDS**

**WHEREAS**, within the Borough of Emmaus (the "Borough"), volunteer crossing guards have assisted and protected the youth of the community in their travels to and from school; and

**WHEREAS**, previously, at the peak of usage, the Borough deployed up to sixty (60) volunteer crossing guards; and

**WHEREAS**, over the decades, the number of volunteer crossing guards has decreased significantly; and

**WHEREAS**, after the onset of the COVID-19 outbreak, the Borough only has four (4) volunteer crossing guards on its roster, and has been unable to convince individuals to volunteer for the position of crossing guard; and

**WHEREAS**, the Borough has attempted to obtain new volunteer crossing guards, but has been unsuccessful due to a general lack of volunteerism; and

**WHEREAS**, Lower Macungie Township recently entered into an agreement with the East Penn School District (the "School District"), whereby the School District assumed responsibility for paying and staffing crossing guards within their community; and

**WHEREAS**, the School District Board of School Directors enacted a Resolution (the "Resolution") at their public meeting on October 9, 2023, to "hereby request from Borough of Emmaus the authority to assume the hiring and oversight of school crossing guards for Jefferson Elementary School and Lincoln Elementary School"; and

**WHEREAS**, 8 P.S. §1127(b) of the Pennsylvania Borough Code (the "Code") states, "The council may enact an ordinance allowing a board of school directors to assume hiring and oversight of school crossing guards. Before the council may enact the ordinance, the board of directors of the school district must adopt a resolution requesting the authority to assume the hiring and oversight of school crossing guards"; and

**WHEREAS**, the Code also outlines other provisions necessary to enact an Ordinance; and

**WHEREAS**, after discussions with Emmaus Borough Council, the Mayor, the Police Department, and administration at the School District, it is the desire of Emmaus Borough Council to enact an Ordinance to honor the request of the School Board; and

**WHEREAS**, the Borough believes that the transfer of authority over crossing guards will benefit the health, safety, and welfare of the residents of the Borough.

**NOW THEREFORE BE IT ORDAINED AND ENACTED**, that, in accordance with 8 P.S. §1127 of the Code, the Council of the Borough hereby enacts an Ordinance empowering the School District to assume

hiring and oversight of school crossing guards within the Borough in accordance with the October 9, 2023, Resolution, with the following provisions in accordance with 8 P.S. §1127:

**Section 1: Training**

The School District shall be responsible for any and all training for crossing guards in accordance with all laws, ordinances and statutes, including the costs of training and any costs associated with employment of the crossing guards. The Emmaus Police Department shall, upon written request from the School District, provide any necessary training for crossing guards, relative only to the duties of actual street crossing procedures.

**Section 2: Authorization**

School crossing guards shall be authorized in the management of traffic and pedestrians in and around areas identified by the police department and the school district superintendent or the superintendent's designees.

**Section 3: Crossing Guards Exclusions**

In accordance with 8 P.S. §1127(b)(4), the crossing guards shall be subject to the following exclusions and shall explicitly not:

1. Be subject to the civil service; and
2. Be considered part of the bargaining unit of the School District; and
3. Be considered:
  - 1) An employee as defined under section 1101-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public-School Code of 1949; and
  - 2) A school employee as defined under 24 Pa.C.S. §8102 (relating to definitions); and
  - 3) An employee under any plan; and
- 4) Be an employee of the Borough.

**Section 4: Compensation**

Upon adoption and enactment of this Ordinance by Emmaus Borough Council, the School District shall assume the cost of compensation, including fixing compensation, if any, of the school crossing guards.

**Section 5: Auxiliary Police Officers**

Notwithstanding any other provision of law, auxiliary police officers, appointed as prescribed by general law, may be hired by the School District to serve as school crossing guards at the expense of the School District.

**Section 6: Notifications**

The Board of School Directors shall notify the council of the individuals hired to serve as school crossing guards and request the necessary training or assistance be provided as outlined by the ordinance.

**BE IT FURTHER ORDAINED** that all existing Ordinances of the Borough or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed.

**BE IT FURTHER ORDAINED**, that if any section or provision of this Ordinance is declared by any Court of competent jurisdiction to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect the constitutionality, legality or validity of this Ordinance as a whole, nor the constitutionality, legality or validity of any other section or provision of this Ordinance other than the one so declared to be unconstitutional, illegal or invalid.

**DULY ADOPTED** this 20<sup>th</sup> day of November 2023, in lawful session duly assembled.



Shane M. Pepe  
Borough Manager



Brent Labenberg  
Borough Council President

**AND NOW**, this 20<sup>th</sup> day of November 2023, the above Ordinance is hereby **APPROVED** by the Mayor of the Borough of Emmaus in due course.



Lee Ann Gilbert, Mayor  
Borough of Emmaus

