

Rankin Borough

Report on
Strategic Management Planning Program

September 30, 2025



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Citizens and Officials of Rankin Borough
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Executive Summary:
Strategic Management Program (STMP) for Rankin Borough
September 30, 2025

The Strategic Management Program (STMP) for Rankin Borough was initiated to establish a blueprint for the municipality following its emergence from Act 47 Distressed Status in May 2023. The program utilized an adaptive, asset-based approach, relying on internal capacity and strengths to move beyond existing conditions and establish a long-term growth and learning agenda. The objectives of the engagement focused on **Staff Capacity & Hiring, Office & Meeting Technology, Grant Seeking, Writing, Management**, and preparing a **long-term growth and learning agenda**.

Context and Initial Challenges

The STMP began on May 16, 2024, following a 12-month period of significant instability characterized by turnover in Council (an entirely new Council, with one seat unfilled) and the Borough Secretary position. At the start of the engagement, the Borough faced critical administrative shortcomings, including:

- **Financial Records:** No computerized accounting records were accessible, forcing the general ledger to be built anew in QuickBooks Online (QBO), including a unified General Ledger for all funds.
- **Compliance Backlog:** A number of incomplete audits and filings existed, such as the 2023 audit, DCED financial report, and required pension filings.
- **Operational Instability:** Backlogged bills (some risking termination of insurance coverages) existed, and staffing issues (including the closure of the building to walk-in access) limited operations. Budgetary errors relating to anticipated grants also created financial stress.

Key Accomplishments and Deliverables

The STMP successfully addressed several urgent needs, laying foundational administrative structure:

1. **Staff Capacity and Hiring:** The initial project scope, which proposed an Assistant Borough Secretary position, was revised to conduct a search for a more professional Borough Manager position, supported by additional financial assistance from the DCED
 - A **Borough Manager position description and Ordinance (Ordinance 583)** were created and adopted.
 - A **Manager was hired in January 2025** after two rounds of interviews and facilitation by the consultant. The Manager's hiring enabled the Borough to resume regular office hours and successfully staff part-time Department of Public Works (DPW) employees.
 - The newly hired Borough Manager completed pending **audits and financial reports** (including the 2023 audit and DCED financial report) within the first four months of tenure.
 - The consultant provided training, supported the completion of the **2025 Annual Budget**, and arranged for TCVCOG to serve as an Acting Borough Secretary during a transition period.
2. **Office and Meeting Technology:** Critical technology upgrades were implemented to improve accessibility and communication.
 - **Google Office** was installed for the rankinborough.com domain, rectifying issues with the prior Webhero mail client and allowing for modern, integrated applications and improved user management.
 - **Quickbooks Online (QBO)** was set up in August 2024, establishing full fund accounting and addressing the urgent lack of accounting records.
 - Funding was allocated for **Council Chambers Audio Visual** technology (approximately \$7,000) to support effective meetings and remote participation.

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3. Grant Seeking and Administration: The Borough successfully amended the STMP to increase funding for the Manager position and positioned itself for future funding.

- The Borough is actively administering existing grants, including those from the US Department of Justice (DOJ) for Community Oriented Policing and the Pennsylvania Commission on Crime and Delinquency (PCCD) for regional policing.
- The Borough Manager is positioned to coordinate capital planning, budgeting, grant seeking, and administration, including managing the Single Application process and maintaining a database of all current applications and credentials.

Long-Term Growth and Learning Agenda

The STMP provided extensive recommendations for sustained development focusing on structural and policy improvements:

- **Effective Governance:** Council should maximize meeting effectiveness by conducting two regularly scheduled, advertised meetings: a Regular Meeting for official action and a Workshop Meeting for in-depth discussion and deliberation. **Committee Revitalization** is recommended to support policy formation, with specific duties outlined for committees like Budget and Finance, Facilities and Public Property, and Open Government Transparency & Tech.
- **Internal Controls and Finance:** To achieve necessary **segregation of duties**, the Borough should retain a **Third Party Bookkeeper**. The report outlines new internal controls for processing receipts and disbursements using voucher forms and requiring two signatures on checks.
- **Policy Adoption:** It is crucial for the post-Act 47 Borough to adopt and adhere to a framework of policies to ensure effective governance and fiscal stability. These policies include a **Purchasing Policy** (outlining requirements for quotes and formal bidding over \$10,000), a **Credit Card Policy**, and a **Budgeting Policy**. The Borough is strongly encouraged to adopt an **Operating Reserve/Fund Policy** to maintain fiscal stability, targeting an unreserved undesignated fund balance equal to the three highest monthly expenditures or 15% of the prior year's revenue, whichever is greater.
- **Planning and Records:** The Borough should prepare a **Capital Improvement Plan (CIP) Policy** and 5-year capital plans. **Records Management** must be adopted and implemented in accordance with the PA Records Manual Handbook.
- **Public Engagement:** A multi-faceted approach to public engagement is recommended, centered on transparency, accessibility (including remote participation), consistent application of the Public Comment Policy, and systematic complaint handling.

In conclusion, the Strategic Management Program has laid the groundwork for Rankin Borough's post-Act 47 future by addressing critical administrative needs and empowering the community through co-created, specific activities. Continued implementation of the recommended policies and operational enhancements will sustain this development.

Rankin Borough Strategic Management Program Open Items, September 30, 2025

Several parts require additional details, implementation, or ongoing development to sustain the improvements achieved:

1. Administrative Structure and Operations

- **Codified Ordinances Update Schedule:** While the Borough Manager established access to General Code and provided ordinances for update within the first 30 days of hire, a **schedule for updating the codified ordinances needs to be established.**

- **Records Management Implementation:** The Borough must adopt and implement **records management** in accordance with the PA Records Manual Handbook. The existing files are outdated and disorganized, and implementing this system will require utilizing an experienced worker, possibly through the Urban Seniors Jobs Program.

- **Office Access and Staff Meetings:** The Borough should **close the office to the public one day a week** for concentrated staff work and advertise the correct hours. Additionally, **regularly scheduled monthly meetings with department heads** led by the Borough Manager are needed to facilitate cross-departmental communication.

- **Office Environment and Records:** Significant **records management challenges** were presented to the new Manager on day one, and the work of organizing the environment for more professionalism is **ongoing.**

2. Financial Management and Internal Controls

- **Third Party Bookkeeper:** To achieve necessary **segregation of duties** and assure high-quality reporting, the Borough should **retain bookkeeping services from a third party vendor.** This vendor would perform accounting functions remotely or in person approximately 3 to 4 times a month.

- **Purchasing Policy Formal Processes:** Although the Purchasing Policy defines spending limits, all purchases **over \$10,000 are subject to formal bidding processes** as outlined in the **Purchasing Manual in Appendix K**, requiring adherence to those detailed procedures.

- **Budget Calendar:** The Borough needs to establish a **budget calendar** to ensure an organized sequence of events and facilitate participation from officials, employees, and the public in the annual budget process.

- **Operating Reserve/Fund Policy:** While the need for this policy is encouraged to maintain fiscal stability, the Borough must formally **adopt this policy** to maintain an unreserved undesignated fund balance equal to three highest monthly expenditures or 15% of the prior year's revenue, whichever is greater.

3. Staffing, Development, and Technology Support

- **Administrative Assistant Job Description:** Specific ongoing staff development activities include assembling specific tasks to support the Manager and maintain segregation of duties, which will form the basis of a **job description for an Administrative Assistant.**

- **Third Party System Administrator:** To avoid operational failures due to staff turnover, the establishment of a **third party administrator** should be created to provide

reliable ongoing Google Office User Management and system administration. Identification of eligible firms is currently being conducted.

- **Manager Performance and Development:** The Borough should invest in an intentional employee development program for the Borough Manager, including:
 - Preparing **annual performance goals, objectives, and reviews.**
 - Establishing an **employee development plan.**
 - **Sufficiently funding an annual training and development program.**
- **Public Works Descriptions:** Additional support is needed for **DPW job descriptions.**

4. Planning and Policy Development

- **Comprehensive Planning:** The Borough needs to pursue an updated **Comprehensive Plan** as the most recent multi-municipal plan was completed in 2009. Seeking assistance from DCED for an updated plan should begin as soon as possible.

- **Capital Improvement Plan (CIP):** The Borough must prepare **5 year capital plans** in consultation with the Borough Engineer prior to grant seeking. It also needs to establish a formal definition of capital (recommended: \$5,000 cost and 5-year useful life).

- **Personnel Policy Compilation:** The Borough has existing past practices and a public works employee handbook, but it should **compile a uniform Borough personnel policy as soon as possible**, preferably by utilizing a summer intern in 2026, followed by solicitor review.

- **Social Media Policy:** An **explicit policy on the use of social media should be established**, defining specific accounts for municipal business and assigning responsibility for posting.

- **Complaint Handling Policy:** The Borough should develop a **policy for handling citizen complaints**, including standard documentation and prompt referral.

5. Governance and Public Engagement

- **Committee Meetings:** **Regularly scheduled committee meetings** must be established, advertised, and open to the public.

- **E-Newsletter:** The Borough expressed a desire for an **e-newsletter**, and initial steps are being taken to form a mailing list.

- **Zoning Administration:** The Borough Manager needs to take steps to assure the **proper functioning of the Planning Commission** and continuously work with Council to assure their understanding of the importance of land use regulations.

- **Community Involvement Mechanisms:** The Borough is encouraged to implement mechanisms for public input, such as **suggestion boxes** and **simple surveys** executed through Google forms.

- **Council Chambers AV Implementation:** Funding is available (approximately \$7,000) for Council Chambers Audio Visual technology, but the Borough Manager must serve as a liaison to assure coordination and maximization of grant resources, especially since it runs **concurrent to an additional municipal building improvement project.**

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Introduction

The Strategic Management Program for Rankin Borough established a goal of setting in action a blueprint for Rankin post-Act 47 Distressed Status. We have responded by addressing key administrative needs informed by an approach based upon adaptation.

An adaptive approach is an asset based approach. Adaptation is based upon meeting the client where they are at and relying on the internal capacity and strengths of the client to move beyond current conditions.

Adaptive change provides more than responses to existing problems, it provides a long term growth & learning agenda. This approach empowers a community through a series of specific activities designed to form clear outcomes for the community. Steps towards those outcomes are co-created by the client/community and the coach/consultant.

Overall Objectives of the Engagement

1. Staff Capacity & Hiring

The initial scope of this project as outlined in the RFP by the Borough called for developing an Assistant Borough Secretary position. This was revised to conduct a search for a Borough Manager position with support from the DCED to provide additional financial assistance for the more professional position. This is compelling the Borough to reevaluate its administrative approach

Additionally, work to prepare the office environment for success and backfill gaps and shortcomings in operations. Conduct training and provide an Operational Calendar.

2. Office & Meeting Technology

Upgrades are needed to improve Borough's ability to be accessible to the public and increase flexibility in communications. Guide the acquisition/purchase of technology items to improve the reliability and effective use. Work with vendors and oversee set-up.

3. Grant Seeking, Writing, Management

The Borough is at a competitive advantage in grantseeking having recently emerged from Act 47. Action needed includes identifying issues aligned with funding programs, grant writing and implementation. Special attention to administering existing grants from US Department of Justice Community Oriented Policing and Pennsylvania Commission on Crime and Delinquency for regional policing. Develop capital project list for future funding opportunities.

4. Prepare a recommended long term growth and learning agenda

This includes establishing accounting procedures and protocols and budgeting guide. Further recommendations for needed planning activities should be made. Finally recommended training plan for Council and staff.

Background

Recission of Act 47

The Borough was subject to state oversight for 33 years, ending in May 2023. The recovery plan resulted in improved financial conditions for the Borough achieved primarily through cost control and diversification of the revenue stream through fees and aggressive delinquent collections. Several factors contributed to the Borough exiting Act 47. The Act 47 Rescission Report and a table of the Exit Plan recommendations is presented in Appendix A.

Delay in start of STMP

There was a 12 month lag between the end of Act 47 Oversight and the start of the STMP on May 16, 2024. In that time, the Borough experienced a period of flux. Most notably is turnover in Council and the Borough Secretary position. So in addition to adapting to a Post Act 47 environment, the Borough experienced considerable instability. A summary of conditions and responses from that time includes:

- An entirely new Borough Council. 2 newly elected officials joined by 4 appointed officials. One seat remains unfilled as of this report.
- An Acting Borough Secretary appointment. The Acting Borough Secretary was a full-time manager in a neighboring community.
- An abrupt transition from the prior Secretary to the Acting Secretary resulting in a disruption of basic management tasks.

Conditions at Start of Engagement

SGHock, LLC was appointed on May 17, 2024. The following is a brief run down of conditions at that time and a summary of the current status.

1. No computerized accounting records

The Borough did not have access to its general ledger or records for prior years due to an inability to access them on a personal computer for which the Borough did not have passwords.

a. Current Status:

- i. The general ledger has been built anew in Quickbooks Online. This includes setting up the chart of accounts and forming a fund structure.
- ii. A completely unified General Ledger has been established. This means discontinuing the prior practice of using separate companies in Quickbooks On-premise. One GL with segregations achieved by class and division is now in use allowing for a complete picture of the Borough's financial condition.
- iii. Utilizing User Management to establish users and manage passwords. This avoids operational failures due to staff changes.

2. Incomplete audits and filings. The list includes: 2023 audit and DCED financial report, Survey of Financial Condition and other required reports; 2023 PennDOT actual use report, AG385 and required pension filings; PSAB Unemployment reports.

a. Current Status:

- i. Through the successful hiring of a Borough Manager, the Borough completed all of these reports within the first 4 months of her tenure.

3. Backlog of bills and applications. A number of bills were in arrears including insurance coverages that were at risk of termination.

a. Current Status:

- i. Most of the backlogged items were successfully resolved by the Acting Secretary prior to their disengagement on December 1, 2024.
- ii. The setup of the new accounting system allows for proper processing of routine bills.

4. Staffing issues. During this time, the borough benefited from the steady presence of the longtime Borough clerk. However, because of long periods of time when she was the only one in the building, the Borough building was

closed to walk-in access. Additionally, there were limitations with the Acting Secretary scenario which led to tensions in the organization. Lastly, remaining public works employees departed Borough employment during this time.

a. Current Status:

- i. Borough officials and the Acting Secretary successfully hired a new public works foreman.
- ii. Hiring of the Borough Manager has allowed the Borough to resume regular office hours.
- iii. The Borough Manager has made consistent gains in staffing the borough properly with the hiring of part-time DPW employees.

5. Budgetary Concerns. The Acting Secretary identified errors in the 2024 budget relating to the recording of anticipated grants. This combined with a lack of financial reporting capabilities created considerable stress for leadership and a lack of decision support.

a. Current Status:

- i. Once an accurate accounting system was established, good reporting answered questions about the impact of the budget error.
- ii. SGHock, LLC. assisted the Borough properly prepare individual fund budgets improving clarity and awareness of the impact of budgetary decisions on the Borough's bottom line.
- iii. Corrections were performed and the budget for 2024 presented correct revenues and expenditures and budget use of fund balance. The Borough will avoid this problem by properly developing individual fund budgets on an ongoing basis.

A recap of the adjustments follows:

Adopted Budget - Revenue	1,673,081.00
Remove Use of Fund Balance as a revenue	-35,000.00
Remove duplicate posting of DCED grant	-76,600.00
Record Transfer from GF to Cap Reserve (only GF expense was recorded)	25,000.00
TOTAL	1,586,481.00
Adopted Expenditures	1,673,081.00

Record Transfer from Sewer to GF as a revenue (only GF income was budgeted)	8,890.00
Remove transfer to Liquid Fuels (correctly budget as own fund)	-16,000.00
Record Grant Expenses	25,000.00
TOTAL	1,690,971.00
Actual Expected Use of Fund Balance	-104,490.00
Breakdown:	
- General Fund Use of Fund Balance	-101,600.00
-Capital Reserve Increase of Fund Balance	25,000.00
-Sewer Fund Use of Fund Balance	-27,890.00
Net Use of Fund Balance	-104,490.00

6. Representation and Access to Systems. The Borough was hindered through no access to the single application portal of DCED; no head of organization access to PCCD and JustGrants; official correspondence being assigned to a free yahoo mail account with no third party access to password reset and two step verification system; codified ordinance updates not occurring .

a. Current Status

- i. The Borough has established proper user access for the Borough Manager to various state and federal online portals.
- ii. The Borough Manager established access to General Code and provided ordinance for update within the first 30 days of hire.
 1. A schedule for updating the codified ordinances needs to be established. The most recent update was December 2022, as reported by the Borough Manager.

Detailed Summary of Deliverables

1. Staff Capacity & Hiring

The STMP application originally outlined a proposal to develop an assistant borough secretary position. However, the project was adapted to provide for a Borough Manager position and additional funding was made available from DCED. Assistance provided the Borough:

a. Position description and Borough Manager Ordinance

- i. A position description and Borough Manager ordinance was created as part of the STMP project. This step included 2 Board development sessions outlining the features of a Borough Manager as compared to a Borough Secretary, establishing expectations and identifying the support requirements of the Borough Manager position. Appendix B presents the program. This training expanded the understanding of the nature of professional municipal management, clarified the policy making and administrative realms, engaged the group to set expectations and supports for the professional manager position.

A Borough Manager Ordinance was adopted by the Borough. The Adopted Ordinance 583 is attached in Appendix C.

- b. Market the position and opportunity to attract quality candidates.

- i. Promotion of the position through professional networks and local government groups took place as part of the STMP project. Two rounds of interviews were conducted and a Manager was hired in January 2025. Council worked with the consultant and DCED to select a qualified candidate. This included consistent and uniform interview questions, a ranking system and facilitation to select the final candidate.
- ii. Further, assistance was provided in the development of an employment agreement for the newly established Manager position. Key provisions of the terms of employment are outlined in the agreement. Additionally, the agreement outlines the at-will nature of Manager's employment and reappointment and termination provisions. The next action item will be to make an appointment at the January 2026 reorganization meeting.

- c. Prepare and organize the office environment for success.

- i. The set up of the QuickBooks Online (QBO) system modernized the Borough, including establishing a single

general ledger for all funds. However, significant records management challenges presented themselves to the new Manager on day one. A great deal of her time was used simply organizing the environment for more professionalism. This work is ongoing.

- ii. Google Office was set up to allow for rankinborough.com emails through an modern and integrated platform. Each user has access to Google Office applications. The prior Webhero mail client was difficult for users to use primarily because it was inaccessible as a mobile app. This has been rectified.
- d. Provide both direct training and recommended outside training resources.
- i. Weekly zoom meetings provide one on one training to Borough Manager. This is ongoing to the extent the Borough Manager wishes to participate.
 - ii. The Borough Manager has been provided printed materials from DCED including
 - 1. Borough Secretary Responsibilities
 - 2. Fiscal Management Handbook
 - iii. It is recommended that the Borough Manager complete the PSAB Certified Borough Officials 2 year track. The details of this program are in Appendix D.
 - iv. Professional associations provide ongoing professional development opportunities and peer support. It is recommended that the Borough support membership in the Pennsylvania Association for Professional Municipal Management through an annual dues payment.
- e. Backfill gaps and shortcomings in operations.
- i. This support exceeded anticipated need due to the period of transition. Activities included:
 - 1. Completed 2025 Annual Budget

- a. See Appendix E for the 2025 Budget.
- 2. Arranged for TCVCOG to serve as Acting Borough Secretary for a 2 month time period after Acting Borough Secretary quit abruptly.
- 3. Assisted Council President, Solicitor and others with administrative information and problem resolution.
 - a. Escrow overages
 - b. Meeting with Martone re Commercial Building Inspections
 - c. Certification of Offices for Election
 - d. PCCD and DOJ filings and grant drawdowns
 - e. Update SAMs credentials
 - f. Over 70 various other administrative task
- f. Develop an operational calendar, schedule of upcoming events and priorities.
 - i. This is an ongoing project, but the calendar to date is in Appendix F.
- g. Recommendations for ongoing staff development activities.
 - i. Job description for Administrative Assistant.
 - 1. Specific tasks to support the Manager and maintain segregation of duties should be assembled and form the basis of a job description.
 - ii. Office tech / shared drives build out.
 - 1. The establishment of a third party administrator should be established to support the Borough Manager by providing a reliable ongoing system administration. Identification of eligible firms is currently being conducted as part of the STMP Management Capacity Enhancement project. Borough officials should enter into an annual renewable agreement to provide these services. This independent vendor will conduct Google Office

User Management and other administrative functions.

- iii. Continuing Council progress to support professional Manager position.

This section concerns creating and sustaining the work environment that supports professional management. These recommendations involve approaches for Council to deploy to continue the Borough's progress and are drawn from the work Council did in the STMP board development sessions.

1. Supporting and expecting faithful execution of all duties of the Borough Manager position as articulated in the Borough Manager Ordinance.
2. Supporting transparency and providing time and capacity in the Manager's daily schedule and work load to execute their duties based on principles of good government; not reactively to demands for service and problems-only.
3. Supporting and expecting that meeting agendas are completed by the Manager and made available on a reliable schedule. The standard for all agendas and supporting documents for the monthly business meeting should be the Friday before the meeting (the Friday before the second Tuesday of the month).
4. Supporting and expecting complete documentation of all Meeting Minutes, Resolutions, Ordinances and other decisions of Council be completed timely and filed accurately. This includes
 - a. Monthly Meeting Minutes ready for approval at the next following meeting.
 - b. Regular updates to the Codified Ordinances as maintained in E-Code 360.
 - c. Contracts and Agreements routed for signatures and appropriately filed.

5. Supporting and expecting complete monthly financial reporting and record keeping with documentation
 - a. Statement of Revenues and Expenditures
 - b. Statement of Financial Position
 - c. Budget to Actual Reports by Fund
 - d. Bill Payment List
 - e. Bank Reconciliation Report
 - f. Report of Payroll Expenses
6. Supporting the recommendations of the Borough Manager and funding the request for additional professional services to the extent possible.
7. Performing the duty of Councilmanic making decisions diligently. Asking questions for information, understanding Council's responsibility. Voting as is the duty of Council. Using abstention correctly: only in circumstances where they have a conflict of interest.
8. Practicing awareness and engaging in ethical behavior: avoiding activities that present an actual or perceived conflict of interest. Setting a tone and culture of ethics and trust.
9. Eschewing behaviors such as dominating, criticizing, or blaming others. Maintaining a future focus and goal of working together for a better community; taking personal responsibility for cultivating a constructive environment.
10. Respecting the Manager's authority as head of Borough operations. Bypassing the administrator to give direct orders to employees undermines authority and can foster dependency and micromanagement. No contact to departmental employees should take place without the Manager's involvement.
11. Willingness to work through tough conversations and honest engagement with all stakeholders

including the Council, the Manager, staff and the community. Not glossing over issues for perceived harmony.

12. Encouraging trust by promoting and adhering to policies and procedures. Council governs as a whole body. Committees exist to help Council form policy by providing supportive work--not serve as a "fiefdom." Council's work focuses largely on making policy; Manager's work focuses largely on implementing policy and they work as a team together for the betterment of the Borough.

2. Office and Meeting Tech

Upgrades needed to improve Borough's ability to be accessible to the public and increase flexibility in communications are part of the STMP project. These include:

- i. Council Chambers Audio Visual
The STMP funding provides for approximately \$7,000 for meeting room technology and building security.
- ii. The grant application outlined specifications that include:
 1. 1 podium with a microphone to capture audio to a master recording.
 2. Approximately 3 mics on dias to capture audio.
 3. a mounted screen for remote participation and presentations.
 4. A personal computer to manage the audio and video events and recordings.
- iii. A list of Costars vendors providing these services is presented in Appendix G.
- iv. There is some flexibility in the technology/equipment spending based upon the DCED STMP Contract which lists a single line item for equipment. However, subscriptions for cloud based services come out of that line item as well so the Borough will need to apply discretion in the selection of technology components if it is to use the full budget for both purposes.
- v. At the time of this report, one STMP draw down invoice has been prepared, and the STMP Budget remaining is

presented in Appendix H. Borough officials should rely on these amounts going forward.

- vi. The Borough is completing an additional grant funded municipal building improvement project concurrent to the STMP project. The Borough Manager should serve as liaison between the Borough Engineer, Council and vendors to assure coordination and maximization of grant resources.

b. Cloud based applications for Borough Administration and Communication

The Borough approved work orders for the STMP consultant to establish upgrades to its email/office productivity platform and its accounting system.

- i. Google Office has been installed for the domain rankinborough.com. This cloud based email and office productivity suite will address issues identified by the Borough relating to ease of use, adding/removing users, passwords and security, and collaboration
- ii. Quickbooks Online was set up in August 2024 and 2024 year-to-date activity was set up. This was an urgent undertaking at the time because the Borough had no accounting records at that time. The system of account has been updated to present full fund accounting for all funds.
- iii. Open Items
 1. The Borough expressed the desire for an e-newsletter during the course of the project. Initial steps are being taken to form a mailing list through the development of an online citizen survey
 2. Third party administrator-To avoid the situation the borough found itself in early 2024 when there was abrupt turnover, it is recommended that the borough engage a third party administrator for its cloud based system. Prospective vendors have been identified and provided to the Borough officials.

3. Grant Seeking, Writing and Administration

a. Accomplishments during STMP

A number of activities performed during engagement commenced that the borough will continue until

- i. Amended STMP-the Borough was successful during the STMP in increasing the amount of the grant to provide funding for the Borough Manager position
- ii. Kick off letter of intent for Parking Study
- iii. Administer PCCD - Regional Policing
- iv. Administer DOJ - Community Oriented PolicingOpiod SettlementCOG
- v. Get ahead of application cycle with planning
- vi. Keep accurate record of open grants and reporting requirement

b. Positioning for future funding needs

i. Comprehensive Planning / MAP Grant Application

The Borough's most recent comprehensive plan was completed in 2009 and was a multi-municipal plan completed with Swissvale and Edgewood. The Borough should seek assistance from DCED to complete an updated comprehensive plan. Significant development on the Borough's short and long range horizon necessitates the planning effort begin as soon as possible. Public agencies that can assist in the process include:

1. [PA Department of Community and Economic Development](#)
2. [Southwestern Pennsylvania Corporation](#)
3. [Pittsburgh Regional Transit](#)
4. Neighboring Municipalities
5. Aligned nonprofit organizations such as Mon Valley Initiative and Rivers of Steel

ii. Borough Manager Coordinate Grantseeking

The Manager is in the position to properly coordinate the capital planning, annual budgeting, grantseeking and grant administration process. This includes

1. Managing the Single Application process with the Commonwealth of PA credentials
2. Approve all applications made on behalf of the Borough by the Borough engineer or other delegates.

3. Maintain a database of all current applications and grants in progress.
 4. Maintain a database of all application sign in credentials.
 5. Assure proper drawdown of grants, including general ledger coding and disbursement to subapplications such as Eastern Regional Mon Valley Police Department.
 6. Monitor state and federal websites for grant opportunities that align with Borough priorities as expressed in the Capital Improvement, Comprehensive Plan.
4. Long term growth and learning agenda
- a. Effective Meetings
Borough Council should seek to maximize the effectiveness of its meetings by conducting two regularly scheduled advertised meetings a month: Regular Meeting and Workshop.

The Regular meeting should be utilized to conduct all Borough business and function as the Borough Code describes: for the purpose of official action and decision-making.

The Workshop meeting, while subject to the same requirements of the Sunshine Act, should be used as a more in-depth question/answer session and for obtaining information to support decision-making and governance.

The Workshop is in service to the Regular meeting. As such, Council actions should work their way through a process that allows for deliberation and discussion at the Workshop items and action at the Regular meeting. It is important that the Workshop be used for examination, analysis and discussion and that the Council take care to conduct official business and voting at the Regular meeting.

- b. Committee Revitalization
There is an old saying, "Many hands make light work." Committees don't run things...they support things by serving as inhouse "mavens" of these topics. They grow their expertise, deliberate, recommend, and perform other activities to contribute to the collective knowledge of the Council, the borough and the community. The Committee recommends to

the whole Council for action. The following committees and their general duties are recommended:

- i. Budget and Finance
 - 1. Oversight and support monthly approval process
 - 2. Budget prep/support
 - 3. Assure transparency and accountability
- ii. Facilities and Public Property
 - 1. Meeting Room tech
 - 2. Building access project
 - 3. Overall building improvement project oversight & Council liaison. Decision support for Manager
- iii. Open Government Transparency & Tech
 - 1. Maximize the Google Office platform with Council Intranet/Google Site/Folders
 - 2. Meet
 - 3. Stand up an e-newsletter app such as Constant Contact
- iv. Health and Safety & Public Service
 - 1. Refuse
 - 2. Stormwater
 - 3. Streets and Parking
 - 4. Environment/Greening/Beautification
- v. Community development
 - 1. Building, Zoning, Code
 - 2. Land Bank
- vi. Public Safety
 - 1. Regional Police
 - 2. Fire
 - 3. EMS
- vii. Public and Intergovernmental Affairs
 - 1. Committee of whole
 - 2. Representation by appointment by Council Pres
 - 3. COG representative
 - 4. ALOM
 - 5. Boroughs Association
 - 6. ERMVPD representative
 - 7. Carrie Furnance
- viii. Regularly scheduled committee meetings
Committee meetings should be scheduled on a regular basis, advertised, and open to the public. Committees should be composed of a number of Council members that is less than a Quorum. Comments may be taken

from noncommittee members, however, the purpose of the committee is to be a working committee of Council and the committee should keep a clear eye on their goal of making a recommendation to the whole governing body.

c. Records Management

- i. The Borough has outdated and disorganized files. Adopting and implementing records management in accordance with the PA Records Manual Handbook will not only create order and professionalism, it will guide the Borough Management in the retention and destruction of municipal records as prescribed by the PA Records Retention Act.
- ii. The Borough has taken steps to be a Urban Seniors Jobs Program Host Agency through the Urban League of Pittsburgh. The borough should proceed with this program and avail itself to an experienced worker to assist the Borough Manager with this important task.

d. Internal Controls

- i. Segregation of duties
The Borough office is a busy place and currently staffed by 2 individuals. This does not afford the borough sufficient segregation of duties. The data entry of deposits and bills and preparation of checks should be separated from posting to the general ledger and bank reconciliations.
- ii. Third Party Bookkeeper
To achieve segregation of duties and assure high quality reporting, the Borough should retain bookkeeping services from a third party vendor who can perform accounting functions remotely or in person approximately 3 to 4 times a month.
- iii. Receipts and Internal Controls
 1. The Borough Administrative Assistant should continue to open the mail and prepare the Deposit Coding form (see Appendix I). A tape should run to total the deposit and provide it to the Borough Manager with the deposit form.
 2. The Borough Manager should make the deposit at the bank and prepare it in Quickbooks Online. They finalize the task by filing the deposit form prepared by the Administrative Assistant, the copies of the

- checks, and the bank deposit slip in the monthly accounting activity folder for the respective month.
3. The bookkeeper posts the transactions to the General Ledger and reconciles the deposit to the bank account at the end of the month.
 4. The bookkeeper completes the monthly Statements of Revenues and Expenditures, Statement of Financial Position, and Budget to Actual Reports and provides them to the Borough Manager to distribute to Council.
 5. Council Finance Committee reviews the bank statement (account number redacted) and reconciliation report at the end of each month.
- iv. Disbursements & Internal Controls
1. The Borough should use the Voucher Form in Appendix J to organize the processing of bills each month.
 2. Staff should complete the Voucher Form with the vendor, account number, and description information.
 3. The Borough Manager is responsible for the vouchers (i.e. unpaid bills). The Borough Manager enters the Bills in Quickbooks and at the end of each month Pays the Bills and Prints the checks.
 4. The Borough has 3 main operating funds: the general fund, the sewer fund and the highway aid fund. Care should be taken to assure bills are paid from the proper checking account reported in its respective fund when monies from a particular fund are to be used.
 5. The Borough Manager prepares the List of Unpaid Bills for each Meeting and distributes the list to Council with the Agenda prior to the meeting. Council approves the Bills prior to the checks being signed by 2 designated signers.
 6. The Finance Committee chair or designee initials or signs each voucher.
 7. Use of ACH, online payments, and direct debits should be restricted to those functions crucial to borough operations and to assure continuity of operations. This includes phone and internet access, utilities, and insurance coverages. All other

expenditures must be paid via check with 2 signatures.

8. The Borough Manager prepares a List of Prepaid Checks that were issued during the month since the last Council meeting and distributes the list to Council with the Agenda prior to the meeting. Council retroactively approves the Prepaid Checks.
9. The bookkeeper posts the checks to the general ledger and reconciles the bank statements.
10. Council Finance Committee reviews the bank statement (account number redacted) and reconciliation report at the end of each month.

e. Other Policies

Rankin Borough post-Act 47 should operate under a framework that is based upon the adoption and adherence to several important policies to ensure effective governance, fiscal stability, and transparency. These policies guide how a borough manages its finances, acquires goods and services, and plans for its future. Some important policies the borough should adopt include:

i. Purchasing Policy

This policy establishes procedures for procuring goods, supplies, and services, emphasizing compliance, efficiency, transparency, fair competition, and responsible use of public funds.

1. General Principles-All purchasing activities must comply with state and federal laws, as well as municipal ordinances.
2. Fair and open competition is encouraged to achieve the best value. Furthermore, purchases should be authorized in accordance with the following policy:
 - a. Small items purchased at the counter of retailers for nominal business expense may be made by the Borough Manager or other supervisor up to \$500.00. These items must be purchased through a commercial credit account to be paid via paper check approved and signed by a Borough Council official when the statement is received.
 - b. Items \$501 to \$ 1,000 must be approved by Borough Manager and Council President. The appropriate and sufficient budget line

item must be identified and available prior to purchase.

- c. Items from \$1,001 to \$3,000 must be approved by Borough Manager and Council President and 3 quotes must be obtained prior to purchase. The appropriate and sufficient budget line item must be identified and available prior to purchase.
- d. Items from \$3,001 to \$10,000 must be approved by motion of Borough Council in advance of purchase. Three quotes must be obtained prior to purchase and provided to Council for review. The appropriate and sufficient budget line item must be identified and available prior to purchase.
- e. All purchases over \$10,000 are subject to formal bidding processes as outlined in the Purchasing Manual in Appendix K.
- f. Proper documentation, including receipts, invoices, and vouchers, is required for all purchases to maintain an audit trail.
- g. Public officials are prohibited from having personal interests in contracts valued at \$500 or more with the municipality unless awarded through a sealed bid process with public notice.

ii. Credit Card Policy

This policy outlines comprehensive guidelines for the use of the Borough's credit card, which functions as a purchase card system

- 1. Usage Guidelines: credit card usage is at the discretion of the Borough Manager, with approval by Council. Credit cards serve as a tool for purchases under \$500, restricted to goods or services not available through normal procurement procedures. Additionally the borough should strictly adhere to sales tax exemption policies and provide vendors with appropriate sales tax exemption forms. Personal use of Borough credit cards is prohibited.
- 2. Compliance and Consequences-Card users must comply with all applicable Borough policies.

Violations, such as personal use, cash advances, or splitting purchases to bypass limits, are investigated and can lead to revocation of privileges, disciplinary action, termination, or even criminal prosecution. The Borough Council President, Borough Manager or Borough Solicitor have the authority to investigate violations and recommend actions to the Borough Council.

3. Documentation and Accountability-All transaction receipts must be provided to the Borough Manager and attached to monthly statements. Failure to provide documentation can result in loss of privileges or classification of the charge as a personal purchase.
4. The credit card account must be reconciled monthly on the Borough general ledger.

iii. Operating Reserve/Fund Policy

The Borough is strongly encouraged to adopt this policy to maintain fiscal stability during budgetary uncertainty.

1. The Borough should maintain an unreserved undesignated fund balance equal to its three highest monthly expenditures or 15% of the prior year's revenue, whichever is greater.

2. Fund Balance Trend

Over the last 5 years the Borough has steadily increased its fund balance through cost cutting. Most notably an overall retrenchment in police spending occurred as staffing was lost due to competition for police personnel. With the launch of the Eastern Regional Mon Valley Police Department, the Borough's police expenditures will return to pre-2019 levels around \$320,000 and greater. Over time, fund balance levels will decline from the unusually high amounts in 2022 and 2023. However, by adhering to the fund balance policy, the Borough's financial position should remain consistently healthy. The table below depicts the recent trend.

Year	General Fund - Fund Balance	dollar change from prior year	percentage change from prior year	Total General Fund Revenue	Fund Balance as % of total GF revenue
2019	\$349,930			\$918,534	38.10%
2020	\$445,470	\$95,540	27.30%	\$818,674	54.41%
2021	\$733,732	\$288,262	64.71%	\$1,135,526	64.62%
2022	\$1,021,432	\$287,700	39.21%	\$1,050,010	97.28%
2023	\$1,426,685	\$405,253	39.67%	\$1,257,699	113.44%

iv. Budgeting Policy / Budget Preparation Guidelines

The annual budget serves as a vital policymaking tool, and effective budgeting requires a clear policy approach

1. The governing body is responsible for setting policy and establishing municipal service goals.
2. The Borough Manager is responsible for departmental budget requests, addressing factors like inflation, projected salary and benefit increases, and desired changes in municipal services or taxes/fees.
3. Budgets should be based upon historical trends and other factual information.

a. Revenues

- i. Real Estate and Act 511 Taxes are the primary local revenue sources for the Borough.
- ii. Real Estate Taxes should be based on the historical trend of assessed values. The Borough should examine the impact of tax rates based on the expected total assessed values for the Borough.

1. Allegheny County has not completed a county-wide reassessment since 2012. The Borough should, in conjunction with other local officials in Allegheny advocate for fair uniform property assessments for all counties in the Commonwealth.

2. Tax collection rates should be monitored by Borough officials and should not fall below the historical average. Additionally, the Borough should continue the practice of aggressive delinquent collection as established during Act 47 oversight.
- iii. Act 511 Taxes budgets should be based upon historical trends.
 1. The Earned Income Tax rate is set at 1% and split with the school district. The Borough should monitor the Earned Income Tax collections to identify the underlying changes in incomes. This information should inform the forecast.
 2. Local Service Tax is based on the number of individuals with jobs in the Borough. This amount should be monitored for economic trends.
- iv. Fees
 1. Sewer fees must be set to cover the cost of treatment, line maintenance and improvements.
 2. Garbage Fees should be based on the cost of collection and disposal by a third party contractor.
 3. Health and Safety fee is based on units, not property values. This diversifies the income stream and is dedicated to support services that keep the borough clean and safe.
 4. Other fees should be set to cover the cost to provide the services.

- v. Intergovernmental Revenues
 - 1. The Borough receives a significant amount of its annual income from the RAD sales tax, Liquid Fuels, PURTA, Fire Relief and other sources. The Borough has responsibilities to properly record and report these funds. Additional diligence should be undertaken to properly plan, record, utilize and report on these funds.
- b. Expenditures
 - i. Like revenues, expenditure budget estimates should be prepared on historical trends.
 - ii. Estimates should be prepared starting in August, with a focus on big ticket items first.
 - 1. Capital improvements should be identified, costs estimated, and planned.
 - 2. Proposed changes in wages should be determined.
 - 3. Contracted services should be identified including professional services, contracted services, and intergovernmental programs.
 - iii. Budget items should be considered in light of changes in inflation. Utilize the DCED fiscal monitoring handbook to establish trends discounted for inflation.
- 4. Each fund should have a separate budget that compiles into an overall budget document. As part of this engagement, the Borough has been provided with a formatted spreadsheet that accomplishes this budget presentation. This presentation assures accurate and balanced budgets. The Borough currently budgets its General Fund, Sewer Fund and Highway Aid Fund.

5. The Borough should establish a budget calendar to ensure an organized sequence of events, facilitating participation from various officials, employees and members of the public.
- v. Capital Improvement Plan (CIP) Policy
- This policy focuses on financing high-cost, nonrecurring capital expenditures and infrastructure.
1. A CIP is a multi-year listing of planned capital projects and their financing sources, typically spanning 5 years.
 2. The Borough should prepare 5 year capital plans in consultation with the Borough Engineer and prior to grant seeking.
 3. The Brough should establish a definition of capital that includes the dollar amount and useful life of a capital purchase. A cost of \$5,000 and a useful life of 5 years is recommended as a practical starting point
 4. Capital Project Identification should include the following information.
 - a. purpose of the project
 - b. cost of the project
 - c. Source of funds
 - d. impact on operating costs
 - e. planned date(s) for the project
 5. Appendix L has a sample Capital improvement Plan project description form.
 - a. A tabular summary (spreadsheet) should also be prepared summarized spending by year.
 6. The results of the Capital Improvement Plan should inform the annual budget process. The budget should execute the plan through current year spending. Additionally, future capital needs should be planned for via contributions to the Capital Reserve Fund. The use of the Capital Reserve Fund should be scheduled as a source of funds in the capital project identification process.
- vi. Ethics Policies for Effective Governance
- Even without a single "Code of Ethics" for Pennsylvania municipalities, the Borough operates under a comprehensive

framework of ethical standards and legal requirements defining ethics under the law.

1. The Public Officials and Employees Ethics Act is central to this framework, prohibiting conflicts of interest where public authority is used for personal financial gain and preventing officials from having a personal interest in contracts with the municipality.
2. The Borough should assure that Borough officials and required employees, including the Borough Manager, file an Annual Financial Interest Statement by May 1 each year. Instructions include keeping the forms available for public inspection on demand.
3. The Borough officials should maintain an understanding that, beyond financial disclosures, the Public Officials and Employees Ethics Act prohibits public officials and employees from committing a conflict of interest, which involves using one's position for private financial benefit or holding a personal interest in contracts valued at \$500 or more with the municipality.
4. These regulations are complemented by requirements for properly documented financial policies and controls to maintain an audit trail covered separately in this report. Overall, the ongoing policies and practices of the Borough should focus on safeguarding public funds and maintaining public confidence as an overarching priority for the Borough.
5. Proper compliance with the Sunshine Act, which mandates transparency in governance through open public meetings also ensures ethical conduct and public trust. Decisions of the borough must be made in public and votes by Borough Council must be conducted on all matters of borough business. .

vii. Personnel Policy

1. Personnel policies are among the most crucial policies for local governments. Personnel practices must comply with applicable state and federal laws and policies covering hiring, compensation, benefits, and employee due process should be reduced to writing.
2. The Borough has a number of past practices and a public works employee handbook (Appendix M).

3. The Borough should compile a uniform Borough personnel policy as soon as possible. It is recommended that the Borough apply for a Municipal Intern through the Local Government Academy in order to hire and receive funding support for a Summer 2026 intern to complete the task. A complete solicitor review should be part of the process.

viii. Social Media Policy

Social media should be used as a tool for promoting the municipality and providing public information is a useful and widely used means of communication. Meeting dates, agendas, minutes, announcements and other information can be promoted on social media as a supplement to the Borough legal advertising and website.

1. Explicit policy on the use of social media should be established and specific accounts should be used for municipal business with responsibility for posting assigned to specific individuals. Credentials should not be shared.
2. According to the PA DCED Municipal Secretary Manual (Appendix N), all electronic communications used for municipal purposes will create a record and may be considered a public record under the Right-to-Know Law, regardless of the format, including email, text, social media posts.¹ This means content posted on social media platforms is subject to public disclosure. Even deleted electronic communications may be accessed if the municipality faces a lawsuit.
3. Responding to public feedback can be sensitive for municipalities. An explicit policy should be stated informing the community that the Borough uses social media for the purpose of disseminating information and will not respond to individual questions or comments via social media. Encourage citizens to participate in the regular public comment period at Borough meetings.

¹ Municipal Secretary Manual.pdf, 447.

f. Revised Building Hours

- i. The Borough should close the office to public one day a week for concentrated staff work.

Research shows that interruptions result in an up to 27% increase in the time it takes to complete tasks. Closing the building, advertising the correct hours, and committing the day to “hands on” projects and reporting the accomplishments of this uninterrupted concentration time will continue the Borough’s administration progress.

- ii. Staff meetings

Additionally, regularly scheduled monthly meetings with department heads led by the Borough Manager should be conducted. This would allow cross departmental communication between public works, code enforcement, public safety and any other operational staff as needed. It is recommended that this meeting take place after the monthly Council meeting to allow the Manager to assign requests for service that may arise in the Council meetings.

g. Public Engagement

To encourage public engagement, a borough should implement a multi-faceted approach centered on transparency, accessibility, direct public input, and proactive communication. Key Actions the Borough should take:

- i. Ensure open and accessible meetings and allow remote participation. Members of the public and guests should be informed of procedures to access the meetings via internet-based applications. Following through on the technological improvements to the meeting room, assure all meeting members can clearly hear the discussions.
- ii. Consistently apply the established Public Comment Policy including rules for meeting conduct and time limits for speakers.
- iii. Provide comprehensive Public Notices and information including timely website and building postings of agendas.
- iv. Detailed Agendas should provide supporting information to Council in advance of the meeting so that they have ample time to review information before voting. The complete meeting packet should be distributed to Council in advance of the meeting.
- v. Financial reports as previously recommended in this report should be available for public inspection.

- vi. Facilitate direct public input at crucial times. This includes budget deliberations, service changes or policy updates. This includes Ordinance updates which require a minimum of 30 days advertising but should also include a summary on the website explaining where the complete text can be examined. Land use planning particularly should allow for ample opportunity for public input during the preparation of comprehensive plans and zoning ordinances.
- vii. Establish regular communication channels. Utilize newsletters, annual reports, and budgets specifically as means of communications. Continue to post monthly meeting dates, hearings, and other advertisements on the municipal website and social media platforms.
- viii. Handle Complaints Systematically. Develop a policy for handling citizen complaints, including standard documentation and prompt referral to the correct individual for investigation and follow-up. Be honest, responsive, and direct with citizens if the Borough cannot directly assist.
- ix. Encourage Community Involvement. This includes volunteer opportunities, suggestion box, and citizen advisory committees. Simple surveys executed through Google forms can yield a variety of inputs from cost-saving ideas to community visioning. Questions like "What are the top 3 things Rankin Borough can do in the next 5 years to make this a cleaner, greener and safer place?" can help to get the community co-creating a better community with public officials.
- h. Zoning Administration
One of the advantages of the Borough Manager ordinance is it empowers the Manager to oversee the zoning administration function and retain additional staff or contracted support to help accomplish the goals of the program.

The following recommendations will help the Borough actualize this new way of operating.

- i. Prioritize the Borough Council's core duty to enact and assure the proper administration of the zoning ordinances. This includes properly managing zoning procedures as required by the Pennsylvania Municipalities Planning Code (Appendix O)

- ii. The municipal solicitor should be consulted for legal guidance and to draft most proposed ordinances and amendments. However, the solicitor is not responsible for zoning administration and the Borough should have sufficient capacity to handle zoning administration without having to involve the solicitor in every action.
- iii. The Planning Commission reviews proposed zoning ordinances and amendments and makes *recommendations* to the governing body/ The Borough Manager should take steps to assure the proper functioning of the Planning Commission.
- iv. The Zoning ordinance is administered by Borough staff, however, citizens have appeal rights in the Municipalities Planning Code. A properly empaneled Zoning Hearing Board must be in place and the Borough administration provide support.
- v. Day to day administration must be accomplished by the Borough Manager or her designee. This includes:
 - 1. Keeping track of when subdivision and land development plans (which interact with zoning) are received.
 - 2. Coordinating with the planning commission and governing body for review and approval of plans.
 - 3. Receiving financial security from developers and notifying them when bonds are released.
 - 4. Coordinating with the Zoning Hearing Board to ensure they meet when needed.
 - 5. Tracking the terms of individuals appointed to the planning commission and zoning hearing board to ensure positions are filled.
 - 6. Working with the solicitor to draft and place legal advertisements and post notices.
 - 7. Ensuring approved plans are properly recorded with other levels of government such as Allegheny County.
 - 8. Recording newly adopted or amended land use ordinances in the codified municipal ordinances.
 - 9. Arranging for contracting and payment of special services such as special purpose legal services and stenography.

10. Obtaining training and general administrative knowledge of land use regulations such as necessary to perform required supervision of delegates.
11. Assuring proper funding for zoning administration is included in the annual budget.
12. Continuously work with Council to assure their understanding of the importance of land use regulations among their many responsibilities. Impressing upon them that the failure to perform zoning functions properly exposes the municipality to legal risks and the community to consequences of undesired land uses.

i. Other Support for the Borough Manager Position

A thriving Borough and a thriving administration go hand in hand. The Borough has taken strong steps in assuring success through the development it has undergone in the STMP program and through the adoption of the Borough Manager ordinance. Continuing to implement the technological and operational recommendations will sustain that development.

The Borough Manager job description is comprehensive. To achieve its goals the Borough should invest in an intentional employee development program.

This includes:

- i. Preparing annual performance goals, objectives and reviews.
- ii. Establishing an employee development plan including methods to evaluate strengths and weaknesses and assign development activities.
- iii. Provide networking opportunities
- iv. Sufficiently fund an annual training and development program.
- v. Focus on both technical and personal growth opportunities.
- vi. Maintain open and regular communication about job performance.

j. Rooms and Furniture

Ongoing improvements to the Borough Building present opportunities to modernize the office environment. In addition to technology equipment improvements as presented elsewhere in this report, it is recommended that the Borough optimize the space and design of rooms in the building.

- i. Discard unused outdated equipment such as old computers and telephones, outdated publications and expired documents (see records management).
- ii. Repurpose and reoutfit rooms currently underutilized, including the office next to the Council Chambers and the former fire department space.
- iii. Implement an affordable multi-year flexible office furniture and partitioning plan that would improve the efficiency of space, increase productivity through reduced noise and improved privacy for voice calls and zoom meetings.
- iv. Prepare a list of safety and security improvements for the public works garage and implement them over a multi-year period.

Conclusion

The Strategic Management Program for Rankin Borough has successfully laid the groundwork for the borough's post-Act 47 future by addressing critical administrative needs through an adaptive, asset-based approach. The engagement focused on empowering the community by co-creating specific activities with clear outcomes. Key accomplishments include the successful hiring and integration of a Borough Manager, significant upgrades to office and meeting technology, and the establishment of improved grant-seeking and administration processes. Furthermore, the program has provided a recommended long-term growth and learning agenda, emphasizing effective meetings, committee revitalization, robust records management, and the implementation of essential internal controls and policies across various operational areas. By continuing to implement these STMP recommendations, Rankin Borough is well-positioned for sustained development and a thriving administration.

Appendix A

Appendix A

**ACT 47 COORDINATOR'S RECOMMENDATION
TO THE SECRETARY OF THE
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
FOR THE BOROUGH OF RANKIN**



Prepared By:

SGHock, LLG
454 Perry Highway
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March 9, 2023

BACKGROUND

The Borough of Rankin is located in Allegheny County, Pennsylvania and has a population of 1,864¹. Rankin was a historic “steel town” and is now largely a bedroom community for the City of Pittsburgh, located approximately 8 miles to the west of the Borough. Residents of Rankin have access to Interstate 376 via the Exit 77 Interchange and Pittsburgh Regional Transit serves the borough with a variety of routes, most notably 61B which runs from Rankin to major job centers in the Oakland and Downtown neighborhoods of Pittsburgh.

The Borough is governed by a seven (7) member Borough Council and a Mayor, who has administrative responsibility for the Police Department. Under the Pennsylvania Borough Code, the Council is charged with establishing the budget, legislating by ordinance and oversight of the Borough’s Secretary. The Mayor has, among other powers, the power to veto ordinances and resolutions passed by Council, and the oversight of the Police Department through supervision of the Chief of Police.

Rankin is also served by a council-appointed Real Estate Tax Collector, in lieu of the current elected collector who relinquished the responsibility.

Council meets monthly to conduct its business. All official and final action is taken by a majority vote. Ordinances or resolutions only become effective upon being signed by the Mayor or when passed by an extraordinary majority over the Mayor’s veto. Under the Borough Code, the Borough’s fiscal year commences on January 1 and ends on December 31, and the annual budget must be adopted prior to January 1. However, in the January following a municipal election, which will occur in November 2023, the new Council may “open” and amend the budget after it is adopted.

Pursuant to the Commonwealth of Pennsylvania’s Municipalities Financial Recovery Act, Act 47 of 1987, as amended, (Act 47) the Borough was declared a financially distressed municipality by a Departmental Order of the Secretary of the Department of Community and Economic Development (DCED) in December 1988. See Appendix A. Initially, Eckert Seamans Cherin & Mellot was appointed as the Act 47 Coordinator. The Borough’s poor financial position was the culmination of many factors including excessive tax appeals reducing the revenue base and unfunded debt. Rankin was one of the first communities in Pennsylvania to receive distressed status and like many distressed communities experienced decline due to the closing of steel mills. This occurred with frequency in the Mon Valley and in Rankin specifically with the closure of the Carrie Furnace site (located on a parcel stretching between Rankin and Swissvale) in 1982. In the

¹ <https://data.census.gov/profile?g=1600000US4263408>

subsequent years, Resource Development & Management, Inc (RDM) served as coordinator and the Borough adopted a series of amendments to the recovery plan. On March 10, 2020 the Act 47 Recovery Exit Plan (Exit Plan) as prepared by RDM was adopted. The Exit Plan replaced the 1989 plan and all amendments. In July of 2021 SGHock assumed the role as Act 47 Coordinator (Coordinator). To date, the Borough has cooperated in implementing most of the initiatives included in Recovery and Exit Plans. The recommendations of the original plan, successive amendments and current Exit Plan adopted April 14, 2020 are referred to herein as the "Recovery Plan."

Act 199 provides that the Secretary of DCED may, upon written recommendation from the coordinator, issue an administrative determination to rescind the order declaring the municipality distressed, thereby terminating the distressed status of the municipality, recommend a three-year extension in the Act 47 program, or request the Governor to make a determination of a fiscal emergency in the municipality. This process includes the preparation of a termination report by the recovery coordinator.

This report constitutes the termination report by the Recovery Coordinator for Rankin. DCED and the Coordinator have concluded that the Coordinator shall issue a written Recommendation to the Secretary of DCED to issue a determination to rescind the order declaring the Borough a distressed municipality effective on or about June 30, 2022. The remainder of this Act 47 Coordinator's Recommendation will analyze the relevant facts upon which the Coordinator's recommendation will be established.

FACTORS TO CONSIDER TO RESCIND A DISTRESS DETERMINATION

Section 11701.255.1(c) of Act 47 enumerates four factors for the Secretary of DCED to consider in making a determination on whether to rescind the distressed status of a municipality. The full language of §255.1(c) is as follows:

- (c) **Factors to Consider.** — If the secretary concludes that *substantial evidence* supports an affirmative determination for each of the following factors, the determination shall be that the distressed status will be rescinded. The secretary shall consider whether:
- (1) Operational deficits of the municipality have been eliminated and the financial condition of the municipality, as evidenced by audited financial statements prepared in accordance with generally accepted accounting principles and projections of future revenues and expenditures demonstrates a reasonable probability of future balanced budgets absent participation in this act.
 - (2) Obligations issued to finance the municipality's debt have been retired, reduced or reissued in a manner that has adequately refinanced outstanding principal [*sic*] and interest and has permitted timely debt service and reasonable probability of continued timely debt service absent participation in this act.
 - (3) The municipality has negotiated and resolved all claims or judgments that would have placed the municipality in imminent jeopardy of financial default.
 - (4) The reasonably projected revenues of the municipality are sufficient to fund ongoing necessary expenditures, including pension and debt obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services. Projections of revenues shall include any anticipated tax or fee increases to fund ongoing expenditures for the first five years after a termination of distressed status.

53 P.S. §11701.255.1(c). (Emphasis added.)

"Substantial evidence" is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. See *Republic Steel Corporation v. Workmen's Compensation Appeal Board*, 492 Pa. 1 (Pa. 1980), 421 A.2d. 1060, at 1062. Appellate review is focused on whether there is rational support in the record, when reviewed as a whole, for an agency's action. *Id.* at 1063. Findings of fact will be overturned only if they are arbitrary and capricious. *Id.* Using the statutory language above as guidance, the Coordinator will examine the relevant facts as they exist in the Borough for each factor enumerated in §11701.255.1(c).

Factor (1)

Operational deficits of the municipality have been eliminated and the financial condition of the municipality, as evidenced by audited financial statements prepared in accordance with generally accepted accounting principles and projections of future revenues and expenditures demonstrates a reasonable probability of future balanced budgets absent participation in this act.

The Borough provided the Coordinator with completed annual audits for the years 2017-2021. Additionally, the Coordinator has received and analyzed the Borough's 2022 operating budget and unaudited balance sheet and income statement for each fund. Finally, the Coordinator has been provided 2023 budget projections. The Borough entered Act 47 Distressed status having a deficit over the prior three-year period in excess of 1% of total budget; expenditures exceeding revenues each year of the past three; and an operating deficit in excess of 5% of total revenues in two successive years. In the intervening time, the Borough has improved management and operations to the extent that none of those conditions are currently present.

The Borough has completed the most recent 4 audited years with revenues exceeding expenditures. In each year of the last five the Borough's fund balance has exceeded 25% of annual expenditures and revenues:

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Fund Balance as % of Revenues	25.52%	33.13%	38.10%	54.41%	64.62%
Fund Balance as % of Expenditures	25.15%	34.66%	39.15%	61.60%	86.60%

Table 1 summarizes the progression of revenues and expenditures between 2017 and 2021.

Table 1
BOROUGH OF RANKIN
General Fund Revenues and Expenditures
2017 to 2021

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
<u>REVENUES</u>					
Real Estate Taxes	\$190,742	\$174,151	\$199,807	\$177,202	\$213,890
Regional Asset District Tax	\$232,536	\$233,387	\$224,458	\$181,088	\$232,374
Real Estate Transfer Taxes	\$2,568	\$5,917	\$4,293	\$3,375	\$11,292
Earned Income Tax	\$202,780	\$180,772	\$153,960	\$115,659	\$108,914
Local Services Tax	\$20,383	\$22,204	\$23,500	\$20,442	\$20,648
Mechanical Device Tax	\$2,500	\$2,100	\$2,100	\$0	\$400
Licenses and Permits	\$25,331	\$29,175	\$25,459	\$20,817	\$20,713
Fines and Forfeits	\$10,190	\$10,746	\$8,523	\$6,719	\$8,368
Interest	\$0	\$0	\$10	\$14	\$66
Intergovernmental: Federal	\$0	\$0	\$0	\$0	\$106,082
Intergovernmental: State	\$11,281	\$38,338	\$16,570	\$18,692	\$10,002
Other Local Governments	\$148,259	\$2,183	\$8,291	\$2,469	\$10,046
Charges for Service	\$251,882	\$231,929	\$247,453	\$229,091	\$352,821
Unclassified Revenues		\$3,927	\$510	\$483	
Other Financing Sources	\$6,029	\$46,498	\$3,600	\$42,623	\$39,910
TOTAL REVENUES	\$1,104,481	\$981,327	\$918,534	\$818,674	\$1,135,526
<u>EXPENDITURES</u>					
General Government	\$251,468	\$234,342	\$241,305	\$206,056	\$266,973
Public Safety	\$357,566	\$347,159	\$306,262	\$231,933	\$234,381
Public Works - Sanitation	\$125,065	\$124,681	\$125,018	\$126,652	\$147,636
Public Works - Streets	\$271,312	\$117,090	\$130,800	\$104,821	\$155,451
Culture and Recreation	\$0	\$1,808	\$1,931	\$0	\$0
Debt Service	\$14,915	\$15,546	\$15,546	\$9,811	\$9,812
Employer Paid Benefits	\$17,878	\$68,565	\$58,017	\$28,709	\$27,412
Insurance	\$72,878	\$11,003	\$10,067	\$14,514	\$4,618
Unclassified Operating	\$7,193	\$344	\$4,255	\$638	\$920
Other Financing Uses	\$2,544	\$17,533	\$542	\$0	\$61
TOTAL EXPENDITURES	\$1,120,819	\$938,071	\$893,743	\$723,134	\$847,264
REVENUES OVER (UNDER) EXPENDITURES	(\$16,338)	\$43,256	\$24,791	\$95,540	\$288,262
Fund Balance	\$281,883	\$325,139	\$349,930	\$445,470	\$733,732

Since 2017, the Borough has steadily increased its fund balance, despite flat real estate tax income and a decline in Earned Income taxes due to the elimination of the additional 0.1% as levied under Act 47 (eliminated in 2020). Additionally, a combination of lower costs associated with reduced staffing and increases in the health and safety fee has contributed to the improved financial position.

Significant intergovernmental revenue was received in the form of the American Rescue Plan Act in 2021. US Treasury rules allowed the Borough to utilize these funds for revenue replacement resulting from the Coronavirus COVID-19 pandemic.

An analysis of the Borough's future revenue and expenditure projections and the ability to achieve balanced budgets is included in the Factor 4 section of this report.

Factor (2)

Obligations issued to finance the municipality's debt have been retired, reduced or reissued in a manner that has adequately refinanced outstanding principal [sic] and interest and has permitted timely debt service and reasonable probability of continued timely debt service absent participation in this act.

The Borough currently has no debt. In 2022 an accident involving a public works vehicle resulted in an insurance claim which paid off the remaining balance of approximately \$28,000. The Borough has consistently paid its loan payments throughout the duration of the Exit Plan.

The Borough does have plans to replace the public works vehicle and a police car in the near future. Capital leases are expected to be used for these acquisitions. The annual debt service in relation to these borrowings is estimated to no more than \$35,000 or 4% of operating revenue. This is within the recommended 10% of operating revenue.²

² *Financial Monitoring Workbook*, pg. 41. Commonwealth of Pennsylvania, Department of Community and Economic Development

The projections in Table 4 in the Factor 4 section of this report show the Borough's ability to meet all debt service obligations through the 2027 projection period. There is a reasonable probability that the Borough should be able to pay its debt service after the projection period through the 2028 lease-purchase completion.

Factor (3)

The municipality has negotiated and resolved all claims or judgments that would have placed the municipality in imminent jeopardy of financial default.

The Borough has negotiated and resolved all claims and judgments that would have placed the Borough in imminent jeopardy of financial default. There are currently no pending lawsuits or claims against the Borough, and the Borough has remained in full compliance with any outstanding judgments against it.

Factor (4)

The reasonably projected revenues of the municipality are sufficient to fund ongoing necessary expenditures, including pension and debt obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services. Projections of revenues shall include any anticipated tax or fee increases to fund ongoing expenditures for the first five years after a termination of distressed status.

The Coordinator projects that the Borough will sustain its healthy fund balance throughout the 2023-2027 projection period. The projected revenues of the Borough are sufficient to fund ongoing expenditures (five year projection), including pension and debt obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services. In addition, the borough will utilize a portion of the fund balance as a match for grants and capital improvements.

Key to the Borough's future fiscal stability is Carrie Furnace site development, the Health Safety Fee, and police regionalization.

Real Estate Tax revenue is the Borough's primary revenue source; however, the

Borough's millage rate is one of the highest in Allegheny County, which puts a strain on taxpayers. Assessed values in Allegheny County remain at 2012 levels and the Borough will experience uncertainty in regards to real estate revenues for the foreseeable future.

The forecast period projects increases in real estate taxes associated with recently approved development for the Carrie Furnace site, set to begin construction later in 2023. Additionally, the Borough has taken steps to improve real estate tax collections with the appointment of a professional tax collection agency in lieu of an elected collector.

The Borough health and safety fee is charged to all residential units. Currently several units within the Hawkins Village development are under reconstruction. As those units become occupied, Health and Safety fees will increase.

Police regionalization discussions are actively occurring between the Borough and neighboring municipalities. Successful completion of these negotiations and the formation of a regional force will bring about improved police protection and return a third shift to the Borough, which currently relies on state police to provide coverage overnight. Much of the improvement in the Borough's financial position has been a result of less than budgeted police expenditures due to staff shortages and reduced shifts. Regionalization provides the best alternative for the Borough to increase services and maintain financial position.

Also key to the Borough's fiscal stability is adherence to a multi-year capital improvement program. The Coordinator worked with the Borough throughout 2022 to develop a plan that outlined capital needs and established a capital reserve account. The forecast includes increasing contributions to the Capital Reserve account with funding from the General Fund amounting to \$555,000 in the period from 2023-2027. The projections below present these contributions as Other Financing Uses.

The projections in Table 4 also take into account the annual debt service related to the lease purchases of vehicles referenced in Factor 2. The projections demonstrate the Borough's ability to make timely debt service payments and, beginning in 2027, the reduced debt service expense will provide relief to the General Fund.

Not reflected in the General Fund projections below is activity in the Borough's Sewer Fund. The Coordinator projects a surplus in this fund in 2023; however, sewer capital expenses grow each year. In 2023 the Borough will utilize \$97,545 in Fund Balance for Capital and Capital Reserve. The Borough must take steps to ensure that fee and rate levels are adjusted regularly to ensure sufficient funds for budgets in the future.

Table 3
BOROUGH OF RANKIN
Projected Growth Rate Assumptions for Major Revenue and Expenditure Categories
2024 to 2027

Major Revenue Categories	2024	2025	2026	2027
Real Estate Taxes	4%	20%	3%	3%
Regional Asset District Tax	2%	2%	2%	2%
Real Estate Transfer Taxes	20%	5%	5%	5%
Earned Income Tax	2%	2%	2%	2%
Local Services Tax	0%	5%	5%	5%
Licenses and Permits	25%	2%	2%	2%
Interest	1%	1%	1%	1%
Intergovernmental:State	1%	1%	1%	1%
Other Local Governments	0%	0%	0%	0%
Charges for Service	3%	3%	3%	3%
Major Expenditure Categories	2024	2025	2026	2027
General Government	3%	3%	3%	3%
Public Safety	3%	3%	3%	3%
Public Works - Sanitation	3%	3%	3%	3%
Public Works - Streets	3%	3%	3%	3%
Employer Paid Benefits	5%	5%	5%	5%
Insurance	5%	5%	5%	5%

Table 4
BOROUGH OF Rankin
General Fund Revenue and Expenditure Projections
2022 to 2027

	2022 Year End Unaudited	2023 Budget	2024 Projected	2025 Projected	2026 Projected	2027 Projected
Real Estate Taxes	\$200,620	\$210,000	\$218,400	\$262,080	\$269,942	\$278,041
Regional Asset District Tax	\$208,458	\$229,000	\$233,580	\$238,252	\$243,017	\$247,877
Real Estate Transfer Taxes	\$19,641	\$15,000	\$30,000	\$15,000	\$15,750	\$16,538
Earned Income Tax	\$126,732	\$120,000	\$122,400	\$124,848	\$127,345	\$129,892
Local Services Tax	\$24,297	\$22,500	\$22,500	\$23,625	\$24,806	\$26,047
Mechanical Device Tax	\$0	\$400	\$400	\$400	\$400	\$400
Licenses and Permits	\$17,048	\$17,700	\$22,125	\$22,568	\$23,019	\$23,479
Fines and Forfeits	\$4,461	\$5,100	\$5,100	\$5,100	\$5,100	\$5,100
Interest	\$1,283	\$305	\$308	\$311	\$314	\$317
Intergovernmental: Federal	\$106,753	\$0	\$0	\$0	\$0	\$0
Intergovernmental: State	\$48,491	\$12,969	\$13,034	\$13,099	\$13,165	\$13,230
Other Local Governments	\$39,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
Charges for Service	\$233,581	\$275,020	\$283,271	\$291,769	\$300,522	\$309,537
Unclassified Revenues	\$73	\$0	\$0	\$0	\$0	\$0
TOTAL REVENUES	\$1,030,438	\$927,994	\$971,117	\$1,017,051	\$1,043,380	\$1,070,458
Other Financing Sources (OFS)	\$8,510	\$287,490	\$40,000	\$40,000	\$40,000	\$40,000
TOTAL REVENUES & OFS	\$1,038,948	\$1,215,484	\$1,011,117	\$1,057,051	\$1,083,380	\$1,110,458
EXPENDITURES						
General Government	\$297,020	\$266,059	\$274,041	\$282,262	\$290,730	\$299,452
Public Safety	\$197,189	\$276,265	\$284,553	\$293,090	\$301,882	\$310,939
Public Works - Sanitation	\$117,577	\$175,460	\$150,724	\$155,246	\$159,903	\$164,700
Public Works - Streets	\$95,587	\$143,225	\$147,522	\$151,947	\$156,506	\$161,201
Culture and Recreation	\$0	\$0	\$0	\$0	\$0	\$0
Debt Service	\$0	\$0	\$35,000	\$27,000	\$19,000	\$10,000
Employer Paid Benefits	\$25,294	\$25,850	\$27,143	\$28,500	\$29,925	\$31,421
Insurance	\$28,121	\$22,288	\$23,402	\$24,573	\$25,801	\$27,091
Unclassified Operating	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL EXPENDITURES	\$760,788	\$909,147	\$942,384	\$962,617	\$983,747	\$1,004,803
Other Financing Uses (OFU)	\$21,820	\$306,337	\$100,000	\$145,000	\$150,000	\$160,000
TOTAL EXPENDITURES & OFU	\$782,608	\$1,215,484	\$1,042,384	\$1,107,617	\$1,133,747	\$1,164,803
Current Revenues Over (Under) Expenditures	\$269,650	\$18,847	\$28,733	\$54,434	\$59,633	\$65,654
Fund Balance Accumulated (Used)	\$256,340	\$0	(\$31,267)	(\$50,566)	(\$50,367)	(\$54,346)
Estimated Year End Fund Balance	\$990,177	\$990,177	\$958,910	\$908,345	\$857,978	\$803,632

FISCAL EMERGENCY

As previously mentioned, DCED has charged the Coordinator with examining the conditions of the Borough to determine whether a fiscal emergency exists in the Borough. According to the relevant section of Act 47, the Governor determines a fiscal emergency exists if the distressed municipality:

- (a) **FISCAL EMERGENCY.**—The Governor determines a fiscal emergency exists if the distressed municipality:
 - (1) (i) is insolvent or is projected to be insolvent within 180 days or less; or
 - (ii) is unable to ensure the continued provision of vital and necessary services.

53 P.S. §11701.602(a)(1).

A distressed municipality is “insolvent” if it is unable to meet all financial obligations as they become due, including payment of debt obligations. 53 P.S. §11701.601. “Vital and necessary services” is defined as “basic and fundamental municipal services, including any of the following: (1) Police and fire services (2) Ambulance and rescue services (3) Water supply and distribution (4) Wastewater services (5) Refuse collection and disposal (6) Snow removal (7) Payroll and pension obligations (8) Fulfillment of payment of debt obligations or any other financial obligations.” *Id.*

The Coordinator’s analysis in the Factors to Consider to Rescind a Distress Determination of this Act 47 Coordinator’s Recommendation has determined that the Borough has been able to meet all of its financial obligations, including debt service, since the Borough’s adoption of the 2016 Recovery Plan. In addition, the Coordinator’s cash flow projections anticipate that the Borough will remain solvent throughout 2023, enabling the Borough to meet its financial obligations as they come due. (See Table 5.)

Table 5
BOROUGH OF RANKIN
Cash Flow Projection 2023 to 2024

	1st Quarter 2023	2nd Quarter 2023	3rd Quarter 2023	4th Quarter 2023
Receipts	266,121	339,843	299,032	256,790
Expenditures	224,488	278,029	299,032	413,935
Cash Surplus (Deficit)	41,633	61,814	53,698	(157,145)
Beginning Balance	990,071	1,031,703	1,093,517	1,147,216
Ending Balance	1,031,703	1,093,517	1,147,216	990,071

In its adopted 2023 operating budget, the Borough has appropriated funds to provide many of the vital and necessary services enumerated in §11701.601 such as police and fire services, refuse collection and disposal, snow removal, payroll and pension obligations and the fulfillment of debt and other obligations. There is no evidence from the Borough or otherwise available to the Coordinator that, as of the writing of this Act 47 Coordinator's Recommendation, the Borough is unable to ensure the continued provision of vital and necessary services.

RECOMMENDATION

The Coordinator has reviewed the statutory factors necessary to make a determination of whether to request a rescission of the order declaring the Borough a distressed municipality and also the statutory criteria of whether to issue a determination of fiscal emergency in the Borough. It is the recommendation of the Coordinator that based upon a review of the totality of the factors included in §11701.255.1(c), substantial evidence supports an affirmative determination by the Secretary to issue a determination to rescind the order declaring the Borough of Rankin a distressed municipality. However, the Coordinator is mindful that the Borough awaits significant increases in real estate tax, permits, and realty transfer tax contingent on the Carrie Furnace development. The Coordinator will continue to monitor the fiscal impact of this development on the Borough's fiscal condition over the next several weeks and months and provide its findings to DCED.

As detailed in the Exit Plan, the Borough's issues leading to distressed status were a result of major economic and societal shifts brought about by deindustrialization. The Borough has made tremendous strides since 1989 to bring its financial and operational

houses in order. The Borough's elected officials hired and empowered a borough secretary who is ensuring that the Borough functions responsibly on a day-to-day and year-to-year basis. The Borough is well positioned to capitalize on the Carrie Furnace redevelopment that will shape the borough's prospects in the short and long term.

The Borough's police department is largely staffed with part-time officers, and currently led by a full-time Chief of Police, and augmented by Pennsylvania State Police. Staffing is a constant challenge. Crucial to developing 24-hour coverage is working with neighbors to establish regional policing, as previously recommended by a DCED Consultant. Should the Borough return to a full-time stand alone police department, current gains in financial condition would be lost. The Coordinator will monitor the ongoing regionalization discussions and keep the Department apprised of any developments that may negatively impact the Borough's financial position in the months to come. The Borough has previously succeeded in developing an intergovernmental public safety operation when it established the River's Edge Fire Company with the Borough of Braddock. This volunteer company provides fire protection services to the Borough via an established agreement and through a fixed annual payment amount agreed to in advance.

Act 47 provides specific guidance for the Coordinator to evaluate when making its recommendation to the Secretary of DCED. It does not permit the Coordinator to entertain the evaluation of all potential scenarios the Borough may encounter in the near or distant future. At this time, it is the Coordinator's opinion that the Borough of Rankin is able to meet all of its financial obligations as they come due. It is also the Coordinator's opinion that the Borough is presently able to provide vital and necessary services to its residents. Therefore, for the reasons stated above, it is the recommendation of the Coordinator that the Secretary of DCED may issue a determination to rescind the order declaring the Borough of Rankin a distressed municipality as defined by Act 47 of 1987, as amended.

Appendix A

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
01. The Borough shall continue to explore and pursue opportunities for increased intergovernmental cooperation in all areas of operation.	rankin: management/policy recommendations
03. The Borough shall budget no more than \$30,000 in solicitor fees annually.	rankin: management/policy recommendations
04. The Borough shall budget no more than \$30,000 in engineering costs in any one year and shall expense applicable costs to the sewage fund.	rankin: management/policy recommendations
05. The Borough shall seek funding through CDBG to offset some of the engineering costs. In the event the Borough has sufficient funds to establish a restricted capital account any engineering costs shall be budgeted to be paid from the capital fund.	rankin: management/policy recommendations
06. Any new hires in the Borough office should have computer experience to provide sharing of responsibilities and full coverage during absences.	rankin: management/policy recommendations
07. The Borough shall consider utilizing the public works department for cleaning and maintenance of the building in 2021 when the employees are on the Borough's payroll.	rankin: management/policy recommendations

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
08. The Borough shall develop a series of long-term goals and objectives that will provide a more defined focus of the Borough for the next three years with the assistance of the Coordinator, engineer, and DCED. This process shall include the development of a five-year capital improvement plan. The plan shall then be incorporated into each year's budget. The plan shall identify the use of restricted capital dollars for special projects. It is understood that funding for capital projects are limited and any surplus reserves have been utilized to act as a contingency.	rankin: management/policy recommendations
09. Borough Council and the Mayor shall continue to enroll in classes aimed at training elected officials in the areas of policy and decision-making. In addition, Borough staff shall be given the opportunity to attend training sessions to enhance their job performance and skills. Only elected officials and employees of the Borough should have fees for classes, conventions, etc. paid by the Borough.	rankin: management/policy recommendations
10. The Borough Secretary shall use due diligence that all expenses paid by the Borough are directly related to Borough business and that all payments are accompanied by invoices, receipts, etc.	rankin: management/policy recommendations
11. Borough Council should meet with DCED to discuss the process of creating a Home Rule Charter form of government. Borough Council can then by ordinance, or the registered voters of the Borough by petition, request that a question be placed on the ballot to implement a Home Rule form of government. Should the question succeed, the newly formed government study commission should seek technical and financial assistance from DCED for professional consulting services.	rankin: management/policy recommendations
12. The Borough shall annually request quotes for health insurance for current employees and retirees.	rankin: management/policy recommendations

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
13. The Borough shall review and request proposals when any significant increases occur in Borough insurance, i.e., general liability, workers' compensation.	rankin: management/policy recommendations
14. In conjunction with the Woodland Hills School District, the Borough shall annually review the tax-exempt rolls and file challenges to any questionable tax-exempt parcels.	rankin: financial recommendations
15. The Borough shall consider special millage tax levies to help defray fire department costs and / or the cost of maintaining and operating recreation areas.	rankin: financial recommendations
16. The Borough shall review assessments on all commercial/industrial parcels to ensure assessments are in-line with similar parcels throughout the Mon Valley. If land assessments are lower, the Borough shall formally appeal the assessment through Allegheny County.	rankin: financial recommendations
17. In October of each year the Borough, in conjunction with the Tax Collector, shall send a reminder notice to the owners of properties that have not submitted real estate taxes for the current year noting the addition of fees and penalties if not paid by December 31.	rankin: financial recommendations

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
18. The Borough shall evaluate the performance of the delinquent collector annually. Alternatives should be considered if the expected results are not achieved.	rankin: financial recommendations
19. In cooperation with the delinquent tax collector the Borough shall evaluate the list of delinquent parcels and designate those with value for sheriff sale.	rankin: financial recommendations
20. The Borough shall discuss with the Woodland Hills School District parcels designated for sheriff sale with the intent of entering into a cooperation agreement to share in the costs associated with these sales.	rankin: financial recommendations
21. The Borough shall review on an annual basis the records provided by the tax collector to make certain all businesses are contributing.	rankin: financial recommendations
22. The Borough shall share all relevant information with the collector and require all businesses operating in the Borough to withhold resident EIT.	rankin: financial recommendations

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
23. The Borough shall ensure that the mechanical device license fee is set by ordinance at a fee of no less than \$400 per machine.	rankin: financial recommendations
24. The Borough shall complete a survey of all potential establishments that may be responsible to pay the mechanical devices fee within 30 days after adoption of the plan amendment.	rankin: financial recommendations
25. The Borough shall invoice all businesses having such devices by April 30 of each year.	rankin: financial recommendations
26. Exclusive of the first year, the Borough shall establish by ordinance a deadline for payment of the license fee as March 31 of each year.	rankin: financial recommendations
27. The Borough shall establish a 10% penalty for any business not paying the fee on time. The ordinance shall also contain a provision to assess interest charges on any late fee of at least 1% per month.	rankin: financial recommendations

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
28. All business establishments shall be required to display the license, which will note the number of machines licensed in an establishment in a conspicuous place.	rankin: financial recommendations
29. The police department shall be required to visit all establishments for an inspection on an annual basis. Any establishment under reporting the number of machines or failing to pay the license fee shall be issued a citation.	rankin: financial recommendations
30. The Borough shall continue to adjust the fee levels to compensate for the revenue void on a proportional basis taking collection rates and all costs including billing and collection into account.	rankin: financial recommendations
32. The Borough should obtain a copy of the most recent aging report for delinquent accounts from WPJ.	rankin: financial recommendations
33. The Borough must reevaluate the current delinquent program and seek proposals to improve the overall collection process.	rankin: financial recommendations

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
34. The Borough shall request meetings with communities that have sewage lines that flow through the Borough and connect to the overflow to develop a cooperation agreement for future maintenance and repair.	rankin: financial recommendations
35. The Borough shall schedule no more than 48 shifts per week, including the Chief.	rankin: service levels and staffing
36. The Borough shall continue to utilize officers in the same manner currently in place.	rankin: service levels and staffing
37. Upon receipt of the feasibility study currently being conducted by PA DCED in conjunction with Braddock, East Pittsburgh, North Braddock, Rankin and Whitaker boroughs the Borough shall consider its' best option(s) from the study's recommendations in continuing to provide police services to its residents.	rankin: service levels and staffing
38. Base wage and salary increases for all Borough employees following adoption of this revised recovery plan shall not exceed the Consumer Price Index (CPI) – U (urban); provided, however, that any such annual increase in the Consumer Price Index – U (urban) does not exceed 3.5% with no additional increase above this level even if the CPI is higher.	rankin: service levels and staffing

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
39. The Borough shall limit expenditure increases in the overall police department budget to 2% per year from the prior year.	rankin: service levels and staffing
41. The Borough shall implement a formal maintenance program to facilitate regularly scheduled sewer line inspection, repair, and maintenance.	rankin: service levels and staffing
43. The Borough shall request funding through the DCED Local Government Capital Projects Loan Program (LGCPLF) of up to \$80,000 for the purchase of a dump truck and start-up costs outlined in the above table that will be needed due to the dissolution of the shared public works program	rankin: service levels and staffing
44. The Borough shall not add full-time personnel without offsetting increases in revenue.	rankin: collective bargaining cost containment
45. The Borough shall limit expenditure increases in the overall police department budget to 2% per year, except in the case of regionalization if the recommendations are favorable to serving the Borough.	rankin: collective bargaining cost containment

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
46. The Borough shall cost out all collective bargaining requests to determine the impact on the bottom line.	rankin: collective bargaining cost containment
47. It is important for the financial stability of the Borough to continue to control employee compensation costs. The Borough shall not grant any salary increases outside of those already in place through current labor contracts. Future increases may be granted only in the event that the Borough adheres to the budget detailed in the Exit Plan and the Coordinator affirms the fact that proposed increases can be supported by the projected budgets.	rankin: collective bargaining cost containment
48. There shall be no changes or additions to any employee benefit which would result in any increased cost to the Borough, or which would have unknown or uncapped future costs, unless mandated by law as an expense of the Borough as an employer.	rankin: collective bargaining cost containment
49. The Borough should consider requiring pension contributions, even if minimal, to keep the plans viable for future employee(s).	rankin: collective bargaining cost containment
50. The Borough should continue to explore the potential of reducing costs by continuing to evaluate alternatives to the current health care plans. Any cost increases should be passed along to the employee(s) as a payroll deduction.	rankin: collective bargaining cost containment

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
51. Base wage and salary increases for all Borough employees following adoption of this revised recovery plan shall not exceed the Consumer Price Index – U (urban); provided, however, that any such annual increase in the CPI – U (urban) does not exceed 3.5%. Any deviation shall be approved in advance by the Coordinator.	rankin: collective bargaining cost containment
52. Beginning in 2021, the Borough shall closely monitor costs of the public works program as there are expected increases to workers' compensation, health care benefits, etc. as outlined in Exhibit A. Any cost increases in health care benefits should be passed along to the employee(s) as a payroll deduction.	rankin: collective bargaining cost containment
53. Beginning in 2021, the Borough shall closely monitor the newly formed in house public works program to make sure the workers are providing the level of services necessary to meet Borough needs and to target capital projects as well.	rankin: collective bargaining cost containment
54. The Borough should explore other opportunities for services offered through the TCVCOG or other area COGs, i.e., code enforcement, financials, and shared services.	rankin: collective bargaining cost containment
55. Borough officials shall remain involved with the Rankin CDC initiative and provide leadership.	rankin: community development

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
56. Rankin remains involved in a variety of community forums, i.e., the Carrie Furnace Steering Committee. Rankin officials shall continue attending this and other forums.	rankin: community development
57. Council and commissions of the Borough shall participate in training sessions relating to planning, and community and economic development.	rankin: community development
59. Rankin shall be an active participant in Allegheny County development initiatives, inclusive of housing development.	rankin: community development
61. Borough officials shall consult with Turtle Creek Valley COG officials and seek Allegheny County funds through the COG to meet the objective of infrastructure studies.	rankin: community development
62. Rankin should consider any future opportunities with neighboring communities that would send prospective developers to meet with Rankin Borough officials to discuss opportunities in the Borough.	rankin: community development

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
63. The Borough shall apply for a Municipal Assistance Program grant in the amount of \$20,000 over a two-year period to assist the Borough in contracting code enforcement services in conjunction with another municipality or through a third party.	rankin: community development
64. The Borough code enforcement officer shall be aggressive in enforcing the Borough codes and in performing occupancy inspections in accordance with the ordinances of the Borough.	rankin: community development
65. County and Commonwealth grant and loan programs should be used to expedite residential and industrial development by supporting specific projects. The Rankin Community Development Corporation shall be utilized to move this along.	rankin: community development
66. The Rankin Community Development Corporation has replaced the Rankin Partnership which was formed to meet and to evolve an identity as the "convener/coordinator" forum for development, improvement, and revitalization efforts in Rankin. The Borough, through its Rankin Community Development Corporation, shall continue to forge partnerships with key elements in the community.	rankin: community development
67. The Borough shall continue to work with those community agencies that express a commitment to promote economic development. A representative of the Borough shall attend regular scheduled meetings and monthly reports shall be made to Council.	rankin: community development

Rankin Borough Act 47 Exit Plan Provisions

Plan Element	Category
68. The Borough should consider negotiating a Community Benefits Agreement with the developer(s) to make certain the tenant(s) utilize the local workforce and are mixed-use, which have been the hopes of the Borough.	rankin: community development

Appendix B

**Rankin Borough Council
Development Session
Borough Manager Expectations**



Coaching and Onboarding

1. Administrative Review, Search, Onboarding
2. Support employee development and performance.
3. Reduce governing board micromanaging and clarify “fuzzy” roles in regards to policy-making and administration.
4. Strengthen the overall management infrastructure of the Borough resulting in clearer communication with Council, citizens, community groups, and businesses.
5. Develop resilient systems to safeguard tax dollars, assure their use for the public good, and reliably serve the public on an ongoing basis.
6. Cultivate a culture of trust, transparency, accountability and professionalism within Borough Council and Staff.



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Making Policy: A Shared Responsibility

- Roles Matter in Agenda setting
 - Council President
 - Administration
 - Committee
- How's it Going: two stories, please.
- Supports for the process of policy-making:
 - Calendar, Sequences, Deadlines
 - Info sharing
 - Reports
 - Frequency of communications
 - Continuing Education
 - Structured public participation
 - Committees

Arenas for Governing (Carl Neu, Jr. Public Mgt, Nov 1997)

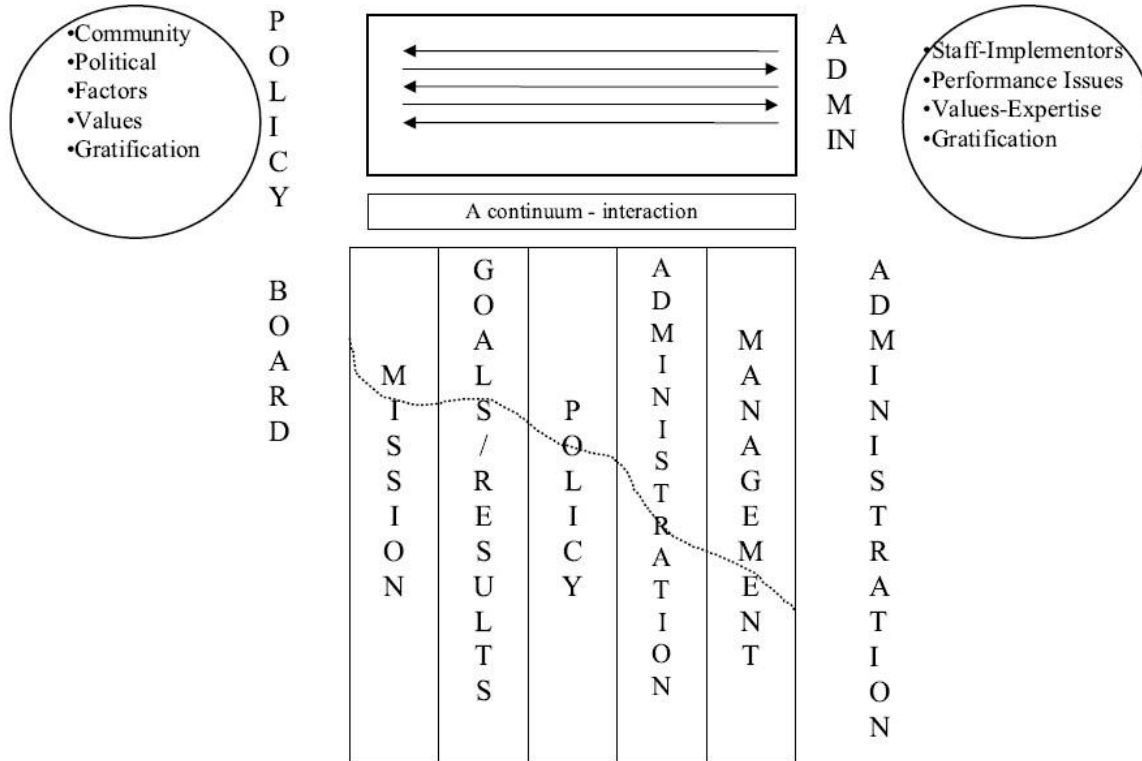
ARENA	GOAL-SETTING	EXPLORATION & ANALYSIS	DISPOSITION-LEGISLATION	COMMUNITY RELATIONS
Purpose	- Establish vision - Explore potentials - Set goals - Direction/Priorities -Community -Services -Staff action -Budgets	- Understanding the issue(s) - Problem identification - Selecting "best options" - Building commitment	- Official action -Vote on items -Resolutions -Ordinances - Public input - Mobilization of support	- Interaction with constituency-citizens - Building alliances - Outreach-liaison - Coordination with other entities
Typical Setting	Retreat/Advance - informal off-site workshop	Study Session - conference room	Public - formal board meeting in chambers	Numerous - diverse formats
Focus	- Future of county, city/community - Evaluation of -Needs -Trends -Strategic issues - Community desires & values - Leadership	- Developing knowledge for decision making - Sorting of options - Examine consequences - Set strategies - Ability to make competent & informed decisions	- Agenda - formality "Show" of authority - Ratification/Adoption - Political pressures - Psychological needs	- Communication - Problem solving - Collaboration - coordination - Partnership - Acting as a community
Key Characteristics	- Informality - Sharing of options - Open dialogue - Creative thinking - Humor - adventure - Face-to-face/Group interaction	- Board-staff dialogue - Questioning - testing of ideas - Information exchange - Negotiating - consensus building - No voting - Face-to-face/group interaction	- Formal meetings - Rules and procedures - Public input/involvement - High visibility - Pressure/advocacy from groups - Voting - Group interaction	- Being "outside" city hall/court house - Responding to requests - Joint ventures - Interagency activity - Multiple interaction modes and communication techniques

Council - Staff Partnership (Carl Neu, Jr. Public Mgt, Nov 1997)

BOARD'S SPHERE

GOVERNANCE-POLICY PROCESSES

ADMIN/MGR SPHERE



Council Staff Relationships

Considering Council-Staff Relationships

- What does Council need from staff?
- What does staff need from Council?
- Complete the blue sections:
 - What you expect from staff
 - What staff may expect from you
- Return to me on Tuesday June 11 when I attend the Council Meeting

Worksheet Relationship between council and staff Consider an issue. Taking your own perspective, (governing body or staff), identify the expectations and the obligations you have. Then explore the expectations and obligations of the other perspective. Where is alignment, polarity, and the in-between zone?		
	Governing Board Perspective	Staff Perspective
Political Realm	What the governing body expects from staff	Obligations of the staff to the governing body. What will the staff contribute to the governing body?
	Staff Perspective	Governing Board Perspective
Administrative Realm	What the staff expects from the governing body	Obligations of the governing board to the staff. What will the governing body contribute to the staff?

Expectations / Supports for Manager Discussion notes

Expectations

- Manage the DPW schedule, work, the employees, public requests, turnover/staffing
- Facilitating decision making by whole council, modulate committee functions
- Maintain fiscal responsibilities (including low debt)
- Good writing, budgeting, scheduling skills, workflow management
- Maintaining relationships, contacts, contracts, etc.
- Acting in best interest of borough
- Council gets info timely
- develop proclamations, ordinances, resolution through start to enactment
- represent Borough with outside stakeholders
- administrative procedures like permits

Supports

- share information timely with them
- stay on a calendar so knowledge and expectations are understandings
- committees should have strong and open communication with Manager
- clear purposes of committees
- clear communication/no conflicting instructions

Local Government, City Management and democratic ideals

- Local Government has always been crucial to the republic
 - Tocqueville recognized “two tracks” of American democracy.
 - Local government as a system is biggest government in US, more directly impacts daily life
- Beginning in the Gilded Age, local government as purely representative institution is tested by corruption
 - Early in the 20th Century, city management emerges as a response, attempting to apply corporate/business like structures to protect the greater good, including creating a CEO like position.
- Deindustrialization brings new challenges including
 - “Right-sizing,” Diverse and Welcoming Communities, Environmental and fiscal sustainability
- City Management, a subsection of Public Administration is a distinct profession
 - Key features:
 - Corporate Board of Directors-ish role for Governing Board
 - Manager oversees staff and budgeting
 - Manager has Agenda setting role and responsibility
 - Professional qualifications, ethics, responsibilities
 - Serves at pleasure of the governing board

Resources

"An Imprecise Comparison of Manager and Secretary Positions"

" Sample Borough Manager Job Description"

Salary Survey

Average for municipalities in Rankin population range \$65,994/ top \$105,000

Rankin 2024 Budget

Borough Secretary \$50,000 Assistant Borough Secretary \$40,000 (grant portion \$28,000) Net commitment to Sec/Mgr FTE \$72,000

Switch from 2 positions to one professional position

Politicized Workplace Derails Your Vision~Don't Do it!

1. Council is balancer of many things
 - a. Public Opinion
 - b. Short and long range
 - c. Facilitator/Decision Maker
 - d. Politician and Someone's Boss
2. You are forging new relationship with community
 - a. They feel heard
 - b. It is Council's job to govern
 - c. Less drama
3. Competing Values / Complexity
 - a. Never a choice between pure good and bad
4. Reactions to Council are information not directions
 - a. The feedback you got in the last meeting is good information
 - b. Educate the public about how a "Council of One" supports the community



Winning the War for Talent: The Elected Official's Role

by Frank Benest

City governments are in a war for talent, and we are losing the war. City agencies face a continuing "retention war" of baby-boomer managers and professionals exiting causes in local government, resulting in a leadership crisis and brain drain.

This talent crisis focuses two challenges:

1. We have not adequately prepared professionals in the city government pipeline to address and take over major management responsibilities; and

2. Young people are not pursuing city government careers. Survey research of university students indicates that at best they have little of local government work and at worst, they view the world as bureaucratic and uninteresting.

To excite our citizens, talent is mobile. In our competitive job market, talent can easily leave for a better job elsewhere.

Why Elected Officials Should Care

As an elected official, you may have a great policy agenda that will enhance your community. However, your policy agenda is powerless without talent to implement those ideas and make them come to life. As Thomas Edison is attributed with saying, "Vision without execution is hallucination."

continued

Frank Benest, Ph.D., is former city manager of Palo Alto and currently serves as the International City/County Management Association liaison for Next Generation Initiatives; he can be reached at frank@frankbenest.com.

www.nextgenercity.com

Workforce City, August 2018 19

Closing

- What has changed for you as a result of today's discussion?
- What more do you want to learn?
- Thank you!

Confidence

Council - Mayor - Manager relationship

Next steps

Add funds to DCED grant for Manager position

Expectation worksheet

Manager Ordinance

Job description & salary

Ad



Appendix D

BOROUGH OF RANKIN

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH OF RANKIN, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA ADDING TO CHAPTER 1 OF THE RANKIN BOROUGH CODE OF ORDINANCES NEW PART 7 CAPTIONED "BOROUGH MANAGER" CREATING THE OFFICE OF BOROUGH MANAGER IN THE BOROUGH OF RANKIN AS AUTHORIZED BY SUBCHAPTER G OF THE PENNSYLVANIA BOROUGH CODE, 8 Pa.C.S. § 1141, *et seq.* AND SETTING FORTH THE TERMS OF EMPLOYMENT AND THE MANGER'S POWERS AND DUTIES

WHEREAS, the Borough has determined that establishing the position of Rankin Borough Manager is in the best interest of the Borough of Rankin; and

WHEREAS, The Pennsylvania Borough Code at 8 Pa.C.S. § 1141, *et seq.* provides the Borough Council with the authority to create the office Borough Manager.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Rankin, County of Allegheny, Commonwealth of Pennsylvania, that:

SECTION 1:

Chapter 1 of the Borough of Rankin Code of Ordinances captioned Administration and Government is hereby amended to add new Part 7 thereto reading in its entirety as follows:

Part 7. BOROUGH MANAGER

§ 1-701: Purpose.

The purpose of this part is to enable the Borough of Rankin to function with a Borough Manager whereby the Borough Council is responsible for legislative policymaking and appointing a Borough Manager who is responsible for supervising and conducting the administrative affairs of the Borough, as authorized and directed by Borough Council.

§ 1-702: Office of Borough Manager Created.

The office of Borough Manager is hereby created by the Borough of Rankin, subject to the right of the Borough, by ordinance, at any time, to abolish such office.

§ 1-703: Appointment; Removal; Filling of Vacancy.

The Borough Manager shall be selected by a majority vote of all the members of the Borough Council of the Rankin Borough and shall be subject to removal at any time by a majority vote of all members of the Borough Council. Council, at its discretion, shall have authority to enter into a contract with the Borough Manager, which may fix the term of such Manager, but no such term shall exceed 3 years in length, and such contract may be renewed and extended as often and at such times as Council by a majority vote of all its members may determine.

§ 1-704: Qualifications.

The manager shall be chosen solely on the basis of executive and administrative abilities, with special reference to actual experience in or knowledge of accepted practices in respect to the duties of the office herein outlined. The Manager need not be a resident of the Borough of Rankin or of the Commonwealth of Pennsylvania at the time of appointment; provided, however, that the Borough reserves the right to impose by contract any reasonable residency requirements necessary for the performance of the Manager's duties. Such requirements shall be at the sole discretion of the Borough.

§ 1-705: Manager's Bond.

Before entering upon the duties of the office, the Manager shall be required to execute and to file with the Borough a bond conditioned for the faithful performance of their duties with a corporate surety thereon, in such amount a Council may from time to time determine. The Borough shall pay the cost of such bond.

§ 1-706: Specific Power and Duties of Manager.

1. The Borough Manager shall be the chief administrative officer of the Borough, and shall be responsible to the President of Borough Council or an appointed member of Borough Council for the proper and efficient administration of the affairs of the Borough and the continuation and implementation of policy and programs as set forth by Borough Council. The Borough Manager's authority and duties shall relate to the general management of all Borough business not expressly, by statute, resolution or ordinance, imposed or conferred upon other Borough officers. The Borough Council, or an appointed member thereof, and the Mayor with the approval of Council are hereby authorized to delegate to the Borough Manager, subject to recall by written notification at any time, any of their nonlegislative and nonjudicial authority and duties. All references to the "Borough Secretary" in the Rankin Borough Code of Ordinances shall be deemed to be a reference instead to the Borough Manager upon enactment of this part.
2. Subject to recall by ordinance, the authority and duties of the Manager shall include the following:
 - A. Oversee the day-to-day operations of the Borough and the provision of Borough services.
 - B. Annually review and evaluate the performance of all Borough operations.
 - C. Recommend to Council the hiring, and when deemed necessary for the good of the Borough, the suspension or discharge of employees under the Manager's supervision; provided that persons covered by the civil service provisions of the Borough Code shall be hired, suspended, or discharged in accordance with such provisions; provided, further, that the final decision as to hiring and discharge of employees shall remain with Council.
 - D. Recommend to Council a standard schedule of pay for all employees under the Manager's supervision and periodically evaluate the performance of employees.
 - E. Prepare and submit to the Borough Council before the close of the fiscal year, or on such alternative date as the Borough Council shall determine, a budget for the next fiscal year and an explanatory budget message.
 - F. Administration of the adopted budget.
 - G. Prepare and submit to Council at the end of the fiscal year a complete report on the finances and administrative activities of the Borough for the preceding year.

- H. Keep Council advised of the financial condition and future needs of the Borough, and make recommendations in the best interest of the Borough desirable. Prepare periodic recommendations regarding a capital expense budget, prepare a monthly report on current budget expenditures.
- I. Recommend short and long-term objectives for consideration by Council regarding any measures deemed necessary or expedient for the health, safety, or welfare of the community or for the improvement of administrative services.
- J. Attend all meetings of the Borough Council and, upon request of Borough Council, of its committees, with the right to take part in the discussion, and receive notice of all special meetings of the Borough Council and of its committees.
- K. Assist with preparation of the agenda for each meeting of Borough Council and supply facts, information, and documentation pertinent thereto.
- L. Monitor performance of the terms of all franchises, leases, permits, and privileges granted by the Borough.
- M. Supervise the performance and faithful execution of all contracts, except insofar as such duties are expressly conferred by statute upon some other Borough officer.
- N. See that all money owed the Borough is promptly paid and that proper proceedings are taken for the security and collection of all Borough's claims.
- O. Act as the Purchasing Officer of the Borough and purchase, upon approval of Council, supplies and equipment for the boards, committees, agencies, departments, and other offices of the Borough. Keep an account of all purchases and, from time to time or when directed by Council, make a full written report thereof.
- P. Receive and investigate complaints in relation to Borough services or Borough administration and make a report on significant complaints to Borough Council, who shall dispose of such complaints through the committee system, or as a body, or instruct the Manager to dispose of such complaints.
- Q. Supervise the writing of all reports and correspondence.
- R. Maintain informative relations with the news media and community organizations to keep the public updated and to promote cooperation with and participation in Borough activities and plans.
- S. Cooperate with the Borough Council at all times and in all matters such that the best interests of the Borough and of the general public may be maintained.
- T. Act as Rankin Borough's designated Zoning Officer with authority to delegate Zoning Officer duties and responsibilities to Borough employees as permitted by applicable law.
- U. All duties assigned to the "Borough Secretary" by the Pennsylvania Borough Code and the Rankin Borough Code of Ordinances.
- V. Perform such other duties as may be required by the Borough Council.

§ 1-707: Compensation.

The salary and fringe benefits of the Borough Manager of the Borough of Rankin shall be fixed from time to time by Borough Council. The Borough Manager's compensation shall be set forth in the Borough's salary ordinance and reflected in the Borough Manager's employment contract, if any.

§ 1-708: Temporary Acting Manager.

In the case of illness, disability, or other absence of the Manager from the Borough, the Manager shall designate one qualified member of Borough staff who shall perform the duties of the Manager during such absence. In the event that the Manager's absence exceeds beyond a 2-week period, Council's approval shall be required for the designation of an Acting Manager. The person designated to act as temporary acting manager shall be paid their normal employment rate of pay unless otherwise determined by resolution of the Borough Council.

SECTION 2.

Any Ordinances, Borough of Rankin Code provisions or Resolutions, or parts thereof, which conflict with this Ordinance are hereby repealed only insofar as is necessary to remedy the conflict.

SECTION 3.

This Ordinance shall become effective immediately upon enactment.

SECTION 4.

This Ordinance shall become effective immediately upon enactment or at the earliest time permitted under Pennsylvania Law.

ORDAINED AND ENACTED by the Council of the Borough of Rankin, County of

Allegheny, and Commonwealth of Pennsylvania, this ____ day of _____, 2024.

ATTEST:

BOROUGH OF RANKIN

Borough Secretary

President, Borough Council

Examined and Approved by me this ____ day of _____, 2024.

BOROUGH OF RANKIN MAYOR

Appendix D

Required Components' Applicable Courses

Below is a breakdown of the four (4) required components to achieve the CBO designation and a description of the courses which apply towards those sections.

Unless noted otherwise below, all classes on the Classroom/Online-Series training schedule apply to the Part B (RBS) requirement. Any exceptions for specific courses and their related CBO credit category will be clearly noted on posted training schedules.

Part A (RAS) - Annual Conference

- Attendance at the full conference is required to receive the twelve (12) credits.

Part B (RBS) - Classroom/Online Series Training

- Any in-person classroom or online series unless listed under Part D.
- **Mini NEMO Boot Camp**: Held on the first day of PSAB's Annual Conference.

Part C (RCS) – NEMO Boot Camp *or* Your Role as a Muni. Sec./Admin. Training

This component allows for either class to be taken to receive the full credits. Both training courses are open to all positions in local government and cross-training is encouraged. If both classes are taken, the additional credits will apply towards your overall total needed.

- **Newly Elected Municipal Official (NEMO) Boot Camp**: This training is offered in even-numbered years and in both online or in-person formats. Both formats satisfy the full requirement for this component.
 - o **Note**: The Mini NEMO Boot Camp held on the first day of PSAB's Annual Conference does not apply towards Part C, but rather towards Part B.
- OR
- **Your Role as a Municipal Secretary/Administrator**: This training is offered each year as an online series or a two-day, in-person format. Both formats satisfy the full requirement for this component.

Part D (RDS) – Planning, Zoning, & Code Enforcement Training

Training which applies to this requirement is in the form of online series, classroom training, webinars, and options through the PA Municipal Planning & Education Institute (PMPEI). The courses will be noted within the PDF schedules, posted on the [Training Webpage](#), they apply towards the Part D (RDS) requirement.

PMPEI offers virtual and in-person courses which can be found on their site at www.pmpei.org.

General Electives (RES, EXS, or EFS)

PSAB frequently offers courses which count as a general elective. Webinars (aside from the ones covered under Part D) and our Fall Conference all count towards this area. General electives *do not satisfy any of the four required components* but do count towards the 76 total credits needed for CBO program completion.

If you have questions on applicable courses, contact Dani Baker-Papinchak at dbaker@boroughs.org.

Appendix E

RANKIN BOROUGH 2025 BUDGET MEMO

The Borough of Rankin 2025 Budget is presented for consideration and adoption by the Rankin Borough Council.

The budget is a plan for operations in the general fund, sewer fund, and highway aid fund.

General Fund

The General Fund is the main operating fund of the Borough. For 2025, its budget is as follows:

TOTAL EXPENDITURES	1,269,305.00
TOTAL REVENUE	1,244,661.90
USE OF FUND BALANCE	24,643.10
ESTIMATE YEAR END 2025 FUND BALANCE	917,357
RESERVE FOR CAPITAL AND RAINY DAY	944,579

Revenues

Real Estate Taxes

Rankin Borough Real Estate Tax rate for 2025 is proposed at 11.6928. This 2 mill increase is an increase of \$20 for every 10,000 of assessed value. One mill of real estate taxes for Rankin Borough is estimated to generate \$22,656 in revenue for the Borough. If the Borough collects 92% of the real estate taxes billed in 2025, It will generate \$243,714. Real Estate tax rates in Rankin have been unchanged for over 5 years.

Act 511 Taxes

These taxes include Earned Income (Wage) Tax, Local Services Tax, and Realty Transfer Tax. Based on 2024 estimated actuals, these taxes are conservatively estimated to generate \$186,400.00. These tax rates are set by the Commonwealth of Pennsylvania and as a Borough, Rankin does not have the ability to change the rates.

Fees

The Refuse fee is unchanged for 2025 at \$83.91 per quarter. The Health and Safety fee is proposed at \$31.61 per quarter, an increase of \$3.16 per quarter. The borough sets these fees annually. The refuse fee is based on the charges for trash collection. The Health and Safety fee is a flat fee charged to all residential units. It reduces the Borough's reliance on real estate taxes and funds health and safety functions such as code enforcement, facilities maintenance, police and fire.

General Fund Cont'd

Expenditures

General Fund expenses total \$1,269,305 for 2025. The General Fund is the main operating fund of the Borough. The top three expense categories for the General Fund are Police, Public Works - Sanitation/Refuse, Public Works - Roads.

Capital and Fund Balance Reserve

The Borough aggressively seeks grants for capital improvements. The 2025 Budget estimates the year end Fund Balance to be \$917,357 which provides resources to cover the local share for projects successfully securing grant dollars.

Additionally, the Borough seeks to prudently maintain a Fund Balance Reserve sufficient to cover the operating expenses for a minimum of 3 months. A responsible estimate is based on the highest 3 months of expenditures from the prior year. For 2025 that amount is 944,579 (based on 2024 operations). The 2025 Fund Balance is \$30,222 less than that amount.

Sewer Fund

The Sewer Fund collects the proceeds from the sewage fees and also pays for sewage treatment and operating expenses of the Borough's sewer system.

Revenues

Fees

The sewer fees are expected to generate \$429,000 in 2025. Any funds over that amount remain in the sewer fund for future sewer operations or repairs. No increase in sewer fees is proposed in 2025.

Expenses

Sewage Treatment

ALCOSAN treats the Borough sewage and bills the Borough for the lump sum cost. The Borough collects the fees from the users. In 2025, it is anticipated that the Borough will pay \$400,000 for sewage treatment.

Engineering, Repairs, Other

The Borough pays for a portion of the engineer expenses with sewage fees. Additionally, it maintains a budget for repairs, PA One Calls, and reimbursement to the general fund.

Use of Fund Balance

The Sewer Fund Budget relies on \$20,390 in use of Fund Balance to balance the budget. The forecasted year end fund balance for the Sewer Fund is \$64,000.

Highway Aid Fund

The Highway Aid fund accounts for revenue from the Commonwealth of PA that is legally restricted for uses related to roads. Rankin pays for its street lights out of Highway Aid funds.

Revenues

The Highway Aid Fund only has one source of funding: the grant from the Commonwealth of PA. For 2025 that amount is estimated to be \$51,746. Interest on these funds is expected to be \$125. Total revenues equal \$51,871.

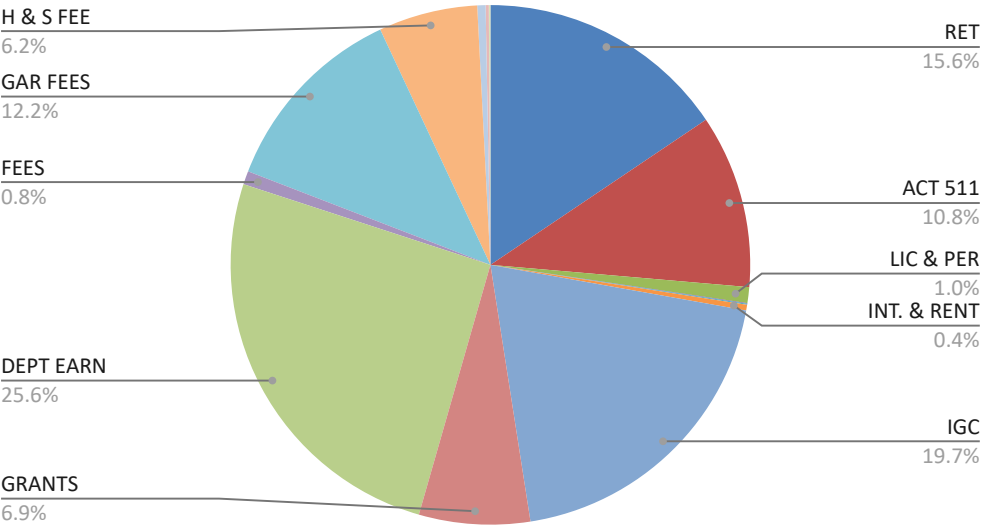
Expenditures

The Highway Aid fund will utilize \$51,871 for street lighting in 2025.

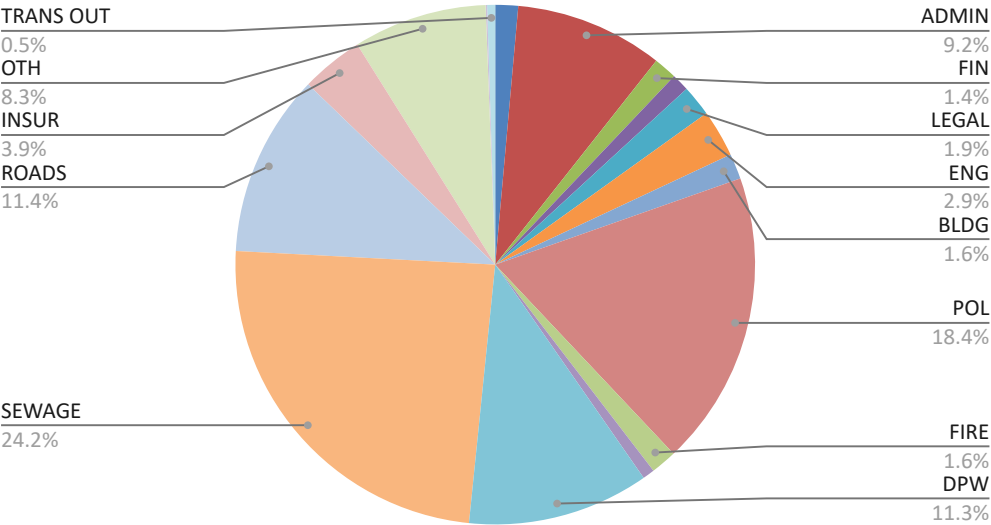
Fund Balance

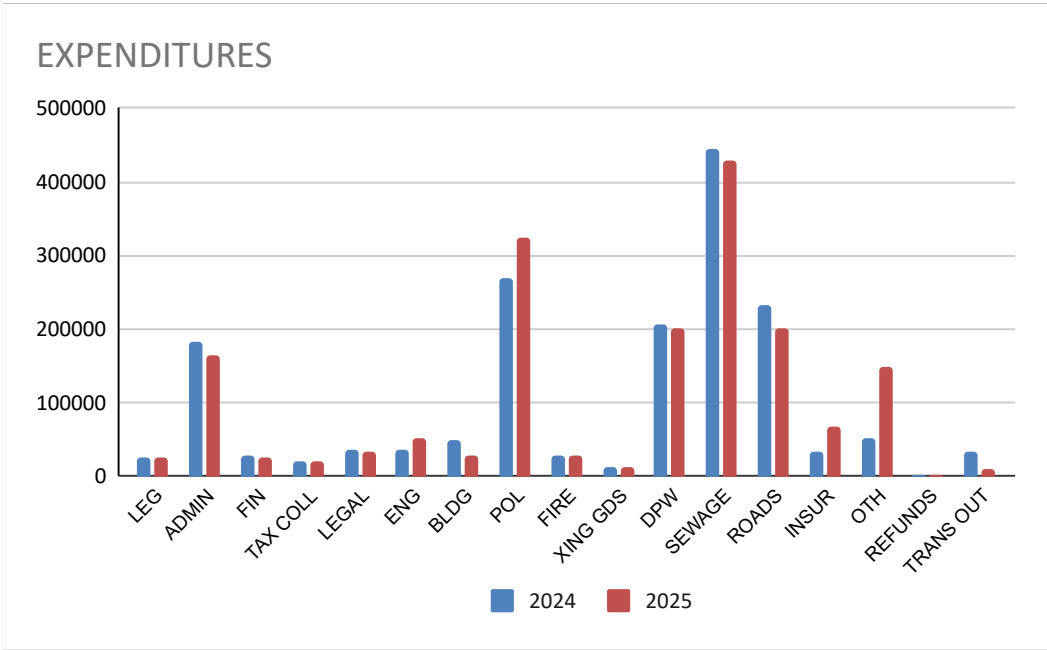
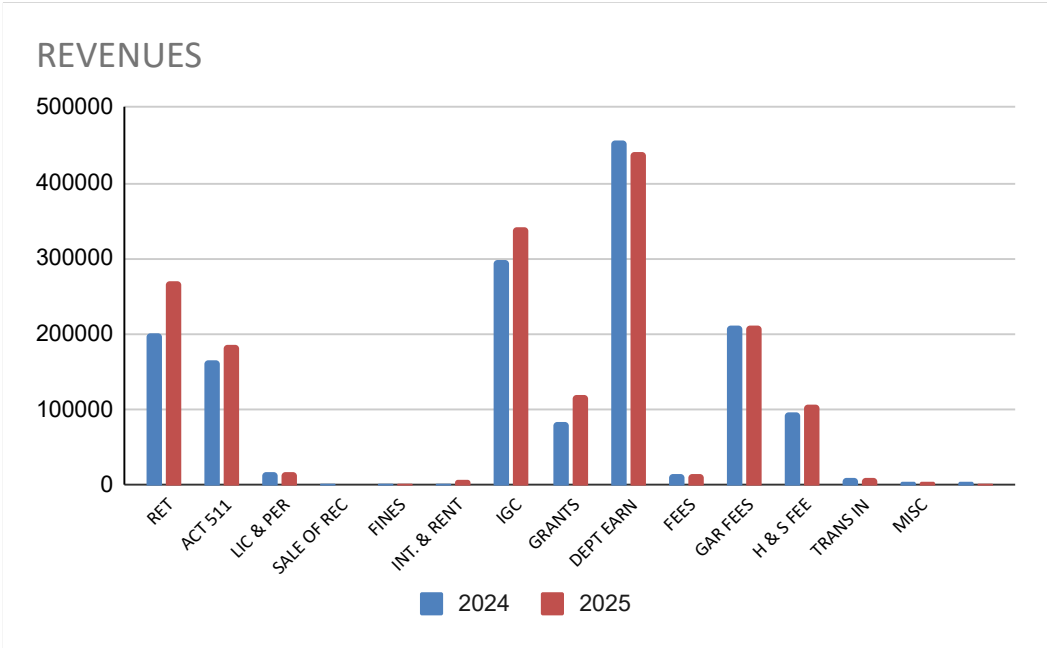
The Highway Fund is not expected to have a fund balance.

2025 Proposed Revenues- All Funds



2025 Proposed Expenditures- All Funds





ALL FUNDS	2024 Year End Estimate	2024 Budget	2024 Yr end over (under) Budget	Proposed 2025 Budget	2025 Budget over (under) 2024 Budget
INCOME					
Total 301 Real Estate Taxes	\$ 246,260.00	\$ 200,000.00	\$ 46,260.00	\$ 268,713.90	\$ 68,713.90
Total 310 Act 511 Taxes	\$ 158,300.00	\$ 164,500.00	\$ (6,200.00)	\$ 186,400.00	\$ 21,900.00
Total 321 Licenses and Permits	\$ 17,000.00	\$ 17,070.00	\$ (70.00)	\$ 17,000.00	\$ (70.00)
Total 322 Sale of Records	\$ 700.00	\$ 1,200.00	\$ (500.00)	\$ 700.00	\$ (500.00)
Total 331 Fines and Forfeitures	\$ 1,600.00	\$ 1,100.00	\$ 500.00	\$ 1,100.00	\$ -
Total 342 Interest and Rents	\$ 6,130.00	\$ 2,025.00	\$ 4,105.00	\$ 6,150.00	\$ 4,125.00
Total 355 Intergovernmental Revenue	\$ 373,401.00	\$ 297,201.00	\$ 76,200.00	\$ 340,411.00	\$ 43,210.00
Total 359 Grants	\$ 66,300.00	\$ 82,900.00	\$ (51,600.00)	\$ 119,200.00	\$ 36,300.00
Total 361 Departmental Earnings	\$ 459,704.00	\$ 457,205.00	\$ 2,499.00	\$ 441,605.00	\$ (15,600.00)
Total 363 Fees for Service	\$ 14,400.00	\$ 14,400.00	\$ -	\$ 14,400.00	\$ -
Total 364 Solid Waste Fees	\$ 201,000.00	\$ 210,000.00	\$ (9,000.00)	\$ 210,000.00	\$ -
Total 378 Health & Sanitation	\$ 90,000.00	\$ 96,000.00	\$ (6,000.00)	\$ 106,328.00	\$ 10,328.00
Total 380 Transfers In	\$ 8,890.00	\$ 8,890.00	\$ -	\$ 8,890.00	\$ -
Total 381 Miscellaneous Receipts	\$ 100.00	\$ 3,505.00	\$ (3,405.00)	\$ 3,400.00	\$ (105.00)
Total 395 Other Income	\$ 17,260.58	\$ 5,485.00	\$ 11,775.58	\$ 1,735.00	\$ (3,750.00)
TOTAL INCOME	\$ 1,661,045.58	\$ 1,561,481.00	\$ 64,564.58	\$ 1,726,032.90	\$ 164,551.90
EXPENSES					
Total 400 Legislative (Governing) Body	\$ 16,920.03	\$ 24,850.00	\$ (7,929.97)	\$ 25,080.30	\$ 230.30
Total 401 Secretary/Clerk/Admin	\$ 85,318.15	\$ 183,775.00	\$ (98,456.85)	\$ 163,333.00	\$ (20,442.00)
Total 402 Auditing Services/Financial Admin	\$ 9,619.33	\$ 28,980.00	\$ (19,360.67)	\$ 25,640.00	\$ (3,340.00)
Total 403 Tax Collection	\$ 10,015.50	\$ 19,732.00	\$ (9,716.50)	\$ 19,270.50	\$ (461.50)
Total 404 Solicitor/Legal Services	\$ 25,651.16	\$ 35,200.00	\$ (9,548.84)	\$ 34,100.00	\$ (1,100.00)
Total 408 Engineering Services	\$ 134,755.50	\$ 35,000.00	\$ 99,755.50	\$ 52,000.00	\$ 17,000.00
Total 409 General Govt Buildings and Plant	\$ 102,626.33	\$ 49,605.00	\$ (18,717.67)	\$ 28,015.00	\$ (21,590.00)
Total 410 Police	\$ 270,318.40	\$ 270,000.00	\$ 318.40	\$ 325,000.00	\$ 55,000.00
Total 411 Fire Protection	\$ 33,467.46	\$ 28,386.00	\$ 5,081.46	\$ 28,559.00	\$ 173.00
Total 415 Crossing Guards	\$ 10,965.00	\$ 11,305.00	\$ (340.00)	\$ 13,118.00	\$ 1,813.00
Total 427 Public Works/Sanitation	\$ 211,000.00	\$ 206,500.00	\$ 4,500.00	\$ 200,000.00	\$ (6,500.00)
Total 429.000 Wastewater/Sewage	\$ 422,000.00	\$ 444,000.00	\$ (22,000.00)	\$ 429,000.00	\$ (15,000.00)
Total 430 Public Works - Highways & Streets	\$ 111,400.34	\$ 233,100.00	\$ (121,699.67)	\$ 201,332.00	\$ (31,768.00)
Total 486 Group Insurance & Other Benefits	\$ 54,889.50	\$ 34,418.00	\$ 20,471.50	\$ 68,698.00	\$ 34,280.00
Total 489 Other Expenses	\$ 166,400.00	\$ 50,600.00	\$ 115,800.00	\$ 147,400.00	\$ 96,800.00
Total 491 Refunds	\$ 1,630.00	\$ 1,630.00	\$ -	\$ 1,630.20	\$ 0.20
Total 492 Transfers Out	\$ 33,890.00	\$ 33,890.00	\$ -	\$ 8,890.00	\$ (25,000.00)
TOTAL EXPENSES	\$ 1,700,866.70	\$ 1,690,971.00	\$ (61,843.31)	\$ 1,771,066.00	\$ 80,095.00
NET	\$ (39,821.11)	\$ (129,490.00)	\$ 126,407.89	\$ (45,033.10)	\$ 84,456.90

	2024 Year End Estimate	2024 Budget	2024 Yr end over (under) Budget	2024 year end as % of Budget	Proposed 2025 Budget	2025 Budget over (under) 2024 Budget	% change 2025 - 2024 Budget
Income							
301 Real Estate Taxes							
301.001 Real Estate - Current	215,000.00	175,000.00	40,000.00	122.86%	243,713.90	68,713.90	39.27%
301.002 Real Estate - Delinquent	31,260.00	25,000.00	6,260.00	125.04%	25,000.00	0.00	0.00%
Total 301 Real Estate Taxes	\$ 246,260.00	\$ 200,000.00	\$ 46,260.00	123.13%	\$ 268,713.90	\$ 68,713.90	34.36%
310 Act 511 Taxes							
310.100 Realty Transfer Tax	6,300.00	20,000.00	-13,700.00	31.50%	20,000.00	0.00	0.00%
310.210 Earned Income Tax - Current	121,000.00	110,000.00	11,000.00	110.00%	130,000.00	20,000.00	18.18%
310.230 EIT - Delinquent	3,000.00	11,000.00	-8,000.00	27.27%	8,000.00	-3,000.00	-27.27%
310.400 LST-Current	28,000.00	21,000.00	7,000.00	133.33%	28,000.00	7,000.00	33.33%
310.430 Mechanical Devices	0.00	2,500.00	-2,500.00	0.00%	400.00	-2,100.00	-84.00%
Total 310 Act 511 Taxes	\$ 158,300.00	\$ 164,500.00	-\$ 6,200.00	96.23%	\$ 186,400.00	\$ 21,900.00	13.31%
321 Licenses and Permits						0.00	
321.001 PA Liquor Control	650.00	450.00	200.00	144.44%	650.00	200.00	44.44%
321.800 Cable Franchise	15,000.00	15,000.00	0.00	100.00%	15,000.00	0.00	0.00%
321.802 5G Poles	1,350.00	1,620.00	-270.00	83.33%	1,350.00	-270.00	-16.67%
Total 321 Licenses and Permits	\$ 17,000.00	\$ 17,070.00	-\$ 70.00	99.59%	\$ 17,000.00	-\$ 70.00	-0.41%
322 Sale of Records						0.00	
322.910 No Lien Letters	200.00	700.00	-500.00	28.57%	200.00	-500.00	-71.43%
322.911 Tax Certifications	500.00	500.00	0.00	100.00%	500.00	0.00	0.00%
Total 322 Sale of Records	\$ 700.00	\$ 1,200.00	-\$ 500.00	58.33%	\$ 700.00	-\$ 500.00	-41.67%
331 Fines and Forfeitures							
331.111 Motor Vehicle Fines	1,500.00	500.00	1,000.00	300.00%	500.00	0.00	0.00%
331.112 State & Other Violations	0.00	500.00	-500.00	0.00%	500.00	0.00	0.00%
331.120 Magistrate	100.00	100.00	0.00	100.00%	100.00	0.00	0.00%
Total 331 Fines and Forfeitures	\$ 1,600.00	\$ 1,100.00	\$ 500.00	145.45%	\$ 1,100.00	\$ 0.00	0.00%
342 Interest and Rents						0.00	
342.001 Interest - Other	1,500.00	2,000.00	-500.00	75.00%	1,525.00	-475.00	-23.75%
342.500 Interest - Payroll	5.00	25.00	-20.00	20.00%		-25.00	-100.00%
Total 342 Interest and Rents	\$ 1,505.00	\$ 2,025.00	-\$ 520.00	74.32%	\$ 1,525.00	-\$ 500.00	-24.69%
355 Intergovernmental Revenue							
355.010 Act 77 Sales Tax	199,000.00	230,000.00	-31,000.00	86.52%	210,000.00	-20,000.00	-8.70%
355.050 State Pension Subsidy	6,990.00	6,990.00	0.00	100.00%	7,000.00	10.00	0.14%
355.080 State Liquor License	650.00	450.00	200.00	144.44%	650.00	200.00	44.44%
355.091 Act 13 (Marcellus Shale)	400.00	400.00	0.00	100.00%	400.00	0.00	0.00%
355.092 PCCD Pass Through to ERMVPD	107,000.00	0.00	107,000.00		63,000.00	63,000.00	#DIV/0!
355.096 PURTA	515.00	515.00	0.00	100.00%	515.00	0.00	0.00%
355.130 State Fire Relief Subsidy	7,100.00	7,100.00	0.00	100.00%	7,100.00	0.00	0.00%
Total 355 Intergovernmental Revenue	\$ 321,655.00	\$ 245,455.00	\$ 76,200.00	131.04%	\$ 288,665.00	\$ 43,210.00	17.60%
359 Grants							
359.010 Housing Auth Pilot	6,300.00	6,300.00	0.00	100.00%	6,300.00	0.00	0.00%
359.053 DCED STMP Grant	25,000.00	76,600.00	-51,600.00	32.64%	112,900.00	36,300.00	47.39%
359.054 CFA	\$ 35,000.00						
Total 359 Grants	\$ 66,300.00	\$ 82,900.00	-\$ 51,600.00	79.98%	\$ 119,200.00	\$ 36,300.00	47.39%
361 Departmental Earnings							
361.570 Copies	5.00	5.00	0.00	100.00%	5.00	0.00	0.00%
362.100 School Guard Reimb	5,000.00	5,000.00	0.00	100.00%	5,000.00	0.00	0.00%
362.300 Escrow - Land Dev. Deposit	0.00	10,000.00	-10,000.00	0.00%	0.00	-10,000.00	-100.00%
362.409 Code Violation - Enforc	0.00	50.00	-50.00	0.00%	50.00	0.00	0.00%
362.410 Building Permits	0.00	1,500.00	-1,500.00	0.00%	500.00	-1,000.00	-66.67%
362.411 Demo Permits	0.00	150.00	-150.00	0.00%	150.00	0.00	0.00%
362.412 Dumpster/Pod Permits	400.00	600.00	-200.00	66.67%	400.00	-200.00	-33.33%
362.450 Occ andLand Use Permits	2,260.00	8,000.00	-5,740.00	28.25%	8,000.00	0.00	0.00%
362.451 Rehab / Transfer Permits	0.00	200.00	-200.00	0.00%	0.00	-200.00	-100.00%
362.460 Subdivision Permits	0.00	4,200.00	-4,200.00	0.00%	0.00	-4,200.00	-100.00%
362.470 Street Openings	27,039.00	1,000.00	26,039.00	2703.90%	1,000.00	0.00	0.00%
363.221 Solicitation/Vending	0.00	1,500.00	-1,500.00	0.00%	1,500.00	0.00	0.00%
Total 361 Departmental Earnings	\$ 34,704.00	\$ 32,205.00	\$ 2,499.00	107.76%	\$ 16,605.00	-\$ 15,600.00	-48.44%
363 Fees for Service							
363.225 Christian Cr Playground	6,000.00	6,000.00	0.00	100.00%	6,000.00	0.00	0.00%
363.226 Rankin Blvd (Mary's Vine) Parking	8,400.00	8,400.00	0.00	100.00%	8,400.00	0.00	0.00%
Total 363 Fees for Service	\$ 14,400.00	\$ 14,400.00	\$ 0.00	100.00%	\$ 14,400.00	\$ 0.00	0.00%
364 Solid Waste Fees							

	2024 Year End Estimate	2024 Budget	2024 Yr end over (under) Budget	2024 year end as % of Budget	Proposed 2025 Budget	2025 Budget over (under) 2024 Budget	% change 2025 - 2024 Budget
364.300 Refuse Collection Current	191,000.00	200,500.00	-9,500.00	95.26%	200,500.00	0.00	0.00%
364.301 Refuse Penalty	1,500.00	1,500.00	0.00	100.00%	1,500.00	0.00	0.00%
364.310 Refuse Collection Delinquent	8,500.00	8,000.00	500.00	106.25%	8,000.00	0.00	0.00%
Total 364 Solid Waste Fees	\$ 201,000.00	\$ 210,000.00	-\$ 9,000.00	95.71%	\$ 210,000.00	\$ 0.00	0.00%
378 Health & Sanitation							
378.105 Health & Sanitation Fee	90,000.00	95,000.00	-5,000.00	94.74%	106,328.00	11,328.00	11.92%
378.106 Health & Sanitation Fee Del.	0.00	1,000.00	-1,000.00	0.00%	0.00	-1,000.00	-100.00%
Total 378 Health & Sanitation	\$ 90,000.00	\$ 96,000.00	-\$ 6,000.00	93.75%	\$ 106,328.00	\$ 10,328.00	10.76%
380 Transfers In							
380.400 Transfer from Sewage Fund	8,890.00	8,890.00	0.00	100.00%	8,890.00	0.00	0.00%
Total 380 Transfers In	\$ 8,890.00	\$ 8,890.00	\$ 0.00	100.00%	\$ 8,890.00	\$ 0.00	0.00%
381 Miscellaneous Receipts							
381.021 Ballfield Rental	0.00	300.00	-300.00	0.00%	300.00	0.00	0.00%
381.022 Event Permits	100.00	50.00	50.00	200.00%	50.00	0.00	0.00%
381.023 Expediated Serv (No Lien & Occ Permits)	0.00	45.00	-45.00	0.00%	0.00	-45.00	-100.00%
381.025 Yard Sale	0.00	60.00	-60.00	0.00%	0.00	-60.00	-100.00%
381.026 Filming in Boro	0.00	3,000.00	-3,000.00	0.00%	3,000.00	0.00	0.00%
381.050 Verizon Grant	0.00	50.00	-50.00	0.00%	50.00	0.00	0.00%
Total 381 Miscellaneous Receipts	\$ 100.00	\$ 3,505.00	-\$ 3,405.00	2.85%	\$ 3,400.00	-\$ 105.00	-3.00%
395 Other Income							
395.010 Refund Prior Year	17,036.00	1,000.00	16,036.00	1703.60%	1,000.00	0.00	0.00%
395.012 DPW Reimburse Costs	0.00	4,000.00	-4,000.00	0.00%	0.00	-4,000.00	-100.00%
395.013 CNCL Reimburse	0.00	485.00	-485.00	0.00%	485.00	0.00	0.00%
395.014 Refunds	224.58		224.58		250.00	250.00	#DIV/0!
Total 395 Other Income	\$ 17,260.58	\$ 5,485.00	\$ 11,775.58	314.69%	\$ 1,735.00	-\$ 3,750.00	-68.37%
Uncategorized Income							
Uncategorized Income-Setup			0.00			0.00	#DIV/0!
Total Income	\$ 1,179,674.58	\$ 1,084,735.00	\$ 94,939.58	108.75%	\$ 1,244,661.90	\$ 159,926.90	14.74%
Expenses							
400 Legislative (Governing) Body							#DIV/0!
400.112 Mayor - Salary	1,500.00	1,500.00	0.00	100.00%	1,500.00	0.00	0.00%
400.113 Council Salary	5,600.00	8,700.00	-3,100.00	64.37%	8,700.00	0.00	0.00%
400.161 Mayor Council SOC SEC & FICA	543.15	632.00	-88.85	85.94%	780.30	148.30	23.47%
400.163 Mayor Council MED		148.00	-148.00	0.00%		-148.00	-100.00%
400.165 Mayor Training/Conference	1,410.07	1,000.00	410.07	141.01%	1,000.00	0.00	0.00%
400.170 Council Training/Conference/Dues	6,766.81	12,000.00	-5,233.19	56.39%	12,000.00	0.00	0.00%
400.171 Council Subscriptions	1,100.00	870.00	230.00	126.44%	1,100.00	230.00	26.44%
Total 400 Legislative (Governing) Body	\$ 16,920.03	\$ 24,850.00	-\$ 7,929.97	68.09%	\$ 25,080.30	\$ 230.30	0.93%
401 Secretary/Clerk/Admin							
401.121 Secretary - Salary	32,000.00	56,000.00	-24,000.00	57.14%	80,000.00	24,000.00	42.86%
401.122 Clerical Assistant	20,000.00	20,000.00	0.00	100.00%	22,000.00	2,000.00	10.00%
401.123 Clerical Asst. Soc. Security		1,150.00	-1,150.00	0.00%	0.00	-1,150.00	-100.00%
401.124 Clerical Asst. Medicare		350.00	-350.00	0.00%	0.00	-350.00	-100.00%
401.125 Asst Sec - Salary	0.00	40,000.00	-40,000.00	0.00%	0.00	-40,000.00	-100.00%
401.126 Asst Sec - Medicare	0.00	580.00	-580.00	0.00%		-580.00	-100.00%
401.127 Asst Sec - Soc. Security	0.00	2,480.00	-2,480.00	0.00%		-2,480.00	-100.00%
401.156 Hospitalization - Sec	146.51	23,000.00	-22,853.49	0.64%	23,000.00	0.00	0.00%
401.157 Vision Cover-Secretary	0.00	1,600.00	-1,600.00	0.00%	1,600.00	0.00	0.00%
401.158 Life Insurance	0.00	130.00	-130.00	0.00%	130.00	0.00	0.00%
401.161 Admin SS & MC	3,978.00	3,500.00	478.00	113.66%	7,803.00	4,303.00	122.94%
401.162 Secretary-Unemployment	0.00	1,500.00	-1,500.00	0.00%	0.00	-1,500.00	-100.00%
401.163 Secretary Medicare	0.00	815.00	-815.00	0.00%		-815.00	-100.00%
401.210 Secretary Supplies	1,000.00	2,000.00	-1,000.00	50.00%	1,000.00	-1,000.00	-50.00%
401.321 Secretary Telephone	0.00	600.00	-600.00	0.00%	1,000.00	400.00	66.67%
401.325 Secretary Mail & Print	1,800.00	2,000.00	-200.00	90.00%	1,800.00	-200.00	-10.00%
401.353 Secretary Bonding	0.00	270.00	-270.00	0.00%		-270.00	-100.00%
401.420 Secretary Dues Subscript	3,020.49	5,000.00	-1,979.51	60.41%	5,000.00	0.00	0.00%
401.460 Secretary-Conv. Expense	0.00	500.00	-500.00	0.00%	500.00	0.00	0.00%
401.540 Pension Subsidy Non-Uniform	7,000.00	7,000.00	0.00	100.00%	7,000.00	0.00	0.00%
401.700 Payroll Fees	3,700.00	3,000.00	700.00	123.33%	3,500.00	500.00	16.67%
401.850 Cable	8,000.00	10,400.00	-2,400.00	76.92%	8,000.00	-2,400.00	-23.08%
401.900 Secretary Gen. Expense	3,173.15	1,000.00	2,173.15	317.32%	1,000.00	0.00	0.00%

	2024 Year End Estimate	2024 Budget	2024 Yr end over (under) Budget	2024 year end as % of Budget	Proposed 2025 Budget	2025 Budget over (under) 2024 Budget	% change 2025 - 2024 Budget
401.901 New Phone System	0.00	900.00	-900.00	0.00%	0.00	-900.00	-100.00%
401.902 Website-Built & Maintain	1,500.00		1,500.00			0.00	#DIV/0!
Total 401 Secretary/Clerk/Admin	\$ 85,318.15	\$ 183,775.00	-\$ 98,456.85	46.43%	\$ 163,333.00	-\$ 20,442.00	-11.12%
402 Auditing Services/Financial Admin							
402.115 Auditor	6,750.00	6,750.00	0.00	100.00%	7,000.00	250.00	3.70%
402.311 Audit Expenses		105.00	-105.00	0.00%		-105.00	-100.00%
402.312 Financial Services Fees	971.61	125.00	846.61	777.29%	1,000.00	875.00	700.00%
402.312.001 NSFs	723.72		723.72		0.00	0.00	#DIV/0!
Total 402.312 Financial Services Fees	\$ 1,695.33	\$ 125.00	\$ 1,570.33	1356.26%	\$ 1,000.00	\$ 875.00	700.00%
402.313 Financial Management Software	1,174.00		1,174.00		2,640.00	2,640.00	#DIV/0!
402.454 Code Enforcement	0.00	15,000.00	-15,000.00	0.00%	15,000.00	0.00	0.00%
402.455 Contracts	0.00	7,000.00	-7,000.00	0.00%	0.00	-7,000.00	-100.00%
Total 402 Auditing Services/Financial Admin	\$ 9,619.33	\$ 28,980.00	-\$ 19,360.67	33.19%	\$ 25,640.00	-\$ 3,340.00	-11.53%
403 Tax Collection							
403.114 Tax Collector Salary	9,000.00	9,000.00	0.00	100.00%	9,000.00	0.00	0.00%
403.161 Tax Collector Soc. Sec.	688.50	550.00	138.50	125.18%	688.50	138.50	25.18%
403.162 Tax Collector Medicare	0.00	132.00	-132.00	0.00%	132.00	0.00	0.00%
403.210 Tax Collector Supplies	0.00	250.00	-250.00	0.00%	250.00	0.00	0.00%
403.316 Tax Collector Commissions	0.00	500.00	-500.00	0.00%	500.00	0.00	0.00%
403.325 TC - Mail & Printing	0.00	8,000.00	-8,000.00	0.00%	8,000.00	0.00	0.00%
403.353 TC - Bonding	188.00	300.00	-112.00	62.67%	200.00	-100.00	-33.33%
403.900 TC - Other Unclassified	139.00	1,000.00	-861.00	13.90%	500.00	-500.00	-50.00%
Total 403 Tax Collection	\$ 10,015.50	\$ 19,732.00	-\$ 9,716.50	50.76%	\$ 19,270.50	-\$ 461.50	-2.34%
404 Solicitor/Legal Services							
404.314 Solicitor	23,551.16	32,000.00	-8,448.84	73.60%	32,000.00	0.00	0.00%
404.315 Other Legal Services	0.00	200.00	-200.00	0.00%		-200.00	-100.00%
404.316 Legal Fees Reimburse	0.00	3,000.00	-3,000.00	0.00%	0.00	-3,000.00	-100.00%
404.341 Advertising	2,100.00		2,100.00		2,100.00	2,100.00	#DIV/0!
Total 404 Solicitor/Legal Services	\$ 25,651.16	\$ 35,200.00	-\$ 9,548.84	72.87%	\$ 34,100.00	-\$ 1,100.00	-3.13%
408 Engineering Services							
408.313 Engineering Srvc	122,755.50	35,000.00	87,755.50	350.73%	40,000.00	5,000.00	14.29%
Total 408 Engineering Services	\$ 122,755.50	\$ 35,000.00	\$ 87,755.50	350.73%	\$ 40,000.00	\$ 5,000.00	14.29%
409 General Govt Buildings and Plant							
409.140 Custodian Wage	600.00	7,200.00	-6,600.00	8.33%	0.00	-7,200.00	-100.00%
409.226 Custodian Supplies	114.75	400.00	-285.25	28.69%	0.00	-400.00	-100.00%
409.300 Gas/Electric/Sewage/ UTILITIES	26,200.00	12,390.00	13,810.00	211.46%	25,000.00	12,610.00	101.78%
409.301 Water/Borough Bldg.	0.00	600.00	-600.00	0.00%	0.00	-600.00	-100.00%
409.310 Professional Services	0.00	25,000.00	-25,000.00	0.00%	0.00	-25,000.00	-100.00%
409.371 Camera System Repairs and Maint	0.00	500.00	-500.00	0.00%		-500.00	-100.00%
409.373 Repairs/Maintenance	3,969.00	3,000.00	969.00	132.30%	3,000.00	0.00	0.00%
409.374 Building Maint	0.00	500.00	-500.00	0.00%	0.00	-500.00	-100.00%
409.375 Taxes - Borough Property	3.58	15.00	-11.42	23.87%	15.00	0.00	0.00%
409.376 Municipal Bldg Capital Improvements	\$ 71,739.00						
Total 409 General Govt Buildings and Plant	\$ 102,626.33	\$ 49,605.00	-\$ 18,717.67	206.89%	\$ 28,015.00	-\$ 21,590.00	-43.52%
410 Police							
410.140 Police Officers - Hourly	518.40		518.40		0.00	0.00	#DIV/0!
410.145 Intergovernmental Police Service	265,000.00	265,000.00	0.00	100.00%	320,000.00	55,000.00	20.75%
410.158 Police Life Inc			0.00			0.00	#DIV/0!
410.161 Police Soc. Security			0.00			0.00	#DIV/0!
410.317 Police Animal Control	4,800.00	5,000.00	-200.00	96.00%	5,000.00	0.00	0.00%
Total 410 Police	\$ 270,318.40	\$ 270,000.00	\$ 318.40	100.12%	\$ 325,000.00	\$ 55,000.00	20.37%
411 Fire Protection							
411.140 Fire Relief State Subsidy	7,272.46	7,100.00	172.46	102.43%	7,273.00	173.00	2.44%
411.316 VFD Service Agreement	20,695.00	14,586.00	6,109.00	141.88%	14,586.00	0.00	0.00%
411.800 Hydrant Fees	5,500.00	6,700.00	-1,200.00	82.09%	6,700.00	0.00	0.00%
Total 411 Fire Protection	\$ 33,467.46	\$ 28,386.00	\$ 5,081.46	117.90%	\$ 28,559.00	\$ 173.00	0.61%
415 Crossing Guards							
415.001 Cross Guard Uniforms	200.00	200.00	0.00	100.00%	200.00	0.00	0.00%
415.141 Cross Guard Wages	10,000.00	10,000.00	0.00	100.00%	12,000.00	2,000.00	20.00%
415.161 Cross Guard Soc. Security	765.00	575.00	190.00	133.04%	918.00	343.00	59.65%
415.162 Cross Guard UC	0.00	400.00	-400.00	0.00%		-400.00	-100.00%
415.163 Cross Guard Medicare	0.00	130.00	-130.00	0.00%		-130.00	-100.00%

	2024 Year End Estimate	2024 Budget	2024 Yr end over (under) Budget	2024 year end as % of Budget	Proposed 2025 Budget	2025 Budget over (under) 2024 Budget	% change 2025 - 2024 Budget
Total 415 Crossing Guards	\$ 10,965.00	\$ 11,305.00	-\$ 340.00	96.99%	\$ 13,118.00	\$ 1,813.00	16.04%
427 Public Works/Sanitation							
427.316 Refuse Collection	211,000.00	200,500.00	10,500.00	105.24%	200,000.00	-500.00	-0.25%
427.317 Refuse - Billing Supplies	0.00	100.00	-100.00	0.00%		-100.00	-100.00%
427.325 Refuse - Billing Postage	0.00	900.00	-900.00	0.00%		-900.00	-100.00%
427.326 Billing Service-Collection		5,000.00	-5,000.00	0.00%		-5,000.00	-100.00%
Total 427 Public Works/Sanitation	\$ 211,000.00	\$ 206,500.00	\$ 4,500.00	102.18%	\$ 200,000.00	-\$ 6,500.00	-3.15%
429.000 Wastewater/Sewage							
429.011 WW/Sewage - PA One Calls			0.00			0.00	#DIV/0!
429.372 Sewage System Repairs			0.00			0.00	#DIV/0!
Total 429.000 Wastewater/Sewage	\$ 0.00	\$ 0.00	\$ 0.00		\$ 0.00	\$ 0.00	#DIV/0!
430 Public Works - Highways & Streets							
430.161 DPW FICA & Medicare	3,125.03	1,000.00	2,125.03	312.50%	5,661.00	4,661.00	466.10%
430.246 Streets	0.00	3,000.00	-3,000.00	0.00%	0.00	-3,000.00	-100.00%
430.320 PW Salary Supervisor	8,500.00	37,500.00	-29,000.00	22.67%	42,000.00	4,500.00	12.00%
430.321 PW Salary Laborer	32,350.00	29,750.00	2,600.00	108.74%	32,000.00	2,250.00	7.56%
430.322 Overtime	0.00	2,500.00	-2,500.00	0.00%	2,500.00	0.00	0.00%
430.325 FICA		4,400.00	-4,400.00	0.00%		-4,400.00	-100.00%
430.328 Life Insurance	0.00	1,000.00	-1,000.00	0.00%	1,000.00	0.00	0.00%
430.330 Unemployment	2,500.00	1,950.00	550.00	128.21%	2,000.00	50.00	2.56%
430.331 Uniforms	500.00	600.00	-100.00	83.33%	600.00	0.00	0.00%
430.335 Tools & Equipment		8,000.00	-8,000.00	0.00%	5,000.00	-3,000.00	-37.50%
430.336 Communications Equip	0.00	600.00	-600.00	0.00%	600.00	0.00	0.00%
430.341 Supplies		800.00	-800.00	0.00%	1,000.00	200.00	25.00%
430.342 Patching and Sealing		2,000.00	-2,000.00	0.00%	2,000.00	0.00	0.00%
430.343 Line Painting	0.00	500.00	-500.00	0.00%	500.00	0.00	0.00%
430.350 PW Fuel	3,300.31	7,000.00	-3,699.69	47.15%	7,000.00	0.00	0.00%
430.351 Vehicle & Equip Repairs & Maintenance		10,000.00	-10,000.00	0.00%	9,000.00	-1,000.00	-10.00%
430.352 Equipment Repair & Maint		8,000.00	-8,000.00	0.00%	0.00	-8,000.00	-100.00%
430.374 PW Bldg Maint		1,200.00	-1,200.00	0.00%	1,800.00	600.00	50.00%
430.384 Vehicle Lease/Purchase	0.00	30,000.00	-30,000.00	0.00%	20,000.00	-10,000.00	-33.33%
430.390 PW Health Care	0.00	15,000.00	-15,000.00	0.00%	0.00	-15,000.00	-100.00%
431.001 Recreation	0.00	500.00	-500.00	0.00%	0.00	-500.00	-100.00%
431.200 DPW Training/Conf	0.00	1,000.00	-1,000.00	0.00%	1,000.00	0.00	0.00%
434.361 Street Lights	9,254.00	9,254.00	0.00	100.00%	10,000.00	746.00	8.06%
434.374 Traffic Signal Maint	0.00	800.00	-800.00	0.00%	800.00	0.00	0.00%
Total 430 Public Works - Highways & Streets	\$ 59,529.34	\$ 176,354.00	-\$ 116,824.67	33.76%	\$ 144,461.00	-\$ 31,893.00	-18.08%
430.247 Borough Sidewalks		5,000.00	-5,000.00	0.00%	5,000.00	0.00	0.00%
486 Group Insurance & Other Benefits							
486.350 VI/PI/WC Ins	42,784.00	11,600.00	31,184.00	368.83%	50,000.00	38,400.00	331.03%
486.351 Liability Ins Public Office	5,898.00	1,500.00	4,398.00	393.20%	5,898.00	4,398.00	293.20%
486.352 Liability Police		1,518.00	-1,518.00	0.00%		-1,518.00	-100.00%
486.353 Workers Comp	132.00		132.00			0.00	#DIV/0!
486.354 VFD W/C		6,000.00	-6,000.00	0.00%	6,000.00	0.00	0.00%
486.357 PW Equipment	75.50	800.00	-724.50	9.44%	800.00	0.00	0.00%
486.359 PW Workers Comp	6,000.00	6,000.00	0.00	100.00%	6,000.00	0.00	0.00%
487.156 Retiree Hospitalization	0.00	7,000.00	-7,000.00	0.00%		-7,000.00	-100.00%
Total 486 Group Insurance & Other Benefits	\$ 54,889.50	\$ 34,418.00	\$ 20,471.50	159.48%	\$ 68,698.00	\$ 34,280.00	99.60%
489 Other Expenses							
462.420 Land Bank Fee - COG	1,500.00	1,500.00	0.00	100.00%	1,500.00	0.00	0.00%
489.200 Grant Expenses	25,000.00	25,000.00	0.00	100.00%	50,000.00	25,000.00	100.00%
489.202 DCED Equip & Web	32,900.00	23,600.00	9,300.00	139.41%	32,900.00	9,300.00	39.41%
489.203 Ballfield Capital			0.00			0.00	#DIV/0!
489.204 ERMVPD Grant Pass Through	107,000.00	0.00	107,000.00		63,000.00	63,000.00	#DIV/0!
489.205 UCC (Uniform Construction Code)	0.00	500.00	-500.00	0.00%		-500.00	-100.00%
489.450 Other Contracted Services			0.00			0.00	#DIV/0!
Total 489 Other Expenses	\$ 166,400.00	\$ 50,600.00	\$ 115,800.00	328.85%	\$ 147,400.00	\$ 96,800.00	191.30%
491 Refunds							
491.100 Refund of Prior Year Revenues	130.00	130.00	0.00	100.00%	130.00	0.00	0.00%
491.111 Refunds Tax Appeals	1,500.00	1,500.00	0.00	100.00%	1,500.20	0.20	0.01%
Total 491 Refunds	\$ 1,630.00	\$ 1,630.00	\$ 0.00	100.00%	\$ 1,630.20	\$ 0.20	0.01%
492 Transfers Out							

	2024 Year End Estimate	2024 Budget	2024 Yr end over (under) Budget	2024 year end as % of Budget	Proposed 2025 Budget	2025 Budget over (under) 2024 Budget	% change 2025 - 2024 Budget
492.008 Transfer to Capital Reserve	25,000.00	25,000.00	0.00	100.00%		-25,000.00	-100.00%
Total 492 Transfers Out	\$ 25,000.00	\$ 25,000.00	\$ 0.00	100.00%	\$ 0.00	-\$ 25,000.00	-100.00%
Bank Charges & Fees			0.00			0.00	#DIV/0!
Office Supplies & Software			0.00			0.00	#DIV/0!
Total Expenses	\$ 1,206,105.70	\$ 1,186,335.00	\$ 19,770.69	101.67%	\$ 1,269,305.00	\$ 82,970.00	6.99%
Net Income	-\$ 26,431.11	-\$ 101,600.00	\$ 75,168.89	26.01%	-\$ 24,643.10	\$ 76,956.90	-75.74%

	2024 Year End Estimate	2024 Budget	2024 Yr end over (under) Budget	2024 year end as % of Budget	Proposed 2025 Budget	2025 Budget over (under) 2024 Budget	% change 2025 - 2024 Budget
Income							
342 Interest and Rents							
342.001 Interest - Other	4,500.00	0.00	4,500.00	#DIV/0!	4,500.00	4,500.00	#DIV/0!
Total 342 Interest and Rents	\$4,500.00	\$0.00	\$4,500.00	#DIV/0!	\$4,500.00	\$4,500.00	#DIV/0!
361 Departmental Earnings							
378.100 Sewage	295,000.00	295,000.00	0.00	0%	295,000.00	0.00	0.00%
378.110 Sewage Surcharge	130,000.00	130,000.00	0.00	0%	130,000.00	0.00	0.00%
Total 361 Departmental Earnings	\$425,000.00	\$425,000.00	\$0.00	0%	\$425,000.00	0.00	0.00%
Total Income	\$429,500.00	\$425,000.00	\$4,500.00	1%	\$429,500.00	\$4,500.00	1.06%
Expenses							
408 Engineering Services							
408.313 Engineering Svc	12,000.00	0.00	12,000.00	#DIV/0!	12,000.00	12,000.00	#DIV/0!
Total 408 Engineering Services	\$12,000.00	\$0.00	\$12,000.00	#DIV/0!	\$12,000.00	\$12,000.00	#DIV/0!
429.000 Wastewater/Sewage							
429.001 ALCOSAN Treatment	400,000.00	400,000.00	0.00	0%	400,000.00	0.00	0.00%
429.010 WW/Sewage - Eng. Service	0.00	15,000.00	-15,000.00	-100%	0.00	-15,000.00	-100.00%
429.011 WW/Sewage - PA One Calls	12,000.00	12,000.00	0.00	0%	12,000.00	0.00	0.00%
429.372 Sewage System Repairs	10,000.00	17,000.00	-7,000.00	-41%	17,000.00	0.00	0.00%
Total 429.000 Wastewater/Sewage	\$422,000.00	\$444,000.00	-\$22,000.00	-5%	\$429,000.00	-\$15,000.00	-3.38%
492 Transfers Out							
492.001 Transfer to General Fund	8,890.00	8,890.00	0.00	0%	8,890.00	0.00	0.00%
Total 492 Transfers Out	\$8,890.00	\$8,890.00	\$0.00	0%	\$8,890.00	\$0.00	0.00%
Total Expenses	\$442,890.00	\$452,890.00	-\$10,000.00	-2%	\$449,890.00	-3,000.00	-0.66%
Net Income	-\$13,390.00	-\$27,890.00	\$14,500.00	-52%	-\$20,390.00	\$7,500.00	-26.89%

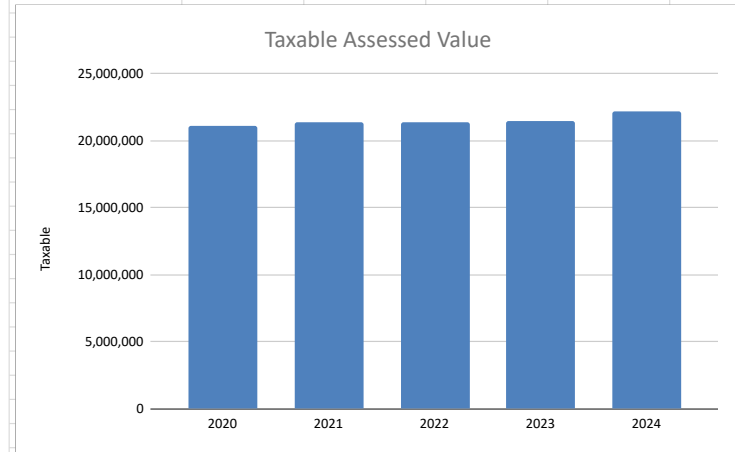
	2024 Year End Estimate	2024 Budget	over Budget	2024 year end as % of Budget	Proposed 2025 Budget	2025 Budget over (under) 2024 Budget	% change 2025 - 2024 Budget
Income							
342 Interest and Rents							
342.001 Interest - Other	125.00	0.00	125.00		125.00	125.00	#DIV/0!
Total 342 Interest and Rents	\$125.00	\$0.00	\$125.00	\$0.00	\$125.00	\$125.00	#DIV/0!
355 Intergovernmental Revenue							
355.051 Liquid Fuels	51,746.00	51,746.00	0.00	100.00%	51,746.00	0.00	0.00%
Total 355 Intergovernmental Revenue	\$51,746.00	\$51,746.00	\$0.00	100.00%	\$51,746.00	\$0.00	0.00%
Total Income	\$51,871.00	\$51,746.00	\$125.00	100.24%	\$51,871.00	\$125.00	0.24%
Expenses							
430 Public Works - Highways & Streets							
434.361 Street Lights	51,871.00	51,746.00	125.00	100.24%	51,871.00	125.00	0.24%
Total 430 Public Works - Highways & Str	\$51,871.00	\$51,746.00	\$125.00	100.24%	\$51,871.00	\$125.00	0.24%
Total Expenses	\$51,871.00	\$51,746.00	\$125.00	100.24%	\$51,871.00	\$125.00	0.24%
Net Income	\$0.00	\$0.00	0.00		\$0.00	\$0.00	#DIV/0!

RANKIN BOROUGH

Real Estate Taxes

AV per Alleg County	2020	2021	2022	2023	2024	2025 Projected	2020 Count	2021 Count	2022 Count	2023 Count	2024 Count
Exempt	16,949,500	16,931,500	16,941,900	15,090,300	13,218,700		103	102	102	104	106
PURTA	94,700	94,700	94,700	91,500	91,500		11	11	11	10	10
Taxable	21,163,290	21,358,490	21,355,990	21,484,190	22,211,290	22,655,516	777	777	777	779	728
% change in taxable from prior yr		0.0092	-0.0001	0.0060	0.0338	0.0200					

RANKIN BORO	9.6928	9.6928	9.6928	9.6928	9.6928	11.6928					
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one mill =	22,656						Total RET for Boro Budget	Collection Rate	
							264,906	0.92	\$243,714

tax per 1000 AV	\$ 9.6928	\$ 9.6928	\$ 9.6928	\$ 9.6928	\$ 9.6928	\$ 11.6928			
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Taxes per 10K AV						2025 Boro Tax:	Percentage Change	Dollar Change
10,000	\$96.93	\$96.93	\$96.93	\$96.93	\$96.93	\$116.93	20.63%	\$20.00
20,000	\$193.86	\$193.86	\$193.86	\$193.86	\$193.86	\$233.86	20.63%	\$40.00
30,000	\$290.78	\$290.78	\$290.78	\$290.78	\$290.78	\$350.78	20.63%	\$60.00
40,000	\$387.71	\$387.71	\$387.71	\$387.71	\$387.71	\$467.71	20.63%	\$80.00
50,000	\$484.64	\$484.64	\$484.64	\$484.64	\$484.64	\$584.64	20.63%	\$100.00
60,000	\$581.57	\$581.57	\$581.57	\$581.57	\$581.57	\$701.57	20.63%	\$120.00
70,000	\$678.50	\$678.50	\$678.50	\$678.50	\$678.50	\$818.50	20.63%	\$140.00
80,000	\$775.42	\$775.42	\$775.42	\$775.42	\$775.42	\$935.42	20.63%	\$160.00
90,000	\$872.35	\$872.35	\$872.35	\$872.35	\$872.35	\$1,052.35	20.63%	\$180.00
100,000	\$969.28	\$969.28	\$969.28	\$969.28	\$969.28	\$1,169.28	20.63%	\$200.00
110,000	\$1,066.21	\$1,066.21	\$1,066.21	\$1,066.21	\$1,066.21	\$1,286.21	20.63%	\$220.00
120,000	\$1,163.14	\$1,163.14	\$1,163.14	\$1,163.14	\$1,163.14	\$1,403.14	20.63%	\$240.00
130,000	\$1,260.06	\$1,260.06	\$1,260.06	\$1,260.06	\$1,260.06	\$1,520.06	20.63%	\$260.00
140,000	\$1,356.99	\$1,356.99	\$1,356.99	\$1,356.99	\$1,356.99	\$1,636.99	20.63%	\$280.00
150,000	\$1,453.92	\$1,453.92	\$1,453.92	\$1,453.92	\$1,453.92	\$1,753.92	20.63%	\$300.00
160,000	\$1,550.85	\$1,550.85	\$1,550.85	\$1,550.85	\$1,550.85	\$1,870.85	20.63%	\$320.00
170,000	\$1,647.78	\$1,647.78	\$1,647.78	\$1,647.78	\$1,647.78	\$1,987.78	20.63%	\$340.00
180,000	\$1,744.70	\$1,744.70	\$1,744.70	\$1,744.70	\$1,744.70	\$2,104.70	20.63%	\$360.00
190,000	\$1,841.63	\$1,841.63	\$1,841.63	\$1,841.63	\$1,841.63	\$2,221.63	20.63%	\$380.00
200,000	\$1,938.56	\$1,938.56	\$1,938.56	\$1,938.56	\$1,938.56	\$2,338.56	20.63%	\$400.00

RANKIN BOROUGH

Refuse and Health & Safety Fee

		Health Safety		Refuse		TOTAL	Cumulative	YTD	Collections
01/01/2024	Q1	25,519.65	897	55,212.78	658	80,732.43	80,732.43		
04/01/2024	Q2	25,519.65	897	55,212.78	658	80,732.43	161,464.86		
07/01/2024	Q3	25,519.65	897	55,212.78	658	80,732.43	242,197.29	202550.94	83.63%
10/01/2024	Q4	25,491.20	896	55,128.87	657	80,620.07	322,817.36		269,973.95
		102,050.15		220,767.21		322,817.36			
		31.61%		68.39%					
		102050.15		220767.21		322817.36			
collection rate 83.63%		85345		184629		269974			
Split									
ytd		64031		138520		202551			
q4		21318		46105		67423			
2024 year end est		85350		184624		269974			
Current Rates		Per quarter		Annualized					
Refuse	quarterly	83.91	4	335.64					
H & S	quarterly	28.45	4	113.8					
Total		112.36		449.44					
Penalty	after 30 days	5%							
Discount for annual bill				-30					
Total for annual bill				419.44					
	1 mill	1/2 mill			total bill	total bill			New Qrtly rate
One mill	22,656	11,328		refuse	335.64	335.64			83.91
Customers	896	896							
Increase-annual	25.29	12.64		health & safety	139.09	126.44			31.61
quarters	4	4							
quarterly inc.	6.32	3.16		total annual	474.73	462.08			115.52
			Increase \$	less disc	-30	-30	Increase \$	Increase %	
H & S Rate per Q	34.77	31.61	3.16	Net total	444.73	432.08	12.64	3%	

Appendix F

Appendix F List of Deadlines

Date	Activity	Type	Responsibility
September 1	Start budget process by providing forms to key staff and stakeholders to make requests	Budget	Manager
September 1	Notify PennDOT of added or deleted streets	Administration	Manager assigned to Engineer
September 15	Deadline to populate budget form with prior year actuals and current year end estimates	Budget	Manager
September 30	Submit the MMO to the Council for Approval	Pension Admin	Manager
October 1	Complete Revenue estimates for the upcoming year	Budget	Manager
October 15	Arrange for TCVCOG to do a delinquent collection notice to outstanding garbage and health and safety bills prior to turn over to delinquent collector (allows customers/residents to pay before delinquent collector fees increase their bills.	Administration	Manager
October 30	Complete Expenditures Estimates for upcoming year	Budget	Manager with assistance from departments and agencies (ie. regional police)
November 15	Present proposed budget for introduction to Borough Council; advertise any proposed tax rate changes	Budget	Manager
November 15	Establish and advertise any special budget workshop meetings	Budget	Manager
November 15 or no less than 30 days before planned budget adoption	Public View Budget in Borough Office, advertise proposed budget and planned adoption	Budget	Manager
November 20	Conduct any reviews needed with Council or other stakeholders	Budget	Manager
November 20-30 (typical period)	Establish tentative budget pending official action at next business meeting	Budget	Manager
November 30 (typical date)	Perform any final advertisting requirements	Budget	Manager with advice from Solicitor
December 1	Notify DCED of any new taxes or changes	Budget	Manager
December 15 or date of December business meeting	Budget and tax rate adoption	Budget	Manager
December 15 or date of December business meeting	Turn over delinquent garbage and health and safety fees to delinquent collector	Administration	Manager
December 31	Budget must be adopted or no spending allowed	Budget	Manager
January 1	Enter approved budget in general ledger to create the budget in the financial system	Budget	Manager
January (following a municipal election)	Budget may be reopened after a municipal election	Budget	Manager
January 15	Annual settlement of taxes for the preceding year.	Tax Collection	Tax Collector
January 15	Secure Payment in Lieu of Taxes payment from Allegheny County Housing Authority pursuant to Heritage Highlands redevelopment agreement	Administration	Manager
January 15	File the Municipality REport of Elected and Appointed Officials to DCED	Administration	Manager
January 31	File the Actual Use Report to PennDOT to qualify for annual liquid fuels allocation	Administration	Manager
02/05/2025	File the Survey of Financial Condition to DCED	Administration	Manager
February 15	If budget reopened, the amended budget must be advertised and adopted by this date	Budget	Manager
March 1	Act 13 Impact Fees budget due	Administration	Manager
April 1	Annual Financial Report is due to DCED and County Department of Record.	Administration	Manager
April 15	If Act 13 Impact fees are received, file the actual use report with the PUC	Administration	Manager

Appendix F List of Deadlines

Date	Activity	Type	Responsibility
Last day of April	Deliver listing of all properties with unpaid taxes and amounts from preceeding year to delinquent tax collector	Tax Collection	Manager with assistance from Tax Collector
May 1	Annual financial instrest statements from public officials and employees must be filed withthe Municipal Secretary (Manager)	Administration	Manager
Annually	File the Act 537 Annual Report, if required	Public Works	Engineer
Annually	Review Insurance Coverages, Complete Insurance Applications	Administration	Manager
Annually	Review all leases of borough land/property as well as all leases paid by the Borough such as equipment leases	Administration	Manager and supportive staff
Quarterly	File the quarterly Building Code Reports and fees to DCED	Administration	Manager
Quarterly	Request Aged Accounts receivable report from TCVCOG to monitor collection rates garbage and health and safety fee. Identify collection activities needed to deal with accounts of significant concern	Administration	Manager
Monthly	Complete bank reconciliations and present bank statements with reconciliation report to governing board (account numbers redacted)	Financial Management and Reporting	Manager
Monthly	Prepare Interim State of Financial Position for all funds (balance sheet)	Financial Management and Reporting	Manager
Monthly	Prepare Interim Statement of Revenues and Expenditures for all funds (income statement).	Financial Management and Reporting	Manager
Monthly	Prepare a list of bills to be paid for approval by Council at regular business meeting	Financial Management and Reporting	Manager
Monthly	Prepare a list of prepaid bills issued since last Council approval and payment of bills.	Financial Management and Reporting	Manager
Monthly	Prepare Minutes of REgular meeting and submit to Council for approval at next meeting	Administration	Manager
Monthly, by the Friday before the Regular business meeting	Prepare and post the agenda on the building, website, and email to all Council members	Administration	Manager
Bi-weekly	Process and deliver payroll to all employees	Financial Management and Reporting	Manager
Every odd-numbered year	File the Act 20 Pension form with the Auditor General office. Actuarial valuations for municipal pension plans	Pension Administration	Actuary
Before primary election (municipal election year)	Notify the County Elections board of all local offices that need to be filled	Administration	Manager with support from Solicitor
Before acquiring debt	obtain a Debt Limit calculation and certification from DCED.	Administration	Manager with support from Solicitor
This list is for training purposes only and may not reflect all deadlines and responsibilities. Consult the DCED Municipal Secretary Manual and other guidance documents for complete instructions.			

Appendix G

Contract #	Vendor Name	Vendor #	Business Category	Contract Desc	Awarded Date	Expiration Date	Address Line 1	Address Line 2	City	State	Zip Code	Contact Person	Phone	Email Address
035-E23-207	AVINED TECHNICAL FURNISHINGS INC	384826	Small Business	Furniture and Window Treatments	4/5/2023	4/5/2026	915 RAILROAD ST		SPRINGDALE	PA	15144-1726	BRIAN WAGNER	724-274-5470 Extn: 2	BWAGNER@AVINED.COM
035-E22-153	C M EICHENLAUB COMPANY	142246	Woman Business Enterprise	Furniture and Window Treatments	4/7/2022	4/7/2026	1500 ADMORE BOULEVARD	SUITE 303	PITTSBURGH	PA	15221	SHARON DELUCA	412-271-8346	SDELUCA@CME-CO.COM
034-E23-193	DAGOSTINO ELECTRONIC SERVICES INC	155331	Small Business	Theater (Auditorium) Furniture, Fixtures, Audio/Visual Equipment and Musical Instruments	2/16/2023	2/16/2026	600 MIFFLIN RD		PITTSBURGH	PA	15207-2026	TERESA COCKERAM	412-53-1-42	TCOCKERAM@DESCOMM.COM
034-E22-144	KOZI MEDIA DESIGN	539379	Small Business	Theater (Auditorium) Furniture, Fixtures, Audio/Visual Equipment and Musical Instruments	7/28/2022	7/28/2025	201 PENN CENTER BLVD STE 400		PITTSBURGH	PA	15235	CHRISTOPHER KOZIARSKI	724-882-1555	CHRIS@KOZIMEDIADDESIGN.COM
034-E23-197	OPEN SYSTEMS PITTSBURGH LLC	512656		Theater (Auditorium) Furniture, Fixtures, Audio/Visual Equipment and Musical Instruments	3/24/2023	3/24/2026	700 VISTA PARK DR		PITTSBURGH	PA	15205-1214	PHIL THOMPSON	412-78-7-28	PTHOMPSON@OSPITTSBURGH.COM
034-E22-151	PITTSBURGH STAGE INC	323072	Small Business	Theater (Auditorium) Furniture, Fixtures, Audio/Visual Equipment and Musical Instruments	8/30/2022	8/30/2025	2 SOUTH AVE		SEWICKLEY	PA	15143	DOUG FOWKES	412-53-4-45 Extn: 1	DOUGF@PITTSBURGHSTAGE.COM
034-E22-172	PRODUCTION CONSULTING GROUP LLC	402699		Theater (Auditorium) Furniture, Fixtures, Audio/Visual Equipment and Musical Instruments	11/30/2022	11/30/2025	504 BENEFICIAL DR		CRANBERRY TOWNSHIP	PA	16066	JEFF WALLER	412-76-0-35	JEFF@PRODUCTIONCONSULTINGGROUP.COM
034-E22-166	RPC VIDEO INC	149298		Theater (Auditorium) Furniture, Fixtures, Audio/Visual Equipment and Musical Instruments	10/19/2022	10/19/2025	50 ALLEGHENY RIVER BLVD		VERONA	PA	15147	BILL HAUS	412-82-8-14	BILL.HAUS@RPCVIDEO.COM
035-E22-178	TARGET OFFICE PRODUCTS INC	135598	Woman Business Enterprise	Furniture and Window Treatments	10/6/2022	10/6/2025	209 PARKWAY VIEW DRIVE		PITTSBURGH	PA	15205	JOSEPH KAIL	412-424-0088	JOEKAIL@TARGETOFFICE.COM
034-E22-142	TEXOLVE DIGITAL INC	373522	Small Business	Theater (Auditorium) Furniture, Fixtures, Audio/Visual Equipment and Musical Instruments	7/7/2022	7/7/2025	201 ANN ST STE A		OAKMONT	PA	15139	BRIAN GEUBTNER	724-33-7-16	BRIAN@TEXOLVE.COM
034-E23-215	TRI-STATE VIDEO SERVICES INC	179781		Theater (Auditorium) Furniture, Fixtures, Audio/Visual Equipment and Musical Instruments	11/30/2023	10/31/2025	1379 PITTSBURGH RD		VALENCIA	PA	16059-2349	MICHAEL GILES	724-898-1630	MIKE@TRISTATEVIDEO.COM
034-E22-136	TWISTED COMPUTING INCORPORATED	549560	Small Business	Theater (Auditorium) Furniture, Fixtures, Audio/Visual Equipment and Musical Instruments	5/5/2022	5/5/2026	2402 ROUTE 66		DELMONT	PA	15626	JEREMY NOLF	724-610-9986	JEREMY.NOLF@TWISTEDCOMPUTING.COM
034-E24-224	VAST ENTERPRISES INC	539053		Theater (Auditorium) Furniture, Fixtures, Audio/Visual Equipment and Musical Instruments	6/20/2024	6/20/2025	791 COMMONWEALTH DR		WARRENDALE	PA	15086-7520	JUDY O'DATA	412-93-9-75	JODATA@ALL-LINES-TECH.COM
035-E22-157	W.B. Mason Company, Inc.	363942		Furniture and Window Treatments	5/10/2022	5/10/2025	1700 N HIGHLAND RD STE 107		PITTSBURGH	PA	15241	GARY EGGERT	412-83-1-76 Extn: 1	GARY@PEMCOFURNITURE.COM

Appendix H

Appendix I

Rankin Borough
Deposit Form

Deposit Date: _____

[illegible]

Deposit Date _____

Bank Account / Fund _____

Attach copies of checks, tape and deposit ticket before filing.

Appendix J



Borough of Rankin
320 Hawkins Avenue
Rankin, PA 15104

VOUCHER

PAY TO: _____

REFERENCE NUMBER: _____

PURPOSE: _____

AMOUNT: \$ _____

ACCT CODING: _____

(add additional sheets as needed)

DATE: _____

COUNCIL

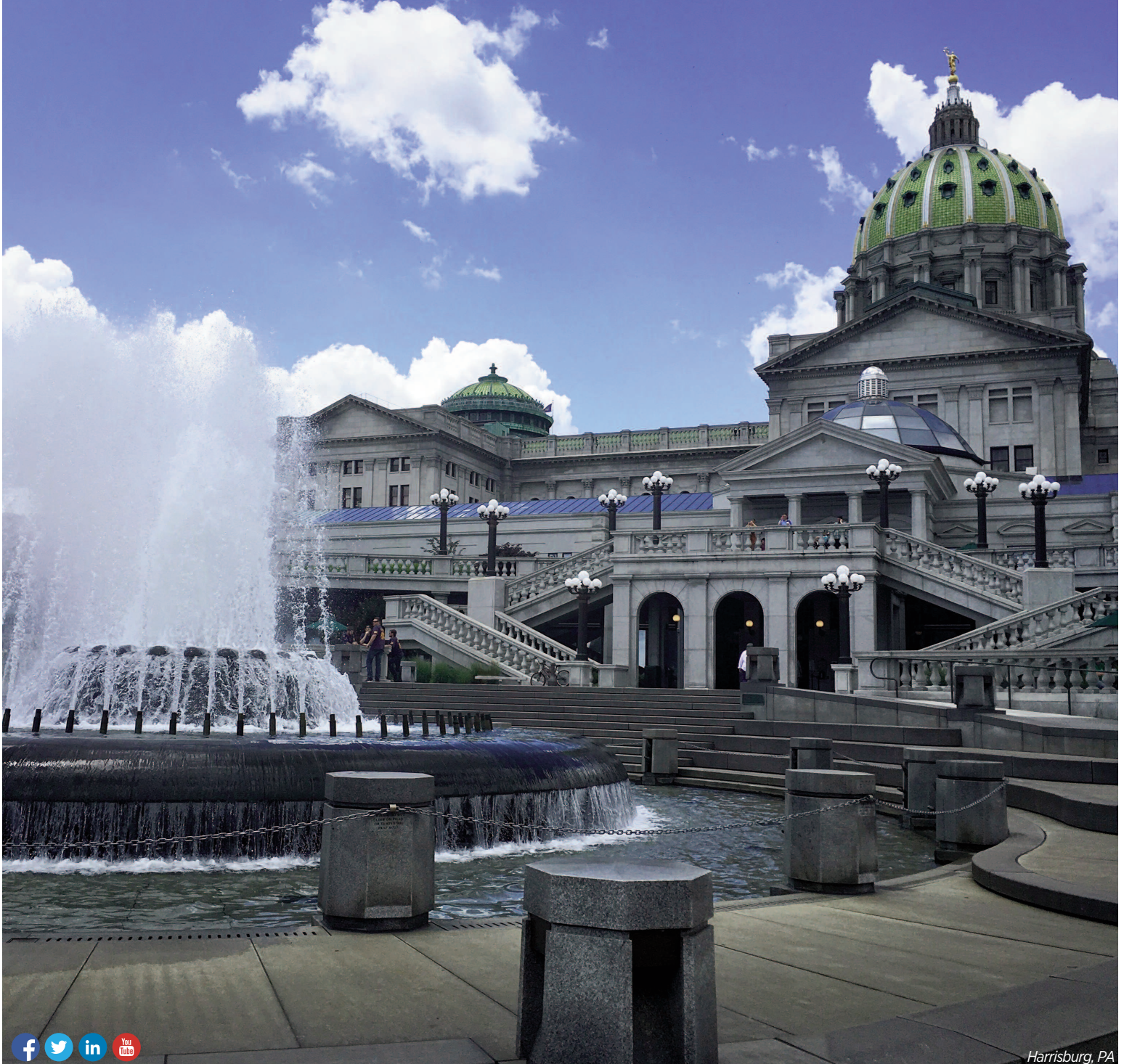
APPROVAL: _____

ATTACH SUPPORTING DOCUMENTS

Appendix K

PURCHASING HANDBOOK

Thirteenth Edition | February 2019



Harrisburg, PA

Comments or inquiries on the subject matter of this publication should be addressed to:

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The Department of Community and Economic Development recognizes Scott E. Coburn, General Counsel of the Pennsylvania State Association of Township Supervisors, for his contributions to the revisions of this publication.

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Foreword

One of the most critical responsibilities of municipal officials is ensuring that taxpayer funds are spent in an appropriate and lawful manner. For many reasons, municipal purchasing has become an increasingly complicated process. For example, each type of municipal government has its own laws addressing the manner in which it may acquire goods and services. In addition, over time the General Assembly has passed legislation directed at achieving specific economic or social goals or addressing concerns about actual or potential public corruption. The end result is a municipal purchasing process that requires compliance with many different state and federal laws. The *Purchasing Handbook* is intended to assist municipal officials, employees, and solicitors with navigating those laws.

Municipal officials should not take lightly their obligation to comply with municipal purchasing requirements. A municipal official may be subject to a surcharge action if there is financial loss to the municipality as a result of the official's acts or omissions in violation of law or beyond the scope of the official's authority.

Please note that the material in the *Purchasing Handbook* is for information purposes only. The material does not constitute legal opinion and should not be construed as such. The Department of Community and Economic Development is prohibited by law from rendering legal opinions to municipalities. Any questions regarding the legality of any municipality's general purchasing procedures or a specific proposed contract, purchase, or course of action should be brought to the attention of the municipality's solicitor or special counsel.

I. Goals of the Municipal Purchasing Process

Municipal purchasing has many important similarities to purchasing conducted by for-profit companies; municipalities and for-profit companies both have a desire to meet budgetary obligations and obtain quality goods and services in a timely manner. However, because public funds are used and the public has a right to know how the government's business is conducted, there is a heightened level of sensitivity to ensuring that municipal purchasing is carried out in accordance with all applicable laws and regulations and that budget limits are not exceeded.

To ensure that taxpayers are served by a municipality that runs efficiently and effectively, municipal officials should keep in mind the following best practices when spending public funds.

Purchase only necessary goods and services. An authorized person should prepare a written statement (such as a purchase request form) that identifies the need for the good or service to be purchased. For small purchases, this statement can be quite informal, but the explanation or justification should become more thorough and formal as the purchase price increases. For example, large purchases are often specifically explained and justified as part of the annual budgeting process.

Keep purchases within budgeted limits. Municipalities must remain aware of how and if proposed purchases fit within the overall municipal budget and the budget of the specific department requesting the good or service. To assist with that effort, the officer in charge of purchasing should identify the budget account code against which the purchase is to be applied and provide a statement that funds are available for this purchase. Officials should also ensure that departments are aware of changes to final approved budgets.

Use competitive purchasing as much as possible. It is wise to use competitive purchasing even when it is not required. Experienced municipal officials have learned that businesses “sharpen their pencils” to the benefit of municipalities and taxpayers when municipalities use a competitive process.

Obtain supplies in a timely manner. While checks and balances are important to safeguard public funds, public services suffer when procedures become too cumbersome and result in shortages or delays. Employees may react by buying extra items in advance rather than deal with excessive paperwork, which may lead to an unnecessary surplus of supplies. Therefore, municipalities need to plan ahead.

Ensure that the municipality is educated about current best practices and new technologies. To accomplish the goal of obtaining the best product at the best value, municipal officials should educate themselves about what is available to meet their municipality's needs before they simply purchase what they always have purchased.

Pay bills only for value received. The municipality should obtain a receiving report, a delivery ticket, or other written assurance from the vendor to use as evidence that it actually received the item. In addition, the municipality should also promptly inspect the item to ensure that it is in proper working order and is what was actually ordered.

Time purchases to accommodate the municipality's cash flow constraints. While the municipality's adopted budget is the main source of information for approved expenditure levels, all departments must be made aware that just because a proposed expenditure is “in the budget” does not mean cash is available. The use of formal purchase orders is one way to control the process. Small municipalities need not institute purchase orders if the same result can be achieved without them.

II. Exemptions from Bidding Requirements

Municipal purchases fall into two general categories: those for which competitive bidding is required by law, and those for which it is not. In general, purchases over \$19,100¹ require competitive bidding.² Purchases for which competitive bidding is not required fall into four general areas:

1. under the \$19,100 threshold;
2. specifically exempted from bidding requirements;
3. made under emergency conditions; and
4. made through cooperative purchasing programs such as the commonwealth's "COSTARS" program, which is explained in more detail in the section on Intergovernmental Purchasing.

Purchases Below Bid Threshold

Pennsylvania law does not require municipalities to engage in competitive bidding for contracts when the amount of the goods or services to be acquired does not exceed \$19,100.

However, municipalities cannot make purchases on a piecemeal basis (either a series of purchases over time or a number of simultaneous purchases) to avoid the competitive bidding threshold when, "in the exercise of reasonable discretion and prudence," those purchases could be made as a single purchase. If they do, county, city, borough, and township officials may be subject to a surcharge, which can be 10 percent of the full amount of the contract or purchase. Evasion of competitive bidding requirements is also considered a misdemeanor of the third degree for which imprisonment is a possible penalty.³

If the contract price falls between \$10,300 and \$19,100, municipalities (with some exceptions, such as third class cities) must obtain written or telephone price quotations from qualified and responsible contractors. If telephone price quotes are obtained, the municipality must retain a record of the quotes, which must include the name of the contractor and the contractor's representative, the subject of the contract, and the price. Records of written or telephone price quotes must be retained for three years. If fewer than three qualified vendors exist in the market area, the municipality must keep a memo on file that explains that fewer than three qualified contractors exist in the market area within which it is practical to obtain quotes.⁴

Informal price quotes are not required for purchases of \$10,300 or below, but they are a sound business practice and are recommended.

Purchases Exempted from Bidding Requirements

Each municipal code identifies certain types of purchases that do not require competitive bidding, regardless of the purchase price.⁵ Examples of those are set forth below:

1. Maintenance, repairs, or replacements for water, electric light, or other public works of the municipality if they do not constitute new additions, extensions, or enlargements of existing facilities and equipment. For example, a court determined that a project to clean the masonry exterior of a county courthouse was exempt because it involved maintenance.⁶ However, where a project involved building an addition to an electric generating facility, the court held that bidding was required.⁷
2. Improvements, repairs, and maintenance of any kind made or provided by the municipality through its own employees. However, all materials used for street improvement, maintenance, and/or construction projects that cost in excess of \$19,100 are subject to the bidding requirements. In addition, townships of the second class are exempt from bidding contracts that involve equipment rental, if more than 50 percent of the labor hours will be supplied by township employees.⁸

3. Purchases where particular types, models, or pieces of equipment, articles, apparatus, appliances, vehicles, or parts thereof are patented and manufactured or copyrighted products. This exemption is applicable to those items that are produced by only one manufacturer under patent or copyright protection and where there is absolutely no competitor manufacturing the same type or class of article such that it would be futile for the municipality to seek bids.⁹ Note that while a municipality can be as detailed as it wants in its specifications, the determination of whether an article is manufactured by only one company must be made through competitive bidding, not in advance by the governing body. This exemption does not apply to automobiles, even though they may contain a number of patented and manufactured parts.¹⁰ This exemption also does not apply to contracts for equipment systems if comparable systems are available elsewhere.¹¹ Townships of the second class are exempt from bidding requirements when purchasing repair parts or materials for use in existing equipment or facilities if the parts or materials are the sole item of their kind on the market or are manufactured as a replacement for the original item of equipment being repaired.¹²
4. Purchases of any insurance policies or surety company bonds and contracts made for public utility service, electricity, natural gas, or telecommunications service.¹³
5. Purchases of any public utility service under tariffs on file with the Pennsylvania Public Utility Commission. Townships of the second class may also purchase used equipment, vehicles, etc. from a public utility, municipal corporation, county, school district, municipal authority, council of government, or state or federal government without using the bidding process.¹⁴
6. Intergovernmental contracts made with another political subdivision or county, the state or federal government or any of their agencies, or any municipal authority.¹⁵ Municipal purchases through state contracts under the COSTARS program are exempt from advertising and bidding requirements.¹⁶
7. Contracts for purchase of personal or professional services, including, but not limited to, those provided by lawyers, engineers, auditors, and accountants.¹⁷ This exemption applies to services where quality is a paramount concern and which require recognized professional and special expertise. That expertise does not necessarily require graduate studies or state certification or licensure. For example, a court held that cost management services involving data processing software to monitor county telephone lines required specialized skill, technology, and training and therefore qualified for exemption.¹⁸ A construction management contract was likewise found to be exempt because it created a special relationship between the public entity and the contractor, who became, in effect, the entity's agent.¹⁹ Contracting requirements do not apply to the appointment and compensation of statutory public officers, such as municipal solicitors,²⁰ or to the designation of bank depositories for public funds.²¹ This exemption was extended to include contracts for ambulance service.²² However, contracts for garbage collection must be awarded through competitive bidding, even where the collector bills households directly and no money goes through the public treasury.²³
8. Purchases of real estate are negotiable.²⁴ Similarly, leases of public property do not require bidding because they do not involve the expenditure of public funds.²⁵ However, an agreement to use a landfill does not constitute a lease of real estate because it is considered a service.²⁶
9. County contracts with nonprofit cooperative hospital service associations for county homes or hospitals or those affiliated with the county in purchasing arrangements.²⁷

Municipal officials should be very cautious when asserting one of these exemptions because competitive bidding requirements are a well-established public policy intended to prevent fraud and favoritism and to protect public funds. Therefore, exemptions are narrowly construed, which means that if the court has any doubt as to the applicability of the exemption, it must rule in favor of requiring public bidding.²⁸

Even if a purchase is exempted from the competitive bidding process, municipalities may still decide to bid the contract or obtain competitive quotes for prices and services through a Request for Proposals (RFP) process, such as that outlined in the Purchasing Professional Services section of this handbook. This is the customary process for evaluating the costs and services of professionals, such as solicitors, engineers, or certified public accountants.

Once a governmental agency chooses to use a competitive bidding process when it is not required, the agency must continue to use the process through the award of the contract.²⁹ This rule was applied to local governments in a case involving the award of retail concessions at the Greater Pittsburgh International Airport.³⁰ It was again applied when Berks County advised bidders that a contract for waste disposal would be awarded to the most economical bid, even though strict adherence to the statutory bidding requirements was not required.³¹

Purchases Made under Emergency Conditions

The Emergency Management Services Code permits political subdivisions to carry out disaster emergency management, response, and recovery activities without regard to statutory purchasing requirements.³²

A “disaster emergency” must actually or likely meet all the following criteria:

1. seriously affect the safety, health, or welfare of a substantial number of citizens of the commonwealth or preclude the operation or use of essential public facilities;
2. be of such magnitude or severity as to render essential the commonwealth’s supplementation of county and local efforts or resources exerted or used in alleviating the danger, damage, suffering, or hardship faced; and
3. caused by forces beyond the control of man, by reason of civil disorder, riot, or disturbance or by factors not foreseen and not known to exist when appropriation bills were enacted.³³

Disaster emergencies declared by the commonwealth may continue for 90 days unless renewed by the governor. The General Assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. In addition, the mayor or chief executive of a city or the board of commissioners of a county may declare an emergency by issuing a proclamation or adopting a resolution, respectively.³⁴ Local declarations of a disaster emergency cannot exceed seven days except by consent of the governing body.

The municipal codes do not expressly delegate to governing bodies the ability to bypass competitive bidding requirements in cases of disaster emergency. However, Pennsylvania courts have held that municipal officials may do so where “immediate action” is necessary to correct a dangerous situation and there is insufficient time to advertise for bids.³⁵ This does not include situations in which there is a potential problem that does not require instant action or where there is an ongoing condition that has not been remedied.

Petty Cash Purchases

From a practical standpoint, nearly every municipality should have a petty cash fund to handle small disbursements for postage, small quantities of minor office supplies, overnight shipping charges, and similar items. The items purchased from a petty cash fund must be accounted for, and the expenditures must be reflected in the municipality’s financial records. A relatively simple method of petty cash control will satisfy accounting and auditing requirements, yet avoid placing an unduly heavy burden on the municipal secretary or treasurer.

A petty cash system should be established by authority of the governing body. Major steps to initiate a petty cash system include the following:

- Designate a petty cash custodian, usually the secretary, treasurer, or clerk.
- Determine the amount needed, which will vary depending on the specific needs of the individual municipality; an amount of \$100 to \$200 is usually appropriate.
- Prepare a petty cash book to record all petty cash transactions.
- Write a check from the general fund to the person responsible for management of the petty cash fund.
- As expenditures are made, record the amounts and the applicable account numbers. Keep vouchers and receipts.
- Periodically write further checks to the responsible person in order to replenish the fund.

There are numerous cautionary reminders when handling petty cash. Petty cash should be used only for small expenditures of an immediate nature where payments must be made on the spot. All other expenditures should be brought before the governing body for approval. In addition, avoid buying ordinary office supplies with petty cash; municipalities nearly always can obtain a better price by buying such items in quantity using the normal purchasing process.

REFERENCES

1. Pursuant to Act 84 of 2011, adjustments to the bidding thresholds will be made on an annual basis (for the period ending September 30 of each year). Those adjustments will be based on the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the U.S. Department of Labor, Bureau of Labor Statistics. 8 Pa.C.S.A. § 1402(a.2) (Borough Code, Section 1402(a.2)); 16 P.S. § 1801(b.1) (County Code, Section 1801(a)); 53 P.S. § 36903.1(a) (Third Class City Code, Section 1903.1(a)); 53 P.S. § 56802(a.2) (First Class Township Code, Section 1802(a.2)); 53 P.S. § 68102(b.1) (Second Class Township Code, Section 3102(b.1)). The amounts used in this handbook are adjusted as of September 30, 2013.
2. 8 Pa.C.S.A. § 1402(a) (Borough Code, Section 1402(a)); 16 P.S. § 1801(a) (County Code, Section 1801(a)); 53 P.S. § 36901.1 (Third Class City Code, Section 1901.1); 53 P.S. § 56802(a) (First Class Township Code, Section 1802(a)); 53 P.S. § 68102(a) (Second Class Township Code, Section 3102(a)).
3. 8 Pa.C.S.A. § 1403(a) (Borough Code, Section 1403(a)); 16 P.S. § 1803(a) (County Code, Section 1803(a)); 53 P.S. § 36902 (Third Class City Code, Section 1902); 53 P.S. § 56803(a) (First Class Township Code, Section 1803(a)); 53 P.S. § 68104(a) (Second Class Township Code, Section 3104(a)).
4. 8 Pa.C.S.A. § 1401(a.1) (Borough Code, Section 1401(a.1)); 16 P.S. § 1801(b) (County Code, Section 1801(b)); 53 P.S. § 56802(a.1) (First Class Township Code, Section 1802(a.1)); 53 P.S. § 68102(b) (Second Class Township Code, Section 3102(b)).
5. 8 Pa.C.S.A. § 1402(d) (Borough Code, Section 1402(d)); 16 P.S. § 1802(h) (County Code, Section 1802(h)); 53 P.S. § 36901.4(b) (Third Class City Code, Section 1901.4(b)); 53 P.S. § 56802(d) (First Class Township Code, Section 1802(d)); 53 P.S. § 68102(h) (Second Class Township Code, Section 3102(h)).
6. *Heiges Masonry, Inc. v. Adams County*, 24 D.&C.3d 315 (Adams C.C.P. 1981).
7. *Gerhart v. Getz*, 45 Lanc. 314 (Lanc. C.C.P. 1936).
8. 53 P.S. § 68102(h)(6) (Second Class Township Code, Section 3102(h)(6)).
9. *Knapp v. Miller*, 34 D.&C.2d 380 (Allegheny C.C.P. 1963).
10. *Coleman v. Stevenson*, 72 D.&C.2d 499 (Mercer C.C.P. 1974).
11. *In re 1985 Washington County Annual Financial Report Surcharge*, 601 A.2d 1223, 529 Pa. 81 (1992).
12. 53 P.S. § 68102(h)(7) (Second Class Township Code, Section 3102(h)(7)).
13. *Johnson v. Horsham Tp.*, 54 Mun. 265 (Montgomery C.C.P. 1962); *Downing v. City of Erie*, 32 Erie 211 (Erie C.C.P. 1948).
14. 53 P.S. § 68102(h)(8) (Second Class Township Code, Section 3102(h)(8)).
15. *Griffith v. McCandless Tp.*, 77 A.2d 430, 366 Pa. 309 (1951).
16. *Schaefer v. Hilton*, 373 A.2d 1350, 473 Pa. 237 (1977).
17. *Doverspike v. Black*, 535 A.2d 1217, 126 Pa. Cmwlth. 1 (1988), *aff'd*, 541 A.2d 1191, 126 Pa. Cmwlth. 11 (1988).
18. *In re 1983 Audit Report of Belcastro*, 595 A.2d 15, 528 Pa. 29 (1991).
19. *Malloy v. Boyertown Area School Bd.*, 657 A.2d 915, 540 Pa. 308 (1995).
20. *Snyderwine v. Craley*, 254 A.2d 16, 434 Pa. 349 (1969).
21. *Latsnic v. Canon-McMillan School Dist.*, 69 D.&C.2d 499 (Washington C.C.P. 1975).
22. *Emergency Care Unit v. Second Alarmers Ass'n*, 10 D.&C.3d 472 (Montgomery C.C.P. 1979).
23. *Yohe v. City of Lower Burrell*, 208 A.2d 847, 418 Pa. 23 (1965).
24. *Gladwyne Colony, Inc. v. Lower Merion Tp.*, 187 A.2d 549, 409 Pa. 441 (1963).
25. *Gaab v. Borough of Sewickley*, 692 A.2d 643 (Pa. Cmwlth. 1997).
26. *Fassman v. Whitehall Tp.*, 60 Mun. 47 (Lehigh C.C.P. 1968).
27. 16 P.S. § 1802(h)(6) (County Code, Section 1802(h)(6)).
28. *Doverspike v. Black*, 535 A.2d 1217, 126 Pa. Cmwlth. 1 (1988), *aff'd*, 541 A.2d 1191, 126 Pa. Cmwlth. 11 (1988).
29. *American Totalisator Co., Inc. v. Seligman*, 384 A.2d 242, 34 Pa. Cmwlth. 391 (1977), *aff'd*, 414 A.2d 568, 489 Pa. 568 (1980).

30. *Lasday v. Allegheny County*, 453 A.2d 949, 499 Pa. 434 (1982).
31. *Stapleton v. Berks County*, 593 A.2d 1323, 140 Pa.Cmwlth. 523 (1991), *appeal denied*, 604 A.2d 251, 529 Pa. 660 (1992).
32. 35 Pa.C.S.A. § 7501(c-d).
33. 35 Pa.C.S.A. § 7102.
34. 35 Pa.C.S.A. § 7501(b).
35. *Appeal of Lasky*, 475 A.2d 966, 82 Pa.Cmwlth. 516 (1984); *In re Muhlenberg Tp. Supervisors' Appeal*, 45 Berks 241 (Berks C.C.P. 1953); *Upper Darby Tp. v. Ramsdell Construction Co.*, 51 D.&C. 246 (Delaware C.C.P. 1943).

III. Bidding Procedures

Once municipalities determine that they need competitive bids, they must then formally advertise for bids from interested parties. Normally, the advertisement and invitation to bid are prepared by the municipal solicitor or a consultant; however, it is advisable for elected officials to take part in the process so that they can be sure that the governing body's priorities and requirements are incorporated into the advertisement.

Advertising for Bids

The Newspaper Advertising Act lays out a uniform set of qualifications for publications where advertisements for bids may be posted (each municipal code includes related procedures and requirements).¹ It also requires publications to fix and establish rates for official, legal, and all other kinds of advertising. All publications must furnish, upon request, detailed schedules of their rates and charges in effect at the time of the request. Publications are required to give notice when they increase their rates and charges for advertising, and they must do so prior to accepting payment for such advertising.²

All of the municipal codes require municipalities seeking bids to publish a notice in at least one newspaper of general circulation printed and circulating within the municipality. If no newspapers meet both requirements, municipalities may publish the notice in a newspaper circulating generally in the jurisdiction. Boroughs may place notices in newspapers printed outside the borough if their circulation is equal to or greater than that of any newspaper published within the borough.³ If notice must be published in more than one newspaper, townships must publish in at least one newspaper of general circulation printed in the municipality if there is one.⁴ The Newspaper Advertising Act requires that advertising involving a road, street, highway, bridge, municipality, village, or boundary include the common, local, or general usage designation so that the advertising can be readily understood by the people of the area involved.⁵

Once a municipality determines the newspapers in which it must place notices, it must then ensure that it complies with the applicable timing requirements. Each municipal code specifies minimum requirements for the number and timing of advertisements; each also provides for the time at which the bids will be opened. Municipalities should follow specific advertising requirements over any general advertising requirements.⁶ They should also allow at least two weeks for small projects and up to several months for large and complex projects to ensure that prospective bidders see the advertisement. On large projects, it is often desirable to also advertise in trade journals that have a general readership among the contractors, manufacturers, or dealers who provide the material or services sought in order to expand the number of quality bids received.

For counties, notice for bids must appear in one newspaper of general circulation, published or circulating in the county, at least two times, at intervals of not less than three days for daily newspapers, or where weekly newspapers are used, then the notice must be published once a week for two successive weeks. The first advertisement must be published no fewer than 10 days before the date set for opening bids.⁷

For cities, notice for bids must appear two times, on different days, in no more than two newspapers. The first advertisement must be at least 10 days before the date set for opening bids. A copy of the notice must be posted in the city office designated by council.⁸

For boroughs and townships, notice must be published at least two times in daily newspapers at intervals of not less than three days. If weekly newspapers are used, notice must be published once a week for two successive weeks. The first advertisement must be published not more than 45 days and the second advertisement not less than 10 days before the date set for opening bids. In addition, a copy of the notice must be posted in a conspicuous place within the borough or township.⁹

The advertisement should be clearly written. At a minimum, it must contain the following items:

- Name and address of the municipality requesting the services or material.
- Name and address of the person authorized to receive the bids.
- The time, date, and place set for opening bids.
- A brief description of the desired work, its scope and location, and the completion date.
- Restrictions relative to submission, change, or withdrawal of bids.
- The location and time where plans and specifications may be received by the contractors, provisions for a deposit on the plans, and recovery of the deposit when the plans are returned.
- Name and address of the engineer, architect, or other professional consultant responsible for managing the project on behalf of the municipality.
- Deadline for receipt of bids if it will be before the time and date of bid opening.
- Confirmation as to whether the purchase price can include an allowance for trade-ins of used equipment or vehicles where applicable.
- The time period within which bids will be considered valid. If, for some reason, the municipality has not awarded the bid within that time, new bids must be submitted.

Separation of Bids

When preparing for the erection, construction, and alteration of any public building, a municipality must prepare for separate bids for the plumbing, heating, ventilating, and electrical work if the entire cost of the work exceeds \$19,100, except in the case of boroughs, for which separate bids are optional.¹⁰ In third class cities, the same also applies to elevators, escalators, and all other work.

When separate bids are required, the municipality must receive separate bids on each type of work and award the contract to the lowest responsible bidder for each type. Municipalities cannot work through a single prime contractor that awards bids for the separate types of work.¹¹

Bidders' Instructions

Municipalities should supply prospective bidders with a set of instructions, which provide identical information about what is expected in the bid. Bidders' instructions are important documents. Where instructions are promulgated by municipal officials, and bidders are informed of conditions in the instructions, these become mandatory conditions that must be met by both sides; otherwise, the bid is void.¹² Violations of bidders' instructions constitute legally disqualifying errors, and a municipality must reject a bid for such errors. Moreover, an attempt by a bidder to cure bidding defects after bids are opened may be properly refused by a municipality. A defective bid cannot be remedied once the bids are opened.

However, a municipality can reserve the right to waive defects in the bidding process. Waiving a defect is not an automatic violation of competitive bidding rules.¹³ The test is whether waiving defects causes the bidding process to become noncompetitive.¹⁴ In addition, if the municipality specifically states that it will not waive a defect, it cannot then do so.¹⁵ Mandatory compliance with statutory procedures and bid instructions serves the goal of awarding contracts fairly and economically. Clear-cut ground rules for competition guarantee none of the contractors will gain an undue advantage through better information regarding the municipality's operation, and strict adherence lessens the possibility of fraud and favoritism.¹⁶ The instructions should follow the same format as the advertisement but go into more detail and include a standard set of bid forms for each bidder.

The following topics should be considered by the municipal governing body when preparing bidders' instructions:

Preparation of Proposal. To eliminate confusion and ensure that all bids are consistent, insist that the blank forms furnished are used and that all blank spaces are completed.

Qualifications. Insert a clause in the instructions stating that the municipality may examine qualifications of the bidder and request additional information and data from the bidder. Non-collusion affidavits under the Antibid-Rigging Act may be required; failure to supply them can be grounds for disqualification.¹⁷

Withdrawal. This addresses the right of any bidder to withdraw its bid as long as a written request is received by the municipality prior to the time and date that the bids are opened. See the Withdrawal of Bids section in this handbook for additional information.

Bid Bond. Specify the amount and form of the bid bond or other security and the method of its return to unsuccessful bidders. See the Contract Contents section in this handbook for additional information.

Performance Bond. Specify the amount and type of performance bond or other security required as well as insurance requirements. See the Contract Contents section in this handbook for additional information.

Marking Bids. State that bidders should clearly mark and identify bidding documents so they are not opened inadvertently before the time for opening bids.

Naming of Subcontractors. To avoid unforeseen changes, require every bidder to identify its principal subcontractors and prohibit them from changing subcontractors without the prior approval of the municipality. The municipality should maintain a list of persons ineligible for participation in contracts or subcontracts under the Antibid-Rigging Act and furnish a copy upon request to prospective bidders.¹⁸

Interpretations. All bidders must be treated as equally as possible. The instructions should contain a clause indicating that any questions or interpretations of the plans, specifications, or other documents must be provided to the municipality or its consultant in writing prior to a specified date. Written responses to the questions should be provided to all bidders.

Bidders' Obligations. The instructions should state that the bidder is presumed to have investigated and examined the plans and all other contract documents, as well as the site, if applicable, and it is assumed the bid is made with the bidder's full knowledge and understanding of the conditions of the work.

Lowest Qualified Bidder. The municipality should specify that the lowest qualified bidder will be awarded the contract. The municipality can reserve the right to reject all bids in the advertisement or bidders' instructions, so that contractors have written notice that this right has been reserved.

Bid Changes. Describe methods and restrictions for making changes to bidding documents. Material changes in specifications should be advertised in order to provide an opportunity to prospective bidders who may have chosen not to bid under the original specifications. All changes must be mailed to all bidders who have already picked up the bidders' instructions and specifications.

Specifications

The specifications provide the common standards by which municipalities evaluate received bids. They must be made available to all entities and individuals who want to compete for the contract. Municipalities cannot change the specifications without readvertising.¹⁹ Municipal officials cannot reject a bid by the lowest qualified bidder if it meets the specifications, nor can they award a bid to a party submitting a bid for something other than the specified product.²⁰ A wide departure from the specifications in the terms of the contract can invalidate it.²¹

When preparing specifications, consider the fundamental issue of how much detail is too much or too little. If the specifications are too loosely drawn, then the municipality will likely fail to receive the desired results. However, if they are unnecessarily restrictive, then contractors will likely bid higher than what might be otherwise necessary in order to protect themselves.

The purpose of good specifications and standards is to provide information to enable the successful bidder to complete the project as desired by the municipality at a reasonable cost. The only basis contractors have for judgment is through their understanding of the plans and specifications. Municipal officials should consider the following issues when preparing their specifications:

Clarity. The contractor and municipality's agent, such as an engineer, must be able to understand what the municipality wants. When a project is under way, they are responsible for ensuring that the contract is fulfilled. If the requirements are not clear, then disagreements and friction could occur, which will require excessive time and costs.

Definite Requirements. Occasionally it is necessary to include a statement that some portion of the labor and materials is to be furnished "as the engineer shall direct." However, such a statement gives contractors little or no basis for making a bid and will only increase the cost of a project. In addition, sometimes specifications may appear to be definite requirements when, in fact, they are not. Consider, for example, a specification for 100 cubic yards of earth fill. The amount of earth will vary greatly, depending on whether it is measured before or after compaction at the delivery site or measured by computations made at the borrow area.

Standards. The use of standard specifications is encouraged whenever possible. The American Society for Testing Materials (ASTM) publishes a multivolume set of standards for nearly every category of construction materials. Other various organizations and trade groups, such as the National Institute of Standards and Technology, National Association of State Procurement Officials, Asphalt Institute, Ductile Iron Pipe Research Association, Portland Cement Association, and the National Corrugated Steel Pipe Association, provide a similar assistance.

The specifications produced by trade associations and technical societies have generally been refined after years of testing and experience. Because of their technical quality and the fact that bidders are familiar with them, standard specifications usually provide benefits because they reduce uncertainties and generate a more favorable set of bids. Another convenience of using widely known, standard specifications is that municipalities can simply refer to them rather than reprint them in a bidding document.

In addition, nearly all large manufacturers have developed and are willing to supply standard specifications for their products. If you wish to use them, you should request specifications from several of them and combine the best features from each. It will usually be necessary to broaden the specifications so that a minor, but unique, feature of one particular product will not eliminate all competition. For example, a specification received from a manufacturer for a lighting standard may specify "the arm shall be fastened to the pole by means of hex head bolts and nylon insert lock nuts." Including this statement in the specifications might eliminate all competition. Thus, a better specification in this example might state the required strength and vibration resistance of the mounting rather than the specific nuts and bolts to be used.

Brand Names. Municipalities may wish to include one or more preferred brand names in the specifications, but they should be accompanied by an "or equal" clause. This type of specification has been upheld as not unduly stifling competition.²² However, it is unlikely that the municipality or its consultant will be aware of all appropriate items for a particular job. In addition, allowing contractors an opportunity to express ideas about options is good practice and could improve the overall project. But, the specifications should state that contractors must name in their bids the brands they intend to use. Such a commitment cannot change after the contract is signed, which has the effect of ensuring the contractor obtains the best prices beforehand and incorporate them into the bid. If the contractor is able to shop around after the contract award, the contractor, not the municipality, benefits.

Local Preference. Any requirement of a local source of supply should be avoided unless it is clearly necessary, such as contracts involving service to equipment. In one case, language in the specifications stating that preference will be given to local materials and labor whenever possible was found to be proper only because the provision was not absolute and unconditional and did not improperly restrict the prospective contractors.²³ In another case, specifications limiting the source of labor were held to conflict with the requirement that the contract be let to the lowest responsible bidder if the limit would increase the cost of the project.²⁴

Electronic Bidding

Pursuant to the Local Government Unit Bidding Act, counties, cities, townships, boroughs, and other units may receive bids electronically if they have the electronic capability to maintain the confidentiality of the bids until it is time to open them. The invitation for bids must reference that bids will be received by electronic auction; public notices and advertisements must be made and given in the same manner as other notices and advertisements.²⁵

In addition, if the municipality determines by resolution that the use of competitive electronic auction bidding is in its best interests, then it may engage in such bidding. Bidders must be allowed to view their bid rank and the low bid price and may reduce their bids during the auction. The municipality must make the record of bid prices and names of each bidder open to public inspection at the end of the auction. Contracts must be awarded within 60 days of the auction.²⁶

Furthermore, townships of the second class are permitted to dispose of personal property valued at \$1,000 or more by online or electronic auction sales. The price must be paid immediately or at a reasonable time after the conclusion of the auction.²⁷

Awarding Bids

The award of contracts must be made by public announcement at the meeting at which bids are received, or at a subsequent meeting, the time and place of which must be publicly announced when bids are received.²⁸ If for any reason one or both of the meetings are not held, the same business may be transacted at a subsequent meeting, if at least five days' notice is provided by boroughs and townships of the second class and six days' notice is provided by townships of the first class. The deadline for receiving bids may be set a few hours prior to the bid opening to allow preparation of a bidders list or tabulation sheet.

Borough councils and township boards may direct a committee of the governing body, a member of the governing body, or a staff person to receive, open, and review bids during normal business hours. The information is then forwarded to the entire council or board for subsequent consideration and award at a public meeting. When this option is exercised, municipalities must notify bidders and other interested parties of the date, time, and location where the bid opening will take place. Bidders and other interested persons have the right to be present when bids are opened.

All contracts involving competitive sealed bidding must be awarded within 60 days of the date that bids were opened.²⁹ Where approval is required by another governmental agency, bonds must be sold, or a grant must be received, the award must be within 120 days of the date that bids were opened.³⁰ Extensions of the deadline may be made by mutual written consent of the municipality and the lowest responsible bidder.³¹

Lowest Responsible Bidder. When evaluating bids, the governing body has a duty to determine the "lowest responsible bidder." Courts have defined that term as meaning more than being pecuniarily responsible enough to carry on the work. It includes other things such as promptness, faithfulness, and the capacity and ability to do the work according to the plans and specifications.³² Determining the lowest responsible bidder is a matter for the sound discretion of the municipal officials. However, awarding a contract without a full and careful investigation constitutes an abuse of discretion. Where a full investigation discloses a substantial reason for exercising discretion, the municipality may award the contract to a higher bidder.³³ The test for whether a municipality properly awarded a bid to a higher bidder is whether it acted without caprice and after a full investigation.³⁴ Where the lowest bidder has been bypassed without any investigation, the courts have upheld surcharges against municipal officers.³⁵

Clearly, to qualify as the lowest bidder, the bidder must also meet the municipality's specifications. The municipality does not have to award the bid to the lowest bidder if that bidder fails to meet the specifications.³⁶ However, if the lowest bidder meets the specifications, the municipality cannot reject the lowest bid if doing so will in effect amount to a change in the proposal.³⁷ The municipality can legitimately include the availability of service in its specifications for a vehicle and refuse to award the bid to the lowest monetary bidder who fails to offer adequate service.³⁸

Bid Negotiations. A municipality may not negotiate privately with a successful bidder to effectively change the terms and conditions of the bid.³⁹ This practice violates competitive bidding rules and voids the contract. Likewise, private meetings and negotiations with some bidders to the exclusion of others after bids are opened and before a contract is awarded constitute favoritism and give an unfair advantage.⁴⁰ However, a municipality did not engage in prohibited post-bid negotiations by merely correctly adding together itemized prices to generate an accurate bid base and confirming with a bidder that the lower figure was accurate.⁴¹

Negotiations Regarding Amendments. Municipalities cannot ignore competitive bidding requirements by negotiating amendments to the price of a contract where the price term is definite, even if the negotiated price would result in savings, without putting the contract out for bid.⁴²

Unsatisfactory Bid Outcomes

Rejecting All Bids. A municipality can reject all bids when it reserves the right to do so in the advertisement or specifications.⁴³ However, there should be a good reason for doing so.

Lack of Bids. When a municipality advertises for bids and receives none, the municipality must rebid. If the municipality receives no bids within 45 days of the second advertisement, then it may negotiate the purchase price of the item.⁴⁴

Challenges to Bid Awards

Pennsylvania courts have long held that disappointed bidders have no standing to challenge the bidding process.⁴⁵ However, a taxpayer has standing if certain criteria are met.⁴⁶ The courts have established the following guidelines:

- The governmental action would otherwise go unchallenged.
- Those directly and immediately affected by the expenditures in question are beneficially affected and not inclined to challenge the action.
- Judicial relief is appropriate.
- Redress through other channels is unavailable.
- No other persons are better situated to assert the claim.

A disappointed bidder still has standing to challenge if it is also a taxpayer.⁴⁷

REFERENCES

1. 45 Pa.C.S.A. § 301 et seq.; 8 Pa.C.S.A. § 109 (Borough Code, Section 109); 16 P.S. § 110 (County Code, Section 110); 53 P.S. § 35109 (Third Class City Code, Section 109); 53 P.S. § 55110 (First Class Township Code, Section 110); 53 P.S. § 65109 (Second Class Township Code, Section 109).
2. 45 Pa.C.S.A. § 304.
3. 8 Pa.C.S.A. § 109(a) (Borough Code, Section 109(a)).
4. 53 P.S. § 56802(a) (First Class Township Code, Section 1802(a)); 53 P.S. § 68102(a) (Second Class Township Code, Section 3102(a)).
5. 45 Pa.C.S.A. § 309(a).
6. *Verardi v. Borough of Sharpsburg*, 180 A.2d 6, 407 Pa. 246 (1962).
7. 16 P.S. § 1802(b) (County Code, Section 1802(b)).
8. 53 P.S. § 36901.1(b) (Third Class City Code, Section 1901.1(b)).
9. 8 Pa.C.S.A. § 1402(a) (Borough Code, Section 1402(a)); 53 P.S. § 56802 (First Class Township Code, Section 1802); 53 P.S. § 68102(a) (Second Class Township Code, Section 3102(a)).
10. 8 Pa.C.S.A. § 1405 (Borough Code, Section 1405); 16 P.S. § 2317 (County Code, Section 2317); 53 P.S. § 36909 (Third Class City Code, Section 1909); 53 P.S. § 56805 (First Class Township Code, Section 1805); 53 P.S. § 68107 (Second Class Township Code, Section 3107); *Tragesser v. Cooper*, 169 A. 376, 313 Pa. 10 (1933).

11. *Mechanical Contractors Ass'n of Eastern Pennsylvania v. SEPTA*, 654 A.2d 119 (Pa.Cmwlt. 1995).
12. *March v. Downingtown Area School Dist.*, 775 A.2d 876 (Pa.Cmwlt. 2000); *Jay Tp. Authority v. Cummins*, 773 A.2d 828 (Pa.Cmwlt. 2001).
13. *Rainey v. Borough of Derry*, 641 A.2d 698, 163 Pa.Cmwlt. 606 (1994).
14. *Kimmel v. Lower Paxton Tp.*, 633 A.2d 1271, 159 Pa.Cmwlt. 475 (1993).
15. *Dragani v. Borough of Ambler*, 37 A.3d 27 (Pa.Cmwlt. 2012), *appeal denied*, 49 A.3d 444 (Pa. 2013).
16. *Hanover Area School Dist. v. Sarkisian Bros., Inc.*, 514 F.Supp. 697 (M.D.Pa. 1981).
17. 62 Pa.C.S.A. § 4507.
18. 62 Pa.C.S.A. § 4505(b).
19. *Page v. King*, 131 A. 707, 285 Pa. 153 (1926).
20. *Manchester Borough Audit*, 42 York 97 (York C.C.P. 1928); *Mazet v. Pittsburgh*, 20 A. 693, 137 Pa. 548 (1890).
21. *Oldershaw v. Plains Tp.*, 26 Luz. 431 (Luz. C.C.P. 1931); *Snyder v. Borough of Hanover*, 25 Mun. 183 (York C.C.P. 1929).
22. *Guthrie v. Armstrong*, 154 A. 33, 303 Pa. 11 (1931).
23. *Dalton v. Haverford Tp.*, 49 Dep. 304 (1961).
24. *Dunleavy v. City of Coatesville*, 4 Chest. 265 (Chester C.C.P. 1949); *Perry v. Borough of Wyoming*, 24 Mun. 113 (Luzerne C.C.P. 1932).
25. 62 Pa.C.S.A. § 4603.
26. 62 Pa.C.S.A. § 4604.
27. 53 P.S. § 66504 (Second Class Township Code, Section 504).
28. 8 Pa.C.S.A. § 1402(b)(1) (Borough Code, Section 1402(b)(1)); 16 P.S. § 1802(e) (County Code, Section 1802(e)); 53 P.S. § 36901.5 (Third Class City Code, Section 1901.5); 53 P.S. § 56802(b)(2) (First Class Township Code, Section 1802(b)(2)); 53 P.S. § 65802(e) (Second Class Township Code, Section 802(e)).
29. 62 Pa.C.S.A. § 3911(a).
30. 62 Pa.C.S.A. § 3911(b).
31. 62 Pa.C.S.A. § 3911(c).
32. *Wilson v. City of New Castle*, 152 A. 102, 301 Pa. 358 (1930); *Kierski v. Township of Robinson*, 810 A.2d 196 (Pa.Cmwlt. 2002).
33. *Kratz v. City of Allentown*, 155 A. 116, 304 Pa. 51 (1931); *Berryhill v. Dugan*, 491 A.2d 950, 89 Pa.Cmwlt. 46 (1985).
34. *Auman v. Lehigh County*, 16 Leh.L.J. 52 (1934).
35. *Appeal from Hazle Tp. Audit*, 51 Luz. 207 (Luzerne C.C.P. 1958).
36. *Tri-County Motor Sales, Inc. v. Moore*, 415 A.2d 439, 52 Pa.Cmwlt. 62 (1980).
37. *Oldershaw v. Plains Tp.*, 26 Luz. 431 (Luz. C.C.P. 1931).
38. *Riley v. Norristown Borough*, 64 Mun. 169 (Montgomery C.C.P. 1973).
39. *Philadelphia Warehousing and Cold Storage v. Hallowell*, 490 A.2d 955, 88 Pa.Cmwlt. 574 (1985).
40. *Stapleton v. Berks County*, 593 A.2d 1323, 140 Pa.Cmwlt. 523 (1991), *appeal denied*, 604 A.2d 251, 529 Pa. 660 (1992).
41. *Rainey v. Borough of Derry*, 641 A.2d 698, 163 Pa.Cmwlt. 606 (1994).
42. *Hanisco v. Township of Warminster*, 41 A.3d 116 (Pa.Cmwlt. 2012), *appeal denied*, 53 A.3d 758 (2012).
43. *Conduit and Foundation Corp. v. City of Philadelphia*, 401 A.2d 376, 41 Pa.Cmwlt. 641 (1979); *R.S. Noonan, Inc. v. School Dist. of City of York*, 162 A.2d 623, 400 Pa. 391 (1960); *American Artificial Stone Pavement Co. v. Wagner*, 21 A. 160, 139 Pa. 623 (1891).
44. 73 P.S. § 1641(a).
45. *Highway Exp. Lines v. Winter*, 200 A.2d 300, 414 Pa. 340 (1964); *J.P. Mascaro & Sons, Inc. v. Bristol Tp.*, 505 A.2d 1071, 95 Pa.Cmwlt. 376 (1986); *Independent Enterprises Inc. v. Pittsburgh Water and Sewer Authority*, 103 F.3d 1165 (3d Cir. 1997).
46. *Consumer Party of Pennsylvania v. Commonwealth*, 507 A.2d 323, 510 Pa. 158 (1986); *Application of Biester*, 409 A.2d 848, 487 Pa. 438 (1979).
47. *American Totalisator Co., Inc. v. Seligman*, 384 A.2d 242, 34 Pa.Cmwlt. 391 (1977); *affirmed*, 414 A.2d 568, 489 Pa. 568 (1980).

IV. Withdrawal of Bids

The Bid Withdrawal Act outlines the procedure through which bids on certain public contracts may be withdrawn after bids are opened.¹ Any bidder who meets the requirements of the Bid Withdrawal Act may withdraw its bid without forfeiting the security it filed with the bid. However, because a public contract is binding from the date of the award, if the contractor fails to follow the withdrawal procedures, then the contracting body can proceed against the bid bond if and when the contractor refuses to undertake the work.²

The Bid Withdrawal Act applies to bids relating to any public works construction contract or the provision of services to or lease of real or personal property, except for highway work. It defines a “contracting body” to include any municipality, municipal authority, political subdivision, or agency of the commonwealth, but it does not define “public improvement.”³ All municipal bid specifications and regulations must state whether bids are subject to this statute.

Requirements for Withdrawal without Forfeiture

Any bidder may withdraw its bid from consideration after the bid is opened without forfeiting the security if the bidder submitted the bid price in good faith and submits credible evidence that its bid price was substantially lower because of a clerical mistake rather than a judgment mistake. The mistake must be “actually due to an unintentional and substantial arithmetical error or an unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the bid.”⁴

It is important to note that there are no statutory or judicially created definitions of what constitutes a “substantially lower” bid, a “substantial arithmetical error,” or “substantial quantity of work, labor, material or services.” Accordingly, municipalities should consider adopting regulations defining these terms and using a set percentage deviation from the bid price as a standard. Those regulations could then be incorporated into the bidding specifications.

Method of Withdrawal

To properly withdraw a bid, the bidder must give notice of its claim to the right to withdraw the bid in writing to the contracting body within two business days after the contracting body opens the bids.⁵ That requirement is strictly construed. The Commonwealth Court held that a bidder failed to comply with the statute when it waited four days before notifying the contracting body of its intention to withdraw its bid. As a result, the court held that the bidder was precluded from exercising its right to arbitration.⁶

Withdrawal is not permitted if it will result in the award of the contract on another bid by the same bidder, any partner, or to a corporation or business venture owned by or in which the bidder has a substantial interest. Any bidder permitted to withdraw a bid cannot participate in another bid on the project as a subcontractor or material supplier without the written approval of the contracting body.⁷

A contracting body should adopt regulations setting forth precisely how the written notice of withdrawal is to be accomplished. Is the notice to be mailed or personally delivered? Where? What constitutes “two business days” for the body? What should the notice contain? Due to the time limits in the Bid Withdrawal Act, the regulations should specify that the withdrawal notice be accompanied by the credible evidence asserted by the withdrawing bidder with appropriate affidavits.

The two-day period for notice of withdrawal assumes the contracting body will “consider” the bid for at least two days. But what if the contracting body designates the successful bidder upon opening bids or shortly thereafter and the successful bidder then gives the required notice of withdrawal as required by the statute? Technically, the bidder would be out of luck since the bid was no longer “under consideration,” and it would have to accept the contract or forfeit its security. It would also be an unjust result that is contrary to the intent of the statute. It would be tempting for a contracting body to immediately accept a bid with an obviously substantial error in order to take

advantage of the situation. Instead, after opening the bids, contracting bodies should designate a successful bidder within two business days of the opening, with the award to take effect at the end of the second business day if no notice of withdrawal is received from the bidder.

Municipal Options upon Withdrawal

If a bid is properly withdrawn, the contracting body may either award the contract to the next lowest bidder or reject all bids and resubmit the project for bidding. If the contracting body elects to reject all bids and resubmit as a result of withdrawal (and not for other reasons), the withdrawing bidder is required to pay the costs of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders.⁸

If a contracting body intends to contest a bidder's right to withdraw, it must hold a hearing within ten business days after opening the bids and issue an order allowing or denying the claim of withdrawal within five days after the hearing.⁹ If the contracting body decides it will not contest the withdrawal, then no hearing is required.¹⁰

If the contracting body contests, it must pick a hearing time, obtain a stenographer, and provide "timely and reasonable" notice of the hearing. Municipalities should adopt regulations that specify that 24 hours' notice of such hearing is "timely and reasonable." The notice is to be made by posting, which places responsibility for reading the notice on the withdrawing bidder. Solicitors should review the bid documents to determine the method and means of arbitration because the order will be arbitrated under the terms of the bid documents or, if they have no provisions regarding arbitration, the rules of the American Arbitration Association.

The Bid Withdrawal Act provides the contracting body with the right to proceed with the project if the bidder elects to arbitrate or refuses to perform.¹¹ No time period to elect to arbitrate is specified. Accordingly, municipalities should consider specifying that time period (for example, 20 days' written notice) in the bidding specifications. If the arbitrator rejects the bidder's claimed right to withdraw, then the bidder forfeits the security as liquidated damages. A contracting body should make sure its security requirements are sufficient because the deposit appears to be the limit of a bidder's liability under the Bid Withdrawal Act.

The Bid Withdrawal Act prohibits a withdrawing bidder from supplying any labor or material or performing any subcontract for any person performing work on the construction project without the approval of the contracting body. The penalty for a violation is a misdemeanor, with a fine of up to \$25,000 and/or imprisonment of not less than one or more than two years.¹² Both the withdrawing bidder and the bidder ultimately awarded the contract, or even their subcontractors, could potentially be charged under this provision. Accordingly, it would be good practice for any contracting body permitting a bidder to withdraw to advise it and all who subsequently participate in the project of this criminal liability in order to avoid any inadvertent violation of the Bid Withdrawal Act. Furthermore, neither the contracting body nor its elected or appointed officials will incur any liability or surcharge if they permit the withdrawal of bids in accordance with the statute.¹³

Regulations

The Bid Withdrawal Act specifically provides that a municipality or authority may prepare regulations to carry out the intent and purposes of the law.¹⁴ The following possible regulations might be adopted:

- A regulation specifying contracts subject to the Bid Withdrawal Act and a statement of such in bidding specifications.
- A regulation defining "substantial error" based upon the percentage of the total bid without such error.
- A regulation setting forth a precise method for giving notice of withdrawal, which must include the bidder's "credible evidence" and statement with affidavits.
- A regulation setting forth a precise method of giving notice of hearing and the decision resulting from the hearing.
- A regulation providing for a specific method of arbitration if none is contained in bidding specifications or if another method is desired.

REFERENCES

1. 73 P.S. § 1601 *et seq.*
2. *Muncy Area School Dist. v. Gardner*, 497 A.2d 683, 91 Pa.Cmwlth. 406 (1985).
3. 73 P.S. § 1601.
4. 73 P.S. § 1602.
5. 73 P.S. § 1602.
6. *Perry Construction, Inc. v. Palmyra Borough Authority*, 389 A.2d 255, 37 Pa.Cmwlth. 126 (1978).
7. 73 P.S. § 1602.
8. 73 P.S. § 1603.
9. 73 P.S. § 1604(a).
10. *Myers v. Bushkill-Lower Lehigh Joint Sewer Authority*, 24 D&C.3d 573 (Northampton C.C.P. 1982).
11. 73 P.S. § 1604(b).
12. 73 P.S. § 1606.
13. 73 P.S. § 1605.
14. 73 P.S. § 1602.

V. Contract Contents

Municipalities should carefully review all contracts, including construction contracts, before entering into them to ensure that all terms they desire are included or, conversely, that any undesired terms are omitted or the subject of further negotiation. They should also rely on the expertise and advice of their solicitors, who should be involved in the preparation and review of the contract and any supporting documents.

Counties, cities, and townships of the first class must execute written contracts.¹ Boroughs and townships of the second class do not have this requirement, but reliance on oral contracts is inadvisable for many reasons.

Standard Terms

The rights, duties, and responsibilities of the contractor and the municipality are defined in the contract. The following standard terms are generally found in construction contracts.

Statement of Work. The statement of work is particularly important because the contractor is bound to perform only the work specifically defined and referred to in the statement of work. Thus, all desired items must be included, either by expressly describing them or by referring to descriptions of them in other supplemental documents, such as the plans and specifications, and incorporating those documents by reference.

Change Orders and Extra Cost Claims. The contract should include language that indicates the procedure for making changes in the statement of work. The contract should require that requests for changes be made in writing and approved by the municipality before the change is undertaken. Municipalities may alter, add, or subtract portions of the work without invalidating the original contract as long as the contract sum is adjusted accordingly. Extra compensation on public contracts can be earned if the extra work was unforeseen as a possibility in the original contract and the extra work was performed in strict compliance with the terms of the contract.² Change orders cannot vary so far from the original plan or be so significant as to constitute a new undertaking.³ The amount of cost changes should be limited, usually no more than 15 percent. All changes should be executed as required by the original contract. Requested extensions in construction time should be considered at the time changes are ordered.

Payment Schedule and Interest Penalties. For public works contracts that are more than \$50,000, the contracting body must make each payment within 45 days after the contractor submits an application for payment. There is a grace period of 15 days after which interest penalties apply. But the law allows the contract itself to specify a different time period for payment and a different grace period.⁴ Interest penalties do not apply where the municipality has failed to receive grant funds allocated by the federal or state government for the project. The municipality must notify the contractor if it intends to withhold payment for deficiencies in the work within 15 days after application for payment or a different deadline specified in the contract.⁵

In addition, the Political Subdivision Procurement Interest Payment Act requires political subdivisions to pay an interest penalty when they fail to make payment for property and services obtained from a “qualified small business concern” by the date specified in the contract.⁶ Exceptions are made if the delinquency is caused by the failure of the federal or state government to pay funds designated for the specific project.⁷ The law applies only to those invoices payable to businesses employing 100 or fewer people, and it does not apply to any public works contracts valued at more than \$50,000 or to any municipalities that are determined to be distressed under the Municipalities Financial Recovery Act.⁸ Any business that qualifies must state so on the invoice or provide a separate statement to the political subdivision. Interest penalties accrue if the payment is not made within 30 days of receipt of a proper invoice, unless a different period is set in the contract. The political subdivision must notify the contractor of any defect in supplies or services within the initial 30-day period.

Holdback of Payments (Retainage). To protect themselves from damages not evident during construction, political subdivisions should consider setting a percentage (often 10 percent) to be withheld until all claims have been satisfied. That retainage may also be used if there is some question about whether or not the contractor

can complete the job with the balance of payments due. Examples of the damages the political subdivision can protect itself against include failure of the contractor to pay subcontractors or pay for materials, defective work to be corrected, property damage claims by individuals, or damages to another contractor.

For public works contracts that exceed \$50,000, retainage provisions in contracts are limited by law. Retainage cannot exceed 10 percent of the amount due the contractor until 50 percent of the contract is completed. After that, half of the retainage must be returned to the contractor, unless there is specific cause for greater withholding. For example, if a dispute arises over increased costs due to delays by another prime contractor, additional retainage is permitted up to 1 ½ times the amount of any possible liability. All money retained by the municipality may be withheld until substantial completion.⁹

Authority of the Municipality's Consultant. Define the role of the municipality's consultant, whether an engineer, architect, landscape architect, or other type of consultant. The contract should give the consultant the power to stop work, to redirect the use of labor and materials, to increase or decrease the work force, and to accept or reject materials and work not conforming to the conditions of the contract. The consultant's decision concerning technical aspects of the work should be final.

Subcontracts. The contract should require the contractor to identify all subcontractors and their area(s) of competency. The contractor should be held responsible for the performance of all subcontractors. The contract should also prohibit the contractor from subcontracting more than a stated portion of the work.

Final Cleanup. The contract should require the contractor to remove, at its expense, all equipment, excess materials, rubbish, and any other materials either brought to or created at the site during construction.

Contractor Liability. The contractor should be required to maintain insurance to protect itself, the municipality, and municipal officials from claims arising from workers' compensation or other damage claims arising from operations under the contract, whether they are the result of actions or omissions of the contractor, a subcontractor, or anyone directly or indirectly employed by either of them. The amount of insurance may vary by area or contractor. However, minimum amounts must be specified, such as \$50,000 for public liability and \$20,000 for property damage. The municipality should approve the company underwriting the insurance, and certificates of insurance must be filed with the municipality, if requested.

Licenses, Permits, and Regulations. The contractor should be responsible for obtaining all licenses and permits necessary for the execution of the work, such as water tap-in or state highway cut permits. The contractor should give all notices and comply with all laws, bylaws, rules, and regulations pertaining to the conduct of the work. If the contractor performs any work knowing it to be contrary to regulations or rules, and without written notice, it should be responsible for all costs arising from the violation.

Anti Bid-Rigging. Contractors are prohibited from conspiring and colluding to commit bid-rigging.¹⁰ Although non-collusion affidavits are not required in municipal contracts, it is a good practice to incorporate them. Forms are available from the Pennsylvania Attorney General's Office.

Non-Discrimination. Every contract for the construction, alteration, or repair of public buildings or public works must contain provisions prohibiting discrimination based on gender, race, creed, or color. That requirement also applies to subcontractors and others acting on behalf of the government. If there are violations, then the municipality may terminate the contract, and all money due or to become due may be forfeited.¹¹

Bonds

Bond requirements are scattered throughout the municipal codes and other legislation. The three principal types of bonds in use are bid bonds, performance bonds, and payment bonds. Bid bonds accompany submitted bids as a pledge of the bidder's good faith. Performance bonds accompany the signing of a contract and pledge the contractor to carry out the terms of the contract. They are for the protection of the municipality contracting for the performance of work. Payment bonds are intended for the protection of subcontractors and other individuals furnishing labor or materials for the project to the prime contractor.

A summary of bonding requirements appears below. Municipal officials should be guided by the advice of their solicitors in ascertaining that all required bonds are submitted.

Bid Bonds. Bid bonds in a reasonable amount are required for purchases and contracts for more than \$19,100 for second through eighth class counties.¹² For cities, bid bonds, certified checks, or bank checks may be required for advertised purchases and contracts exceeding \$19,100, but the amount is unspecified.¹³ For boroughs, any bid bonds are at the discretion of the council and must be in the form of cash, money order, certified or cashier's check, or letter of credit.¹⁴ There are no bid bond requirements for townships.

Payment Bonds. The Public Works Contractors' Bond Law requires payment bonds in the full amount of the contract for all contracts for construction, reconstruction, alteration, or repair of public buildings, works, or improvements, including highways, if the amount of the contract exceeds \$10,000.¹⁵ All of the municipal codes reference the Public Works Contractors' Bond Law, which is intended to offer protection to subcontractors.¹⁶

Performance Bonds. The municipal codes also include provisions for performance bonds from contractors. For example, boroughs and townships may require a bond, letter of credit, or other reasonable security valued between 10 and 100 percent of the contract amount, which shall be due 20 days after the award, unless the council or board sets a shorter period, which cannot be less than 10 days.¹⁷ Counties may require similar security in a sufficient amount, which shall be due within 30 days unless the county sets a shorter period.¹⁸

REFERENCES

1. 16 P.S. § 1801 (County Code, Section 1801); 53 P.S. § 36901.1 and 36901.2 (Third Class City Code, Sections 1901.1 and 1901.2); 53 P.S. § 56802(a) (First Class Township Code, Section 1802(a)).
2. *Teodori v. Penn Hills School Dist. Authority*, 196 A.2d 306, 413 Pa. 127 (1964).
3. *Hibbs v. Arensberg*, 119 A. 727, 276 Pa. 24 (1923); *Emporium Area Joint School Authority v. Arundson Construction and Bldg. Supply Co.*, 156 A.2d 554, 191 Pa. Super. 372 (1960), reversed on other grounds, 166 A.2d 269, 402 Pa. 81 (1961).
4. 62 Pa.C.S.A. § 3932.
5. 62 Pa.C.S.A. § 3934(b).
6. 72 P.S. § 1603-C(a).
7. 72 P.S. § 1609-C.
8. 72 P.S. § 1610-C.
9. 62 Pa.C.S.A. § 3921.
10. 62 Pa.C.S.A. § 4507.
11. 62 Pa.C.S.A. § 3701.
12. 16 P.S. § 1802(f) (County Code, Section 1802(f)); 16 P.S. § 5001(b.1) (Second Class County Code).
13. 53 P.S. § 36901.6 (Third Class City Code, Section 1901.6).
14. 8 Pa.C.S.A. § 1402(b)(1) (Borough Code, Section 1402(b)(1)).
15. 8 P.S. § 193.1.
16. 8 Pa.C.S.A. § 1406 (Borough Code, Section 1406); 16 P.S. § 1802(j) (County Code, Section 1802(j)); 53 P.S. § 36901.6(c) (Third Class City Code, Section 1901.6(c)); 53 P.S. § 56804 (First Class Township Code, Section 1804); 53 P.S. § 68105 (Second Class Township Code, Section 3105); *Cornerstone Land Development Co. of Pittsburgh LLC v. Wadwell Group*, 959 A.2d 1264 (Pa.Super. 2008).
17. 8 Pa.C.S.A. § 1402(c) (Borough Code, Section 1402(c)); 53 P.S. § 56802(i) (First Class Township Code, Section 1802(i)); 53 P.S. § 68102(g) (Second Class Township Code, Section 3102(g)).
18. 16 P.S. § 1802(j) (County Code, Section 1802(j)).

VI. Purchasing Controls

Municipalities should adopt purchasing regulations that specify the duties of the purchasing agent, the procedure for obtaining competitive bids, how to purchase items that do not require bids, and how and under what conditions emergency purchases may be made. These regulations should be adopted by the governing body in the form of an ordinance or resolution.

Regulations are useful in many ways and help clear up confusion. Sales representatives often fail to understand the laws governing public purchasing and the restrictions placed on government officials. In addition, municipalities and the general public both benefit from having the ability to review and understand the purchasing policies of the municipality.

Standardized Purchases

An essential requirement of a good purchasing program is that goods are standardized and purchased in accordance with carefully drawn specifications. Such policies take advantage of lower prices that result from bulk purchases. They also lower the administrative costs of purchasing by reducing the number of purchases made.

Begin with a careful study of the types of materials and equipment in use and the services they support. Often different sizes and quantities of the same item are being used. For example, envelopes are items that are often not standardized. Different sizes are used for many purposes — to send out tax, water, and sewer bills; to pay suppliers; and for general correspondence. Some differences may be justified, but others may not, especially considering the unit cost reduction resulting from standardization. Other materials lending themselves to standardization include stationery, cleaning compounds, paper towels, hand tools, and office supplies. An exception would be a highly specialized good used mainly by a single department, division, or other unit within the municipality.

Drafting Specifications

Specifications are a concise and complete description of qualities necessary for products to meet acceptable purchase requirements of the municipality. A municipality should ensure that goods and services meet or even exceed specification requirements before it considers purchasing them. Specifications may be in the form of written descriptions, drawings, commercial designations, industry standards, or other descriptive references. Specifications become an integral part of the purchase order or contract.

Well-written specifications are essential if economy and efficiency are to be achieved. They help to ensure that maximum value is obtained for tax dollars spent and that all qualified suppliers, large and small, are able to compete on a level playing field.

See page 9 for additional discussion of specifications.

Operating Procedures

Another necessary ingredient of a sound procurement process is a clear, complete set of written operating procedures. These procedures, a more detailed explanation of established regulations, should outline the specific steps to be taken by those involved with the procurement process. Forms and procedures should be limited to only those necessary. The unique characteristics of a particular municipality should determine the degree of detail in these procedures. The procedures should cover such points as preparing purchase requisitions, soliciting bids, informal bidding, preparing purchase orders, inspecting and testing goods, making prompt payment, and identifying exceptions to the normal purchasing process.

At a minimum, all municipalities should have purchasing controls that accomplish the following:

- Ensure materials and services are ordered only by authorized employees and officials.
- Advertise purchases in accordance with the applicable municipal code.
- Ensure that goods are received and in good, working condition prior to authorizing payment.
- Identify monies encumbered for those purchases that have been ordered but have not been received.

Municipalities should be careful to remain within the terms of the contract when ordering goods or services from vendors. Courts have found municipalities liable for the costs of goods or services beyond the contracted amount where the municipalities voluntarily accepted materials or services and made no effort to reject them where there was an opportunity to do so.¹

Municipal Officials' Responsibilities

The governing body designates those municipal officials or employees who are authorized to initiate purchase orders and notifies all who are involved in the municipal purchasing process. The municipal employee or official authorized to make purchases prepares a list of needed items on a purchase order form. With this form, a separate requisition form is not required. The person authorizing the purchase fills in only the description and number of units required and signs in the lower right above "authorized signature." The form is then forwarded to the municipal secretary or treasurer.

If the purchase will exceed \$19,100, bids must be obtained in accordance with the applicable municipal codes. For purchases between \$10,300 and \$19,100, at least three written or telephone price quotations are required (except for cities and second class counties). Informal price quotations are desirable and can be required by local regulation. On high cost items, a bid bond might be appropriate.

When firm prices are received or formal bids are tabulated, the balance of the purchase order form is filled out to include the name of the vendor, purchase order number, and expenditure account to be charged. In addition, the treasurer or finance officer signs the form to certify that sufficient municipal funds are available to pay for the purchase.

Even though no accounting entry is made when the purchase order is sent out, the money for the amount of the purchase is actually "encumbered." A municipality should have a record of the amount of encumbered money at any given time so it can adjust its financial report to reflect the expenditures and the encumbrances as they affect the municipality's financial position. As each purchase order is sent out, the amount, date, and account numbers are recorded. When the goods are received, a line is drawn through the entry and the date of receipt is entered. Whenever a financial report is prepared, the secretary can refer to the record of outstanding purchases and note the encumbrances for each account and adjust the financial report accordingly.

On the basis of the purchase order form, the vendor ships the desired materials. The shipping list, received goods and purchase order are compared by the employee receiving the shipment. If all materials are received as ordered, the recipient should note this information on the purchase order, sign and return the form to the secretary, treasurer or finance officer. If the accounts of your municipality are maintained on a "modified accrual" basis, which means that purchases are recorded when the invoice is received rather than when the check is written, then an entry in the purchase journal of the municipality should be made at this time. If your accounting system is maintained on a cash basis, no formal entry would be made in the books until the check is actually drawn for the purchase. The secretary or treasurer then makes out a check (without signature).

At the next regular meeting of the governing body, the invoice is presented for approval. When approved, the check is signed and the treasurer enters the expenditure in the expenditure journal. The check is signed by the treasurer and forwarded to the vendor.

Contract Files

It is good practice for a municipality to keep a file relating to current and recently completed municipal contracts. This helps to determine when the process for advertising and awarding new annual contracts should be started and to identify the past qualified bidders. It also provides the municipality with models of past advertisements, instructions to bidders, and other contract documents. Proper files can aid in determining the current status of all municipal contractual disputes.

Revolving Contract Files. This file provides a single source of summary information on all current municipal contracts. The file should be maintained on forms designed to show all necessary information. It must provide spaces to enter information describing the contract, whether it is an annual or a one-time project, and the dollar amount of the contract. Other information can include start and stop dates, renewal dates for annual contracts, evaluation of contractor performance, other municipalities or governmental agencies involved, and an identification of related current or completed contracts. The forms should show the history of billings and payments on the contract. The forms should be updated monthly when checks are written to cover the invoices received during the month. The person posting the forms can note any annual contracts coming due, as well as remove to the completed contract file forms for contracts terminated during the period.

Advertisements and Instructions to Bidders. Past copies of these items should be maintained in a file to aid in the preparation of new advertising and instructions on upcoming bids. Special features giving good or bad results in past advertisements and instructions should be noted for future reference.

Contracts. Maintain a file for municipal contracts. This file may be in addition to the official contract records, primarily to provide guidance for the solicitor and other officials in preparing new contract documents.

List of Bidders. This file should contain names and addresses and types of services where bids have been received from vendors and contractors over the past several years. Where there have been many bidders, it may be necessary to subdivide the file into subject areas, such as road construction vehicles, construction materials, and snow removal materials. Particularly good or bad experiences with specific bidders should be noted. The municipality is also required to maintain a list of persons ineligible for participation in contracts or subcontracts under the Antibid-Rigging Act.²

REFERENCES

1. *J.A. & W.A. Hess, Inc. v. Hazle Tp.*, 305 A.2d 404, 9 Pa. Cmwlth. 409 (1973); *Township of Ridley v. Haulaway Trash Removal, Inc.*, 448 A.2d 654, 68 Pa. Cmwlth. 16 (1982); *Ridley Tp. v. Pipe Maintenance Services, Inc.*, 477 A.2d 610, 83 Pa. Cmwlth. 425 (1984).
2. 62 Pa.C.S.A. § 4505(b).

VII. Conflicts of Interest in Purchasing

The State Public Official and Employee Ethics Act (“Ethics Act”) plays an important role in ensuring that public purchasing is performed in a manner that appropriately safeguards taxpayer funds. The Ethics Act provides that “public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust.”¹

Under the Ethics Act, no public official or public employee can enter into a contract valued at \$500 or more with his or her governmental body, unless the contract is awarded through a public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. This prohibition also extends to any subcontract valued at \$500 or more with any person who has been awarded a contract by the governmental body. Furthermore, it applies to the public official or employee’s spouse or child or any business in which the public official or public employee or his or her spouse or child is associated. Any public official or public employee with a personal interest cannot have any supervisory responsibility for administering the contract.²

The various municipal codes contain references addressing the personal interests of public officials and public employees with respect to public contracting. For example, the County Code and Borough Code reference the restrictions set forth in the Ethics Act.³ In addition, a personal interest is prohibited in contracts exceeding \$300 in townships of the first class and \$500 in townships of the second class.⁴ Where a contract is awarded to a firm employing a borough council member, township commissioner, or township supervisor in a non-management position, the official must inform the governing body of the employment status and refrain from voting on the contract.⁵ Engineers and architects employed by the municipality to prepare plans or specifications for any public work are prohibited from bidding on the project. Sharing fees between a contractor and any municipal officer or employee is prohibited except where there is full prior disclosure and affirmative approval by the governing body.⁶

The interest of an official must be certain, pecuniary, or proprietary and direct. Sentimental or general interest is not enough.⁷ A township commissioner was not disqualified from voting on a contract for ambulance service simply because a member of his family was employed by one of the bidders in a non-administrative or nonexecutive capacity.⁸ Also, two township supervisors with remote private business dealings with a bidder on a township contract did not violate the personal interest provision.⁹ Furthermore, a township supervisor did not violate the Ethics Act when he suggested at a meeting that township vehicles be serviced at a business where he worked because the supervisor did not enter into a contract to service the vehicles.¹⁰ However, other courts have held the prohibition to be broad and that the officer need not be a contracting party to have a personal interest; the amounts involved are immaterial.¹¹

Penalties for violation include fines, surcharges, terms of imprisonment, and ouster from office.¹²

Any contract or purchase a municipality wishes to make in which an official or employee has a personal interest should be closely scrutinized as to its legality. The appearance of honesty and impartiality is just as important as fulfilling legal requirements.

REFERENCES

1. 65 Pa.C.S.A. § 1101.1(a).
2. 65 Pa.C.S.A. §1103(f).
3. 8 Pa.C.S.A. § 1404 (Borough Code, Section 1404); 16 P.S. § 1806 (County Code, Section 1806); *Kimball v. Cambria County*, 36 D.&C.2d 662 (Cambria C.C.P. 1965).
4. 53 P.S. § 56811 (First Class Township Code, Section 1811); 53 P.S. § 68102(i) (Second Class Township Code, Section 3102(i)).
5. 53 P.S. § 36912 (Third Class City Code, Section 1912); 53 P.S. § 56807 (First Class Township Code, Section 1807); 53 P.S. § 68109 (Second Class Township Code, Section 3109).
6. 8 Pa.C.S.A. § 1402(f) (Borough Code, Section 1402(f)); 53 P.S. § 36901.8 (Third Class City Code, Section 1901.8); 53 P.S. § 56802(f) (First Class Township Code, Section 1802(f)); 53 P.S. § 68102(m) (Second Class Township Code, Section 3102(m)).

7. *Wilson v. City of New Castle*, 152 A. 102, 302 Pa. 358 (1930).
8. *Emergency Care Unit v. Second Alarmers Ass'n*, 10 D.&C.3d 472 (Montgomery C.C.P. 1979).
9. *Kimmel and Hornung v. Lower Paxton Tp.*, 633 A.2d 1271, 159 Pa.Cmwlth. 475 (1993).
10. *Bixler v. State Ethics Com'n*, 847 A.2d 785 (Pa.Cmwlth. 2004).
11. *Commonwealth v. Midouhas*, 62 D.&C.2d 441 (Bucks C.C.P. 1974).
12. *Laskey v. Bruno*, 440 A.2d 1281, 64 Pa.Cmwlth. 509 (1982); *Appeal from Statement of Audit of Finances of Borough of Monaca*, 35 Mun. 111 (Beaver C.C.P. 1943).

VIII. Special Purchasing Requirements

Numerous other laws impose special requirements on municipalities when they make purchases, such as limitations on the use of liquid fuels funds and federal grant funds, restrictions on purchases of steel products and motor vehicles, and requirements that prevailing wages and workers' compensation insurance be paid.

Liquid Fuels Funds

Municipalities must not commingle state funds allotted under the Liquid Fuels Tax Municipal Allocation Law ("Liquid Fuels Law") with any other funds. They must establish a special fund for such deposits and payments and submit an annual report to the Department of Transportation ("PennDOT") concerning the use of the funds.¹ However, PennDOT permits municipalities to spend money for highway purposes by borrowing or transferring money from their general fund and reimburse the general fund by transferring from the liquid fuels fund during the current year. These transfers can only be made if the municipalities can identify the reimbursed costs and the costs are permissible under the Liquid Fuels Law. The transfers must be made by a check drawn on the liquid fuels fund and reported on the annual check record account.

That portion of the allocation budgeted for maintenance, materials, supplies, small tools, and major equipment (not to exceed 20 percent of the allocation) may be spent without further approval of PennDOT. Contracts for maintenance amounting to \$10,000 or more, however, require the same procedures as contracts for construction.

CAVEAT: Pursuant to a memorandum dated October of 2018 titled *Procurement of Maintenance and Repair Services for Traffic Signals with Liquid Fuels Funds*, the Pennsylvania Department of Transportation ("PennDOT") has advised that procurement of maintenance and repair services for traffic signals must be advertised and competitively bid.

State funds budgeted for construction, reconstruction or widening of roads, streets, bridges, and drainage structures may not be spent without prior approval of PennDOT, regardless of whether the work is performed by contract or by municipal employees. No work may be started until a Project Approved Form, MS-329, is approved by PennDOT. Authorization to proceed occurs when a copy is sent to the municipality.

During the course of construction, inspections of work are made by a representative of the District Office of Municipal Services as well as by local authorities. Upon completion, the municipality must complete the Project Completion Report, MS-909, which will be countersigned by the municipal services representative.

Counties may, but are not required to, allocate all or part of their annual grant to political subdivisions within the county for road and bridge maintenance and construction. Disposition of the funds is subject to the action of the board of county commissioners.

All other legal procedures involving PennDOT in executing projects under state aid funds to the municipalities are applicable to county allocation to local subdivisions as previously described. These include PennDOT approval of plans and specifications, submission of completion form by the municipality, PennDOT inspection of completed work, and notification of the county or PennDOT of approval for payment. All other forms required in state aid projects are also required for county aid projects, whether the project is financed solely by county local funds, or by a combination of local, county and state appropriations.

For additional information, see the *Policies and Procedures manual* prepared by PennDOT's Bureau of Municipal Services (PUB 9 (12-13)).

Davis-Bacon Act

When using federal grant or loan monies for the construction, alteration, or repair (including painting and decorating) of public buildings or public works, municipalities must comply with the wage rates and record-keeping procedures established by the Davis-Bacon Act. Those requirements apply when the project costs exceed \$2,000 and where federal funds supply more than 25 percent of the total project costs.

For more information about the Davis-Bacon Act, visit the U.S. Department of Labor website at www.dol.gov and search for “Davis-Bacon and Related Acts.” Any municipality with a question as to whether it must comply with Davis-Bacon requirements should contact the regional office of the Philadelphia Employment Standards Administration at (215) 861-5830.

Steel Products

Under the terms of the Steel Products Procurement Act, all public works contracts, including construction, maintenance, and repair, must require the use of steel products made in the United States.² Each municipal code also contains a provision referring to the Steel Products Procurement Act.³ The definition of “public works” specifically includes, among other things, buildings, highways, transit systems, airports, and bridges, regardless of whether permanent or temporary and for governmental or private use.⁴ The Steel Products Procurement Act requires municipal officials to obtain certification of the source of steel products used before payments are made.⁵

Motor Vehicles

Under the Motor Vehicle Procurement Act, municipalities are required to purchase or lease motor vehicles manufactured or assembled in North America. A vehicle qualifies if a majority of the principal components are assembled into the final product in North America.⁶ However, if the municipality states in writing that compliance would be in the public interest or that the cost is unreasonable, then it need not satisfy the law. The municipality must be satisfied that the provisions of the law have been met before it can make payments to any contractor supplying motor vehicles.⁷

Prevailing Wages

For public works contracts exceeding \$25,000, except for maintenance projects,⁸ the Prevailing Wage Act requires municipalities to pay the prevailing minimum wage to all workers on the project.⁹ The purpose of the Prevailing Wage Act is to protect workers on public projects from substandard wages.¹⁰ Prevailing minimum wages are determined by the Department of Labor and Industry. Reference to prevailing wages must be made in the notice requesting bids on the project.¹¹ Potential bidders may request wage reviews by the Department of Labor and Industry. Those determinations can, in turn, be appealed to the Prevailing Wage Appeals Board.¹² Those wages become part of the contract and cannot be altered during the contract period.¹³

In addition, in 2013, the General Assembly enacted Act 89, which modified the Prevailing Wage Act’s requirements for locally funded highway and bridge projects, which include those paid for entirely by funds allocated through the Liquid Fuels Law, made available from the Highway Bridge Improvement Restricted Account, awarded to municipalities as transportation enhancement grants, and allocated from municipal budgetary sources or from the impact fees distributed pursuant to the Oil and Gas Act. Those projects must comply with prevailing wage requirements if the estimated total project costs exceed \$100,000.¹⁴

For further information, contact the Bureau of Labor Law Compliance, Pennsylvania Department of Labor & Industry, 1301 Labor & Industry Building, Harrisburg, PA 17120 or (800) 932-0665.

Workers’ Compensation

The municipal codes require that all contracts involving the employment of labor include provisions for workers’ compensation insurance. All contractors must produce proof that they accept the provisions of the Workers’ Compensation Act and have insured their liability in accordance with that law.¹⁵

Guaranteed Energy Savings Contracts

Municipalities are permitted to enter into guaranteed energy savings contracts, which are for the evaluation and recommendation of energy conservation measures and for implementation of one or more such measures.¹⁶ The municipality may be required to award the contract at a public meeting after public notice. They are also authorized to accept competitive sealed bids.¹⁷

REFERENCES

1. 72 P.S. § 2615.5(4).
2. 73 P.S. § 1885(a).
3. 8 Pa.C.S.A. § 1402(e) (Borough Code, Section 1402(e)); 16 P.S. § 1802(j) (County Code, Section 1802(j)); 53 P.S. § 36901.7 (Third Class City Code, Section 1901.7); 53 P.S. § 56802(e) (First Class Township Code, Section 1802(e)); 53 P.S. § 68102(g) (Second Class Township Code, Section 3102(g)).
4. 73 P.S. § 1886.
5. 73 P.S. § 1885(a).
6. 62 Pa.C.S.A. § 3734.
7. 62 Pa.C.S.A. § 3735.
8. *Borough of Youngwood v. Pennsylvania Prevailing Wage Appeals Bd.*, 947 A.2d 724, 596 Pa. 600 (2008).
9. 43 P.S. § 165-3 *et seq.*; *A.R. Scalise Company v. Commonwealth*, 393 A.2d 1306, 38 Pa.Cmwlth. 549 (1968).
10. *Ferguson Elec. Co., Inc. v. Foley*, 115 F.3d 237 (3d Cir. 1997).
11. 43 P.S. § 165-4.
12. 43 P.S. § 165-8.
13. *Lycoming County Nursing Home Ass'n v. Commonwealth, Dept. of Labor and Industry, Prevailing Wage Appeal Bd.*, 627 A.2d 238, 156 Pa.Cmwlth. 280 (1993).
14. 75 Pa.C.S.A. § 9023.
15. 16 P.S. § 2319 (County Code, Section 2319); 53 P.S. § 36910 (Third Class City Code, Section 1910); 53 P.S. § 46410 (Borough Code, Section 1410); 53 P.S. § 56806 (First Class Township Code, Section 1806); 53 P.S. § 68108 (Second Class Township Code, Section 3108).
16. 62 Pa.C.S.A. § 3752.
17. 62 Pa.C.S.A. § 3753.

IX. Intergovernmental Cooperation in Purchasing

Municipalities looking for ways to reduce their purchasing costs should consider the viability of entering into intergovernmental arrangements. Such arrangements take advantage of economies of scale by increasing the volume of materials to be purchased.

Municipal Cooperative Purchasing

The Intergovernmental Cooperation Act sets forth the manner in which municipalities may enter into cooperative purchasing contracts with other municipalities. These contracts are deemed in force once they have been adopted by ordinance by all cooperating municipalities.¹

When several municipalities (particularly small municipalities) participate in a joint purchasing program, they are likely to save a considerable amount of money because they will be able to take advantage of volume pricing. In addition, each time a vendor receives a request for bids, it must prepare separate bid documents, maintain separate records, and be prepared to handle small orders individually. With a large contract, the vendor's administrative costs are reduced and the vendor will often be willing to accept a smaller profit per unit if assured of selling many units.

In a joint purchasing program, representatives from two or more municipalities estimate the quantities of certain items each municipality will need over the next year. If a municipality wants a special or different item, then the municipality does not need to participate in the program and can purchase the items separately. The end result is a list of requirements from each cooperating municipality and the total quantities required.

The next step is formal advertising for the quantities requested by the cooperating municipalities. Advertising costs are reduced because only a joint advertisement is needed. The advertisement must be posted at least once a week for two weeks in at least one and not more than two newspapers of general circulation in the participating municipalities.² In addition, the participating municipalities must still satisfy the bidding requirements, including those relating to bidding thresholds and written or telephone quotes.³

Each municipality should keep a copy of the specifications for materials being purchased. Instructions to bidders should specify that each cooperating municipality will submit purchase orders even though a single, collective bid is being requested from the vendors. Deliveries will be made to each municipality, and the invoicing and payments will be handled by each municipality. In this way, each municipality controls the timing.

The bids are opened at a meeting attended by representatives from all cooperating municipalities. They jointly determine the lowest qualified bidder. The municipalities then prepare a joint letter notifying the successful bidder.

To simplify the administration of a joint purchasing program, each governing body can appoint one of its members to a joint purchasing committee. This committee should meet regularly to determine needs, review how the system is working, and plan for streamlining the process. The committee, with the help of a solicitor, prepares the schedules, quantity estimates, and the necessary bid documents.

A properly administered joint purchasing program can result in considerable savings. It can provide a joint forum for municipal officials to trade ideas on a variety of common local problems. It is likely to lead to other areas of municipal cooperation and more effective solutions to area-wide problems. At the same time, each municipality retains autonomy and local control.

County Contracts. Counties are authorized to permit municipalities within the county to make piggyback purchases off contracts executed by them.⁴ Municipalities making such purchases are exempted from statutory requirements concerning competitive bidding. The municipality must agree to participate by ordinance or resolution and provide a copy to the county purchasing agency and the county solicitor. The county establishes the regulations. Each contract that is let by the county under these provisions must specifically reference the availability of the municipal piggyback option.

Schools and Nonprofit Organizations. Counties or municipalities may, by ordinance, also authorize joint purchases of materials, supplies, and equipment with private or public schools, colleges or universities, and nonprofit human service agencies within the county or municipality.⁵

State-Local Cooperative Purchasing

The commonwealth Procurement Code permits “local public procurement units” such as political subdivisions to purchase materials, supplies, equipment, and vehicles through state contracts entered into by the Department of General Services.⁶ This cooperative purchasing program is administered by the Department of General Services’ Bureau of Procurement and is known as “COSTARS.” The program uses collective purchasing power to obtain more competitive pricing and choice than individual local public procurement units might otherwise be able to obtain on their own.

An additional benefit of the COSTARS program is that it exempts political subdivisions from complying with existing statutory requirements governing competitive bidding and execution of contracts because those requirements have already been satisfied at the statewide level.

To participate in this program, the governing body of the political subdivision must pass and file a requesting authorization to participate in cooperative purchasing. This resolution must be filed with the Department of General Services.

The political subdivision may work directly with the Department of General Services for its purchasing needs. All contract information, as well as a sample resolution, is available free of charge on the departmental web page at www.dgs.state.pa.us. Organizations are also required to forward a copy of each purchase order for contracted items to the department. Orders are sent directly to the vendor, and merchandise is delivered directly to the location specified by the participants. The commonwealth does not serve as a purchasing agent.

For additional information about these cooperative purchasing programs, please contact the Department of General Services, Bureau of Procurement, Room 414, North Office Building, Harrisburg, PA 17125 or (717) 787-5733.

Federal Surplus Property Program

The Department of General Services is responsible for administering the distribution of surplus federal property, such as motor vehicles, hand tools, office furniture, computers, electronic equipment, heavy equipment, and other usable property through the Federal Surplus Property Program. The program is available to municipalities, emergency service organizations, schools, and other nonprofit organizations.

There is no cost to apply to participate in this program. However, the participant incurs a service charge to cover the state’s cost to administer the program. The actual service charge on each item depends on the original cost of the item, its condition, and any unusual costs incurred.

Some restrictions are placed on federal surplus property. All property must be placed into use within one year from its acquisition and must be used for at least one year from the date it is placed into use. Higher value items (those valued at \$5,000 or more in new condition) must be used for at least 18 months. Property is restricted to organizational use only; no personal use is permitted. Property cannot be sold, loaned, leased, traded, or torn down for parts during the minimum use period. Property must be used only by the receiving organization and cannot be transferred.

Eligible and prospective participants are invited to browse through the federal distribution centers and check the online inventory list to see what surplus items are currently being offered. The Main Distribution Center in Pennsylvania also operates a toll-free hotline at (800) 235-1555, and representatives are available to answer any questions about the program and the availability of surplus property. Additionally, the Department of General Services publishes a circular, called the Surplus Sampler, which lists equipment and supplies available to eligible organizations.

State Surplus Property

State surplus property, such as office furniture, typewriters, and tools, is offered for public sale at the Department of General Services' State Surplus Property Distribution Center in Harrisburg, at special sales held periodically throughout the commonwealth, or through online auctions.

The commonwealth also offers private online sales for municipalities on heavy equipment, off-road equipment, and dump trucks before they are offered for sale to the general public.

For more information regarding the state surplus property purchasing programs, visit the Department of General Services website at www.dgs.state.pa.us/bssso and click on "State Surplus Property Program." You may also call the Department of General Services' Bureau of Supplies & Surplus Operations at (717) 787-6159.

REFERENCES

1. 53 Pa.C.S.A. § 2315.
2. 53 Pa.C.S.A. § 2308.
3. 53 Pa.C.S.A. §§ 2311-2313.
4. 53 Pa.C.S.A. § 2309.
5. 53 Pa.C.S.A. § 2310.
6. 62 Pa.C.S.A. § 1901 et seq.

X. Types of Purchasing Arrangements

Whether considering the purchase of materials, equipment, or supplies or entering into construction contracts, municipal officials should investigate the types of purchasing arrangements available to determine the type of contract most suitable for the intended purchase.

Lump Sum Contracts

The lump sum contract obligates the contractor to perform the work or provide the item according to the plans and specifications for a specified sum of money. Lump sum contracts are primarily used for purchases or projects where the plans and specifications are completed in detail before the municipality requests bids. This procedure allows the municipality to determine the cost of the project or purchase in advance. This type of contract is not generally recommended when plans and specifications are incomplete because the bids will generally be higher than otherwise necessary because of the uncertainty caused by the incomplete plans and specifications. In addition, change orders after construction has commenced can be costly and lead to disputes.

Unit Price Contracts

The unit price contract is based on an estimate of the number of units needed and a price per unit. The contract provides for compensation to the contractor for each actual unit constructed or supplied at the agreed price. The estimated quantities at the proposed unit prices submitted by bidders are used in comparing the bids. This type of contract is advantageous when the work requires quantities of relatively few types of construction or purchases and the quantities cannot be accurately identified in advance. A great deal of variation is permitted in this type of contract without the need for formal change orders as long as the items remain generally the same as indicated in the initial contract. In addition, the magnitude of the project or purchases need not be delineated at the beginning. However, the detailed plans and specifications per unit must be complete before the bidding process begins.

It is also possible to combine the characteristics of lump sum and unit price contracts. There are advantages to this hybrid contract when a definite number of items can be covered by the lump sum feature and an indefinite quantity of items, fixed in detail, can be included in the unit price method.

Annual Contracts

Many supplies and materials can be obtained through annual contracts in which the municipality requests and receives bids for the approximate quantities it expects to use during the year. As the need arises, the municipality can order the needed quantity. The order may be for all or part of the annual requirements. Annual contracts should be advertised and let at a specific time of the year.

A listing of materials typically acquired through annual contracts is shown on the next page. The main advantage of annual contracts is that the municipality does not have to go through the advertising, bidding, and contract award procedures for each purchase. In addition, because the contract amount over a one-year period may be quite large, quantity cost advantages are generally realized.

Typical Annual Contracts

Roadway Construction Materials and Services

- Emulsified asphalt, paving asphalt, and liquid asphalt
- Construction of asphalt concrete pavement
- Asphalt concrete discharged into trucks
- Asphalt concrete furnished, delivered, and stockpiled or truck-spread

- Rock, sand, and crushed aggregate base furnished, delivered, and stockpiled or truck-spread
- Ready mixed Portland cement concrete
- Portland cement in sack containers

Printing and Duplicating Services

- Printing official advertising
- Reproduction of prints, drawings, maps, plans, and other documents

Expendable Materials for Mechanical Equipment

- Kerosene and cleaning solvent
- Gasoline, diesel fuel, and fuel oil
- Engine lubricating oils, oil for hydraulic systems, and chassis lubricants
- Lead acid type storage batteries
- Tires and inner tubes
- Retreading and repairing tire casings

Miscellaneous Materials

- Dairy manure fertilizer
- Reflective coating materials for roadway traffic line striping
- Incandescent, fluorescent, quartz iodine, and mercury vapor lamps
- Light standard assemblies
- Electrical conduit and tubing
- Electrical wire and cable

The contract arrangement with the successful vendor provides the basis for orders during the contract period.

Orders made during the year should be in writing. Each purchase order should include a reference to the annual contract, article being ordered, quantity, unit and total price, place and time of delivery, and the name of the vendor and the person making the purchase order.

If the vendor's bid includes a provision for possible price changes during the year, the purchasing agent should try to time orders to avoid price increases. If there is some indication prices are trending downward, purchases should be delayed.

Guaranteed Maintenance Purchasing

Pennsylvania laws require municipalities to award a contract to the lowest qualified bidder. This can result in a situation where the purchased equipment has the lowest initial cost, but proves to be more expensive in the long run because of higher than expected operation and maintenance costs.

Sometimes this can be remedied by requiring guaranteed maintenance/life cycle bids. Specifically, the instructions may require a price for the purchase of the equipment and a guaranteed maintenance cost for the expected useful life of the equipment. Contracts of this type are usually more complex and require a considerable amount of municipal record keeping, but in the long run they often result in substantial savings.

The major factors that should be considered in a guaranteed maintenance purchase are:

1. The bid should be in two parts, one for the equipment and the other for the guaranteed maintenance cost. The bidder with the lowest total is normally considered the lowest qualified bidder.
2. The bidding specifications should carefully state which repair expenses are covered by the guarantee.

3. Normally, the municipality must assume responsibility for day-to-day operational expenses, such as oil, lubricants, filters, antifreeze, batteries, headlights, brake linings, and other normal wear of items. The agreement will often specify that the equipment will be operated only by municipal employees. It might also limit the uses of equipment.
4. Any cost that is more than the guaranteed maintenance amount will be paid by the vendor to the municipality at the termination of the contract. The cost of downtime is included in the guarantee, and if it exceeds a specified number of hours, the vendor will pay for it or supply a substitute piece of equipment.

There are negative aspects to guaranteed maintenance purchasing. As referenced above, a complete record of maintenance cost and downtime for the guaranteed equipment is necessary to support claims. Maintenance cost records are desirable in any case; however, the expense required to develop or modify present records systems to support a guaranteed maintenance plan should be considered. In addition, the contractor will generally insist on access to all municipal maintenance records as part of the contract. The contractor may also contest any large claim. The expense and time lost in settling claims can be significant.

Guaranteed maintenance purchasing should be investigated before buying large quantities of rolling equipment. It can cut down on expensive maintenance costs that often seem to occur immediately after the warranty expires. The plan may be tailored to incorporate parts, parts and labor, a buy-back clause, and various penalties for late delivery or other responsibilities of the vendor. The guarantee in this kind of purchasing plan provides firm cost projections to aid in the overall public works programming and budgeting process.

Leasing

Leases are rental agreements between two parties. The owner of the property agrees to rent it to the municipality at a negotiated price for a specified period of time. All leases are subject to municipal contracting requirements.

Under a true lease, the municipality receives the right of use for a specified period of time and does not assume ownership of the property. This type of lease is common with specialized construction machinery needed only for particular jobs of short duration. Purchases of services are also made through this type of lease.

Lease purchase contracts are conditional sales agreements, which transfer conditional ownership to the municipality at the beginning of the lease term. The lease payments are counted toward the purchase price of the item. At the end of the lease period, full ownership of the property passes to the municipality, usually for a nominal sum.

XI. Purchasing Professional Services

Municipalities often need to obtain professional services in such fields as accounting/auditing, engineering, insurance, law, planning/community development, or the like. All of the municipal codes exempt professional services from competitive bidding requirements, so professionals need not (and normally cannot) be hired through competitive bidding. These services are exempted from competitive bidding requirements because professional qualifications, capabilities, and experience differ. Service to be provided cannot be defined by precise specifications or solely on the basis of price. However, municipalities that use a competitive process to obtain the services of an engineer, attorney, or professional auditor, for example, feel that they receive better value for their money. Because a type of competitive purchasing may be used, without the requirement to award to the “lowest responsible bidder,” the municipality is in a position to obtain both value and quality.

The competitive purchasing process for professional services typically proceeds as follows:

- Municipalities prepare an RFP that explains the service sought, the experience and qualifications required, the timing of both the purchasing process, and the deadline for the provision of services and any other requirements.
- Municipalities review the submitted proposals and select the one that gives the best combination of qualifications, experience, and price. They should be careful not to accept a proposal simply because it is the cheapest. Obtaining services from a professional who submits the lowest price proposal, but who is not qualified in the field can create expensive problems.
- Municipalities write a contract that incorporates the winning proposal by reference and specifies time limits or other constraints. For example, when contracting for professional auditing services, it is typical to contract for a three-year period rather than one year at a time.

Defining the Service to be Purchased

Before the municipality mails out an RFP, it should draft a clear statement of the services that are needed in terms and language that all recipients will understand. If the municipality does not provide clear and precise information about the service to be provided, then the prospective consultant may be uncertain as to how much work will be needed, and, as a result, its proposal may be priced higher than necessary.

The common terms and phrases used in the three most common fields necessary to municipalities — engineers, attorneys, and auditors/accountants — are set forth below.

Engineering. The municipality must decide whether engineering services are needed for a specific project (such as planning and rebuilding a road or bridge or planning and constructing a building) or on an ongoing basis through a continuing retainer. If the engineer is to be hired only for a specific project, then the municipality must clearly define what is to be accomplished, including time limits, government standards, and other requirements. If the municipality wishes to use the engineer’s services on an ongoing basis, then an annual retainer may be appropriate as long as the services to be included in the retainer are carefully specified. Identifying the expected volume of work (such as number of plans to be reviewed, meetings to be attended, and the like) is important.

Law. Similar to purchasing engineering services, the municipality must decide whether ongoing services are needed or whether payment will be on a case-by-case basis for specific work performed. In addition, the municipality should specify whether it will expect the solicitor to attend governing body meetings on a regular basis or only on an as-needed basis. Disagreements between the solicitor and governing body over fees are more likely to arise when there is not a clear agreement as to what services are included in the retainer and which are to be billed outside the scope of the retainer agreement. Some municipalities obtain specialized legal services for areas such as collective bargaining or other labor-related matters, cable television regulation, or land use control through RFPs.

Auditing. An audit typically has two important specifications — the scope of work and the standards — plus other information the prospective auditor needs to prepare a carefully priced proposal.

- **Scope of Work.** Although private sector audits (which do not involve fund accounting) traditionally focus on the financial statements taken as a whole, the Government Finance Officers Association of the United States and Canada strongly recommends that governments request a “full scope” audit in which each fund is subjected to the audit tests and other procedures.
- **Standards.** Governmental audits usually are carried out according to Generally Accepted Auditing Standards or, particularly if a federal grant is involved, according to Generally Accepted Governmental Auditing Standards which are published by the U.S. General Accounting Office. Use of the latter standards greatly increases the cost of an audit because of the additional work involved.
- **Other information** a prospective auditor will need to develop a carefully priced proposal includes the number and type of municipal funds, including the number, type, and location of pension funds, the size of the overall budget and general fund, the types of local tax revenues and identification of outside tax collectors, the number of bank accounts, and the volume of transactions during the year.

Reviewing Proposals and Selecting the Best

Since prospective consultants will vary as to their experience and professional qualifications, many municipalities use a proposal rating process in which several officials rate each proposal in terms of such factors as:

- Professional qualifications.
- Experience.
- Ability to perform the work needed within the specified time limits.
- Price.

Since the municipality will award the contract on the basis of all the factors listed, the result should be that the municipality selects the “best” service provider, taking all factors into account, rather than the one that offers the lowest cost.

Writing the Contract

The municipal solicitor normally advises as to the most appropriate form of the contract. As noted earlier, the contract should incorporate the winning proposal by reference and, at least in connection with the retention of a professional auditor, should be written for more than one year. Many accounting/auditing firms choose not to respond to RFPs that are only for a one-year engagement. The municipality will be protected if it specifies three one-year contracts with automatic renewal as long as deadlines and standards are met.

Pennsylvania Department of Community & Economic Development
Governor's Center for Local Government Services
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

USPS 100
APPROVED POLY

Appendix L

Capital Improvement Project Identification Form

Project Name						
Project Description						
Proposed Year(s)	2026	2027	2028	2029	2030	Total
Item	\$	\$	\$	\$	\$	\$
Total	\$	\$	\$	\$	\$	\$
Sources of Funds						
Impact on Operations						

Appendix M

RANKIN BOROUGH
PUBLIC WORKS DEPARTMENT
EMPLOYEE HANDBOOK

Effective January 1, 2021
Rev. 09/01/2022

Approved 11/9/22

1/3/23 Work hrs changed to 8:30 - 4pm 1/2 hr lunch 12³⁰ - 1pm

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SECTION 1 – INTRODUCTION

This Handbook is designed to acquaint you with Rankin Borough (hereinafter “the Borough”) and provide you with information about working conditions and policies affecting your employment.

The information in this Handbook applies to all Public Works Employees of the Borough. Following the policies described in this Handbook is considered a condition of continued employment. The Handbook is a summary of policies, which are presented here only as a matter of information.

You are responsible for reading, understanding, and complying with the provisions of this Handbook and any policies you may receive. Our objective is to provide you with a work environment that is constructive.

1.1 CHANGES IN POLICY

The Borough reserves the right to interpret, change, suspend, amend, cancel, or dispute with or without notice all or any part of our policies or procedures at any time. All employees will be notified of those changes, which will be effective on the date(s) determined by the Borough.

No individual supervisor has the authority to change policies at any time.

1.2 EMPLOYMENT APPLICATION / EMPLOYMENT INFORMATION UPDATE

We rely upon the accuracy of information contained in the employment application. Any misrepresentations, falsifications, or material omissions in any of this information may result in exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment. **Employees are obligated to keep the Borough updated on all contact and other personal information.**

1.3 EMPLOYMENT RELATIONSHIP

You entered your employment with the Borough voluntarily, and you are free to resign at any time, for any reason or no reason. Your employment with the Borough is “at will” meaning that either employer or employee may terminate the employment relationship at any time for no reason or for any reason except that the employer may not terminate employment for a reason or reasons that are specifically prohibited by law such as Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination Employment Act and the Pennsylvania Human Relations Act.

SECTION 2 – EMPLOYMENT POLICIES

2.1 NON-DISCRIMINATION

To provide equal employment and advancement opportunities to all individuals, employment decisions will be based on merit, qualifications, and abilities. The Borough does not discriminate in employment opportunities or practices because of race, color, religion, sex, national origin, age, disability, or any other legally prohibited criteria.

2.2 NEW EMPLOYEE ORIENTATION

The Borough Secretary will provide to each employee a job description, which outlines various job duties; payroll paperwork to be completed by the employee; and workers' compensation information.

2.3 WORK HOURS

The work hours will be set by the Borough Council, but normal start time is ^{8:30} 7 a.m., Monday through Friday. These hours can be changed at the discretion of the Supervisor due to weather conditions. **If you need to change your work hours for an appointment, you must obtain permission from the Council President & notify the Borough Secretary.**

2.4 LUNCH BREAKS

Lunch breaks are ^{12:30 - 1 changed 11/3/23} 12 p.m. - 1 p.m. Extended or prolonged lunch breaks without prior authorization is not permitted. In the case of a conflict, the Borough reserves the right to designate or cancel the lunch break. Employees are expected to return to work for the remainder of the day.

2.5 INCLEMENT WEATHER

The nature of the employment constitutes working during periods of snow fall and may include working during emergencies.

2.6 EMPLOYMENT TERMINATION

Below are the most common circumstances under which employment is terminated, but not the only circumstances:

- Resignation – voluntary employment termination initiated by an employee.
- Termination – involuntary employment termination initiated by the Borough.
- Layoff – involuntary employment termination initiated by the Borough.

Resignation - Employees intending to terminate their employment should notify the Supervisor, preferably in writing. Any employee who terminates employment shall return all keys and any other materials that are property of the Borough. Any employee failing to do so in a timely manner will be considered to have stolen such property and will be reported to the appropriate law enforcement authorities.

Termination – Among the reason why an employee may be terminated, an employee shall be terminated for not reporting for work and/or not calling off as outlined in Sections 3.1 and 3.3; and/or failure to respond to official Borough correspondence.

2.7 SAFETY

Each employee is expected to exercise caution and common sense in all work activities; and use all safety equipment provided. Employees who violate safety standards; cause dangerous or hazardous situations; or fail to report or remedy such situations, may be subject to disciplinary action, including termination of employment.

In the case of an accident that results in injury, no matter how insignificant the injury may appear, employees must immediately notify their supervisor, who will complete an incident report and notify the Borough Secretary.

2.8 EMPLOYEE REQUIRING MEDICAL ATTENTION

In the event an employee requires medical attention; the employer must be notified immediately and the workers' compensation approved care list must be followed. In the case of an emergency the employee should be transported via ambulance to the closest emergency provider facility. A physician's "return to work" notice is required before an employee may return to work. A drug & alcohol test must be completed within 2 hours at the facility of treatment with the results of the test to be provided by a laboratory that is certified by the National Institute for Drug Abuse ("NIDA").

SECTION 3 – STANDARDS OF CONDUCT

While not intended to list all the forms of behavior considered unacceptable in the workplace, the following are examples of rule infractions or misconduct that may result in disciplinary action, including termination:

- Theft or inappropriate removal of property of the Borough;
- Using a Borough vehicle or Borough owned equipment without the express written preapproval of employer;
- Falsification of timekeeping records;
- Working under the influence of alcohol or illegal drugs;
- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace;
- Fighting or threatening violence in the workplace;
- Boisterous or disruptive activity in the workplace;
- Negligence or improper conduct leading to damage of Borough-owned property and/or personal injury of self or others;
- Insubordination or other disrespectful conduct;
- Violation of health or safety rules;
- Sexual or other unlawful or unwelcomed harassment;
- Discrimination;
- Excessive absenteeism or any absence without notice;
- Excessive tardiness or leaving work without permission;
- Unauthorized use of telephones or using company computers for purposes other than business;
- Violation of personnel policies; and
- Unsatisfactory performance or conduct.

3.0 JOB DESCRIPTIONS

A. STREET DEPARTMENT SUPERVISOR

1. Must have a valid PA driver's license. Should this change during employment you are to **immediately** (within 24 hours) notify the Council President **and** the Borough Secretary Failure to do so will / may result in termination.
2. Knowledgeable in safe operation of all borough vehicles: dump truck (with or without plow and salt spreader), pick-up truck (with or without plow and salt spreader), and bobcat.
3. Knowledgeable in safe operation of all borough maintenance equipment: lawn mowers (riding and push), weed whackers (gas), chain saw, power tools (hand saw, drills, etc.), and hand tools (paint brush, shovel, pick, broom, etc.).
4. Receive directions or directives from council committee person overseeing the street department and the Borough Secretary.
5. Assist if needed to perform PA One Calls.

6. Monitor all borough-owned properties for maintenance and grounds keeping needs: grass cutting, weed whacking, snow removal, pothole patching of streets, replacing street signs, cleaning storm catch basins, sewer lines, paint crosswalks, street marking, restroom maintenance, etc.
7. Assist in maintenance of borough-owned vehicles and equipment.
8. Notify mechanic of vehicle maintenance needed: inspections, lights, brakes, etc.
9. Order materials needed for the safe operation of borough vehicles, equipment, and buildings: vehicle parts, equipment parts, salt, asphalt patch, concrete, paint, etc.
10. Perform office duties: keep record of job assignments; and maintain inventory of tools, equipment, street signs, etc.
11. Keep office and garage clean and orderly, and free from any slipping or tripping hazards.
12. Keep tools, equipment, etc. in a secure area.
13. Ability to perform same work as assigned to laborers.
14. Job safety:
 - a. Instruct other employees in the safe operation of all borough vehicles and equipment.
 - b. Obey all PA traffic and driving laws while operating vehicles and equipment using safety equipment (seat belts, etc.).
 - c. Use safety vests and/or shirts at all times on the job.
 - d. Use safety cones and truck lights on vehicles while working in or near borough streets.
 - e. While using power tools, mowers, weed whackers, etc. wear eye protection, ear plugs, long sleeve shirts, long pants, work boots, and work gloves.
 - f. Obey all manufacturers' directions for safety and maintenance of equipment, vehicles, tools, etc.
15. Ability to deal courteously with the public, i.e., when entering a private home remove work shoes/boots or wear protective covering of shoes/boots.
16. Perform work as required and other duties as assigned.

B. STREET DEPARTMENT LABORER

1. Must have a valid PA driver's license. Should this change during employment you are to **immediately (within 24 hours)** notify your supervisor **and** the Borough Secretary Failure to do so will/may result in termination.
2. Receive directions or directives from council committee person overseeing the street department, Department of Public Works supervisor and the Borough Secretary.
3. Knowledgeable in safe operation of all borough vehicles: dump truck (with or without plow and salt spreader), pick-up truck (with or without plow and salt spreader), and bobcat.
4. Knowledgeable in safe operation of all borough maintenance equipment: lawn mowers (riding and push), weed whackers (gas), chain saw, power tools (hand saw, drills, etc.), and hand tools (paint brush, shovel, pick, broom, etc.).
5. Job safety:

- a. Obey all PA traffic and driving laws while operating vehicles and equipment using safety equipment (seat belts, etc.).
 - b. Use safety vests and/or shirts at all times on the job.
 - c. Use safety cones and truck lights on vehicles while working in or near borough streets.
 - d. While using power tools, mowers, weed whackers, etc. wear eye protection, ear plugs, long sleeve shirts, long pants, work boots, and work gloves.
 - e. Obey all manufacturers' directions for safety and maintenance of equipment, vehicles, tools, etc.
 - f. Report all tools, vehicles, equipment, etc. that are not in working order to the supervisor.
- 6. Ability to deal courteously with the public, i.e., when entering a private home remove work shoes/boots or wear protective covering of shoes/boots.
 - 7. Perform work as required and other duties as assigned.
 - 8. Random drug testing may be required

3.0 (a) DRESS CODE

This guideline applies to all employees of the Department of Public Works (DPW) during business hours and when representing the Borough of Rankin during work-related activities. This document provides instruction on appropriate work attire and addresses personal protective equipment (PPE). This document is a guideline and does not address every working condition.

PERSONAL APPAREL REQUIREMENTS

Employees represent Rankin Borough at all times when on duty, and participating in work-related functions. As such, they must be neat in appearance and well-groomed at all times.

- **Acceptable Attire:**

- Long pants; constructed of durable material such as denim, twill, cotton and cotton synthetic. (e.g. loose fitting blue jeans, Carhartt, Dickies, cargo pants, etc.) Nylon, polyester and sweat pants are NOT acceptable.
- Shirts: Long sleeve should be worn during work activities involving increased risk of cuts, scrapes, strain, pinching or exposure to infections or caustic materials to arms.
- Jewelry: Body piercing jewelry other than post style earrings shall be removed while at work. Any jewelry that may cause risk of choking, crushing, or snagging shall be removed during work hours.

- **Unacceptable Attire:** Unacceptable work attire includes but is not necessarily limited to the following items:

- Tight fitting, revealing and sheer clothing. (e.g. midriff, cleavage, pectoral area. Tank tops, sleeveless, ripped off sleeves, graphic, logo, advertising, words and picture.
- Modified clothing after purchase
- Sweatpants, exercise pants, warm-up suits and spandex-like material pants.
- Shorts
- Work attire that has holes, frayed, ripped or see through.

Employees found wearing unacceptable clothing at work will be required to change into appropriate attire. If appropriate attire is not available, then the employee will be sent home to change using personal time.

PERSONAL PROTECTIVE EQUIPMENT:

- **Safety Vests:** Safety vests shall be worn by all DPW employees, when they are in official street right-of-way outside of a vehicle, even when physical labor is not occurring. Vests must be florescent yellow.
- **Gloves:** Gloves shall be worn at all times by any employee handling material where risk of cuts, scrapes, bruises, strain, pinching or exposure to infectious or caustic material exists.
- **Safety Glasses:** Employees are responsible for proper care and accountability of prescription and non-prescription safety glasses.

Prescription glasses with side shields or prescription safety glasses

Non-prescription safety glasses can be purchased at any hardware or department store at the employee's expense.

Safety Glasses with side shields shall be worn at all times under the following conditions:

1. In any equipment repair and or maintenance
2. Brush collection
3. Brush clearing and or cutting
4. Trash collection
5. Pot hole repair/ filling
6. **Any** work activity where debris or material can fall or be flung into the eye.

- **Work Boots:** Employees will be required to wear approved leather work boots with or without a steel toe.
- Boots will be constructed of leather with soles constructed of durable rubber or equivalent material.
- Boots shall cover and provide support for the ankle. **Shoe-style footwear is not allowed.**
- **Boots are required to be laced up and tied at all times.**

3.1 ATTENDANCE / PUNCTUALITY

The Borough expects that every employee will be regular and punctual in attendance. This means being ready to work at the starting time each day. The habitual inability to get to work on time will result in discipline up to and including termination. You are required to punch in and out for every shift worked. If you miss / forget to punch in you must notify the Borough Secretary **immediately**.

**** THE RANKIN BOROUGH TIME CLOCK POLICY IS ATTACHED**

Employees are required to record their hours using Rankin Boroughs timekeeping method. You are required to clock in at or no more than 5 minutes before your scheduled start time. If you are late, you must notify your supervisor **AND** the Borough Secretary per Rankin's policy. Employees are NOT permitted to clock out prior to the end of their scheduled shift, ***unless authorized in advance by the Council President or the Borough Secretary.***

If an employee is unable to clock in or out, due to a timeclock malfunction they are to notify the Borough Secretary ***immediately***. Employees who miss a punch, regardless of the reason, must submit written notice to the Borough Secretary within one day of the missed punch and the reason for the missed punch.

Forgetting to clock in or out, or having a technical error in doing so, will not result in disciplinary action unless it becomes routine, then disciplinary will be as follows:

- **First Offense:** A discussion with the Borough Secretary and/or Council President regarding this policy and further violations.
- **Second Offense:** A discussion with the Borough Secretary, Council President and/or Department of Public Works Committee regarding this policy and a written warning in the employee's personnel file.
- **Third Offense:** Increased disciplinary action, up to and including termination.

If you are unable to report to work for any reason, you must notify the Supervisor of the Public Works Department and the Borough Secretary at least 60 minutes

before your scheduled starting time. Except in emergencies preventing, you from doing so, you are expected to speak directly to the Supervisor of the Public Works Department **and** the Borough Secretary, a voice mail or text message is **not** acceptable.

Three consecutive absences will require a doctor's excuse. No Exceptions.

Calling off without prior approval the day before or after a holiday will result in loss of holiday pay.

Vacation must be submitted in writing to Council for approval 1 month in advance. Approval will be given at the monthly council meeting.

Personal Time must be requested in writing 1 week before use.

All personal business shall be conducted on the employee's own time.

3.2 HOLIDAY / VACATION / SICK DAYS (All paid out at straight time, use or lose)

Observed Holidays:

New Year's Day, Martin Luther King Day, Presidents Day, Good Friday, Primary Election Day, Memorial Day, Flag Day, Independence Day, Labor Day, Columbus Day, General Election Day, Veterans Day, Thanksgiving, Day after Thanksgiving, Christmas Day.

Vacation Days: (based upon years of employment)

First Year: 5 Days
Second Year: 10 Days
Five Years: 15 Days
Ten Years: 20 Days

Sick Days: (based upon years of employment)

First Year: 5 Days
Second Year: 10 Days
Five Years: 15 Days
Ten Years: 20 Days

- Missing a scheduled work day, the day before or after a holiday; without prior approval will result in **non-payment** for the holiday.

3.3 ABSENCE WITHOUT NOTICE

If you do not report to work and the Borough does not receive proper notification of your status for two consecutive days, it will be assumed that you have resigned, and you will be removed from payroll and your status as an employee will be terminated.

A No Call No Show can/may result in suspension or immediate termination.

3 No Call No Shows on your record will result in immediate termination.

If you become ill at work or must leave before the end of the workday, you must inform the Supervisor of the Public Works Department and the Borough Secretary prior to leaving, unless it is a medical emergency.

3.4 HARASSMENT / DISCRIMINATION

Purpose – The purpose of this policy is to describe why types of conduct will not be tolerated and the method by which allegations or workplace discrimination, harassment and/or retaliation should be reported by employees of the Borough and the procedure by which such allegations will be dealt with by the Borough.

Policy – The policy is one of affirmative compliance with the relevant provisions of all applicable state and federal laws concerning discrimination, harassment and/or retaliation. The Borough will not tolerate discrimination, harassment and/or retaliation against any employee. Violations of this policy will result in disciplinary action up to and including termination.

Procedure:

(a) Definition of Harassment / Discrimination:

Harassing and/or discriminatory behavior may be verbal or physical. Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, regardless of gender, constitutes sexual harassment. Harassment / discrimination may also include, but is not limited to, verbal or physical conduct of a demeaning or offensive nature, such as offensive drawings, pictures, jokes, or teasing aimed at a person's veteran status, race, color, religion, sex, marital status, national origin, physical or mental disability, age, political affiliation, or pregnancy or other protected status.

(b) Definition of Retaliation:

Retaliation occurs when one is subjected to offensive or objectionable conduct or language because one initiated, participated in, or cooperated with a complaint of harassment or discriminatory request that would otherwise dissuade the employee from making or supporting the complaint.

(c) **Employee Responsibility:**

It is each employee's right and responsibility to immediately report breaches of this policy. If for any reason an employee does not wish to report the conduct to the supervisor, the employee may report to the Borough Personnel Committee or the Borough Secretary.

(d) **Investigation:**

The Borough will promptly respond to all reports of violations of this policy. The investigations will be conducted in as confidential a manner as possible.

(e) **Corrective Action:**

The facts of the case will be considered and the Borough will take corrective action, as deemed appropriate. Such action may include counseling, disciplinary warning, demotion, discharge, or other action.

3.5 TELEPHONE USE

The Borough's telephones, land lines and cell phones, are for conducting the Borough's business.

Personal cell phones shall be turned off or set to silent or vibrate mode at work. If an employee's use of a personal cell phone causes disruptions or loss in productivity, the employee may become subject to disciplinary action. If an employee is operating a Borough vehicle, they may answer the call, ask the caller to hold, and pull to the side of the road, parking lot, or other safe location to respond to the call. Failure to follow this policy may result in disciplinary action up to and including termination.

3.6 PUBLIC IMAGE

A professional appearance is important. Employees should be dressed appropriately in shirts indicating the Borough's name. The Borough reserves the right to send employees home to change clothing deemed inappropriate.

3.7 WORKPLACE VIOLENCE

The Borough has a zero-tolerance policy concerning threats, intimidation, and violence of any kind in the workplace committed by or directed to employees. Employees who engage in such conduct will be disciplined, up to and including termination of employment. Employees are not permitted to bring weapons of any kind onto Borough property. If an employee feels they have been subjected to threats or threatening conduct by a co-worker, resident, elected official, or appointed official, the employee must notify their supervisor, the Chairperson of

the Public Works Committee, or the Borough Secretary immediately so that proper corrective and/or protective action can be taken.

3.8 PROCEDURE FOR HANDLING COMPLAINTS

Under normal working conditions, employees who have a job-related problem, question or complaint, should first discuss it with their supervisor. If the employee and supervisor do not solve the problem, or if the employee does not feel comfortable speaking with the supervisor, they are encouraged to contact a member of the Department of Public Works Committee or the Borough Secretary for a complaint form. The Department of Public Works Committee will schedule hearings with all parties involved and a written decision of disciplinary action will be provided.

3.9 USE OF BOROUGH VEHICLES AND EQUIPMENT

Borough owned or leased vehicles and equipment utilized by Public Works Department employees shall at all times be used solely to carry out Public Works Department related job duties, shall be used only for purposes for which the vehicle or equipment was designed, and utilized exercising due care to ensure that the equipment or vehicle is not damaged. Under no circumstances shall Public Works Department vehicle or equipment be utilized by any employee for personal use. At no time shall a Public Works Department employee drive or cause to be driven a Public Works Department vehicle outside of Rankin Borough except where specifically authorized to do so by the Borough Secretary and Public Works Department supervisor for the purpose of carrying out a specific Public Works Department project, duty or responsibility (i.e. having the vehicle or equipment inspected or repaired by an out-of-Borough service provider, retrieving supplies, etc.). Use of any Public Works Department vehicles or equipment in violation of this subsection will result in disciplinary action up to and including termination.

SECTION 4 – DRUG & ALCOHOL TESTING

4.0 IMPLEMENTATION OF TESTING PROGRAM

The Borough hereby implements a drug and alcohol testing program that includes screening/testing (hereinafter referred to as "drug and alcohol testing") in the case of reasonable suspicion. Reasonable suspicion shall include, but not necessarily be limited to: (a) situations where an employee is involved in an accident, including an accident resulting in personal injury to an employee and/or others; (b) personal observations by a supervisor or others evidencing a reasonable suspicion that the employee is or may be under the influence of drugs or alcohol; and/or (c) an accident or incident caused or contributed to by the employee that results in real or personal property damage of more than \$200.00 to property of the Borough

and/or a third party. Where such reasonable suspicion exists, the employee must submit to being transported by a supervisor, or other Borough official or Borough Police officer to a drug and alcohol testing facility to submit to a drug and alcohol test with the results of the test to be provided by a laboratory that is certified by the National Institute for Drug Abuse ("NIDA"). In the event an employee has been or may have been injured in the incident leading to reasonable suspicion and requires immediate medical attention, the employee consents to the drug and alcohol test being performed by the medical facility that evaluates and/or treats the employee's injuries.

4.1 TESTING AFTER WORK RELATED INJURY / ACCIDENT/ PROPERTY DAMAGE

An accident or incident caused or contributed to by the employee that results in real or personal property damage of more than \$200.00 to property of the Borough and/or a third party. The employee must submit to being transported by a Borough official or Borough Police officer to a drug and alcohol testing facility to submit to a drug and alcohol test within 2 hours of the incident. The results of the test to be provided by a laboratory that is certified by the National Institute for Drug Abuse ("NIDA"). In the event an employee has been or may have been injured in the incident and requires immediate medical attention, the employee consents to the drug and alcohol test being performed by the medical facility that evaluates and/or treats the employee's

4.2 TESTING AFTER BREAK FROM EMPLOYMENT

An employee who returns to work from an absence, layoff, leave of absence, illness or any other reason for a period of three weeks or more shall submit to a drug and alcohol test prior to resuming work duties.

4.3 RESULT OF POSITIVE TEST RESULTS

An employee who tests positive on a drug or alcohol test performed pursuant to Sections 4.1 and/or 4.2 above may, at the sole discretion of the employer, be provided one opportunity for rehabilitation through a rehabilitation plan/program approved by the employer and paid for by the employee or employees insurance. If the employee rejects rehabilitation or fails to successfully complete the rehabilitation plan/program the employee shall be terminated. Only upon successful completion of the rehabilitation plan/program shall the employee be permitted to return to work. An employee who has successfully completed the rehabilitation plan/program and returned to work shall be subject to random drug and alcohol testing for a period of two years at the employee's expense following his return to work. If at any time the employee tests positive he shall be terminated. An employee who fails or refuses to submit to drug and alcohol testing when directed to do so by his supervisor or the Borough Secretary shall be terminated from employment.

4.4 USE OF PRESCRIPTION MEDICATION

An employee who is under the care of a physician and using physician prescribed medication must notify the Borough Secretary of the specific medication prescribed and its known side effects. The employee shall provide the Borough Secretary with such release form(s) as may be required by the employee's prescribing physician so that the Borough Secretary and/or Solicitor can correspond with the prescribing physician to obtain from the physician confirmation of the effect the medication may have on the employee's ability to safely and effectively carry out his employment duties.

SECTION 5 – TIME KEEPING

5.1 CLOCKING IN AND OUT POLICY

This Clock In Clock Out Policy is meant to provide timekeeping requirements and best practices for all eligible employees.

Eligible Employees

Eligible employees include:

- Hourly full-time
- Hourly part-time
- Non-exempt salaried

All eligible employees are required to record their hours using Rankin Borough's preferred timekeeping method. Employees are required to clock in at or before their scheduled start time. If they are late, they must notify the Borough Secretary **and** the DPW supervisor per Rankin's policy. Employees are not allowed to clock out prior to the scheduled end of the shift, unless authorized in advance by the Borough Secretary and/or Council President.

Procedures

Eligible employees must submit their time using Rankin Borough's preferred timekeeping method every week. Each time record must show all hours worked, all break times and every clock in and clock out. Employees are expected to clock in before their scheduled start time and not clock out until their scheduled departure time. Employees are required to clock out for lunch breaks and are required to clock in when their scheduled break time has ended.

If an employee is unable to clock in or clock out, the employee must submit a written request to the Borough Secretary explaining why they were unable to clock in or out and the punch time that should have been recorded. Employees who miss a punch, regardless of the reason, must submit a request via email to the Borough Secretary within one business day of the missed punch. Employee hours will be rounded, in compliance with the Fair Labor Standards Act (FLSA). Company will round employee hours to the nearest quarter-hour.

By submitting a time record to the Borough Secretary, an employee certifies the accuracy of the time record. **Falsifying time records is cause for *immediate* termination.**

The Borough Secretary will review the record for accuracy before submitting it to Rankin's payroll company. Hours worked over 40 in a workweek; must be preapproved by Council President. The employees will be paid time and a half.

Violations of this Policy

Forgetting to clock in or clock out, or having a technical error in doing so, will not result in disciplinary action unless it becomes routine. Disciplinary action will also occur when employees are found to "buddy punch," asking a colleague to clock in or out for them or clocking in or out at the request of another employee.

Disciplinary action will/ may follow these steps:

- **First Offense:** A discussion with the Borough Secretary and/or Council President regarding this policy and further violations.
- **Second Offense:** A discussion with the Borough Secretary, Council President and/or Department of Public Works Committee regarding this policy and a written warning in the employee's personnel file.
- **Third Offense:** Increased disciplinary action, up to and including termination.

SECTION 6 - ACKNOWLEDGE OF RECEIPT

I hereby acknowledge that I have received a copy of the Rankin Borough Public Works Department Employee Handbook and The Rankin Borough Time Clock Policy

I understand that the Handbook and the Time Clock Policy is for information purposes only and is not a contract, express or implied.

I understand that the Handbook and Time Clock Policy is subject to modification at any time with or without notice.

I am responsible to comply with the policies and procedures in this Handbook and the Time Clock Policy, and further understand that this Handbook and Time Clock Policy replaces and supersedes any previously issued editions of a Handbook and Time Clock Policy and all conflicting prior notices, policies, practices, rules and statements, oral or written.

PRINT NAME:

SIGNATURE:

DATE:

SIGN TWO COPIES OF THIS FORM AND RETURN ONE TO THE BOROUGH SECRETARY FOR RETENTION IN YOUR PERSONNEL FILE.

SECTION 6 - ACKNOWLEDGE OF RECEIPT

I hereby acknowledge that I have received a copy of the Rankin Borough Public Works Department Employee Handbook and The Rankin Borough Time Clock Policy

I understand that the Handbook and the Time Clock Policy is for information purposes only and is not a contract, express or implied.

I understand that the Handbook and Time Clock Policy is subject to modification at any time with or without notice.

I am responsible to comply with the policies and procedures in this Handbook and the Time Clock Policy, and further understand that this Handbook and Time Clock Policy replaces and supersedes any previously issued editions of a Handbook and Time Clock Policy and all conflicting prior notices, policies, practices, rules and statements, oral or written.

PRINT NAME:

SIGNATURE:

DATE:

SIGN TWO COPIES OF THIS FORM AND RETURN ONE TO THE BOROUGH SECRETARY FOR RETENTION IN YOUR PERSONNEL FILE.

RANKIN BOROUGH

HOLIDAYS

Pay is calculated at straight time hourly rate.

New Year's Day	Fourth of July
Presidents Day	Labor Day
Martin Luther King Day	General Election Day
Flag Day	Veterans Day
Columbus Day	Memorial Day
Thanksgiving Day	Day after Thanksgiving
Primary Election Day	Christmas
Good Friday	

VACATION / SICK DAYS

Vacation / sick is paid out at your straight time hourly rate.

*Sick days - a doctor's excuse is required

YOU MUST CALL OFF TO YOUR SUPERVISOR AND THE BOROUGH OFFICE - FAILURE TO NOTIFY BOTH WILL RESULT IN NO PAY NO SHOW AND NO PAYMENT FOR THE DAYS ABSENT

VACATION

FIRST YEAR: 5 Days
SECOND YEAR: 10 Days
FIVE YEARS: 15 Days
TEN YEARS: 20 Days

SICK

FIRST YEAR: 5 Days
SECOND YEAR: 10 Days
FIVE YEARS: 15 Days
TEN YEARS: 20 Days

Vacation must be submitted to Council for approval in advance - APPROVAL GIVEN AT THE MONTHLY COUNCIL MEETING

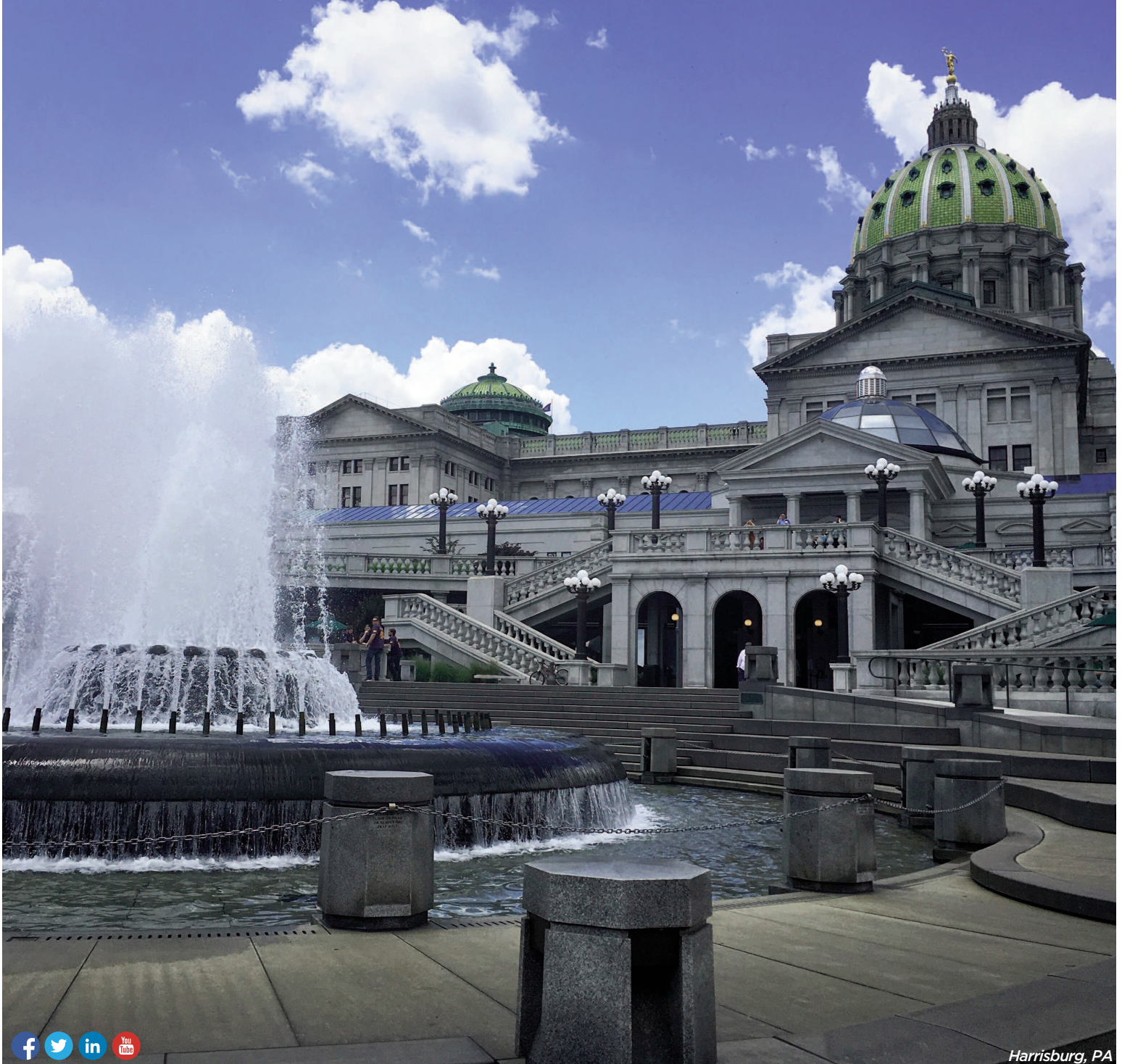
EMPLOYEE NAME: _____

EMPLOYEE SIGNATURE: _____ DATE: _____

Appendix N

MANUAL FOR MUNICIPAL SECRETARIES

Fourteenth Edition | September 2018



Harrisburg, PA

Comments or inquiries on the subject matter of this publication should be addressed to:

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I. Office of the Secretary

This manual deals with the office of secretary in boroughs and townships and the office of city clerk in third class cities. The roles and responsibilities for each of these offices are very similar. For municipalities operating under home rule charters, optional plans, and optional third class city charters, the role of secretary can be considerably different and secretaries in such communities should be careful to learn the difference between their municipality's charter and state law for their class of municipality.

Role of Municipal Government

The General Assembly, Pennsylvania's state legislature, created different types of local governments and gave each specific responsibilities and the authority to carry out these responsibilities.

In Pennsylvania, every citizen lives in a school district, a county, and a municipality. School districts are charged with providing basic education. The county is charged with elections, social services, the court system, prisons, and property assessment. The county also performs emergency management, including 911 center operation, and land use planning. Some counties own bridges or roads and many own and operate parks.

Municipalities, which include boroughs, cities, home rule municipalities, a town, and townships of the first and second class, are primarily responsible for public infrastructure, including roads and bridges, sidewalks, and sewer and water systems. Municipalities are also the primary providers of public safety services, including emergency management and response, and police, fire, and ambulance service.

Municipalities are responsible for enforcing state environmental protection regulations through sewage management, as well as stormwater runoff and floodplain management. Many municipalities elect to provide trash collection and recycling services for their residents.

Municipalities can plan how and where it wants to grow and develop into the future through a comprehensive plan and administer and enforce this plan through its subdivision and land development and zoning ordinances. Municipalities can improve the attractiveness of their community through property maintenance regulations and control of nuisances, and provide for the quality of life for their citizens through recreational opportunities, such as parks and playgrounds, and educational and cultural activities, such as libraries, fairs and festivals, and concerts.

The Intergovernmental Cooperation Act authorizes local governments to cooperate to provide a service jointly. Many municipalities work with other municipalities, the county, or their school district to provide better services to their residents or reduce the cost of these services. Frequently cited examples of cooperation include joint purchasing, road maintenance, code enforcement, police services, and recreation.

Types of Municipalities

Each type of municipality is created by a municipal code, which contains the form of government, delegates certain mandatory responsibilities to that municipality, and provides municipal officials with the authority to offer optional services and to enact certain regulations. Municipal clerks and secretaries need to become familiar with their municipal code as it provides the rules that they, and their municipality, must follow.

Copies of the municipal codes are provided to municipalities by the Local Government Commission and can be obtained from your state senator. The municipal codes are also available online at dced.pa.gov, by choosing "Local Government" and then "Local Government Law and Resource Library."

Boroughs. Boroughs operate under the Borough Code, which was codified in 2014 into Title 8 (*Boroughs and Incorporated Town*) of the Pennsylvania Consolidated Statutes. The borough council is the governing body, which appoints the borough secretary and establishes the compensation for this position.¹ The borough secretary serves the borough council and is required to attend all council meetings and maintain minutes of its proceedings. The borough secretary may also be the manager, street commissioner, treasurer, or chief of police,² but may not be a member of council, the mayor, the district magistrate,³ or a member of the civil service commission.⁴

Cities. Third class cities operate under the Third Class City Code. City council is the governing body which appoints the city clerk, sets their compensation, and may by ordinance or resolution prescribe duties of the clerk in addition to those established by law.⁵ The city clerk serves the city council and has the power of a notary public to administer oaths in any matter pertaining to the business of the city or in any legal proceeding in which the city is interested.⁶ The city clerk is given custody of the records of council. The city clerk may not serve as a member of council,⁷ the board of health,⁸ or the civil service commission.⁹

Townships of the first class. Townships of the first class operate under the First Class Township Code. The board of commissioners is the governing body, which appoints the township secretary, sets their salary by ordinance or resolution, and may establish duties for the office.¹⁰ The township secretary serves the board and is the official keeper of minutes and records. The secretary cannot be a member of the board of commissioners or a member of the civil service commission.¹¹

Townships of the Second Class. Townships of the second class operate under the Second Class Township Code. The board of supervisors is the governing body, which appoints the township secretary and sets the compensation for the office. The secretary serves the board and may also serve as treasurer or manager.¹² The secretary may be a member of the board of supervisors, but if so, compensation is established by the board of elected auditors.¹³

Home Rule. Home rule municipalities operate under home rule charters, optional plans, and optional third class city charters. In these municipalities, the secretary should initially refer to their charter or plan for the duties and responsibilities of the secretary.

Office of Municipal Secretary

City clerks and municipal secretaries play an important role in their municipalities. As a public officer, municipal secretaries occupy a position of trust and responsibility with powers and duties that are defined by their respective municipal codes, general municipal law, and local policy. While differences exist between types of municipality, as well as the expectation of the governing body, clerks and secretaries perform many similar functions across the state. It is important to spend time learning about this role.

Qualifications. There are currently no qualifications in state law for the office of municipal secretary. Instead, each governing body determines the qualifications for this office based on the creating ordinance or resolution or job description for the position. Residency is a common, but not universal, local requirement.

Compatible and Incompatible Offices. The state legislature has declared some offices to be compatible with the office of municipal secretary, while others are determined to be incompatible. Secretaries and clerks may be a member of the municipal planning commission¹⁴ or serve as zoning officer.¹⁵ However, secretaries and clerks may not be members of the zoning hearing board.¹⁶

Appointment. Secretaries are appointed by the governing body of their municipality and serve at the pleasure of the governing body. Secretaries in second class townships are reappointed at each organization meeting.

Oath of Office. Before performing the duties of office, municipal clerks and secretaries must take an oath of office and keep it on file at the municipal office. The oath must contain standard language established by Act 76 of 2008 for such oaths.

Bond. State law does not specifically require municipal secretaries to be bonded. The municipal codes give the governing body discretion to require a bond. Bonding is necessary when the secretary handles public funds.

Conflicts of Interest. Municipal clerks and secretaries must carefully avoid conflicts between their private interests and their role as a municipal official. The Public Officials and Employees Ethics Act¹⁷ prohibits public officials and employees, including municipal secretaries, from committing a conflict of interest. A conflict of interest is the use by a public official or public employee of the authority of their position, or any confidential information received through their position, for the private financial benefit of themselves, a member of their immediate family or a business with which they, or a member of their immediate family, is associated. In other words, municipal officials are prohibited from using their office to financially benefit themselves. The Ethics Act defines “immediate family” as a “parent, spouse, child, brother, or sister.” Alleged violations of the act should be referred to the State Ethics Commission for investigation.

The Ethics Act requires public officials and employees, including municipal secretaries, to file annual financial interest statements by May 1 on forms provided by the State Ethics Commission. This form must be completed for each year in office and for one year after leaving office. These statements are filed with the municipal secretary and are open to public inspection on demand.

In addition, the Ethics Act prohibits public officials and employees from having any personal interest in contracts and purchases. Under the Ethics Act, public officials and employees are prohibited from entering into any contract valued at \$500 or more with their municipality unless the contract is awarded through a sealed bid process, including public notice. This prohibition also applies to any subcontract valued at \$500 or more with any person who has been awarded a contract with the municipality, unless the contract is awarded through a sealed bid process.

For more information regarding the State Ethics Act, contact the State Ethics Commission at ethics.pa.gov or call toll-free 1-800-932-0936.

Dismissal from Office. Municipal secretaries are at-will employees who serve at the will of the governing body. As such, they may be dismissed by the governing body for any reason and at any time. Unless the termination is for cause, the former secretary may apply for unemployment.

Responsibilities

The secretary’s responsibilities include those that are mandated by state law or ordinance, such as to record and preserve the minute and ordinance books, file the oaths of public officers, and submit reports to state agencies. Some secretaries exercise only those mandated duties and routine clerical duties, while others have been given additional administrative or even management responsibilities. Some secretaries are also given responsibilities that require them to exercise independent judgment, such as issuing permits. Governing bodies often rely on their experienced secretaries for recommendations, guidance, and even drafting of documents.

Secretaries and clerks should only make and carry out decisions that are clearly within the authority given by the governing body. The secretary should obtain prior approval for proposed actions wherever possible. If a written job description has been approved for the secretary, their decision-making responsibility should be described in this document.

Serving the Governing Body

Municipal clerks and secretaries serve at the pleasure of the appointing governing body. With this said, conflicts can arise if a member or members of the governing body gives orders to the city clerk or municipal secretary between meetings. The issue is compounded if the orders contradict direction provided by the full board or council. If placed in this position, it is best to ask the board or council for a clear chain of command by board action and to make it clear who is responsible for what functions and who the secretary should consult on different issues.

Sometimes who the secretary should answer to becomes muddled when the makeup of the board changes. At this point, it is best to revisit the issue and provide the governing body with an opportunity to review the existing policy so that all parties are clear and conflicts can be avoided.

Assistant Secretary

The Borough Code, First Class Township Code, and Second Class Township Code authorize the governing body to appoint an assistant secretary by resolution.¹⁸ Assistant secretaries temporarily perform the duties of the office in the absence or disability of the secretary.

The First Class Township Code authorizes the assistant secretary to be a member of the board of commissioners, but not an officer. If the assistant secretary is a township commissioner, they are prohibited from receiving any compensation for the position of assistant secretary.

The Borough Code authorizes the assistant secretary to be a member of council, but not an officer. The assistant secretary may also serve as assistant treasurer, unless they are a member of council.

The Second Class Township Code authorizes the board of supervisors to appoint and establish the compensation of an assistant secretary. The assistant secretary may be a township supervisor, and if so, the compensation is fixed by the board of auditors. The assistant secretary may also serve as assistant treasurer.

REFERENCES

1. 8 Pa. C.S.A. 1101, 1111; Borough Code, Section 1101, 1111.
2. 8 Pa. C.S.A. 1143; Borough Code, Section 1143.
3. 8 Pa. C.S.A. 1104; Borough Code, Section 1104.
4. 8 Pa. C.S.A. 1173; Borough Code, Section 1173.
5. 53 P.S. 35902; Third Class City Code, Section 902.
6. 53 P.S. 36016.1; Third Class City Code, Section 1016.1.
7. 53 PS 36001; Third Class City Code, Section 1001.
8. 53 P.S. 37301; Third Class City Code, Section 2301.
9. 53 P.S. 39403; Third Class City Code, Section 4403.
10. 53 P.S. 55901; First Class Township Code, Section 901.
11. 53 P.S. 55627; First Class Township Code, Section 627.
12. 53 P.S. 65801-65803; Second Class Township Code, Section 801-803.
13. 53 P.S. 65602; Second Class Township Code, Section 602.
14. 53 P.S. 10202; Pennsylvania Municipalities Planning Code, Section 202.
15. 53 P.S. 10614; Pennsylvania Municipalities Planning Code, Section 614.
16. 53 P.S. 10903; Pennsylvania Municipalities Planning Code, Section 903.
17. 65 Pa.C.S.A. 1102-1104; Ethics Standards and Financial Disclosure, Sections 1102-1104.
18. 8 Pa. CS.A. 1112; Borough Code, Section 1112; 53 P.S. 55901.1; First Class Township Code, Section 901.1; 53 P.S. 65804; Second Class Township Code, Section 804.

II. State Agencies: Required Filings and Resources

The municipal secretary has frequent interaction with state offices. State laws and regulations require municipalities to perform certain roles and responsibilities and it is often the role of the municipal secretary to ensure these duties are performed and to provide required reports and certifications to various state agencies.

Many state agencies provide a host of services to assist municipal officials. Municipal clerks and secretaries should learn not only what reports must be filed, when they must be filed, and to whom, but they also need to learn what services different state agencies provide and use these resources to benefit their municipality, which include technical and financial assistance. Creating and maintaining key contacts at the state level can make day-to-day duties easier and enhance a secretary's value to their governing body.

Department of Community and Economic Development

DCED has a primary responsibility to work with local governments. DCED is not only the main repository for municipal reports and certifications, but also offers many services and programs for local government. The Governor's Center for Local Government Services provides technical assistance and training on a wide range of municipal issues, including auditing, finance, land use and community planning, floodplain management, tax collection, public safety, and intergovernmental cooperation. DCED also reviews local government debt filings, receives municipal fire escrow ordinances, and provides financial assistance through a variety of programs. For more information about DCED and the services it provides, go to dced.pa.gov and choose "Local Government" or call 1-888-223-6837.

All municipalities must file the following annual reports electronically with DCED, which are often the responsibility of the municipal secretary.

Annual Audits and Financial Reports. Annual audit reports must be filed by all municipalities with DCED within 90 days after the close of the fiscal year.¹ Secretaries ensure that this form is filed after the auditors have completed and signed the audit report, except in cities of the third class, where it is the responsibility of the chief fiscal officer.

Survey of Financial Condition. The Municipalities Financial Recovery Act requires each municipality to file a completed survey of financial condition to DCED on or before March 15 of each year.² The report applies to the municipality's prior fiscal year and contains questions to alert the department to the possibility of municipal financial distress. The survey form must be signed by the presiding officer of the governing body. In order for a municipality to receive its liquid fuels distribution by March 1, this form must be submitted to DCED by early February so that the Department of Transportation can process all required forms.

Municipality Report of Elected and Appointed Officials. By January 31, the secretary must report the names and official addresses of elected and appointed municipal officials to DCED on the *Municipality Report of Elected and Appointed Officials*.³ Changes in officeholders must be reported to the DCED as vacancies are filled.

Municipal Tax Information Form. DCED maintains an annual register listing the municipalities and school districts that levy the earned income tax and the local services tax and the rates at which these taxes are levied. Employers are required to withhold only those earned income and local services taxes listed in the register. DCED must be notified by December 1 of each year of any new tax levy, repeals, or changes.⁴ Secretaries are required to file copies of all tax-levying ordinances or resolutions with DCED within fifteen days of taking effect.⁵

Quarterly Building Code Reports. Every municipality that has opted to enforce the Uniform Construction Code⁶ must file a quarterly report on building permit activity and collect and submit a \$4 per permit fee for every building permit issued by the building code official for construction activity regulated by the UCC. This report must be filed quarterly even if no construction activity has taken place for that particular quarter. Either the building code official or the municipal secretary may file this report.

Municipal Borrowing. Before obtaining any debt, such as notes and bonds, in excess of \$125,000, or 30 percent of the borrowing base, whichever is less, all municipalities must file for DCED approval.⁷ DCED examines the filings for compliance with the debt limit and required procedures. A certified copy of the ordinance and proof of publication must be filed with DCED. For more information on debt, go to dced.pa.gov and choose “Local Government.”

Boundary Change. The secretary is required to report any annexation proceedings to DCED within ten days after its effective date. The report must include a plot or plots of the territory affected and copies of petitions and certified election results of questions approved by the voters.⁸

Floodplain Regulations. DCED oversees the coordination and enforcement of local floodplain management regulations and provides technical assistance on preparation, adoption, and administration of regulations necessary under the National Flood Insurance Program Act and the Pennsylvania Floodplain Management Act.⁹

Department of Transportation

The Pennsylvania Department of Transportation, through its Bureau of Planning and Research, is a key resource for issues relating to local roads, bridges, safety, and traffic control. Municipal secretaries and the road or public works department frequently interact with PennDOT personnel. The Bureau advises municipalities on construction, alteration, and maintenance of bridges and highways and provides information on related rules and regulations. PennDOT administers a variety of grant and assistance programs, including traffic signals, bridges, and other road projects.

The state provides funding through highway user fees that are allocated to all municipalities annually and must be used for road maintenance and construction. These funds are called liquid fuels and are an important source of road funding.¹⁰ Liquid fuels funds must be maintained in separate accounts, may only be spent on a very specific set of expenses, and are audited by the Auditor General. Projects paid for in whole or in part by state funds must be preapproved by the PennDOT. Some townships have turnback roads, which are former state roads that were turned back to the township by mutual agreement and which the state funds through an annual per-mile maintenance payment, separate from liquid fuels.

Municipalities must comply with several requirements to qualify for the annual liquid fuels allocation, which is distributed March 1. The following reports are due to PennDOT by January 31. The preferred filing method is electronic through the dotGrants system. Failure to file these forms will result in a delay in the municipality’s liquid fuels distribution.

Actual Use Report of State Funds. The Actual Use Report of State Funds includes a summary of expenditures from the Record of Checks form; prior year ending balances, receipts, expenditures, and ending balances for the year being reported; information necessary to assure major equipment purchases do not exceed 20 percent of the annual allocation and to verify any carryover of the unused equipment allocation; the municipal planned use report for the next fiscal year; a detailed report on miscellaneous receipts; and certification of bonding for the municipal treasurer.

Record of Checks State Fund Account – Projects and Additional Refunds. This report is used to report construction, reconstruction, and resurfacing projects, as well as Agility agreement projects performed for PennDOT.

Record of Checks State Fund Account. The Record of Checks report records all checks issued in check number sequence from the State Fund checking account. The following information must be provided for each check issued: payee, project number, net amount of check, check number and date, budget item number, and total amount distributed.

In addition, the following reports are required in order to receive timely liquid fuels payments:

Municipality Report of Elected and Appointed Officials. By January 31, the secretary must report the names and official addresses of elected and appointed municipal officials to DCED on the *Municipality Report of Elected and Appointed Officials* as previously noted in this chapter.

Survey of Financial Condition. In order to receive the annual liquid fuels allocation by March 1, the Survey of Financial Condition must be filed with DCED by early February of each year, as previously noted in this chapter.

Certification of Street Mileage. Annual local allocations of liquid fuels funds are determined by a formula based 50 percent on the mileage of official streets and roads and 50 percent on population. Streets and roads having a right-of-way width of at least 16 feet in cities and boroughs, and 33 feet in townships (*may be 24 feet in townships of the first class in certain situations*) qualify for mileage. In addition, all qualifying mileage must have the capacity to be traveled safely at 15 mph, must be accessible from an existing public street or roadway, and must have a minimum length of 250 feet and a cul-de-sac radius of at least 40 feet if a dead-end road. PennDOT recognizes only those streets or roads officially adopted, as evidenced by ordinances or resolutions that certify that the street or road has been recorded.

Secretaries are responsible for notifying PennDOT when streets or roads are added or deleted. These reports may be submitted at any time during the year, but will be included in the mileage for the following year's allocation only if PennDOT receives the reports by September 1. The municipality must submit to PennDOT: a copy of the ordinance or resolution approved by the governing body to adopt the road as a public road, a copy of the plot plan showing the road location, and proof that the ordinance or resolution has been recorded in the county courthouse with the clerk of courts or appropriate county office that shows the court seal, page, and document number where recorded. A deed of dedication for the road must be on file with the municipality.

For more information about liquid fuels requirements, see PennDOT Publication #9, "*Policies and Procedures for the Administration of the Liquid Fuels Tax Act 655*," which can be found online at penndot.gov.

Department of Environmental Protection

Secretaries interact with the Department of Environmental Protection due to state environmental laws and regulations for issues including sewer and sewage, water, stormwater, solid waste, and recycling. DEP oversees these programs, some of which municipalities are charged with administering.

Sewer and Sewage. The Pennsylvania Sewage Facilities Act requires municipalities to develop and implement sewage management planning and regulation for community and individual sewage disposal systems.¹¹ The Act requires municipalities to submit plans for sewage management and appoint a sewage enforcement officer and an alternate sewage enforcement officer to issue permits for the installation of sewage systems and inspect malfunctioning systems. All municipalities with onlot septic systems must file an Act 537 Annual Report with DEP.

Many municipalities operate sewer systems on behalf of their residents. These systems require the municipality to obtain permits and submit reports to DEP on the operation of the system.

For more information about municipal sewage management responsibilities, go to dep.pa.gov, choose "Water," then "Bureau of Point and Non-point Source Management," and finally "Wastewater Management."

Recycling. The Municipal Waste Planning, Recycling and Waste Reduction Act requires municipalities with populations over 10,000, and those municipalities with populations of 5,000 or more that have a population density of 300 persons per square mile, to implement a local recycling program by ordinance.¹² The ordinance must designate at least three materials from a list of eight that residents must separate for curbside collection. Leaf waste must also be separated from the waste stream. In addition, the act requires each municipality to develop and implement a comprehensive public information program on recycling and waste reduction. DEP administers this program and secretaries may need to file or assist with reports on recycling numbers.

DEP administers grant programs to assist with the costs of municipal recycling programs. Section 902 grants reimburse municipalities for 90 percent of eligible recycling program development and implementation expense. Act 904 grants are available to all Pennsylvania local governments with recycling programs and are based on the total tons recycled and the applicant's recycling rate.

For more information about municipal recycling responsibilities, go to dep.pa.gov, choose "Waste," then "Recycling."

Stormwater Management. The Storm Water Management Act requires municipal administration and management of stormwater runoff resulting from land development.¹³ Under the act, counties must develop stormwater management plans for specific watersheds, which are subject to approval by DEP. Once approved, municipalities must adopt or amend their stormwater ordinances within six months, including land use regulations, to implement the county plan. Municipal secretaries are often involved with the administration of the act, usually as part of their land use responsibilities.

MS4s. The Pennsylvania Department of Environmental Protection administers the stormwater requirements of the federal Clean Water Act. Under this program, municipalities that meet certain standards must obtain National Pollutant Discharge Elimination System (NPDES) permit coverage for stormwater discharges from their municipal separate storm sewer systems (MS4s). MS4s are any conveyance or system of conveyances (*including, but not limited to, streets, ditches, and pipes*) that a municipality owns and is designed or used for collecting or conveying stormwater. Many municipalities are currently considered MS4s and must develop and implement stormwater management plans to minimize the impacts from runoff and submit reports to DEP on their annual progress.

For more information about municipal stormwater responsibilities, go to dep.pa.gov, choose “Water,” then “Bureau of Point and Non-point Source Management,” and choose “Stormwater Management.”

Other Required Annual State Filings

In addition to the filings mentioned above, all municipal secretaries should be aware of the following required state filings:

Department of Revenue. Each municipality must file an annual report with the state Department of Revenue by April 1 in order to qualify for a Public Utility Realty Tax Act revenue distribution in October.¹⁴ The form is the RCT-900, which can be filed online at www.purta.state.pa.us.

Public Utility Commission. The Public Utility Commission administers the natural gas impact fee distributions that are made to municipalities located in a county where unconventional natural gas wells have been recently drilled. Municipalities that receive these funds established by Act 13 of 2012 must file the following reports each year. These forms may be filed electronically or with forms that are available at www.puc.state.pa.us, by choosing “Natural Gas” at the bottom of the page and then “Act 13.”

- **Municipality Approved Budget Form.** This report is due March 1 and includes the total final budget for a prior budget year.
- **Local Government Unconventional Gas Well Fund Usage Reports.** This form is due April 15 and requires municipalities to report on the usage of the funds received from the prior year in 13 allowable categories.

Pennsylvania Employee Retirement Commission. Municipalities with pension plans are required to file an Act 205 of 1984 Questionnaire and Reporting Form Request with the Pennsylvania Employee Retirement Commission every odd-numbered year.

State Ethics Commission. The Ethics Act requires public officials and employees, including municipal secretaries, to file annual financial interest statements on forms provided by the State Ethics Commission by May 1 of each year in office and for one year after leaving office. This includes both elected and most appointed officials. These statements are filed with the municipal secretary and are open to public inspection on demand. In many municipalities, the secretary is expected to distribute, collect, and retain these report forms. It is the individual public official's duty to file this form with the secretary.

Other State Agencies

Township secretaries will have contacts with other state agencies on an ongoing basis.

The **Auditor General's Office** audits liquid fuels funds, state aid pension funds, and volunteer firefighter's relief funds. The **Pennsylvania Historical and Museum Commission** developed the municipal records retention schedule which municipalities must follow and certifies historic district ordinances before enactment by the municipal governing body. The **Department of Health** provides annual grants to eligible municipal health departments to operate public health programs.

Department of Labor and Industry. The Department of Labor and Industry administers the workers' compensation program, the Uniform Construction Code, and the unemployment compensation program. L&I also oversees state and federal labor laws, including the Prevailing Wage Act.

The Uniform Construction Code requires most new and altered structures to comply with its standards.¹⁵ While administration and enforcement of the UCC is voluntary, most municipalities have opted into the program. The UCC must be followed in all municipalities, regardless of whether a municipality has chosen to enforce the law.

The UCC requires building inspectors to be certified by the Department of Labor and Industry. The municipality must ensure that its inspectors, whether municipal employees or a third party agency, are properly certified and are enforcing the act's provisions.

REFERENCES

1. 53 P.S. 36812; Third Class City Code, Section 1812; 8 Pa. C.S.A. 1059.1(b.1); Borough Code, Section 1059(b.1); 53 P.S. 56003; First Class Township Code, Section 1003; 53 P.S. 65904; Second Class Township Code, Section 904.
2. 53 P.S. 11701.123; Municipalities Financial Recovery Act.
3. 71 P.S. 966.2; 1966 P.L. 1902.
4. 53 PS 6924.511; Local Tax Enabling Act.
5. 71 P.S. 965; 1966 P.L. 1902.
6. 35 P.S. 7210.101 et. seq.; Uniform Construction Code.
7. 8 Pa. C.S.A. 8001 et seq.; Local Government Unit Debt Act.
8. 71 P.S. 966.5; 1967 P.L. 351, Section 5.
9. 32 P.S. 679.101; Flood Plain Management Act.
10. 72 P.S. 2615.1 to 2615.10; Act 655 of 1956.
11. 35 P.S. 750.1; Pennsylvania Sewage Facilities Act.
12. 53 P.S. 4000.1501; Municipal Waste Planning, Recycling and Waste Reduction Act; 1988 P.L. 566, No. 101.
13. 32 P. S. 680.1; Storm Water Management Act.
14. 72 PS 8101-A and 8106-A, Tax Reform Code of 1971.
15. 35 P.S. 7210.101 et. seq.; Uniform Construction Code.

III. Working With Local Governments

Municipal secretaries frequently interact with other local governments. In many cases beneficial cooperative relationships have been formed with other entities to benefit residents through a wider variety of services than a municipality could provide on its own or to reduce the cost of services.

County Government

Municipal secretaries interact with a variety of county offices on a regular basis and are required to file certain documents with the county. In many cases, the county can provide technical, and sometimes financial assistance, for municipal projects and planning.

County Highway Aid. Counties can grant some or all of their liquid fuels allocations to municipalities within the county. Secretaries submit applications for this assistance to the county on forms provided by PennDOT.

Office of Elections. Prior to the primary election in a municipal election year, the municipal secretary must notify the election board of all local offices that need to be filled.¹ This includes elections to fill vacancies in office for shorter terms.

The secretary is required to file resolutions or ordinances approved by the governing body that would place referendum questions before the voters with the county board of elections. The authorized questions and filing requirements can be found in DCED's *Referendum Handbook*.

Conservation District. Local conservation districts administer a variety of soil and water conservation programs and provide assistance for many issues of interest to municipalities, such as agricultural land preservation, dirt and gravel roads programs, and stormwater management. Conservation districts may administer programs on behalf of the Department of Environmental Protection and the State Conservation Commission.

Planning Office. County planning offices review proposed subdivision and land development plans as well as proposed land use ordinances prior to adoption or amendment by the municipality. In addition, many county planning offices provide technical assistance on planning, transportation studies, and development of land use ordinances and maps.

Emergency Management. Emergency management planning is an important function of municipalities and the county. The county emergency management office is responsible for emergency planning and response at the county level and may provide assistance for planning at the municipal level. The county operates the 911 centers.

Every municipality must adopt an emergency management plan and keep it updated. The governing body nominates an EMC, the secretary files the nominating papers with the county emergency management office, and the governor appoints the municipal EMC.² The EMC must take required training courses through the county emergency management agency. During emergency events, municipalities are required to operate under the National Incident Management System (NIMS) which standardized incident management operations across the United States.

The Emergency Management Handbook for Elected Officials, available from the Pennsylvania Emergency Management Agency, is a good resource for municipalities and can be found at www.pema.pa.gov, under "Forms and Documents" and then "Plans, Guides and Presentations."

Court-Related Offices. Most interactions between the municipality and the courts and their offices are handled through the municipal solicitor, but in some places the secretary plays a role. Auditors must file a copy of the annual financial report with the clerk of courts or the prothonotary not later than 90 days after the close of the fiscal year.³ Although this is a duty of the auditors, the secretary may assist with the filing.

Municipal claims for unpaid assessments for improvements to streets, sidewalks, sewers, or water lines are filed in the prothonotary's office.⁴ Any municipality that has municipal claims against any property returned to the county tax claim bureau must certify the claim by August 30 of the year of the sale.⁵ The amount is then included in the upset price. If the municipal claim is not certified and the property is sold, the claim will be divested by the sale.

Secretaries or solicitors contact the recorder of deeds regarding municipal property owned, bought, or sold. Often the recorder of deeds office is used to identify local property owners concerning taxes, abandoned land, street, curb and sidewalk improvements, and eminent domain proceedings. Private development plans finally approved by the local governing body must be certified by the secretary before filing with the recorder of deeds.⁶

Intergovernmental Cooperation

Intergovernmental cooperation enables local officials to voluntarily work together to solve regional problems while maintaining their individual identities. The Intergovernmental Cooperation Act⁷ permits local governments to work together to provide any service or facility that they may provide on their own.

Across the state, municipalities have found many ways to work together to provide better municipal services at a lower cost. Whether through a formal or informal agreement, following are examples of opportunities for intergovernmental cooperation:

Roads. Road maintenance is a primary responsibility for municipalities. Joint purchasing of salt, anti-skid, or road signs is efficient and easy. Joint purchases of large, specialized, and seldom-used pieces of equipment or jointly entering into contracts guaranteeing minimum hours of rent to use such equipment are common. Street sweepers, graders, pavers, rollers, loaders, and backhoes are types of equipment which municipalities might find hard to justify if only used for a few hours a year. Road construction and paving projects using joint crews are another option for municipalities committed to providing the best service at the least cost.

Formal written agreements define each municipality's responsibilities, from who pays for maintenance, to what happens if the machine is damaged, and can help preserve good working relationships between communities, particularly when elected officials or personnel change.

Police Services. Because of the high cost of providing local police service, there is interest across the state in the creation of regional police agencies that serve two or more municipalities. These larger forces provide 24-hour coverage, develop specialties within the police force, and offer better use of equipment and staff.

Parks and Recreation. There is always a population which needs and desires recreation programs, but there may not be a large enough target population to support two sessions of the same activity in adjoining communities. Joint recreation programs with other municipalities and school districts can offer a broad array of programs, often at a lower cost, while meeting minimum participation rates and eliminating duplicative efforts.

Building Codes. Administration and enforcement of the Uniform Construction Code requires experienced and well-trained inspectors, who may not be available on a part-time basis. Smaller municipalities may find hiring third party agencies to be difficult without combining the resources and activity of two or more communities. Code enforcement has been a successful intergovernmental cooperation effort in many areas of the state.

Land Use. The Pennsylvania Municipalities Planning Code authorizes municipalities to cooperate on land use issues, such as multimunicipal planning, where two or more municipalities can work together to create a multimunicipal comprehensive plan. The participating municipalities base their land use ordinances on the plan. The advantages of multimunicipal planning are that municipalities can pool resources to develop the plan, which can be a costly. In addition, the MPC authorizes participating municipalities to provide for every use within the area of the multimunicipal plan, while a municipality adopting an individual comprehensive plan must provide for every use within its borders.

Council of Governments

A council of governments is a voluntary association of local government units joined together under a written compact to improve cooperation, coordination, and planning. The COG provides a more formal entity for cooperation and is authorized by the Intergovernmental Cooperation Act.⁸ Often COGs are formed when communities have had several successful cooperative efforts and would like to build upon these successes.

A COG is an informal council of participating local governments. Local governments may join and withdraw at will. They often engage in a wide variety of activities, such as joint purchasing, UCC administration and enforcement, and regional recreation. After creation, they are relatively easy to maintain and operate. Most councils act as a forum to discuss and act on regional problems and opportunities.

Municipal Authorities

Municipalities may form municipal authorities for certain purposes.⁹ Local governments create authorities and appoint its board members. However, authorities are independent agencies that may incur debt, own property, and finance its activities through user charges or lease rentals.

The main purpose of an authority is to raise money for specified projects. The borrowing capacity depends on its ability to be self-supporting. Generally, authorities finance revenue-producing projects such as sewer and water facilities and solid waste disposal systems. The revenues generated by a project must be sufficient to operate the project, meet all debt obligations, and provide for reserve maintenance funds.

Forming a Municipal Authority. An authority can be formed by any municipality or school district by ordinance. In addition, two or more municipalities may join together to form a joint authority, which is a form of intergovernmental cooperation. Joint authorities are often used when major capital investments are required and community need extends beyond municipal boundaries. Joint authorities have been formed for such purposes as sewage treatment, water supply, and swimming pools.

Municipal authorities are governed by a board whose members are appointed by the municipality or municipalities that created it. Authority boards must have at least five members and boards of joint authorities should have at least one representative from each participating municipality. The term of office is five years and board members may serve more than one term.

Terminating a Municipal Authority. An authority may be terminated after all its debt has been paid off. The authority may transfer its project to the municipality that created it and be disbanded after all debt has been paid. Each authority terminates after 50 years, unless its lifespan has been extended by amending its articles of incorporation.

REFERENCES

1. 25 P.S. 2864; Election Code, Section 904.
2. 35 Pa.C.S.A. 7502; Emergency Management Services Code, Section 7502.
3. 53 P.S. 36705; Third Class City Code, Section 1705; 8 Pa.C.S.A. Section 1059.1(b.1); Borough Code, Section 1059.1(b.1); 53 P.S. 56003; First Class Township Code, Section 1003; 53 P.S. 65907(b); Second Class Township Code, Section 907(b).
4. 53 P.S. 7106; Municipal Claims and Liens Act, Section 3.
5. 72 P.S. 5860.605; Real Estate Tax Sale Law, Section 605.
6. 53 P.S. 10711(d); Pennsylvania Municipalities Planning Code, Section 711(d).
7. 53 Pa.C.S.A. 2301; Area Government and Intergovernmental Cooperation.
8. 53 Pa.C.S.A. 2301; Area Government and Intergovernmental Cooperation.
9. 53 P.S. 303; Municipality Authorities Act, Section 3.

IV. Preparing for Meetings

Municipal secretaries prepare for regular and special meetings of the governing body. This includes publishing notices, gathering materials for members, and preparing and distributing the agenda and meeting packet. During the meeting, the secretary presents written minutes of the previous meeting, records attendance, takes minutes, reads communications, presents resolutions or ordinances, and supplies various reports. The secretary serves as a resource to the governing body during the meeting and may assist during discussions.

While only the Borough Code states that the secretary must attend all meetings of the borough council,¹ all boards and councils require attendance at these meetings as a primary function of the positions of municipal clerk and secretary, as well as other meetings that the board or council may require. Often the secretary will attend on behalf of, or be appointed to represent, the board or council at meetings of other bodies, such as councils of government, authority boards, and tax collection committees.

Advance Preparations

Meetings of governing bodies are most productive when careful preparations are made and most of this responsibility rests with the secretary. The secretary acts as the aide and recorder for the governing body. Although much activity may be compressed into the day or two before the meeting, many preparations should be made as early as the conclusion of the previous meeting. The type of preparation varies with local needs. Some key elements are listed below.

Distribution of Minutes. Since the minutes of one meeting contain action items affecting the next meeting, they should be prepared and distributed as soon as possible after the meeting. Early distribution ensures prompt circulation of action items or directions to appropriate officials and employees. It also gives the members an opportunity to check the accuracy of the minutes while their memories are fresh.

Agenda File. The secretary should set up and maintain a separate agenda file or folder and place into it any matter that is a possible subject for the next meeting. This can include items having a specific deadline, recurring monthly items, pertinent written communications, and items from members or committee chairs. While an agenda file can become quite voluminous, a few minutes culling at meeting preparation time helps ensure nothing important is left off the agenda for the coming meeting.

Materials for the Meeting. Communications received by the secretary addressed to or intended for the governing body's attention should be date stamped and filed. Many secretaries prepare committee reports, coordinate and assist with committee meetings, and prepare briefs or summaries for the meeting. Documents required for the board or council meeting should be assembled by the secretary in advance.

Forms for Use in Meeting. Secretaries are usually very busy at meetings of the governing body. Experienced secretaries have found that standard forms reduce the amount of writing or typing required to record actions at meetings. These may be in print or electronic form. Many secretaries use a laptop or other electronic devices during the course of the meeting. Listed below are examples of these forms.

1. Roll call forms with preprinted names and columns for yeas and nays.
2. Forms for recording attendance of members and other officials.
3. Forms for disposition of reports to the proper file or to officials or committees for action.
4. Lists of officers and committees.
5. Forms for approval of minutes.
6. Forms for recording motions and other actions taken.
7. Forms for tabulating bids.
8. Forms for noting informal suggestions or requests arising during discussions.

Final Preparations. It is common for secretaries to contact officials such as the presiding officer or chair, committee chairs, or administrative officers shortly before the meeting to verify any final preparations. It can also include last-minute checks on the arrangement of documents, meeting room setup, and accommodation for the public.

Meeting Notices

The secretary is responsible for publishing and posting meeting notices for the board or council, as well as additional legal notices required for public hearings and advertisements for bids, ordinances, and budgets. In addition, the secretary notifies members of the time, place, and purpose of special meetings.

Public Notice. Under the Sunshine Act, all deliberations and official actions of the governing body must take place at a public meeting after public notice.² Public notice must be made by publishing a legal notice once in a newspaper of general circulation, posting a copy of the notice at the municipal office or the public building where the meeting is held, and providing copies to the media and other interested parties who have provided self-addressed, stamped envelopes.

Under the Sunshine Law, the first meeting of the year must be advertised at least three days in advance. The schedule of remaining meeting must be advertised once, and is usually placed after the board or council's organization meeting. This notice must include specific dates rather than referring generally to a certain day of the month (*i.e.*, "the second Tuesday of the month."). All notices must include the date, time, and location of the meeting. Notice of each special or rescheduled regular meeting must be given once, at least 24 hours before the time of the meeting. Notices for public hearings under the Municipalities Planning Code must include the nature of the matter to be considered and must be made once a week for two consecutive weeks, with the first notice published not more than 30 days and the second not less than seven days before the hearing.

Special Meetings. In third class cities, special meetings are called by the mayor or by request of at least two council members on a five-member council or three council members on a seven-member council.³ In boroughs, special meetings may be called by the president of council or on written request of one-third of the council members.⁴ In both cities and boroughs, members must be given at least 24 hour notice. In townships of the second class, special meetings may be called by the chair or a majority of the board.⁵

ADA Compliance. In order to be in compliance with the federal Americans with Disabilities Act, the public notice for any meeting should include an accessibility notice. Suggested wording is below.

Any person with a disability requiring a special accommodation to attend a (board/council) meeting should notify (name or title) at (phone number) as early as possible, but not later than (3 to 5 work days) prior to the meeting. The (borough, city, township) will make every effort to provide a reasonable accommodation.

If your meeting room is wheelchair accessible, it is recommended that the wheelchair accessible symbol be included at the beginning of this statement.

Agenda

An agenda is critical for orderly, productive meetings, no matter how large or small the municipality. The agenda is a written plan of the order and content for the meeting.

Preparation. Preparing the agenda for upcoming meetings is generally the responsibility of the secretary. Who determines the actual content of the meeting and the order of business is up to board or council policy and should be established in the governing body's rules of procedure. Inclusion of specific items is usually by the designated official, such as the presiding officer. The secretary is responsible for preparing the final format of the agenda, writing or assembling supporting information, and preparing and distributing the meeting packet prior to the meeting. It is advisable to make additional copies for citizens and the media.

Format. The agenda should be provided in paper or electronic format to the board. Even if the board uses laptops or other electronic devices for the meeting packet, the members may prefer to have a paper copy of the agenda. The agenda should be easy to follow, but specific enough so that the members are clear on the action items needed and can easily refer to the location of any supporting information. The members may prefer that supporting information be provided in advance in electronic form or may prefer paper packets.

Order of Business. Most governing bodies follow a general order of business at official meetings. This may be established in rules of procedure adopted by the governing body and can vary depending on local needs. A sample order of business appears below. Alternate orders of business can be found in the *Borough Council Handbook*, *City Government in PA Handbook*, *Township Commissioners Handbook*, and *Township Supervisors Handbook*. All of these manuals can be found at dced.pa.gov by choosing “Local Government” and then “Publications and Documents.”

1. Call to order.
2. Roll call.
3. Public participation.
4. Action on minutes of previous meeting.
5. Treasurer’s report.
6. Correspondence and other communications.
7. Reports of officials and committees.
8. Unfinished business ready for action.
9. Unfinished business, not ready for action.
10. Ordinances or resolutions.
11. New business.
12. Adjournment.

At each public meeting, the board or council must provide an opportunity for citizens and taxpayers to comment on matters of concern, official action, or deliberation which are or may be before the board or council. Municipalities may hold the public comment period before each official action or at the beginning of the meeting.⁶ The governing body may impose reasonable time limits on individual speakers or the entirety of the comment period. The board or council should consider establishing a public comment policy.

Consent Agenda. Some municipalities use a consent agenda as an effective procedure to handle routine matters. A consent agenda includes routine, non-controversial items which do not need discussion or action and could include committee and department reports or other correspondence. The consent agenda can be approved with one motion and one roll call vote, after first providing the members with an opportunity to object to any item on the list. If a member objects to a particular item being included on the list, it is removed and dealt with separately.

Meeting Packet. Secretaries should work with their board or council to determine the amount, type, and format of background information desired for the meeting packet. Just as the governing body should direct the level of detail for the agenda, they should also provide feedback for the amount and type of supporting information. The governing body needs sufficient background to make informed decisions and should find the packet to be useful, not overwhelming.

Distribution. Brief, simple agendas can be provided to the members shortly before the meeting. However, more detailed agendas with supporting information should be distributed far enough in advance for the members to prepare for the meeting. The board or council should establish a cutoff date for agenda items and a timeframe for distribution of materials to the members.

Setting the timeframe for distribution at three days before the meeting provides sufficient time to review the material, yet permits a cutoff date late enough to include timely items. It also provides enough time to notify the media of possible action items, which enhances media relations and keeps citizens informed. The agenda should be posted at the municipal building or meeting location and copies made available to meeting attendees.

REFERENCES

1. 8 Pa. C.S.A. 1111; Borough Code, Section 1111.
2. 65 Pa.C.S.A. 704; Sunshine Act, Section 704.
3. 53 P.S. 36005; Third Class City Code, Section 1005.
4. 8 Pa.C.S.A. 1006(1); Borough Code, Section 1006(1).
5. 53 PS 65604; Second Class Township Code, Section 604.
6. 65 Pa. C.S.A. 710.1; Sunshine Act, Section 710.1.

V. Minutes

The municipal codes make the clerk or secretary responsible for the minutes of meetings of the governing body. Minutes, which are the official record of the proceedings of the governing body and the permanent record of its actions, must be kept in a permanent minute book and are maintained by the secretary as custodian. Secretaries generally take notes at the meetings, long-hand or on an electronic device, and use these notes to prepare the minutes. An assistant can take notes for the secretary or use electronic equipment to record the meeting. The secretary then prepares the minutes from these notes. The city clerk or secretary is identified as the custodian of the records.¹

The Sunshine Act requires that written minutes be made of all public meetings.² The minutes are public records under the Right-to-Know Law.

Method of Taking Minutes

In most municipalities, the secretary is responsible for taking the minutes during meetings and recording the actions of the governing body. In third class cities, the clerk is responsible for recording the proceedings of council in the journal. Accurate minutes are critical as they provide legal evidence of municipal actions.

There is no single standard method of taking notes, wording motions, deciding what to include or for the format of the minutes. Many secretaries type notes during the meeting on electronic devices, while others prefer to take physical notes. Experienced secretaries often develop and use prepared forms which are discussed in Chapter 4, Preparing for Meetings.

It is common, but not required, for municipalities to audio or video record their meetings, which can provide the secretary with a valuable aid in compiling the written minutes. However, audio recordings cannot replace the taking of notes during the meeting to ensure accurate records and the official record of the meeting must be in the form of written minutes. If the meeting is recorded, the board or council should set a policy for retention of these recordings. Some municipalities choose to maintain these records permanently, while others only keep them until the next municipal meeting. Keep in mind that municipal recordings of meetings are considered to be public records under the Right-to-Know Law.

To ensure an accurate record, motions should be verbally repeated by the presiding officer or the secretary in a form approved by the maker of the motion and its seconder, so that both the secretary and the governing body have a clear understanding of the motion. Recording the action taken by the board or council on each motion is critical.

Contents

The Sunshine Act requires the following items to be included in all meeting minutes:

1. The date, time, and place of the meeting.
2. The names of members present.
3. The substance of all official actions and a record by individual member of the roll call votes taken.
4. The names of all citizens who appear officially and the subject of their testimony.³

In addition to these required items, the basic contents for minutes are included below.

Legal Verification. As stated above, the minutes must contain the date, time, and place of the meeting. The minutes should note whether the meeting is a regular, special meeting, or public hearing. If it is a special meeting, the minutes should reference the notice to members and to the public. The end time of the meeting should also be noted.

Attendance. The minutes must record the attendance of members and the time of the arrival or departure of any member not present throughout the entire meeting. This is necessary to document the existence of a quorum throughout the meeting and also identifies which members are included in an unanimous vote. Excused absences of members should be noted in the minutes. Municipal officers in attendance should also be noted.

Minutes of Previous Meetings. The minutes need to include approval of the minutes of the preceding meeting, as well as any special meetings that took place in the interim. Any additions or corrections to the minutes are subject to approval by the board or council or are handled in accordance with adopted rules of procedure. The vote of the board or council validates the accuracy and completeness of the minutes.

Communications/Presentations. Minutes should note the names of persons making verbal presentations to the board or council and the subject matter. The names of citizens and taxpayers appearing before the board or council during public comment should be noted, along with the subject of their statements. Petitions and other official written communications should be noted by source, subject, date, and board action.

Reports. Board and councils often receive reports from various municipal officials, department heads, committees, and other boards or commissions. These reports should be noted by reporter, subject, date, and board or council action, if any. The full text of reports should be included in the meeting file for that date, along with copies of other communications received.

Approval to Pay Bills. Bills are presented to the governing body for approval prior to payment. This is often done in as a bills payable list, which includes the name of the creditor, the amount, and explanation of expense and may be part of the treasurer's report. A copy of the bills payable list and/or treasurer's report should be included in the meeting file for that date. The minutes should show governing body action to approve the list, so auditors can verify that expenditures were officially approved. Any controversial or questioned items should be listed separately. The vote of each member should also be listed, including if a member abstained due to conflict of interest on any item or items. The threshold for approval prior to payment and all payment procedures and exceptions should be established by board or council policy.

Ordinances. Ordinances and resolutions should be identified by number and title. The minutes document the board or council's action on the ordinance and should include a reference that the ordinance met all procedural requirements, such as advertising and public hearings. Votes of members on all ordinances and resolutions should be carefully recorded.

Contracts. Minute entries on contract awards should include the item or service being purchased, identification of all bidders along with the amounts bid, and whether the bidders met requirements in the specifications. Each member's vote on awarding a contract must be accurately recorded, along with any abstentions due to conflict of interest. This is critical if there is ever any question concerning proper contract awards or expenditures.

Summary of Discussion. Minutes should accurately reflect what occurs at a meeting. However opinions, remarks, or statements of members should not be included verbatim. Instead, a short summary of the discussion should include enough detail to give the reader an understanding of the subject, the varying points of view expressed, and the major proponents of each. The summary should help to explain the motion and action of the board or council in a neutral and objective tone.

Motions. The motion proposes an action or the will of the entire governing body on an issue. When a governing body appears to be ready to take action on a matter under discussion, the presiding officer should ask for a motion and a second. Routine motions can be made in the same wording at each meeting. New or complex issues may take more work to phrase as a motion. A motion can come at the end of a statement by a member with the words "I so move." It is the responsibility of the member to word the motion clearly. When it is time to vote, the presiding officer should repeat the motion to the board or council, with the approval of the mover and seconder, or ask the mover to repeat the motion.

As a general rule, the secretary should insist that the motion be repeated before the vote. This helps all members to be clear on the motion before them and protects the secretary and the members. The minutes should note the names of the mover and the seconder. If a motion does not receive a second, that fact should be noted in the minutes and the matter is dropped, unless a municipality's rules of procedure do not require a second.

Yeas and Nays. The Third Class City Code specifically requires the yeas and nays to be recorded by the city clerk for every vote and requires every ordinance to be reduced to writing before a vote is taken.⁴

For boroughs and townships, votes must be recorded for all actions of the board or council. If a vote is unanimous, it should be noted as such. If not, the minutes should include who voted for and who voted against the motion. Rules of procedure can clarify how a governing body will record votes and when a roll call vote is necessary. Where roll call votes are required, roll call forms can ease the secretary's task.

Distribution and Recording

Distribution of Minutes. Since the minutes of one meeting contain action items affecting the next meeting, they should be prepared and distributed as soon as possible after the meeting. Early distribution ensures prompt circulation of action items or directions to appropriate officials and employees. It also gives the members an opportunity to check the accuracy of the minutes while their memories are fresh.

While some municipalities will release draft minutes to the public, others choose to wait until the minutes are approved by the board or council. Stamping copies of minutes as draft should address any concerns with releasing the minutes prior to official approval. Under the Right-to-Know Law, draft minutes must be released if requested after the next regular meeting, even if the board or council did not act to approve the draft minutes.

Based on information in the minutes, the secretary should prepare a checklist of actions to be taken by officials and employees. A procedure for reporting back completed actions should be established so the secretary can make the proper reports at the next meeting.

Minute Book. Minutes must be recorded in a mechanical post binder book capable of being permanently sealed with consecutively numbered pages with a security code printed on them and a permanent locking device or into a bound book with numbered pages. Minutes may be typed or printed directly onto the pages or may be stapled, glued or taped to the pages of such books.⁵

In boroughs and townships, the municipal seal must be impressed upon each page in the minute book and the seal impression must cover both a portion of the attached page and a portion of the page of the book to which it is attached. While not required, it is recommended that the officers and the secretary sign minute book entries.

Minute books are permanent records. Creating a backup copy is a strongly recommended practice. Original minute books should be stored in a fireproof vault along with other valuable records. To save wear and tear on the official minute book, it is a recommended practice to keep an official copy of minutes of recent meetings available for public inspection.

Amendments and Corrections. Amendments or corrections made to minutes after they are approved and recorded in the minute book must be made by a vote of the governing body. The amendment or correction should be noted in the minutes for the meeting at which this vote was taken and a note should be added in the margin that of the corrected minutes.

REFERENCES

1. 8 Pa. C.S.A. 1111; Borough Code, Section 1111; 53 P.S. 36016.1; Third Class City Code, Section 1016.1; 53 P.S. 55901; First Class Township Code, Section 901; 53 P.S. 65802; Second Class Township Code, Section 802.
2. 65 Pa C.S.A. 706; Sunshine Act, Section 706.
3. 65 Pa C.S.A. 706; Sunshine Act, Section 706.
4. 53 P.S. 36018.3; Third Class City Code, Section 1018.3.
5. 8 Pa. C.S.A. 1009; Borough Code, Section 1009; 53 P.S. 37444; Third Class City Code, Section 2444; 53 P.S. 56590; First Class Township Code, Section 1503; 53 P.S. 65605; Second Class Township Code, Section 605.

VI. Legislative Actions

As the assistant to the governing body, the secretary is involved in the process of enacting local legislation. The degree of involvement ranges from clerical in places with strong elected leadership to oversight of the process where inexperienced members rely on the skill of a veteran secretary.

Types of Legislative Actions

A governing body can only take official action as a body at an advertised public meeting. Direction given by a single member has no legal standing. Different types of legislative actions are available to the board or council for different purposes. The most common types of action are ordinance, resolution, and motion. The specific type of action used may be determined by statute or by policy of the governing body.

Ordinance. An ordinance is a permanent local law. As a local law, an ordinance remains in place until it is amended or repealed by another ordinance enacted by at a later time by the board or council. Penalties, which can be enforced in court, may be imposed for failure to obey ordinances. Ordinances are used when a municipality wants to take regulatory action.

Various sections in the municipal codes and general municipal law require adoption of an ordinance. Procedures for adopting ordinances require legal advertising and recording. Land use ordinances require public hearings and review by the municipal and county planning commissions. The municipal solicitor should be consulted to guide the secretary and governing body through the ordinance adoption process and to assure that the text of the ordinance meets current legal requirements.

Resolution. A resolution is formal statement of the will of the governing body. Resolutions are useful for adopting budgets, setting real estate tax levies, and establishing fee schedules. These actions do not require penalties or enforcement and do not need to be advertised.

Some code provisions specifically require an ordinance, while others allow either an ordinance or resolution. The governing body should consult its solicitor to determine when to use an ordinance and when a resolution will suffice.

Motion. A motion is a parliamentary tool that is used to arrive at a decision. Motions are used to determine the will of the governing body on any issue before it. Ordinances and resolutions are adopted by motion.

Policy. A policy is an administrative tool that is used to regulate the internal affairs of the municipality. The secretary is often involved in developing such policies, which may include the governing body's rules of procedure, employee manuals, or administrative functions. Policies may be adopted to determine how a municipality will administratively implement rules established by ordinance or statute.

Parliamentary Procedure

Rules of parliamentary procedure can expedite business and should be followed to help transact business in a fair and efficient manner. The municipal secretary should be familiar with the rules and procedures for conducting business at meetings and the mechanics of voting. Rules of parliamentary procedure are designed to expedite business while preserving the right of each member to be heard. Some governing bodies have adopted formal written rules of procedure. In most cases, procedural rules are unwritten and fixed by practice.

The most commonly used standard code on parliamentary procedure is *Robert's Rules of Order* by Henry M. Robert. Some municipalities use a simplified version of *Robert's*, such as *Robert's Rules of Order for Small Assemblies*, which is included in most current versions of *Robert's Rules*. *Jefferson's Manual* and *Cushing's Manual* also contain parliamentary procedures.

Business is conducted through motions and votes on the motions. A main motion is simply what the name implies, a motion to accomplish some concrete or specific item of business on the agenda. There can be only one main

motion at a time. A subsidiary motion is a motion that is secondary to the main motion. If a secondary motion is made, then it must be dealt with before the main motion can be voted on. Commonly used subsidiary motions are to amend the main motion, to limit or extend debate, to postpone indefinitely, or to table the main motion.

Quorum. A quorum is the minimum number of members of a board or council that must be present to conduct business. Each municipal code has different rules for determining a quorum. Generally it is the duty of the presiding officer to declare the presence of a quorum so business may begin.

In boroughs, the required quorum is a majority of the entire council and only members physically present count towards the quorum. An action is passed by a majority of those voting in the presence of a quorum. Council may authorize members to participate by telecommunications device.¹

In first class townships, a quorum is a majority of the members of the board, and an action passed by a majority of those voting in the presence of a quorum reflects the will of the board.²

In second class townships, a quorum is two members for three-member boards and a quorum is three for those with five-member boards. An affirmative vote of the majority of the entire board of supervisors is required to transact business.³

In third class cities, the required quorum is a majority of the entire council and only members physically present count towards the quorum.⁴ Council may authorize members to participate by telecommunications device.⁵ Adoption of ordinances and resolutions require an affirmative vote of a majority of the entire council.⁶

Ordinance Adoption Procedures

Preparation. Secretaries or members of the governing body may gather sample ordinances or draft simple ordinances for the solicitor's review. The secretary can also perform research to determine if any current ordinances would be affected or need changed due to a proposed ordinance. It is strongly recommended that all proposed ordinances be reviewed by the solicitor before adoption. Most ordinances should be drafted by the solicitor.

The governing body should provide suggestions for what they would like to accomplish and direct the solicitor to draft the ordinance. If collecting sample ordinances, limit these to ordinances that have been adopted by Pennsylvania municipalities. The importance of the solicitor's review of all proposed ordinances cannot be stressed enough.

In third class cities, ordinances are introduced as bills and must be numbered. Ordinances may be numbered in other municipalities and this is usually the duty of the secretary.

Consideration. The Third Class City Code contains specific and detailed requirements for consideration of legislative proposals.⁷ In cities, a council member must present all proposed ordinances in the form of a written bill. The bill is then serially numbered by the clerk for the calendar year. No bill, except for appropriations, may include more than one subject as expressed in the title. On introduction, the title of every bill must be read, as must all amendments or revisions at length prior to final adoption. The bill may not be finally passed on the same day that it is introduced and at least three days must intervene. The measure may be finally adopted after a second reading.

The other municipal codes require ordinances to be adopted at a public meeting. Sometimes proposals are discussed and revised in a committee before the proposals are formally introduced before the governing body. In other places, measures are introduced, then referred to committees or considered by the governing body as a whole. Some measures require public hearings before they are enacted. Governing bodies may hold public hearings even if they are not required by law. Arrangements for the public hearings, including notice and agenda, are usually the responsibility of the secretary.

Advertising. All proposed ordinances must appear in the legal section of a newspaper of general circulation within the municipality not more than sixty nor less than seven days prior to passage.⁸ Publication must include the full text or the title and a brief summary that is prepared by the solicitor. The summary must include all provisions in reasonable detail and indicate a place within the municipality where the complete proposed ordinance can be

examined. Full texts are to be supplied to the newspaper and filed in the county law library or other designated county office, which may be done in electronic form if allowed by the county. If substantial amendments are made in the proposed ordinance, the proposal, including a summary of the ordinance and the amendments, must be readvertised before the final enactment.

Land use ordinances, Act 511 tax ordinances, and other special types of ordinances have additional legal advertising requirements.

Veto. The power of veto exists only in boroughs.⁹ All ordinances must be submitted to the mayor after passage by council. The mayor may sign the ordinance, let it become effective without signing it after ten days, or veto it and return it to council. Vetoes can be overridden by a special majority of council.

Veto power also is given to strong mayors/executives in certain home rule charters, optional plans, and optional third class city charters. Procedural details would be part of the charter or plan.

Certification. In cities of the third class, ordinances must be signed by the mayor and attested by the city clerk.¹⁰ Under the other codes, signatures of elected officials are not required for the ordinance copied into the municipal ordinance book, however this copy of the ordinance needs to be certified by the secretary. The following form is a sample certification.

I hereby certify that the foregoing ordinance was advertised in (name of newspaper) on (date), a newspaper of general circulation in the municipality, and was duly enacted and approved as set forth at a regular (or special) meeting of the (governing body) held on (date).

(Signed) _____
Secretary

(seal)

Minutes. The minute book should refer to the bill or ordinance by title, number, and subject, accurately show the action taken, and record the yeas and nays of the members.

Ordinance Book. The original copy of the ordinance along with the proof of publication must be kept in a permanent ordinance file. Each of the codes requires every ordinance to be copied into the ordinance book.¹¹ For all jurisdictions, except second class townships, this must be done within one month after adoption. If this is not done, the validity of the ordinance is subject to challenge.

The entry must be a complete and exact copy of the original, attested by the secretary, and impressed with the corporate seal. Standard building and housing codes adopted by reference are not entered into the ordinance book in full. Only the ordinance of adoption is recorded in the book with a notation of the place where full copies are available.

Effective Date. In third class cities, most ordinances become effective ten days after enactment, after being signed by the mayor and attested by the city clerk.¹² In second class townships, ordinances take effect five days after enactment.¹³ In boroughs, when an ordinance takes effect is dependent on the action of the mayor.¹⁴ In first class townships, ordinances are effective when recorded in the ordinance book.¹⁵ Special types of ordinances may carry different effective dates.

Indexing. City clerks are required to properly index the record books, compilation, or codification of ordinances.¹⁶ The other codes do not require secretaries to index ordinance books or make annual compilations of ordinances. Because of the advantages, however, municipalities are increasingly instituting this practice. This task is usually assigned to the secretary, often under the supervision of the solicitor.

Court Proceedings. Accuracy is necessary in keeping minutes and recording ordinances and proper procedures must be followed to ensure the effectiveness of an ordinance.

The Third Class City Code and the Borough Code have identical provisions for evidencing ordinances.¹⁷ Ordinances are proven by a certificate of the secretary, under the corporate seal, and when printed in book or pamphlet form under authority of the municipality, are to accepted as evidence without further proof.

Ordinance Codification

Codification of ordinances is frequently undertaken as a result of encouragement or insistence by the secretary who sees the need for such action. Codification of ordinances is usually done by the solicitor or a contracted specialist. The secretary assembles materials for the job and acts as liaison if done by an outside firm.

The procedure for adopting an ordinance to consolidate, codify or revise the body of municipal ordinances is the similar to other ordinances. The solicitor's guidance is critical when codifying ordinances.

REFERENCES

1. 8 Pa. C.S.A 1001; Borough Code, Section 1001.
2. 53 P.S. 55702; First Class Township Code, Section 702.
3. 53 P.S. 65603; Second Class Township Code, Section 603.
4. 53 P.S. 36004; Third Class City Code, Section 1004.
5. 53 P.S. 36005; Third Class City Code, Section 1005.
6. 53 P.S. 36018.2; Third Class City Code, Section 1018.2.
7. 53 P.S. 36018.5 and 36018.6; Third Class City Code, Section 1018.5-1018.6.
8. 53 P.S. 36018.9; Third Class City Code, Section 1018.9; 8 Pa. C.S.A. 3301.2; Borough Code, Section 3301.2; 53 P.S. 56502; First Class Township, Section 1502(I); 53 P.S. 66601; Second Class Township Code, Section 1601.
9. 8 Pa. C.S.A. 3301.3; Borough Code, Section 3301.3
10. 53 P.S. 36018.4; Third Class City Code, Section 1018.4.
11. 53 P.S. 36018.11; Third Class City Code, Section 1018.11; 8 Pa. C.S.A. 3301.4; Borough Code, Section 3301.4; 53 P.S. 56502; First Class Township, Section 1502(I); 53 P.S. 66601; Second Class Township Code, Section 1601.
12. 53 P.S. 36018.8; Third Class City Code, Section 1018.8.
13. 53 P.S. 66601; Second Class Township Code, Section 1601.
14. 8 Pa. C.S.A. 3301.3; Borough Code, Section 3301.3.
15. 53 P.S. 56502; First Class Township, Section 1502(I).
16. 53 P.S. 36018.11; Third Class City Code, Section 1018.11.
17. 53 P.S. 36018.12; Third Class City Code, Section 1018.12; 8 Pa. C.S.A. 3301.4; Borough Code, Section 3301.4.

VII. Records and Notices

In most municipalities, the secretary is responsible for keeping municipal records and placing legal advertisements when required by law. Adhering to all requirements is a central part of the duties of a secretary. In many smaller municipalities, the secretary performs many clerical tasks and is responsible for gathering, filing, and maintaining various kinds of data, information, and records.

Information Management

We live in the “information age” where virtually every organization, regardless of size, uses technology as an integral part of its daily operations. Information management in municipal government can range from “off-the-shelf” software to customized applications. State and federal information and resources are available online. Most grant applications and mandated reports must be submitted on-line. Communication by email between officials and citizens is commonplace.

Municipalities use technology to generate tax and utility bills and records, track building or zoning permits, inventory municipal equipment and road signs, and maintain municipal websites. Websites themselves can range from basic to comprehensive. Municipalities should shop around and ask other municipalities for references before investing in new technology or services.

Storage of Records

All public records should be securely filed or stored at one central location within the municipality. Secretaries should insist on this policy for their own protection, as well as the general protection of all officials, because they are statutorily responsible for the preservation of municipal records. Important, and sometimes irreplaceable, documents, maps, minutes, and ordinance books have been lost, stolen, or destroyed because of the lack of a secure central storage site.

Communities with municipal buildings have enhanced security over these documents. However, clear policies should be in place to restrict or prohibit removal of original documents from the central location. Municipal documents should only be kept in a home or business when there is no municipal building or other secure option. There are criminal penalties for altering, destroying, or removing public records.

Recording Municipal Records

The Political Subdivision Public Records Law provides required methods for recording or transcribing records,¹ as well as the municipal codes. All records that are required or authorized by law to be recorded or copied are valid if recorded or transcribed by any digital, photostatic, photographic, microphotographic, microfilm, microcard, miniature photographic, optical, electronic, or other process which accurately reproduces the original and provides a durable medium for recording, storing, and reproducing the record in accordance with standards established by the Local Government Records Committee. The reproduction standards must be at least equal to those approved for permanent records by the National Bureau of Standards.

Where recording in a specified book is required,² such items may be recorded or transcribed into a mechanical post binder book capable of being permanently sealed with consecutively numbered pages with a security code printed on them and a permanent locking device or into a bound book with numbered pages. Records may be typed or printed directly onto the pages or may be stapled or glued to the pages of such books. In boroughs and townships, the municipal seal must be impressed upon each page.

Preservation and Disposition

As discussed previously in this manual, the municipal codes make the secretary responsible for preserving the municipality's records and documents. The Municipal Records Act³ creates the Local Government Records Committee and defines public records as "any papers, books, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by an entity under law or in connection with the exercise of its powers and the discharge of its duties."

The Committee, in conjunction with the Pennsylvania Historical and Museum Commission, is responsible for creating schedules for the retention and disposition of municipal records. The schedule prescribes minimum periods for retention of specific classes of records and a clear standard and procedure for record disposal. The Act does not prevent any municipality from retaining records longer than the period established in the schedule.

The governing body must declare its intent to follow the retention schedule by ordinance or resolution, approve each act of disposition by resolution, and receive written consent from PHMC before destroying or transferring original records which have been microfilmed, photographed, or microphotographed. Municipal officials who dispose of public records in accordance with the Municipal Records Act cannot be held liable for the records they destroy.

For more information, including the Municipal Records Retention schedule, a sample resolution or ordinance to follow the schedule, and records disposal certification forms, visit the PHMC website at www.phmc.pa.gov, choose "State Archives," and then "Records Management."

Right-to-Know Law

The Right-to-Know Law⁴ requires every municipality to appoint an open records officer, which is frequently the secretary since they are responsible for maintaining the municipality's records. The open records officer receives records requests, directs them to the appropriate person, tracks the progress of responses, and issues interim and final responses to requesters. The open records officer should be authorized to consult the solicitor when necessary to determine whether a record is public and to seek assistance in writing denial letters. Municipalities must register their open records officer with the Office of Open Records.

Municipalities must accept written open records requests submitted in person and by mail, e-mail, and fax. Any legal resident of the United States may submit a record request. Upon receipt of a request, the open records officer must note on it the date of receipt and the date by which he or she must respond in writing to the request. The officer must fulfill or deny the request, or provide written notice that additional time is needed and the reason for the time extension, within five business days from receipt of the request. If the officer fails to respond in writing within five business days, the request is deemed denied and the requester may appeal to the Office of Open Records.

The open records officer must review every request to determine if it is for a record, which is defined as "any information, regardless of its physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business, or activity of the agency." Records can include paper, maps, tapes, photographs, and electronic documents. E-mail is a record and must be reviewed to determine if a requested email is a public record.

If a municipality denies access to a record, it must prove why the requested record is not public. Secretaries should consult their solicitors when writing denial letters, because denials must include the legal basis for denial of the record and cite applicable laws and court cases. Denials must be written and describe the record requested; the typed or printed name, title, business address, business telephone number, and signature of the open records officer denying access; the date of the response; and the Right-to-Know Law appeal procedure. If a request is denied, an appeal may be filed with the Office of Open Records.

For more information about the Right-to-Know Law, log onto the Office of Open Records website at openrecords.pa.gov.

Legal Notices

The secretary devotes considerable time to publishing legal notices and providing other types of official notice. Legal notice may be required to be placed by publications, by personal service, or by posting.

Specific types of notices are designated to protect the interest of particular individuals, the general public and the municipality. Questions about correct notice procedure should be addressed to the solicitor.

Computing Time. The amount of required time for notices or other legal procedures is defined in the Statutory Construction Act.⁵ Whenever a period of time is specified, it is computed by excluding the first and including the last day of the period. If the last day falls on a Saturday, Sunday, or legal holiday, it is omitted from the calculation. "Successive weeks" means successive calendar weeks. Advertisements may be made on any day within the calendar week, but at least five days must elapse between each publication, and at least the number of weeks specified must elapse between the first publication and the date of the event.

Publication. The Newspaper Advertising Act contains the requirements for legal advertisements.⁶ When the municipal codes require a notice to be published in a newspaper, it must be in the legal section of a newspaper of general circulation within the municipality.⁷ Municipalities may also advertise public works projects in trade publications.

In addition to newspapers of general circulation, municipalities must publish notices of court proceeding, an election to increase debt, and the issue and sale of bonds to be paid for by taxes in a legal newspaper within the county, unless this requirement is waived by the courts.⁸

Proof of Publication. Secretaries must be sure to obtain proof of publication for all legal advertisements from the newspaper publishing the advertisement.⁹ The proof of publication is required legal proof that the municipality followed the notification requirements for the action.

Notice by Mail. Whenever a statute or ordinance requires service of personal notice by mail, it should be sent by registered or certified mail with a return receipt requested. This provides legal evidence the subject party has actually received the notice. Whenever a law specifically indicates registered mail, certified mail may be used.¹⁰

REFERENCES

1. 65 P.S. 63.1; 1949 P.L. 908, Section 1.
2. 53 P.S. 37444; Third Class City Code, Section 2444; 8 Pa. C.S.A. 1009; Borough Code, Section 1009; 53 P.S. 56590; First Class Township Code, Section 1503; 53 P.S. 65605; Second Class Township Code, Section 605.
3. 53 Pa.C.S.A. 1382; Municipal Records Act, Section 1382.
4. 53 PS 67.101 et seq.; Right-to-Know Law, Act 3 of 2008.
5. 1 Pa.C.S.A. 1908 and 1909; Statutory Construction Act.
6. 45 Pa.C.S.A. 301; Newspaper Advertising Act.
7. 53 P.S. 35109; Third Class City Code, Section 109; 8 Pa.C.S.A. 109; Borough Code, Section 109; 53 P.S. 55110; First Class Township Code, Section 110; 53 P.S. 65109; Second Class Township Code, Section 109.
8. 45 Pa.C.S.A. 308; Newspaper Advertising Act.
9. 45 Pa.C.S.A. 307; Newspaper Advertising Act.
10. 1 Pa.C.S.A. 1991; Statutory Construction Act.

VIII. Budget and Finance

A budget is a yearly plan outlining the revenues a municipality expects to receive and how it will spend them. The budget is a vital policymaking tool that establishes what programs will be implemented for the coming year and is a means of exercising control over municipal operations.

A carefully planned budget is a sound budget. Failure to plan yearly expenditures reduces a budget to a formality performed simply to fulfill a legal mandate. To be an effective tool, the budget must be viewed as a comprehensive plan of proposed municipal operations that is based on facts and priorities. When fully implemented, the budget is a tool that can be used to help achieve goals set by the governing body.

Secretary's Role in Budget Preparation

Municipal secretaries perform the clerical duties of advertising and filing as required by statute. In addition, the secretary participates in the budget preparation process in varying degrees in many municipalities. The clerk's role is minimal in third class cities. In boroughs and townships that do not have a manager, participation ranges from the basic responsibilities in the municipal codes to functioning as budget administrator.

Some basic suggestions are included here. Further information on budget preparation can be found in the *Fiscal Management Handbook* available from DCED online at dced.pa.gov (choose Local Government and then Publications and Documents) and by attending DCED training courses on budgeting. Consultative assistance on budget techniques is also available from DCED.

The key to effective budgeting is recognizing that preparation is a continuous process which should begin on the first day of a fiscal year and conclude with final adoption at the close. Fiscally sound budgets are often based on historical trends within a municipality. These trends can be recognized and examined by using the municipal audit as a tool for planning and developing a realistic budget. Although the municipal codes contain deadlines for initiating and completing official action on the budget document, budget preparation procedures are left entirely to the discretion of each governing body. For most municipalities, budget preparation remains crammed into a relatively short period near the end of the year.

Adopting a workable budget preparation calendar that distributes activity throughout the year is the first essential step toward realistic and effective budgeting. Secretaries who are in a position to do so in their municipalities can make a significant contribution to effective budgeting by implementing a general budget preparation calendar. It helps to reduce or eliminate confusion and errors that result from last-minute decisions. It also encourages the use of the final days to review and evaluate program priorities instead of juggling estimates. In addition, it facilitates valid estimates based on accumulated data and prevents deadline decisions made by guesswork.

Basic Budget Preparation Steps

Gathering Facts and Estimates. As the keeper of official minutes, the filer of administrative reports, and the key liaison between officials, the secretary is in a position to establish an experience and suggestion file. Throughout the year, the secretary accumulates information on operating experience and suggestions for potential future projects. Such information is valuable in proposing activities for the next year and providing measures of cost per unit.

Monthly cumulative financial reports should reflect financial operations to date in relation to budget projections. Differences between budget and actual revenues and expenditures can be promptly identified and adjustments can be made in operations or the budget can be amended. Comparisons allow for more accurate projections in future years. Creation and continued maintenance of a multi-year budget and expense history is valuable for trend analysis in budget preparation.

Forms for estimating revenues and expenditures for the next fiscal year should be prepared in the summer for later use by appropriate officials. The forms should match classifications of revenues and expenditures in the budget format. After the forms are prepared, revenue and expenditure data for the current year to date should be entered, giving responsible officials a current data for making estimates.

In late summer, appropriate officials should consider work to be done during the upcoming year and recommend programs. These recommendations should be reflected in completed estimate forms submitted to the secretary or fiscal officer, who will check for accuracy. The governing body should carefully review program recommendations and cost estimates with department heads. Basic decisions on municipal programs should be made by early October.

Budget Preparation. At a public meeting of the governing body, a preliminary budget document must be submitted and approved for publication. In cities, the budget must be submitted to council for first reading at the last meeting in November.¹

For boroughs and townships of the first class, the budget must be prepared at least thirty days prior to adoption.² This means a proposed budget is presented at a public meeting of the board or council and approved for advertising and public inspection. This should occur as early as feasible in November.

Townships of the second class do not have a specific requirement for preparing the preliminary budget document. In order to meet all required advertising timeframes, this should be done as early as feasible in November.

For effective management, the municipality must also prepare a working budget. In the working budget, expenditures are broken down into specific items, such as salaries and wages, contracted services, supplies and materials within each of the functional areas. This type of budget allows the governing body to judge the reasonableness of the amounts that are spent for each function, yet retain control over line item expenses. More complex budgeting systems are used in some municipalities, which may include capital budgets based on multi-year programs.

Advertising and Inspection. After tentative adoption, the budget must be advertised. Under the municipal codes, the proposed budget must be open for public inspection for ten days in cities and boroughs³ and for twenty days in townships.⁴ The notice must state where and when the budget is available for inspection.

Final Adoption. Tentative budgets may be amended before final adoption. In cities and townships of the first class, if amendments to the budget increase aggregate expenditures by more than ten percent or any individual item by more than 25 percent, the budget must be readvertised before final adoption.⁵

In townships of the second class, the budget must be readvertised before final adoption if the budget increases aggregate expenditures by more than ten percent or more than 25 percent in any major category.⁶

If boroughs amend the budget after advertising, they do not need to readvertise before final adoption.⁷

The final budget and real estate tax must be adopted at a regular or special meeting no later than December 31. In cities, boroughs, and townships of the first class, real estate taxes must be enacted each year. Act 511 tax ordinances, such as earned income and local services taxes, are permanent until amended or repealed.

Reopening Budgets. Annual budgets may be reopened in the January following a municipal election.⁸ This gives newly-elected members of governing bodies a chance to alter the budget for the current year. Amended budgets must be advertised and available for public inspection for 10 days and adopted by February 15.

Financial Accounts

The role of the secretary in keeping financial accounts varies by type and size of municipality. City clerks are seldom involved in keeping accounts. In townships of the first class, secretaries are required to keep a record of the appropriations made by the commissioners.⁹ In townships of the second class, secretaries are not involved in keeping accounts, however often the secretary also serves as treasurer or assistant treasurer.

Municipalities are free to develop budgets and keep accounts in any type of accounting system. DCED provides a recommended Chart of Accounts. This account numbering system incorporates and expands the same system used in the annual financial report. Whether or not the *Chart of Accounts* is used, the budget and accounting systems should conform. However, if line item classifications do not match the financial report forms, it will take considerable work each year to properly translate items from the local system to the state report.

Payment of Funds

In boroughs, payments require proper orders, drawn upon the treasurer. In first class townships, orders must be signed by the president or vice president of the board of commissioners and attested by the secretary. If the borough or township of the first class has a controller, they must countersign all warrants.¹⁰

Budget Transfers. Budgets are financial and operational guides. The municipal codes permit governing bodies to transfer funds from one account to another during the year and to make supplemental appropriations if additional funds become available.

In cities, transfers and supplemental appropriations may be made at any time, but council must first ask the affected department head for comments before making any transfer.¹¹ Borough councils can make transfers or supplemental appropriations at any time with no restrictions.¹²

In townships of the first class, transfers and supplemental appropriations are restricted to the last nine months of the fiscal year and if a transfer exceeds five percent of the total appropriation to a fund, it requires the affirmative vote of two-thirds of the commissioners.¹³ In townships of the second class, supplemental appropriations may be made at any time but transfers are restricted to the last nine months of the fiscal year.¹⁴

Financial Reports

The annual budget is the municipal action program expressed in revenues and expenditures. Board or council members are generally well informed on the current status of individual budgeted projects, either because they have personally observed activity or because of progress reports made at meetings.

Virtually every municipal governing body receives a variety of financial reports monthly and at the close of the fiscal year. In those boroughs and townships operating without managers, at least some financial reporting responsibility is assigned to the secretary.

Monthly financial reports should show transactions not only for the current month, but should also inform the board or council members of the financial situation for the year to date with comparison of budgeted and actual amounts. Cumulative reports should reflect the financial position after payment of bills at the current meeting. Reports should relate actual revenues and expenditures to the budget. It is critical that the board or council have the municipality's current financial status before them when making decisions.

A simple report provides members with an informative summary of finances to date and can easily be provided with accounting software. It is most effective when issued monthly and is recommended that an annual summary be prepared at the close of the year. The revenue summary report should list all sources of receipts. Opposite each source, columns should be provided to show the budget estimate for the year, the current month's estimated and actual receipts, the amount over or under the current month's estimate, and the total balance expected to be collected for the remainder of the year.

The cumulative comparative statement of expenditures should list at least the major expense categories based on the budget. Opposite each item, columns should be provided to show the budget estimates for the year, the month's estimated and actual expenditures, and the amount over or under the month's estimate. Parallel to these columns should appear the amount estimated in the budget for the year to date, actual expenditures to date, the amount over or under budget estimates, remaining balances, encumbrances, and the total expenditures to date.

Annual Financial Reports

In third class cities, the chief fiscal officer is responsible for the annual financial report.¹⁵ The report must be submitted to the city council at a stated meeting in April. The report and a concise financial statement must be published once in a newspaper of general circulation at least 10 days prior to the April meeting. The independent auditor must approve the report and statement before publication.

In boroughs and townships of the first class, the audit, annual financial report, and statement of financial condition is the duty of the elected auditors, certified public accountant, or controller.¹⁶ These reports must be prepared and filed with the municipal secretary, clerk of the court of common pleas of the county or prothonotary, and with DCED no later than 90 days after the close of the fiscal year. Within 10 days of completing the annual audit, a concise financial statement must be advertised in a newspaper of general circulation.

In townships of the second class, the audit, annual financial report, and concise financial statement is the duty of the elected auditors or certified public accountant.¹⁷ The audit must be completed by March 1. By March 10, a concise financial statement must be advertised in a newspaper of general circulation. In townships with populations less than 200, publication requirements may be met by posting in public places.

These reports must be filed with the township secretary, clerk of the court or the prothonotary, and DCED no later than ninety days after the end of the year.

All municipalities must electronically file the annual financial report with DCED. This report provides a summary and detailed statement of revenues and expenditures for each municipal fund.

Real Estate Tax Collection

The tax duplicate for real estate taxes levied by the municipality is prepared by the county assessment office, after it is certified as accurate by the municipality and serves as a warrant on the elected tax collector, who uses the duplicate to notify persons of the taxes due.¹⁸

The tax collector must remit tax collections to the taxing district by the 10th day of each month for the previous month's collections unless the taxing districts requires more frequent remittances.¹⁹ The tax collector must provide the statement in writing on a form approved by DCED. The monthly form is submitted to the secretary or clerk of the taxing district for taxes collected under the Local Tax Collection Law, including real estate taxes. Municipalities may impose late fees on tax collectors that fail to meet the reporting deadline.

Tax collectors are required to settle or reconcile the real estate tax duplicate by January 15 for the prior year.²⁰ In addition, elected tax collector records must be audited annually by the auditors, controller, or appointed CPA. Two or more taxing districts may agree to conduct a simultaneous audit of any elected tax collector serving the taxing districts.

Municipal Borrowing

Before municipalities may borrow funds, they must follow the procedures in the Local Government Unit Debt Act.²¹ All debt proceedings should be conducted under the guidance of the solicitor or special counsel. The secretary may participate in the process or may only certify complete and accurate copies of the necessary papers for incurring debt to DCED.

Before issuing any debt, municipalities must file their borrowing proceeding materials with DCED. DCED examines the proceedings for compliance with the debt limit and required procedures. Debt that is more than \$125,000, or 30 percent of the municipal borrowing base, whichever is less, requires the approval of DCED. For small borrowings of less of \$125,000 or 30 percent of the borrowing base, a simpler borrowing procedure known as small borrowing can be followed.

An ordinance for incurring debt must be advertised in a newspaper of general circulation in the municipality not less than three nor more than thirty days prior to its enactment.²² Within 15 days of final enactment of the borrowing ordinance, a notice must be advertised once stating briefly the substance of any amendments, the price bid for the bonds or notes, and the range of interest rates named in the successful bid.

More information about borrowing can be found in DCED's *Debt Management Handbook*, which is available online at dced.pa.gov (choose "Local Government" and then "Publications and Documents.")

REFERENCES

1. 53 P.S. 36809; Third Class City Code, Section 1809.
2. 8 Pa. C.S.A. 1307; Borough Code, Section 1307; 53 P.S. 56701; First Class Township Code, Section 1701.
3. 53 P.S. 36809; Third Class City Code, Section 1809; 8 Pa. C.S.A. 1308; Borough Code, Section 1308.
4. 53 P.S. 56701; First Class Township Code, Section 1701; 53 P.S. 68202; Second Class Township Code, Section 3202.
5. 53 P.S. 36809; Third Class City Code Section 1809; 53 P.S. 56701; First Class Township Code, Section 1701.
6. 53 P.S. 68202; Second Class Township Code, Section 3202.
7. 8 Pa. C.S.A. 1309; Borough Code, Section 1309.
8. 53 P.S. 36810; Third Class City Code, Section 1810; 8 Pa. C.S.A. 1311; Borough Code, Section 1311; 53 P.S. 56701.1; First Class Township Code, Section 1701.1; 53 P.S. 68202; Second Class Township Code, Section 3202(d).
9. 53 P.S. 55902; First Class Township Code, Section 902.
10. 8 Pa. C.S.A. 1313 & 1065; Borough Code, Section 1313 & 1065; 53 P.S. 55803A & 56104; First Class Township Code, Section 803A & 1104.
11. 53 P.S. 36804; Third Class City Code, Section 1804.
12. 8 Pa.C.S.A 1312; Borough Code, Section 1312.
13. 53 P.S. 56701; First Class Township Code, Section 1701.
14. 53 P.S. 68202; Second Class Township Code, Section 3202.
15. 53 P.S. 36812; Third Class City Code, Section 1812.
16. 8 Pa. C.S.A. 1005, 1059.1 & 1063; Borough Code, Section 1005, 1059.1 & 1063; 53 P.S. 55520, 56003, and 56103; First Class Township Code, Section 520, 1003, and 1103;
17. 53 P.S. 65904 and 65917; Second Class Township Code, Section 904 & 917.
18. 72 P.S. 5511.2 & 5511.5; Local Tax Collection Law, Section 2 & 5.
19. 72 P.S. 5511.25; Local Tax Collection Law, Section 25.
20. 72 P.S. 5511.26; Local Tax Collection Law, Section 26.
21. 53 Pa. C.S.A 8001; Local Government Unit Debt Act, Section 8001.
22. 53 Pa. C.S.A. 8003; Local Government Unit Debt Act, Section 8003.

IX. Purchasing and Contracts

The municipal secretary often plays a role when purchasing equipment and supplies. The basic components of the purchasing and contracting process are covered in this chapter. More detailed information can be found in the *Purchasing Handbook*, available from DCED at dced.pa.gov.

Secretary's Role

The secretary often has a central role in the municipal purchasing process. The municipal codes require bid notices to be advertised in a newspaper of general circulation, which are placed by the secretary, who serves as custodian of the documents involved and attests the final contract. The secretary's role may be extensive, particularly in smaller municipalities. The secretary may acquire specifications, prepare and place legal notices, distribute instructions to prospective bidders, answer prospective bidders' questions, tabulate bids after public opening, and notify unsuccessful bidders. The secretary may collect the required bonds, monitor performance, and return bonds at the end of the contract.

All municipal secretaries should be familiar with the contract provisions in their respective municipal code.¹ Questions about these provisions should be taken to the solicitor as purchasing provisions must be strictly followed and failure to abide by contracts may lead to legal action against the municipality.

Specifications File. Most secretaries maintain a file of past specifications. Copies of specifications from neighboring municipalities can be added to the file. Standard specifications for materials and construction of streets, roads, bridges and drains are available from PennDOT. The municipal engineer can provide standards for other items and should develop specifications for infrastructure projects.

Prospective Bidder File. Maintaining a current file of suppliers of goods and services allow the municipality to gather and maintain information that is helpful in demonstrating a bidder's qualifications. It also provides the secretary with a ready list of prospective bidders who can be sent invitations to bid directly, in addition to the published legal advertisement.

Small Purchases

The municipal codes require at least three written or telephone price quotations for all contracts between \$10,500 and \$19,400 for 2015.² Bid thresholds are adjusted annually for inflation by the state Department of Labor and Industry and advertised in the *Pennsylvania Bulletin* in December for the following year. The threshold applies to the total purchase price of the contract, which may be a lump sum contract or a unit price contract.

A written record of telephone price quotes must be made, including the vendor's name, a description of the item or service, and the price. Records of informal written or telephone price quotes must be retained for three years.

Routine purchases that fall below the required base amount, which was \$10,500 in 2015, may be made by the secretary through an informal process. While these purchases do not need to follow a specific procedure by law, it is in the best interest of the municipality to request prices from multiple vendors. Governing bodies may require the secretary to obtain quotes for these small contracts and purchase the item or service, if the quality is satisfactory, based on the lowest price.

For all purchases, records must be kept for accounting purposes. Some municipalities use a purchase order, which is a form that is submitted to the vendor as evidence of authority to purchase. A copy is kept by the secretary. When the invoice is received, it is matched to the purchase order before payment is made.

Significant savings can be realized by reducing the practice of purchasing goods and supplies only as needed. Municipal needs should be projected for a year's time for each specific item and consolidated into a single bulk purchase awarded on the basis of competitive quotes or bids. Storage challenges can be dealt with by requiring periodic partial deliveries as needed at the contracted price.

Competitive Bid Purchases

Municipal contracts for goods or services that exceed the current bid threshold, which was \$19,400 in 2015, must be awarded to the lowest responsible bidder after a publicly advertised sealed bid process.³

Advertising notice of bids is the generally the secretary's responsibility. Legal advertisements must appear at least two times, at intervals of not less than three days, in a daily newspaper of general circulation, or once each week for two successive weeks in a weekly newspaper of general circulation. The advertisements must appear not more than 45 days nor less than ten days prior to the date set for opening bids. Plans and specifications must be on file and available at least ten days prior to the bid opening date. In addition to newspaper advertising, municipalities can advertise bid notices in publications or journals.⁴

The bid notice must be detailed enough to give prospective bidders a clear picture of the nature of the contract to be awarded. Notices must include a description of the item or project, a notice of the place and times where specifications may be obtained, when and where bids will be received and publicly opened and awarded (*may be different dates*), bonding requirements, and the deadline for receipt of bids. In addition, the advertisement may include a statement that the contract will be awarded to the lowest responsible bidder and language reserving the municipal right to reject all bids. The notice or bidders' instructions require the bids to be sealed and may specify the type of envelope or require it to be marked in a specific way for identification purposes.

Public advertising requirements for bids in the municipal codes are the minimum established by law to provide for fair competition. The municipality may send out unsolicited letters containing the bid advertisement language to prospective contractors or vendors who may be unaware of the advertisement. Maintaining lists of prospective contractors and alerting them to upcoming contracts can increase competition, which can reduce prices and increase quality.

There are some exceptions to the sealed bid process and secretaries should look to their municipal code for the list that applies to their community.⁵ These provisions list types of contracts that may be awarded without going through the sealed bid process. This includes purchases from another government entity, as well as personal and professional services.

Specifications

Secretaries may prepare specifications for minor or routine purchases or projects. It is critical that specifications be properly prepared or the municipality will fail to obtain the exact items and quality of service or material that is needed. Carefully prepared specifications will allow the municipality to reject bids that do not meet the quality level in the specifications. Lack of detail in the specifications can force a municipality to award a bid for a poor quality product or reject all bids and readvertise, leading to additional expense and project delays.

Projects paid for by liquid fuels funds need to be preapproved by the Pennsylvania Department of Transportation, including the specifications for the project. PennDOT officials can assist in preparation of bid specifications for road materials. PennDOT forms must be used for purchases using liquid fuels funds.

Many project specifications need to be prepared or reviewed by an engineer or solicitor to ensure that they are technically and legally correct. Standard forms can be required to ensure that the descriptions of the bids are in an easy to compare form and that all required details are included.

Bonding

Boroughs and cities may require bid bonds,⁶ which require each bid to be accompanied by a certified check or other security as a financial guarantee that the successful bidder will follow through with the transaction. The most common amount is 10 percent of the bid, although higher amounts are permissible. The secretary must return the checks of unsuccessful bidders after the contract has been awarded. The bid security of the successful bidder is withheld until the contracts have been signed and the contractor has provided the necessary performance and payment bonds.

All public works construction or maintenance contracts of \$10,000 or more require the successful bidder to provide a performance bond and a payment bond in the amount of 100 percent of the contract liability or other acceptable security.⁷ For third class cities, bonds for labor must be made at 100 percent of the contract amount for those involving labor, while lesser amounts may be required for purchases of vehicles and equipment.⁸

For other contracts in boroughs and townships, the codes require performance bonds of from 10 to 100 percent of the contract amount, established by the governing body, which must be provided within 20 days of contract award.⁹ Boroughs and first class townships may require the performance bond to be posted within 10 days. If the winning bidder fails to provide the bond, the contract is void. The contractor is released from the bonds after the governing body determines that all contract provisions have been met and the contract successfully fulfilled.

Compliance with Other State Laws

Municipal contracts must comply with several additional state laws, including the following:

The **Pennsylvania Prevailing Wage Act** requires public works contracts that meet a certain threshold to pay prevailing wage rates that are set by the state Department of Labor and Industry for all contracted labor.¹⁰ For certain road and bridge projects, including those paid for with municipal general funds and liquid fuels funds, the threshold was raised to \$100,000 by Act 89 of 2013. However, road projects paid for with dirt and gravel road funds remain at the \$25,000 threshold. For all other public works projects, such as buildings, water and sewer, stormwater, or other public works projects, the threshold remains at \$25,000. For projects that exceed these thresholds, the municipal secretary must obtain prevailing wage rates from the Department and include the rates in the bid specifications and legal advertisement. For more information on the Pennsylvania Prevailing Wage Act, go to **www.dli.pa.gov**.

Municipalities that are going out to bid on public works projects that are valued at \$25,000 or more must ensure that contractors are complying with the **Public Works Employment Verification Act of 2012**.¹¹ This includes requiring contractors to submit a Public Works Employment Verification Form as a part of their bid package and is a precondition for awarding the bid contract. For more information, go to **www.dgs.state.pa.us** and choose “Business Links” and then “Public Works Employment Verification Act.”

Cities and townships that are constructing or altering public buildings must comply with the separations provisions if the project will exceed the sealed bid threshold.¹² This requires that separate specifications be provided and separate bids accepted for plumbing, heating, ventilating, and electrical work. For boroughs, these provisions are optional.

All municipalities must require proof of workers’ compensation insurance for any contract that involves labor.¹³ The Steel Products Procurement Act requires all public works contracts to require the use of steel products made in the United States.¹⁴ The Motor Vehicle Procurement Act requires municipalities to purchase or lease motor vehicles manufactured or assembled in North America.¹⁵ When using federal monies for the construction, alteration, or repair of public buildings or public works and the project cost exceeds \$2,000, municipalities must comply with the wage rates and procedures in the Davis-Bacon Act.

Sealed Bid Contracts

The procedure for sealed bid contracts includes legal advertising, receipt of bids, opening bids, and awarding of the contract.¹⁶ Sealed bids must be received at the advertised location by the deadline specified in the public notice. Any bids that are late, not sealed, or otherwise do not meet the requirements in the notice must be rejected.

Bids can be received and accepted at a public meeting or at a specified time before the meeting. The contract may be awarded at the same meeting or at a subsequent meeting included in the bid notice. In boroughs and townships of the second class, if the announced meeting is not held, the award may be made at another meeting held after five days public notice. Townships of the first class require six days public notice.¹⁷

Simple contracts are generally awarded on the night of receipt. More complex ones are reviewed by professionals, such as engineers, to properly evaluate compliance with bid requirements and to accurately make computations. Votes to award contracts must be taken at public meetings. If there are any questions about a bid prior to award, it is recommended that the matter be tabled and the governing body consult with its solicitor prior to the award.

The codes require contracts to be awarded to the lowest responsible bidder. This does not always mean the lowest bidder. However, municipalities contemplating awarding a bid to other than the lowest bidder should consult their solicitor.

Intergovernmental Purchasing

Agreements with neighboring municipalities, school districts, or counties for joint purchasing are common. Secretaries can encourage joint purchasing by investigating the possibilities, learning the advantages (generally a better product or a lower price), and documenting for the governing body when intergovernmental purchasing presents the best option.

Municipalities can also purchase materials, supplies, equipment, and vehicles through the state Department of General Services' COSTARS Program, also known as cooperative purchasing or piggyback purchasing. COSTARS enters into contracts on behalf of local governments, which are exempt from the advertising and bidding requirements.

The governing body must first pass and file a resolution with the Department requesting authorization to participate in COSTARS. The municipality can then review available state contracts and COSTARS contracts for possible procurement. COSTARS contracts allow municipalities to pay reduced costs on purchases and save on legal advertising. Additional information is available by logging onto **dgs.pa.gov**.

REFERENCES

1. 53 P.S. 36901; Third Class City Code, Section 1901; 8 Pa. C.S.A. 1401; Borough Code, Section 1401; 53 P.S. 56801; First Class Township Code, Section 1801; 53 P.S. 68101; Second Class Township Code, Section 3101.
2. 8 Pa.C.S.A. 1402(a); Borough Code, Section 1402(a); 53 P.S. 56802(a.1); 53 P.S. 36901.2; Third Class City Code, Section 1901.2; First Class Township Code, Section 1802(a.1); 53 P.S. 68102(a); Second Class Township Code, Section 3102(a).
3. 53 P.S. 36901; Third Class City Code, Section 1901; 8 Pa. C.S.A. 1402; Borough Code, Section 1402; 53 P.S. 56802; First Class Township Code, Section 1802; 53 P.S. 68102(a); Second Class Township Code, Section 3102(a).
4. 45 Pa.C.S.A. 306; Newspaper Advertising Act.
5. 8 Pa. C.S.A. 1402; Borough Code, Section 1402; 53 P.S. 36901.4; Third Class City Code 1901.4; 53 P.S. 56802; First Class Township Code, Section 1802; 53 P.S. 68102; Second Class Township Code, Section 3102.
6. 8 Pa. C.S.A. 1702; Borough Code, Section 1402; 53 PS 36901.6; Third Class City Code, Section 1901.6.
7. 8 P.S. 193.1; Public Works Contractors Bond Law, Section 3.1.
8. 53 PS 36901.5; Third Class City Code, Section 1901.5.
9. 8 Pa. C.S.A. 1402; Borough Code, Section 1402; 53 P.S. 56802; First Class Township Code, Section 1802; 53 P.S. 68102; Second Class Township Code, Section 3102.
10. 43 P.S. 165-3 et seq.; The Pennsylvania Prevailing Wage Act
11. Public Works Employment Verification Act; Act 127 of 2012.
12. 8 Pa.C.S.A. 1405; Borough Code, Section 1405; 53 P.S. 36909; Third Class City Code, Section 1909; 53 P.S. 56805; First Class Township Code, Section 1805; 53 P.S. 68107; Second Class Township Code, Section 3107.
13. 62 Pa.C.S.A. 3752.
14. 73 P.S. 1885(a); The Steel Products Procurement Act.
15. 62 Pa.C.S.A. 3734; Motor Vehicle Procurement Act.
16. 53 P.S. 36901; Third Class City Code, Section 1901; 8 Pa. C.S.A. 1402; Borough Code, Section 1402; 53 P.S. 56802; First Class Township Code, Section 1802; 53 P.S. 68102(a); Second Class Township Code, Section 3102(a).
17. 8 Pa. C.S.A. 1402; Borough Code, Section 1402; 53 P.S. 56802; First Class Township Code, Section 1802; 53 P.S. 68102; Second Class Township Code, Section 3102.

X. Human Resources Administration

In many municipalities, the secretary has some responsibility to carry out the decisions of the governing body after the hiring of municipal employees, such as orienting them to work assignments and responsibilities, filing paperwork, paying them, and administering benefits. Various state and federal laws give employees certain rights and restrict the actions that the governing body may take. These laws require reports to be made and records kept, which often becomes the secretary's responsibility. Even the smallest municipality needs to understand personnel rules, since the costs of being charged with discrimination or violation of a statute could bankrupt a community.

Hiring

Municipalities should work with their solicitor or special legal counsel to establish sound hiring practices and work to ensure that they follow the established procedures. This includes developing job descriptions, application forms, and personnel policies, as well as creating interview questions and tests for job applicants. These tools and procedures should be designed to find the most qualified candidate, while complying with the many state and federal laws governing hiring.

Job Descriptions. Hiring employees involves recruiting and selecting the most qualified person for the position. Job descriptions are effective tools that should include a general definition of the position's required tasks, examples of work experience and required knowledge, skills, and abilities. Essential functions are a critical component of a job description, which are the minimum mandatory skills or abilities needed to perform the job and should be used as a baseline when evaluating applicants. The establishment of training and experience requirements will help provide the municipality with qualified applicants and give prospective applicants details of the position's responsibilities. A well-crafted job description will prove helpful in the hiring process and, if used properly, can demonstrate the governing body's reasoning should a rejected applicant take issue with the decision either in court or at a public meeting.

Hiring Tools. Well-designed application forms can provide the municipality with important background information on the applicant's education, experience, and relevant personal information without asking questions which may be prohibited under state or federal law. Interviews, tests to demonstrate essential skills, and reference checks can also aid in selecting the most qualified candidate. Documentation of any hiring procedure, such as completed applications, test results, and interview notes, should be maintained as proof that applicable labor laws were followed.

Veteran's Preference. Veteran's preference is required for hiring in civil service and non-civil service situations. Additional points are assigned in civil service and for non-civil service positions, the municipality must hire the veteran when presented with equally qualified candidates.

Legal Resident. Federal law requires employers to verify that each employee hired is a United States citizen or authorized to work in the United States. These records must be kept on forms supplied by the U.S. Immigration and Naturalization Service.

Civil Service. Competitive examination programs that are provided by an appointed civil service commission are required to be used for the hiring and promotion of employees in certain positions. In boroughs and townships of the first class, police positions in police departments of three or more and fire apparatus operators in departments of three or more are subject to civil service.¹ In third class cities, uniformed positions in the police and fire department, except chief, are covered by civil service, as well as any other position that was considered to be civil service as of March 2014.²

Non-civil Service. When filling positions not covered by civil service requirements, a fair and objective process should be followed. Such a procedure helps to assure that qualified persons are hired and guards against practices which, even if unintended, may violate state or federal laws that prohibit discrimination based on race, sex, religion, age, or disability.

Pay

Job classifications and wage scales. Wage scales are commonly based on job classifications of duties and qualifications. A classification plan groups similar positions into classes by nature of work, level of difficulty, degree of responsibility, and training and experience requirements and ensures fair pay and benefits within the classes. Having a quality job classification system can help maintain management-employee relations.

For municipalities without such systems, consider developing an employee wage schedule based on what competing public and private employers in the area currently pay for similar positions, including the value of benefits such as health care and retirement plans.

Most municipal employees are covered under the federal Fair Labor Standards Act (FLSA).³ This act classifies positions by responsibility, requires that all positions receive a minimum wage, and requires covered employees (non-exempt employees) to be paid overtime if they work more than 40 hours a week, with higher limits for police and firefighters. It is critical that all municipalities be in compliance with the FLSA through accurate job classification and record-keeping to avoid penalties for noncompliance. Elected officials who are also municipal employees are exempt from the FLSA.

Benefits

Municipalities need to have personnel policies that clearly lay out the benefits provided to employees and must grant these benefits consistently and fairly to avoid discrimination claims. Benefits may only be based on whether a position is permanent or temporary, full- or part-time, or classes of employee. Personnel policies need to be reviewed by the solicitor or special counsel before they are adopted and at regular intervals to ensure compliance with labor laws.

Health insurance. While the municipal codes authorize health benefits for employees, the Affordable Care Act requires all employers with 50 or more full-time employees to provide a minimum level of health insurance coverage to their employees. The ACA defines a full-time employee as one who works an average of 30 or more hours per week.

Retirement. All the municipal codes authorize municipalities to provide retirement plans for employees. In some cases, the type of plan is left to the discretion of the governing body. In other cases, the type of plan is specified by law. For example, Act 600 of 1955 governs police pensions in boroughs and townships with a police force of three or more and requires retirement benefits to be computed in accordance with a formula in the act.

Municipalities must fully fund their pension obligations by setting enough money to pay for the benefit that it has agreed to provide to its employees. Act 205 of 1984 requires reporting to the state on the condition of municipal pension funds.

Paid Time Off. Local governments may provide paid time off for sick leave, vacation, holidays, or other reasons. Personnel policies may limit the amount of leave that can be accumulated, when it can be used, and the conditions under which a departing employee may be paid for unused leave. This requires maintaining accurate leave records.

State law guarantees municipal employees who are members of military reserve units up to 15 days leave per year to fulfill their military obligations. During such leave, employees must be paid their normal salary.

Expenses. Municipalities may cover all legitimate expenses of officers or employees while engaged in public business. Expenses must be documented, comply with municipal policies, and directly relate to the duties of the office. When using a personal vehicle for municipal business, secretaries may request mileage reimbursement. Such reimbursement must be made at a uniform rate set by the governing body.⁴

Labor Relations

Labor Relations Laws. The Public Employe Relations Act grants public employees the right to organize and requires employers to negotiate and bargain with employee organizations and enter into written agreements with the bargaining unit.⁵ The Act establishes procedures to protect the rights of the public employee, the public employer, and the public.

The Act lists unfair labor practices for both employers and unions. It is unlawful for employers to interfere, restrain, or coerce employees who are forming and administering a union. A union may not interfere with an employer who is complying with the Act, nor may it restrain or coerce employees to join or not join a union.

Act 111 authorizes police and paid firefighters to collectively bargain with their municipal employers over the terms and conditions of employment, including compensation, hours, working conditions, retirement, and other benefits.⁶ Act 111 provides for arbitration to settle disputes and requires compliance with collective bargaining agreements and findings of arbitrators. In addition, municipalities must comply with the Police Tenure Act when suspending, removing, furloughing, and reinstating police officers.⁷ This act gives police officers rights for hearings or appeals in cases of dismissal.

Employee Protection

State and Federal Labor Laws. A number of state and federal laws govern the treatment of employees and job applicants. These laws prohibit discrimination in employment based on race, religion, national origin, sex, age, and disability. They require that certain benefits be paid to employees injured on the job and they determine the procedure for employees who request a hearing after being terminated.

Municipalities can be subject to serious penalties for failure to adhere to state and federal labor laws. As such, it is strongly recommended that the governing body use legal counsel with labor law experience for reviewing job descriptions and personnel manuals and to provide guidance when making hiring, discipline, and firing decisions. It is critical to have the assistance of experienced legal counsel when bargaining with unions and ensuring compliance with union contracts.

For these reasons, it is usually wise to develop a policy requiring due process and just cause for any negative employment action taken against an employee. The municipal solicitor or special counsel should review the policy before formal adoption and should be consulted prior to an employee termination.

Workers' Compensation. State law requires municipalities to carry workers' compensation insurance in case of work-related injuries or illnesses to employees. Such insurance covers the costs of treatment for the injury or illness and also pays a portion of the employee's salary during any period of disability.

Unemployment Compensation. Municipal employees may be eligible for unemployment compensation if they lose their jobs through no fault of their own. The municipality pays the cost of this compensation.

REFERENCES

1. 8 Pa. C.S.A. 1171; Borough Code, Section 1171; 53 P.S. 55625; First Class Township Code, Section 625.
2. 53 P.S. 39401; Third Class City Code Section 4401.
3. 29U.S.C. 201et.seq.
4. 65 P.S. 371; 1981 P.L. 141, No. 46.
5. 43 P.S. 1101.101; Public Employe Relations Act.
6. 43 P.S. 217.1; 1968 P.L. 237, No. 111.
7. 53 P.S. 811; 1951 P.L. 586.

XI. Communication

The municipal secretary serves as a primary point of contact for those both within and outside of the municipality. The secretary is the person most likely to communicate with individual citizens or groups, the news media, other municipal officials and employees, the county, and the state. The secretary's role depends on developing relationships with others both inside and outside of the municipality.

Working with the Board or Council

To govern well, members of the governing body must be kept informed. A governing body member who is kept current on a situation or problem as it evolves is able to respond more appropriately than if they are blindsided with the issue. Secretaries play a critical role in relaying information to the members of the governing body. In larger municipalities, this responsibility may rest with the mayor or manager. But in many boroughs and townships, the secretary is the central information source.

The secretary should pass along all information to the entire board or council. The governing body should establish a written policy that clarifies the secretary's procedures for reporting information. The policy may specify which matters should be referred to a committee chair or entire committee, a department head, or presiding officer. In any case, it is critical that the secretary report all information directly to the entire board or council before releasing any information to the press, a citizen's group, or other individual.

It would be impossible to keep the governing body informed of every minor day-to-day occurrence, and as such the secretary must use their discretion to decide what to pass along immediately and what to report at a meeting. There is no single rule to help solve this challenge. Instead, each secretary should evaluate the circumstances and consider the desires of the governing body.

The subject matter, complexity of the problem, and level of citizen interest are three factors to consider in determining how to report a matter to the board or council. Sometimes the report should be a brief verbal summary, other times a simple memo will suffice, and sometimes a formal written report is needed. In all cases, keep it brief and stick to the facts.

Use of Electronic Communication

Electronic communication is used by municipalities on a daily basis. Municipal secretaries must keep in mind that use of any electronic communications for municipal purposes will create a record and that record may be considered a public record under the Right-to-Know Law, regardless of whether it is email, text, social media post, or other media format or method. As such, caution should be used in how these methods of communication are used.

The secretary should use a dedicated email account for municipal business. Personal accounts should not be used for municipal purposes. Members of the board or council should also have dedicated email accounts for municipal business, separate from any personal account. The courts have ruled that if a personal email account or cellular phone is used for municipal business, then emails and texts sent and received from that account or phone may be considered public records that are subject to disclosure. That also raises the possibility that personal emails and texts on that account or phone may be inadvertently disclosed as well.

A clear, written policy should be set for communicating electronically with members of the board or council. Communications should be sent to accounts that are dedicated for municipal business and from the secretary to a member or members of the board or council. While the members can certainly respond to the secretary, they should take care not to directly communicate with each other via email, particularly if that email relates to any subject matter that is or may be before the board or council and sent to a quorum of the board or council. Such emails may violate the Sunshine Law's requirement that members of governing bodies deliberate such issues at public meetings and create documentation of a violation.

Always be cautious when composing an electronic communication. If an issue is sensitive or confidential, a phone call may be the preferred communication method. At the same time, it may be necessary to memorialize a communication in writing. Realize that even a brief communication could be considered a public record and anticipate that someone outside the municipality may read the communication or it could be the subject of a news report. Even deleted electronic communications may be accessed if your municipality is faced with a lawsuit.

Working with the Solicitor

The municipal solicitor is appointed by, and serves, the board or council. The secretary's relationship with the solicitor varies depending on the extent of the secretary's duties and level of activity in the municipality, as well as policies and expectations of the governing body. Some secretaries work with the solicitor on a regular basis and have authorization to ask for legal assistance when needed. Others deal with the solicitor through the manager, presiding officer, or governing body, with limited direct contact.

Every municipality should have a clear policy of the types of items that must be reviewed by the solicitor. This list should include contracts, notices, ordinances, policies, and all legal matters. It is important to keep the solicitor informed of any potential legal matter so they have sufficient time to research and appropriately address the matter. Secretaries should encourage their board or council to seek the counsel of the solicitor on any questionable matter that could have legal implications and not attempt to resolve it without input.

Working with the Public

Every secretary comes into contact with the public daily and is often an important link between the municipality and its citizens. The secretary projects the image of the municipality and should attempt to make that image a positive one. The public should be made aware of the secretary's availability since some municipalities have full-time secretaries who have regular business hours in a municipal building, while others have part-time secretaries.

Although complaints are made to a variety of officials and employees, the secretary is often the primary contact for citizen concerns. Generally complaints are simple, honest requests of citizens for information, a specific service, or correction of a problem. Having a policy for complaints, including the use of standard forms and how to handle anonymous complaints, can provide clear guidance to the secretary and help to ensure that all are treated equally and that complaints are promptly referred to the correct official for investigation and follow-up, if needed.

Listening, responding, and informing are key elements to successful communication with your residents. If the secretary cannot or is not authorized to assist a citizen in particular circumstances, the secretary should direct the citizen to the official who can help them. Difficulty finding a definitive answer can give citizens the feeling of getting the runaround, especially if it becomes necessary for them to contact a number of individuals or offices for assistance or direction. In most communities, the citizens look first to the secretary either for a solution to their problems or for direction to the correct source. A secretary should be honest and responsive. If an answer is not immediately available, the secretary should say so. If a complaint primarily involves another citizen and is not a violation of law or a municipal ordinance and does not concern a municipal service, the citizens should be directed to resolve the issue between themselves.

Working with the Media

As stated before, the secretary serves as a major point of contact for information. It is common to see local reporters at a public meeting, particularly when there is a controversial issue on the agenda. To provide the most accurate information and be transparent, the secretary should work with reporters and provide them with the information they need, including financial reports, meeting agendas, and minutes. Try to develop a relationship with reporters who frequent your meetings to establish a rapport.

Public Relations Program

Governing responsibly in municipal government is not enough. It is critical to ensure that citizens and taxpayers are made aware of the services that are provided and how the board or council is working to ensure the continued delivery of these services at the best quality and most reasonable cost.

A number of Pennsylvania municipalities have developed public relations programs. This can include newsletters; annual reports; brochures explaining tax systems, bond issues, proposed projects, or specific services; open houses; municipal websites and a social media presence; citizen advisory committees; student government programs; and direct involvement of citizens or local groups in municipal programs.

The secretary should encourage and assist the board or council in formulating a public relations program. The goal should be to promote the municipality and provide public information in a positive manner. Any program should be reviewed regularly to see if it is effective at reaching citizens and taxpayers.

Use of Social Media

Today, citizens often rely on social media platforms such as Facebook and Twitter for news and information instead of television, newspaper, or radio. In addition to advertising legal notices, it is a good practice to post monthly meeting dates, hearings, and other advertisements on the municipal website, Facebook page, or Twitter account since the internet and social media tend to be the common way to find information.

Social media is a great tool for promoting township events, like parks and recreation programs. Consider advertising new business openings, community organization fundraisers, library events, and other community-oriented programs this way.

Communication between the secretary, who may be handling social media, and other departments is crucial. The secretary, who generally spends their time in the office, may not be aware of a road closure or an accident that just occurred. It is important to have open lines of communication between those out in the field and office staff to provide real-time updates to residents.

Secretaries should also be aware of how residents are using social media and tweak their strategy to engage as many people as possible. What platform has the most followers in your community? Which platform receives the most comments or feedback? These are questions to consider when creating a social media procedure or policy. Listening to your citizens and taking appropriate steps to respond to their social media posts is also very important. It demonstrates that you are actively listening and attempting to address their concerns.

XII. Land Use Planning and Control

The General Assembly has given the power and responsibility to plan for and control land use and community development to municipal government. If a municipality chooses not to plan for land use, the county may do so.

The Pennsylvania Municipalities Planning Code establishes the rules and regulations for a municipality to plan for community development through preparation of a comprehensive plan and to govern such development through zoning and subdivision and land development ordinances.¹ The MPC provides for the establishment of a planning commission or planning agency to advise the governing body on planning and zoning ordinances and to review proposed subdivision and land development plans. Zoning hearing boards consider appeals of zoning officer decisions, special exceptions, and variance requests. If a municipality misuses its authority, the MPC outlines the procedures an aggrieved person may follow to challenge the municipality's action.

In some municipalities, the secretary may be involved in one or more land use control activities. The secretary's land use role may include receiving and forwarding plans, plats, and other documents to appropriate local or county agencies and publishing or issuing public or individual notices. In some instances, the secretary may serve as secretary for the planning agency or may even become a member of the planning agency. In some municipalities, the secretary also serves as zoning officer.

Any role that a secretary has in the land use process is important to their municipality and the community as a whole. Municipalities must fairly and uniformly enforce their land use ordinances and the timeframes in the MPC must be strictly followed. Failure to properly track the time for submission of land use plans could lead to a deemed approval of a noncompliant plan and/or legal challenges for the municipality.

Copies of the MPC and numerous other publications about municipal planning and zoning are available from the Governor's Center for Local Government Services at dced.pa.gov.

Comprehensive Plan

The comprehensive plan is a picture of how a community wants to look in the future, as determined by the governing body after substantial public input. The comprehensive plan should provide a vision of the future and allow other ordinances, such as the zoning ordinance and the subdivision and land development ordinance, to fill in the gaps and create the mechanisms to reach this desired goal. A municipality's zoning ordinance must be generally consistent with its comprehensive plan and the county comprehensive plan.

The MPC encourages intergovernmental cooperation through multimunicipal planning by providing incentives, such as the ability to plan for every use within the area of the multimunicipal plan versus the requirement to plan for every use within every municipality. State agencies are directed to consider and rely upon multimunicipal plans and zoning ordinances in their funding and permitting processes. The Governor's Center for Local Government Services provides technical assistance on land use issues, including multimunicipal plans and implementing ordinances.

The preparation of a comprehensive plan is time intensive and requires considerable data collection and analysis, planning, and ample opportunity for public input. The MPC contains specific requirements for comprehensive plans, which must include the municipality's objectives for future growth and development; plans for the amount and intensity of various uses, housing needs, transportation, and future community facilities and utilities; and how the development plan is compatible with adjoining municipalities.

Once the comprehensive plan is adopted, a municipality may prepare a draft zoning ordinance and official map and a subdivision and land development ordinance. However, a subdivision and land development ordinance can be enacted without waiting for the comprehensive plan to be complete.

For more about the comprehensive plan, see publication *No. 3 – The Comprehensive Plan*, which is available from the Governor's Center for Local Government Services at dced.pa.gov.

The Subdivision and Land Development Ordinance

Subdivision regulations govern the division of land into lots. The municipality may regulate subdivision and land development by enacting a subdivision and land development ordinance. These ordinances require that all plots of land within the municipality be submitted to the county and municipal planning commission for review. The municipal planning commission provides recommendations to the governing body for final approval, unless the governing body in its ordinance has given the municipal planning commission the responsibility for granting final approval. A plat is the map or plan of a subdivision or land development.

Subdivision regulations require developers to pay for the infrastructure costs of a subdivision or development, including sewer and water service, streets and curbing, storm sewers and drainage, and street lighting. State law restricts the levy of transportation impact fees for off-site development to only those municipalities that have adopted a transportation capital improvements plan that is based on a roadway sufficiency study. The levy of, and calculations for, tap-in fees for connecting to municipal or authority-owned water and sewer systems is regulated by the Municipality Authorities Act.

Subdivision and land development regulations affect how a community looks and functions into the future. By carefully drafting subdivision standards and designs, a community can maintain quality standards for improvements, attempt to coordinate development with the availability of public facilities, and create a pattern of development that will attract and retain residents and business.

For more about the SALDO, see publication *No. 8 – Subdivision and Land Development In Pennsylvania*, which is available from the Governor’s Center for Local Government Services at dced.pa.gov.

The Zoning Ordinance

Zoning is a tool to regulate the use of land and structures. The zoning ordinance specifies the types of activities that are permitted in various areas, or zones, of the municipality, such as residential, commercial, industrial, and agricultural. The zoning ordinance must be generally consistent with the county and municipal comprehensive plan, if one has been adopted, and must comply with the provisions of the MPC. Unless the municipality has adopted a multimunicipal plan, the zoning ordinance must provide for every type of use within the municipality’s borders.

Zoning ordinances, and amendments to zoning ordinances, are prepared or reviewed by the municipal planning commission. The zoning ordinance and zoning classifications should be based on the most current information about the municipality and the areas where future development or redevelopment is expected to occur. It is common to hire a professional planner or use the county planning office for assistance with the drafting of the ordinance and preparation of maps.

For more about zoning, see publication *No. 4 – Zoning*, which is available from the Governor’s Center for Local Government Services at dced.pa.gov.

Secretary’s Role in Land Use

Municipal secretaries are often responsible for much of the day-to-day administration of land use ordinances. This may involve keeping track of when subdivision and land development plans are received, coordinating with the planning commission and governing body for review and approval, receiving financial security from developers, and notifying developers when their bond is released following acceptable completion of all improvements. The secretary often coordinates with the zoning hearing board to ensure that they meet when needed. The secretary should keep track of the terms of the individuals appointed to the planning commission and zoning hearing board so that positions can be filled by the governing body. The secretary also works with the solicitor to draft and place legal advertisements, post notices, and ensure approved plans are recorded with the county recorder of deeds.

The municipal solicitor or special counsel should review all proposed land use ordinances or amendments to land use ordinances. If prepared by the municipal planning commission, it must hold a public hearing and make a recommendation to the governing body on the proposed documents. If not prepared by the municipal planning commission, the proposed documents must be referred for its review.

The ordinance may be adopted by the governing body after holding public hearings and the county planning commission has had an opportunity to comment on the proposed documents.

Generally, secretaries are responsible for working with the solicitor to place the legal notices needed for adoption of, or amendment to, any land use ordinance. This includes legal advertisements for public hearings, which under the MPC must run once a week for two consecutive weeks, not more than 30 days and not less than seven days before the public hearing. These ordinances must also be advertised for final adoption under rules in the municipal codes.

Municipal secretaries must record newly adopted or amended land use ordinances in the municipal ordinance book and ensure they are filed with the county law library (*or other office designated to receive ordinances*) and the county planning agency.

Historic Districts

The Historic Districts Act permits townships to designate certain areas as historic districts that are subject to special controls² and are intended to protect the local architectural and historic heritage of the community. The boundaries of the district are defined by surveys of local architectural and historic resources. The controls regulate the demolition or alteration of existing buildings, as well as new construction within the district. Regulations on building spacing, type of materials, and architectural details are intended to preserve the appearance of the district.

If a municipality has enacted historic districts, the secretary may be involved in notice and permitting activities.

Agricultural Preservation

The Agricultural Area Security Law authorizes governing bodies to create agricultural security areas that have at least 250 acres of viable agricultural land.³ Land within a designated agricultural area is given protection from local ordinances that would restrict normal farming operations and safeguards the land against eminent domain condemnation by state and local agencies and public utilities.

Creation of an agricultural security area begins with a proposal from one or more landowners that is submitted to the governing body and then the county and municipal planning commissions and municipal agricultural security area advisory committee for review. After reports are submitted to the governing body, a public hearing must be held before a final decision is made.

Land within an Agricultural Security Area is eligible to participate in the Pennsylvania Agricultural Conservation Easement Purchase program, which allows farmers to sell agricultural conservation easements funded by the state, county, or municipal government. Purchase of conservation easements allows the property to continue to be privately owned, but restricts development on the land to protect prime agricultural land.

If a municipality has agricultural security areas, the municipal secretary may be responsible for placing public notice of proposals, receiving proposals for modifications, publishing notice of hearings and providing written notice to property owners, organizing the public hearing, and filing the description of the designated area.

Floodplain Regulations

Federal and state laws require flood-prone municipalities to adopt regulations that address minimum standards for the 100-year flood plain established both by the National Flood Insurance Program Act and the Pennsylvania Floodplain Management Act.⁴ The National Flood Insurance Program provides coverage for structures within municipalities that participate in the National Flood Insurance Program. Municipalities not participating in the program will be denied federal financial assistance, including disaster assistance for acquisition and construction activities within identified flood hazard areas. Lending institutions must notify borrowers of flood hazards and whether or not federal disaster relief will be available in the event of a flood.

Floodplain regulations manage floodplains and minimize damage caused by flooding and may be found in zoning ordinances, building codes, subdivision regulations, and stand-alone floodplain management ordinances. Municipalities may adopt regulations that exceed state and federal standards. Municipal secretaries are often involved in the enactment and administration of floodplain regulations and may issue permits under these ordinances.

REFERENCES

1. 53 P. S. 10101; Pennsylvania Municipalities Planning Code, Section 101.
2. 53 P.S. 8001 et seq.; Municipal Historic Districts Law.
3. 3 P.S. 901 et seq.; Agricultural Area Security Law.
4. 32 P.S. 679.101; Flood Plain Management Act.

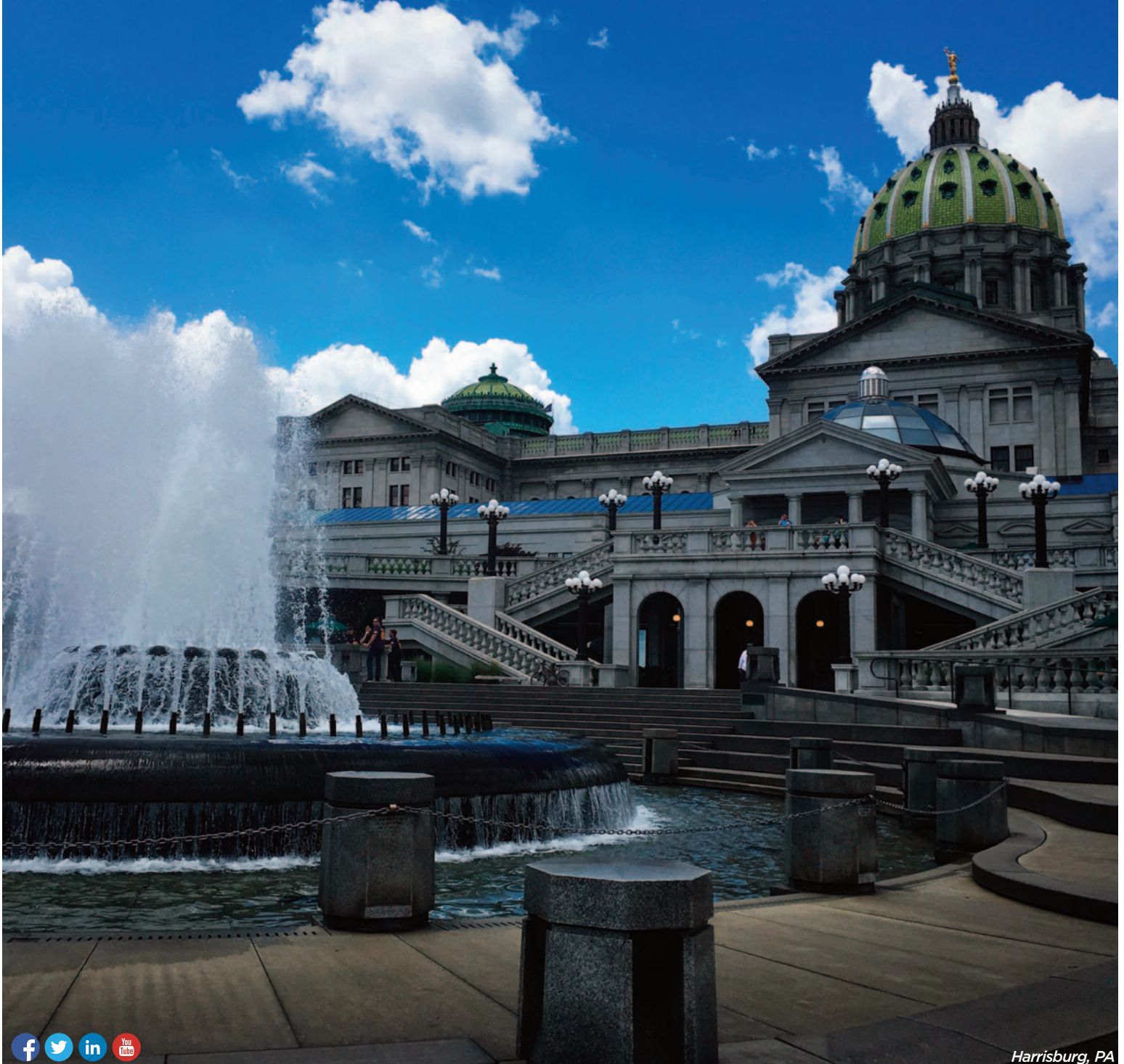
Pennsylvania Department of Community & Economic Development
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USPS 100
APPROVED POLY

Appendix O

PENNSYLVANIA MUNICIPALITIES PLANNING CODE

Act of 1968, P.L.805, No.247 as reenacted and amended.
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Comments or inquiries on the subject matter of this publication should be addressed to:

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dced.pa.gov

Current Publications relating to planning and land use regulations available from the Center include:

Pennsylvania Municipalities Planning Code (Act 247, as amended)

Planning Series

- #1 Local Land Use Controls in Pennsylvania
- #2 The Planning Commission
- #3 The Comprehensive Plan
- #4 Zoning
- #5 Technical Information on Floodplain Management
- #6 The Zoning Hearing Board
- #7 Special Exceptions, Conditional Uses and Variances
- #8 Subdivision and Land Development
- #9 The Zoning Officer
- #10 Reducing Land Use Barriers to Affordable Housing

NOTE: These publications are periodically revised or updated to reflect changes in Pennsylvania planning law.

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An Act

To empower cities of the second class A, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second class through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts, adding definitions; providing for intergovernmental cooperative planning and implementation agreements; further providing for repeals; and making an editorial change, further providing for the purpose of the act; adding certain definitions; further providing for various matters relating to the comprehensive plan and for compliance by counties; providing for funding for municipal planning and for neighboring municipalities; further providing certain ordinances; adding provisions relating to projects of regional impact, providing for traditional neighborhood development; further providing for grant of power, for contents of subdivision and land development ordinance, for approval of plats and for recording of plats and deeds; and providing for municipal authorities and water companies and for transferable development rights, further providing for recording plats and deeds, for applicability of ordinance amendments and for validity of ordinance amendments and for validity of ordinance and substantive questions, further providing for planning commission, for zoning ordinance amendment, for procedure for landowner curative amendments, for certain findings, for hearings and for governing body's functions, further providing for purpose of act; defining "no-impact home-based business" and further providing for ordinance provisions, for procedure for landowner curative amendments, for hearing and for governing body's functions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Article 1 – General Provisions

Section 101. Short Title. This act shall be known and may be cited as the “Pennsylvania Municipalities Planning Code.”

Section 102. Effective Date. This act shall take effect January 1, 1969.

Section 103. Construction of Act. The provisions of this act shall not affect any act done, contract executed or liability incurred prior to its effective date, or affect any suit or prosecution pending or to be instituted, to enforce any right, rule, regulation, or ordinance or to punish any offense against any such repealed laws or against any ordinance enacted under them. All ordinances, resolutions, regulations and rules made pursuant to any act of Assembly repealed by this act shall continue in effect as if such act had not been repealed, except as the provisions are inconsistent herewith. The provisions of other acts relating to municipalities other than cities of the first and second class and counties of the second class are made a part of this act and this code shall be construed to give effect to all provisions of other acts not specifically repealed.

Section 104. Constitutional Construction. The provisions of this act shall be severable, and if any of its provisions shall be held to be unconstitutional, the validity of any of the remaining provisions of this act shall not be affected. It is hereby declared as the legislative intention that this act would have been adopted had such unconstitutional provision not been included therein.

Section 105. Purpose of Act. It is the intent, purpose and scope of this act to protect and promote safety, health and morals; to accomplish coordinated development; to provide for the general welfare by guiding and protecting amenity, convenience, future governmental, economic, practical, and social and cultural facilities, development and growth, as well as the improvement of governmental processes and functions; to guide uses of land and structures, type and location of streets, public grounds and other facilities; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; to promote the preservation of this Commonwealth's natural and historic resources and prime agricultural land; to encourage municipalities to adopt municipal or joint municipal comprehensive plans generally consistent with the county comprehensive plan; to promote small business development and foster a business-friendly environment in this Commonwealth; to ensure that municipalities adopt zoning ordinances which are generally consistent with the municipality's comprehensive plan; to encourage the preservation of prime agricultural land and natural and historic resources through easements, transfer of development rights and rezoning; to ensure that municipalities enact zoning ordinances that facilitate the present and future economic viability of existing agricultural operations in this Commonwealth and do not prevent or impede the owner or operator's need to change or expand their operations in the future in order to remain viable; to encourage the revitalization of established urban centers; and to permit municipalities to minimize such problems as may presently exist or which may be foreseen and wherever the provisions of this act promote, encourage, require or authorize governing bodies to protect, preserve or conserve open land, consisting of natural resources, forests and woodlands, any actions taken to protect, preserve or conserve such land shall not be for the purposes of precluding access for forestry.

Section 106. Appropriations, Grants and Gifts. The governing body of every municipality is hereby authorized and empowered to make such appropriations as it may see fit, to accept gifts, grants or bequests from public and private sources for the purpose of carrying out the powers and duties conferred by this act, and to enter into agreements regarding the acceptance or utilization of such grants, gifts or bequests further providing for recording plats and deeds, for applicability of ordinance amendments and for validity of ordinance and substantive questions.

Section 107. Definitions.

(a) The following words and phrases when used in this act shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Agricultural operation,” an enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes

an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

“Applicant,” a landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.

“Application for development,” every application, whether preliminary, tentative or final, required to be filed and approved prior to start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.

“Appointing authority,” the mayor in cities; the board of commissioners in counties; the council in incorporated towns and boroughs; the board of commissioners in townships of the first class; and the board of supervisors in townships of the second class; or as may be designated in the law providing for the form of government.

“Authority,” a body politic and corporate created pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the “Municipality Authorities Act of 1945.”

“Center for Local Government Services.” The Governor’s Center for Local Government Services located within the Department of Community and Economic Development.

“City” or “cities,” cities of the second class A and third class.

“Common open space,” a parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

“Conditional use,” a use permitted in a particular zoning district pursuant to the provisions in Article VI.

“Consistency,” an agreement or correspondence between matters being compared which denotes a reasonable rational, similar, connection or relationship.

“County,” any county of the second class through eighth class.

“County Comprehensive Plan,” a land use and growth management plan prepared by the county planning commission and adopted by the county commissioners which establishes broad goals and criteria for municipalities to use in preparation of their comprehensive plan and land use regulation.

“Designated growth area,” a region within a county or counties described in a municipal or multimunicipal plan that preferably includes and surrounds a city, borough or village, and within which residential and mixed use development is permitted or planned for at densities of one unit to the acre or more, commercial, industrial and institutional uses are permitted or planned for and public infrastructure services are provided or planned.

“Developer,” any landowner, agent of such landowner, or tenant with the permission of such land-owner, who makes or causes to be made a subdivision of land or a land development.

“Development of regional significance and impact,” any land development that, because of its character, magnitude, or location will have substantial effect upon the health, safety, or welfare of citizens in more than one municipality.

“Development plan,” the provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase “provisions of the development plan” when used in this act shall mean the written and graphic materials referred to in this definition.

“Electronic notice,” notice given by a municipality through the Internet of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

“Forestry,” the management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

“Future growth area,” an area of a municipal or multimunicipal plan outside of and adjacent to a designated growth area where residential, commercial industrial and institutional uses and development are permitted or planned at varying densities and public infrastructure services may or may not be provided, but future development at greater densities is planned to accompany the orderly extension and provision of public infrastructure services.

“General consistency, generally consistent,” that which exhibits consistency.

“Governing body,” the council in cities, boroughs and incorporated towns; the board of commissioners in townships of the first class; the board of supervisors in townships of the second class; the board of commissioners in counties of the second class through eighth class or as may be designated in the law providing for the form of government.

“Land development,” any of the following activities:

- (1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (i) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (ii) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (2) A subdivision of land.
- (3) Development in accordance with section 503(1.1).

“Landowner,” the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

“Lot,” a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

“Mailed notice,” notice given by a municipality by first class mail of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

“Mediation,” a voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

“Minerals,” any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

“Mobilehome,” a transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

“Mobilehome lot,” a parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobilehome.

“Mobilehome park,” a parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobilehome lots for the placement thereon of mobilehomes.

“Multimunicipal plan,” a plan developed and adopted by any number of contiguous municipalities, including a joint municipal plan as authorized by this act, except that all of the municipalities participating in the plan need not be contiguous, if all of them are within the same school district.

“Multimunicipal planning agency,” a planning agency comprised of representatives of more than one municipality and constituted as a joint municipal planning commission in accordance with Article XI, or otherwise by resolution of the participating municipalities, to address, on behalf of the participating municipalities, multimunicipal issues, including, but not limited to, agricultural and open space preservation, natural and historic resources, transportation, housing and economic development.

“Municipal authority,” a body politic and corporate created pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the “Municipality Authorities Act of 1945.”

“Municipal engineer,” a professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency or joint planning commission.

“Municipality,” any city of the second class A or third class, borough, incorporated town, township of the first or second class, county of the second class through eighth class, home rule municipality, or any similar general purpose unit of government which shall hereafter be created by the General Assembly.

“No-impact home-based business,” a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- (1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- (2) The business shall employ no employees other than family members residing in the dwelling.
- (3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- (4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- (5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- (6) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- (7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- (8) The business may not involve any illegal activity.

“Nonconforming lot,” a lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

“Nonconforming structure,” a structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

"Nonconforming use," a use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

"Official map," a map adopted by ordinance pursuant to Article IV.

"Planned residential development," an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of a municipal zoning ordinance.

"Planning agency," a planning commission, planning department, or a planning committee of the governing body.

"Plat," the map or plan of a subdivision or land development, whether preliminary or final.

"Preservation or protection," when used in connection with natural and historic resources, shall include means to conserve and safeguard these resources from wasteful or destructive use, but shall not be interpreted to authorize the unreasonable restriction of forestry, mining or other lawful uses of natural resources.

"Prime agricultural land," land used for agricultural purposes that contains soils of the first, second or third class as defined by the United States Department of Agriculture natural resource and conservation services county soil survey.

"Professional consultants," Persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

"Public grounds," includes:

- (1) parks, playgrounds, trails, paths and other recreational areas and other public areas
- (2) sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities
- (3) publicly owned or operated scenic and historic sites.

"Public hearing," a formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this act.

"Public infrastructure area," a designated growth area and all or any portion of a future growth area described a county or multimunicipal comprehensive plan where public infrastructure services will be provided and outside of which such public infrastructure services will not be required to be publicly financed.

"Public infrastructure services," services that are provided to areas with densities of one or more units to the acre, which may include sanitary sewers and facilitates for the collection and treatment of sewage, water lines and facilitates for the pumping and treating of water, parks and open space, streets and sidewalks, public transportation and other services that may be appropriated within a growth area, but shall exclude fire protection and emergency medical services and any other service required to protect the health an safety of residents.

"Public meeting," a forum held pursuant to notice under 65 Pa. C.S. CH. 7 (Relating to open meetings).

"Public notice," notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

"Regional planning agency," a planning agency that is comprised of representatives of more than one county. Regional planning responsibilities shall include providing technical assistance to counties and municipalities, mediating conflicts across county lines and reviewing county comprehensive plans for consistency with one another.

“Renewable energy source,” any method, process or substance whose supply is rejuvenated through natural processes and, subject to those natural processes, remains relatively constant, including, but not limited to, biomass conversion, geothermal energy, solar and wind energy and hydroelectric energy and excluding those sources of energy used in the fission and fusion processes.

“Rural resource area,” an area described in a municipal or multimunicipal plan within which rural resource uses including, but not limited to, agriculture, timbering, mining, quarrying and other extractive industries, forest and game lands and recreation and tourism are encouraged and enhanced, development that is compatible with or supportive of such uses is permitted, and public infrastructure services are not provided except in villages.

“Special exception,” a use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX.

“Specific plan,” a detailed plan for nonresidential development of an area covered by a municipal or multimunicipal comprehensive plan, which when approved and adopted by the participating municipalities through ordinances and agreements supersedes all other applications.

“State Land Use and Growth Management Report,” a comprehensive land use and growth management report to be prepared by the Center for Local Government Services and which shall contain information, data and conclusions regarding growth and development patterns in this Commonwealth and which will offer recommendations to commonwealth agencies for coordination of executive action, regulation and programs.

“Street,” includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

“Structure,” any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

“Subdivision,” the division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, That the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

“Substantially completed,” where, in the judgment of the municipal engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to section 509) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

“Traditional neighborhood development,” an area of land typically developed for a compatible mixture of residential units for various income levels and nonresidential commercial and workplace uses, including some structures that provide for a mix of uses within the same building. Residences, shops, offices, workplaces, public buildings, and parks are interwoven within the neighborhood so that all are within relatively close proximity to each other. Traditional neighborhood development is relatively compact and oriented toward pedestrian activity. It has an identifiable center and a discernible edge. The center of the neighborhood is in the form of a public park, commons, plaza, square or prominent intersection of two or more major streets. Generally, there is a hierarchy of streets laid out with an interconnected network of streets and blocks that provides multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally.

“Transferable development rights,” the attaching of development rights to specified lands which are desired by a municipality to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands where more intensive development is deemed to be appropriate.

“Variance,” relief granted pursuant to the provisions of Articles VI and IX.

"Village, an unincorporated settlement that is part of a township where residential and mixed use densities of one unit to the acre or more exist or are permitted and commercial, industrial or institutional uses exist or are permitted.

"Water survey," an inventory of the source, quantity, yield and use of groundwater and surface-water resources within a municipality.

(b) The following words and phrases when used in Articles IX and X-A shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Board," any body granted jurisdiction under a land use ordinance or under this act to render final adjudications.

"Decision," final adjudication of any board or other body granted jurisdiction under any land use ordinance or this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the county and judicial district wherein the municipality lies.

"Determination," final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

- (1) the governing body.
- (2) the zoning hearing board.
- (3) the planning agency, only if and to the extent the planning agency is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal. "Hearing," an administrative proceeding conducted by a board pursuant to section 909.1.

"Land use ordinance," any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI and VII.

"Report," any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

Section 108. Optional Notice of Ordinance or Decision; Procedural Validity Challenges.

(a) It is the intent of this section to allow optional public notice of municipal action in order to provide an opportunity to challenge, in accordance with section 1002-A (b) or section 1002.1-A, the validity of an ordinance or decision on the basis that a defect in procedure resulted in a deprivation of constitutional rights, and to establish a period of limitations for raising such challenges.

(b) Notice that municipal action has been taken to adopt an ordinance or enter a decision, regardless of whether the municipal actions was taken before or after the effective date of this section, may be provided through publication, at any time, once each week for two successive weeks in a newspaper of general circulation in the municipality by the following:

- (1) The governing body of the municipality.
- (2) In the case of a ordinance, any resident or landowner in the municipality.
- (3) In the case of a decision, the applicant requesting the decision or the landowner or successor in interest of the property subject to or affected by the decision.

- (c) Each notice shall contain the following:
- (1) If the notice relates to an ordinance:
 - (i) The municipality's ordinance number.
 - (ii) A brief statement of the general content of the ordinance.
 - (iii) The address of the municipal building where the full text of the ordinance may be reviewed by members of the public.
 - (2) If the notice relates to a decision:
 - (i) The name of the applicant or owner of the subject property.
 - (ii) The street address or location of the subject property.
 - (iii) The file number or docket number of the decision.
 - (iv) A brief description of the nature of the decision.
 - (v) The date upon which the decision was issued.
 - (vi) The address of the municipal building where the full text of the decision may be reviewed by members of the public.
 - (3) In addition to the requirements of paragraphs (1) and (2), the publication of each notice authorized by the section shall contain a statement that the publication is intended to provide notification of an ordinance or decision and that any person claiming a right to challenge the validity of the ordinance or decision must bring legal action within 30 days of the publication of the second notice.
 - (4) The person providing notice as authorized by this section shall provide proof of publication to the municipality adopting the ordinance or decision for retention with municipal records. Failure to comply with this paragraph shall not invalidate any notice provided in accordance with this section or the applicability of the period of limitation in subsection (d).
- (d) Notwithstanding this or any other act, in order to provide certainty of the validity of an ordinance or decision, any appeal or action contesting the validity of an ordinance based on a procedural defect in the process of enactment or the validity of a decision based on a procedural or substantive defect shall be dismissed, with prejudice, as untimely if not filed within the 30th day following the second publication of the notice authorized in this section.
- (e) Any appeal or action filed within the 30-day period referred to in subsection (d) shall be taken to court of common pleas and shall be conducted in accordance with and subject to the procedures set forth in 42 Pa.C.S. § 5571.1 (relating to appeals from ordinances, resolutions, maps, etc.) in the case of challenges to ordinances or section 1002.1-A in the case of challenges to decisions.
- (f) Where no appeal or action contesting the procedural validity of an ordinance or the procedural or substantive validity of a decision is filed within the period set forth in subsection (d), the ordinance or decision shall be deemed to be reaffirmed and reissued on the date of the second publication of the optional notice permitted under this section.
- (g) An appeal shall be exempt from the time limitation in subsection (d) only if the party bringing the appeal establishes that the application of the time limitation in subsection (d) would result in an unconstitutional deprivation of due process.
- (h) Nothing in this section shall be construed to abrogate, repeal, extend or otherwise modify the time for appeal as set forth in section 1002-A, where the appellant was a party to proceedings prior to the entry of a decision or otherwise had an adequate opportunity to bring a timely action in accordance with section 1002-A to contest the procedural validity of an ordinance or the procedural or substantive validity of a decision. (108 added July 4, 2008, P.L.319, No.39)

Compiler's Note: Section 6 of Act 39 of 2008, which added section 108, provided that section 108 shall apply beginning on the effective date of an amendment of 42 Pa.C.S. that provides for appeals from ordinances, resolutions, maps and similar actions of a political subdivision. Section 5571.1 of Title 42 (relating to appeals from ordinances, resolutions, maps, etc.) was added July 4, 2008, P.L.325, No.40, effective immediately.

Section 109. Notice. In any case in which mailed notice or electronic notice is required by this act, the following shall apply:

- (1) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within a municipality may request that the municipality provide written or electronic notice of a public hearing which may affect such tract or parcel of land.
- (2) Mailed notice shall be required only if an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality has made a written request that the notice be mailed and has supplied the municipality with a stamped, self-addressed envelope prior to a public hearing.
- (3) Electronic notice shall be required only if an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality has made a written request that notice be sent electronically and has supplied the municipality with an electronic address prior to a public hearing and only if that municipality maintains the capability of generating an electronic notice. An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality making the request and supplying an electronic address may at any time notify the municipality that the owner of the tract or parcel of land located within the municipality or the owner of the mineral rights in the tract or parcel of land within the municipality no longer will accept electronic notice, and, in that event, the municipality may no longer provide electronic notice.
- (4) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has requested a mailed notice shall be solely responsible for the number, accuracy and sufficiency of the envelopes supplied. The municipality shall not be responsible or liable if the owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality does not provide to the municipality notice of any changes in the owner's mailing address.
- (5) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has requested electronic notice shall be solely responsible for the accuracy and functioning of the electronic address provided to the municipality. The municipality shall not be responsible or liable if the owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality does not provide to the municipality notice of any changes to the owner's electronic address.
- (6) A municipality shall deposit a mailed notice in the United States mail or provide electronic notice not more than 30 and not less than seven days prior to the scheduled date of the hearing as shown on the notice.
- (7) For each public hearing, the municipal secretary or zoning officer shall prepare, sign and maintain a list of all mailed notices, mailing dates, electronic notices and electronic notice dates. The signed list shall constitute a presumption that the notice was given.
- (8) The mailed notice shall be deemed received by an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality on the date deposited in the United States mail.
- (9) The electronic notice shall be deemed received by an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality on the date the municipality electronically notifies the owner.
- (10) Failure of an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality to receive a requested mailed notice or electronic notice shall not be deemed to invalidate any action or proceedings under this act.

Article II – Planning Agencies

Section 201. Creation of Planning Agencies. The governing body of any municipality shall have the power to create or abolish, by ordinance, a planning commission or planning department, or both. An ordinance which creates both a planning commission and a planning department shall specify which of the powers and duties conferred on planning agencies by this act; each shall exercise and may confer upon each additional powers, duties and advisory functions not inconsistent with this act. In lieu of a planning commission or planning department, the governing body may elect to assign the powers and duties conferred by this act upon a planning committee comprised of members appointed from the governing body. The engineer for the municipality, or an engineer appointed by the governing body, shall serve the planning agency as engineering advisor. The solicitor for the municipality, or an attorney appointed by the governing body, shall serve the planning agency as legal advisor.

Section 202. Planning Commission. If the governing body of any municipality shall elect to create a planning commission, such commission shall have not less than three nor more than nine members. Except for elected or appointed officers or employees of the municipality, members of the commission may receive compensation in an amount fixed by the governing body. Compensation shall not exceed the rate of compensation authorized to be paid to members of the governing body. Without exception, members of the planning commission may be reimbursed for necessary and reasonable expenses. However, elected or appointed officers or employees of the municipality shall not, by reason of membership thereon, forfeit the right to exercise the powers, perform the duties or receive the compensations of the municipal offices held by them during such membership.

Section 203. Appointment, Term and Vacancy.

(a) All members of the commission shall be appointed by the appointing authority of the municipality. All such appointments shall be approved by the governing body, except where the governing body is the appointing authority.

(b) The term of each of the members of the commission shall be for four years, or until his successor is appointed and qualified, except that the terms of the members first appointed pursuant to this act shall be so fixed that on commissions of eight members or less no more than two shall be reappointed or replaced during any future calendar year, and on commissions of nine members no more than three shall be so reappointed or replaced.

(c) The chairman of the planning commission shall promptly notify the appointing authority of the municipality concerning vacancies in the commission, and such vacancy shall be filled for the unexpired term. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term according to the terms of this article.

(d) Should the governing body of any municipality determine to increase the number of members of an already existing planning commission, the additional members shall be appointed as provided in this article. If the governing body of any municipality shall determine to reduce the number of members on any existing planning commission, such reduction shall be effectuated by allowing the terms to expire and by making no new appointments to fill the vacancy. Any reduction or increase shall be by ordinance.

(e) The governing body may appoint by resolution at least one but no more than three residents of the municipality to serve as alternate members of the planning commission. The term of office of an alternate member shall be four years. When seated pursuant to the provisions of section 207, an alternate shall be entitled to participate in all proceedings and discussions of the commission to the same and full extent as provided by law for commission members, including, specifically, the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall not serve as a member of the zoning hearing board or as a zoning officer. Any alternate may participate in any proceeding or discussion of the commission but shall not be entitled to vote as a member of the commission nor be reimbursed pursuant to section 202 unless designated as a voting alternate member pursuant to section 207.

Section 204. Members of Existing Commissions. (204 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 205. Membership. All of the members of the planning commission shall be residents of the municipality. On all planning commissions appointed pursuant to this act, a certain number of the members, designated as citizen members shall not be officers or employees of the municipality. On a commission of three members at least two shall be citizen members. On a commission of four or five members at least three shall be citizen members. On a commission of either six or seven members at least five shall be citizen members, and on commissions of either eight or nine members at least six shall be citizen members.

Section 206. Removal. Any member of a planning commission once qualified and appointed may be removed from office for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the governing body taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing. Any appointment to fill a vacancy created by removal shall be only for the unexpired term.

Section 207. Conduct of Business.

(a) The commission shall elect its own chairman and vice-chairman and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The commission may make and alter by laws and rules and regulations to govern its procedures consistent with the ordinances of the municipality and the laws of the Commonwealth. The commission shall keep a full record of its business and shall annually make a written report by March 1 of each year of its activities to the governing body. Interim reports may be made as often as may be necessary, or as requested by the governing body.

(b) The chairman of the planning commission may designate alternate members of the commission to substitute for any absent member or member who has recused himself or has been disqualified by the governing body, and, if, by reason of absence, recusal or disqualification of a member, a quorum is not reached, the chairman of the commission shall designate as many alternate members of the commission to sit on the commission as may be needed to reach a quorum. Any alternate member of the commission shall continue to serve on the commission in all proceedings involving the matter or case for which the alternate was initially appointed until the commission has made a final decision on the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

Section 208. Planning Department Director. For the administration of each planning department, the appointing authority may appoint a director of planning who shall be, in the opinion of the appointing authority, qualified for the duties of his position. Each such appointment shall be with the approval of the governing body, except where the governing body is the appointing authority. The director of planning shall be in charge of the administration of the department, and shall exercise the powers and be subject to the duties that are granted or imposed on a planning agency by this act, except that where a municipality creates both a planning commission and a planning department, the director of planning shall exercise only those powers and be subject to only those duties which are specifically conferred upon him by ordinance enacted pursuant to this article.

Section 209.1. Powers and Duties of Planning Agency.

(a) The planning agency shall at the request of the governing body have the power and shall be required to:

- (1) Prepare the comprehensive plan for the development of the municipality as set forth in this act, and present it for the consideration of the governing body.
- (2) Maintain and keep on file records of its action. All records and files of the planning agency shall be in the possession of the governing body.

(b) The planning agency at the request of the governing body may:

- (1) Make recommendations to the governing body concerning the adoption or amendment of an official map.
- (2) Prepare and present to the governing body of the municipality a zoning ordinance, and make recommendations to the governing body on proposed amendments to it as set forth in this act.

- (3) Prepare, recommend and administer subdivision and land development and planned residential development regulations, as set forth in this act.
- (4) Prepare and present to the governing body of the municipality a building code and a housing code and make recommendations concerning proposed amendments thereto.
- (5) Do such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by this act.
- (6) Prepare and present to the governing body of the municipality an environmental study.
- (7) Submit to the governing body of a municipality a recommended capital improvements program.
- (7.1) Prepare and present to the governing body of the municipality a water survey, which shall consistent with the State Water Plan and any applicable water resources plan adopted by a river basin commission. The water survey shall be conducted in consultation with any public water supplier in the area to be surveyed.
- (8) Promote public interest in, and understanding of, the comprehensive plan and planning.
- (9) Make recommendations to governmental, civic and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.
- (10) Hold public hearings and meetings. (10.1) Present testimony before any board.
- (11) Require from other departments and agencies of the municipality such available information as relates to the work of the planning agency.
- (12) In the performance of its functions, enter upon any land to make examinations and surveys with the consent of the owner.
- (13) Prepare and present to the governing body of the municipality a study regarding the feasibility and practicability of using renewable energy sources in specific areas within the municipality.
- (14) Review the zoning ordinance, subdivision and land development ordinance, official map, provisions for planned residential development, and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

Section 210. Administrative and Technical Assistance. The appointing authority may employ administrative and technical services to aid in carrying out the provisions of this act either as consultants on particular matters or as regular employees of the municipality. A county planning agency, with the consent of its governing body may perform planning services for any municipality whose governing body requests such assistance and may enter into agreements or contracts for such work.

Section 211. Assistance. The planning agency may, with the consent of the governing body, accept and utilize any funds, personnel or other assistance made available by the county, the Commonwealth or the Federal government or any of their agencies, or from private sources. The governing body may enter into agreements or contracts regarding the acceptance or utilization of the funds or assistance in accordance with the governmental procedures of the municipality.

Section 212. Intergovernmental Cooperation. For the purposes of this act, the governing body may utilize the authority granted under 53 PA.C.S. §§ 2303(a) (relating to intergovernmental cooperation authorized) and 2315 (Relating to effect of joint cooperation agreements).

Article III – Comprehensive Plan

Section 301. Preparation of Comprehensive Plan.

(a) The municipal, multimunicipal or county comprehensive plan, consisting of maps, charts and textual matter, shall include, but need not be limited to, the following related basic elements:

- (1) A statement of objectives of the municipality concerning its future development, including, but not limited to, the location, character and timing of future development, that may also serve as a statement of community development objectives as provided in section 606.
- (2) A plan for land use, which may include provisions for the amount, intensity, character and timing of land use proposed for residence, industry, business, agriculture, major traffic and transit facilities, utilities, community facilities, public grounds, parks and recreation, preservation of prime agricultural lands, flood plains and other areas of special hazards and other similar uses.
- (2.1) A plan to meet the housing needs of present residents and of those individuals and families anticipated to reside in the municipality, which may include conservation of presently sound housing, rehabilitation of housing in declining neighborhoods and the accommodation of expected new housing in different dwelling types and at appropriate densities for households of all income levels.
- (3) A plan for movement of people and goods, which may include expressways, highways, local street systems, parking facilities, pedestrian and bikeway systems, public transit routes, terminals, airfields, port facilities, railroad facilities and other similar facilities or uses.
- (4) A plan for community facilities and utilities, which may include public and private education, recreation, municipal buildings, fire and police stations, libraries, hospitals, water supply and distribution, sewerage and waste treatment, solid waste management, storm drainage, and flood plain management, utility corridors and associated facilities, and other similar facilities or uses.
- (4.1) A statement of the interrelationships among the various plan components, which may include an estimate of the environmental, energy conservation, fiscal, economic development and social consequences on the municipality.
- (4.2) A discussion of short- and long-range plan implementation strategies, which may include implications for capital improvements programming, new or updated development regulations, and identification of public funds potentially available.
- (5) A statement indicating that the existing and proposed development of the municipality is compatible with the existing and proposed development and plans in contiguous portions of neighboring municipalities, or a statement indicating measures which have been taken to provide buffers or other transitional devices between disparate uses, and a statement indicating that the existing and proposed development of the municipality is generally consistent with the objectives and plans of the county comprehensive plan.
- (6) A plan for the protection of natural and historic resources to the extent not preempted by federal or state law. This clause includes, but is not limited to, wetlands and aquifer recharge zones, woodlands, steep slopes, prime agricultural land, flood plains, unique natural areas and historic sites. The plan shall be consistent with and may not exceed those requirements imposed under the following:
 - (i) Act of June 22, 1937 (P.L.1987, No.394), known as “The Clean Streams Law”.
 - (ii) Act of May 31, 1945 (P.L.1198, No.418), known as the “Surface Mining Conservation and Reclamation Act”.
 - (iii) Act of April 27, 1966 (1st SP.SESS., P.L.31, No.1), known as “The Bituminous Mine Subsidence and Land Conservation Act”.
 - (iv) Act of September 24, 1968 (P.L.1040, No.318), known as the “Coal Refuse Disposal Control Act”.

- (v) Act of December 19, 1984 (P.L.1140, No.223), known as the “Oil and Gas Act”.
- (vi) Act of December 19, 1984 (P.L.1093, No.219), known as the “Noncoal Surface Mining Conservation and Reclamation Act”.
- (vii) Act of June 30, 1981 (P.L.128, No.43), known as the “Agricultural Area Security Law”.
- (viii) Act of June 10, 1982 (P.L.454, No.133), entitled “An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances”.
- (ix) Act of May 20, 1993 (P.L.12, No.6), known as the “Nutrient Management Act,” regardless of whether any agricultural operation within the area to be affected by the plan is a concentrated animal operation as defined under the act.

(7) In addition to any other requirements of this act, a county comprehensive plan shall:

- (i) Identify land uses as they relate to important natural resources and appropriate utilization of existing minerals.
- (ii) Identify current and proposed land uses which have a regional impact and significance, such as large shopping centers, major industrial parks, mines and related activities, office parks, storage facilities, large residential developments, regional entertainment and recreational complexes, hospitals, airports and port facilities.
- (iii) Identify a plan for the preservation and enhancement of prime agricultural land and encourage the compatibility of land use regulation with existing agricultural operations.
- (iv) Identify a plan for historic preservation.

(b) The comprehensive plan shall include a plan for the reliable supply of water, considering current and future water resources availability, uses and limitations, including provisions adequate to protect water supply sources. Any such plan shall be generally consistent with the State Water Plan and any applicable water resources plan adopted by a river basin commission. It shall also contain a statement recognizing that:

- (1) Lawful activities such as extraction of minerals impact water supply sources and such activities are governed by statutes regulating mineral extraction that specify replacement and restoration of water supplies affected by such activities.
- (2) Commercial agriculture production impact water supply sources.

(c) The municipal or multimunicipal comprehensive plan shall be reviewed at least every ten years. The municipal or multimunicipal comprehensive plan shall be sent to the governing bodies of contiguous municipalities for review and comment and shall also be sent to the Center for Local Government Services for informational purposes. The municipal or multimunicipal comprehensive plan shall also be sent to the county planning commissions or, upon request of a county planning commission, a regional planning commission when the comprehensive plan is updated or at ten-year intervals, whichever comes first, for review and comment on whether the municipal or multimunicipal comprehensive plan remains generally consistent with the county comprehensive plan and to indicate where the local plan may deviate from the county comprehensive plan.

(d) The municipal, multimunicipal or county comprehensive plan may identify those areas where growth and development will occur so that a full range of public infrastructure services, including sewer, water, highways, police and fire protection, public schools, parks, open space and other services can be adequately planned and provided as needed to accommodate growth.

Section 301.1. Energy Conservation Plan Element. To promote energy conservation and the effective utilization of renewable energy sources, the comprehensive plan may include an energy conservation plan element which systematically analyzes the impact of each other component and element of the comprehensive plan on the present and future use of energy in the municipality, details specific measures contained in the other plan elements designed to reduce energy consumption and proposes other measures that the municipality may take to reduce energy consumption and to promote the effective utilization of renewable energy sources.

Section 301.2. Surveys by Planning Agency. In preparing the comprehensive plan, the planning agency shall make careful surveys, studies and analyses of housing, demographic, and economic characteristics and trends; amount, type and general location and interrelationships of different categories of land use; general location and extent of transportation and community facilities; natural features affecting development; natural, historic and cultural resources; and the prospects for future growth in the municipality.

Section 301.3. Submission of Plan to County Planning Agency. If a county planning agency has been created for the county in which the municipality is located, then at least 45 days prior to the public hearing required in section 302 on the comprehensive plan or amendment thereof, the municipality shall forward a copy of that plan or amendment to the county planning agency for its comments. At the same time, the municipality shall also forward copies of the proposed plan or amendment to all contiguous municipalities and to the local school district for their review and comments.

Section 301.4. Compliance by Counties.

(a) If a county does not have a comprehensive plan, then that county shall, within three years of the effective date of this act, and with the opportunity for the review, comment and participation of the municipalities and school districts within the respective county and contiguous counties school districts and municipalities, prepare and adopt a comprehensive plan in accordance with the requirements of section 301. Municipal comprehensive plans which are adopted shall be generally consistent with the adopted county comprehensive plan.

(b) County planning commissions shall publish advisory guidelines to promote general consistency with the adopted county comprehensive plan. These guidelines shall promote uniformity with respect to local planning and zoning terminology and common types of municipal land use regulations.

Section 301.5 Funding of Municipal Planning. Priority for state grants to develop or revise comprehensive plans shall be given to those municipalities which agree to adopt comprehensive plans generally consistent with the county comprehensive plan and which agree to enact a new zoning ordinance or amendment which would fully implement the municipal comprehensive plan. No more than 25% of the total funds available for these grants shall be disbursed under priority status pursuant to this provision. Municipalities and counties shall comply with these agreements within three years. Failure to comply with the agreements shall be taken into consideration for future state funding.

Section 302. Adoption of Municipal, Multimunicipal and County Comprehensive Plans and Plan Amendments.

(a) The governing body may adopt and amend the comprehensive plan as a whole or in part. Before adopting or amending a comprehensive plan, or any part thereof, the planning agency shall hold at least one public meeting before forwarding the proposed comprehensive plan or amendment thereof to the governing body. In reviewing the proposed comprehensive plan, the governing body shall consider the comments of the county, contiguous municipalities and the school district, as well as the public meeting comments and the recommendations of the municipal planning agency. The comments of the county, contiguous municipalities and the local school district shall be made to the governing body within 45 days of receipt by the governing body, and the proposed plan or amendment thereto shall not be acted upon until such comment is received. If, however, the contiguous municipalities and the local school district fail to respond within 45 days, the governing body may proceed without their comments.

(a.1) The governing body of the county may adopt and amend the county comprehensive plan in whole or in part. Before adopting or amending a comprehensive plan, or any part thereof, the county planning agency shall hold at least one public meeting before forwarding the proposed comprehensive plan or amendment thereof to the governing body. In reviewing the proposed comprehensive plan, the governing body shall consider the comments of municipalities and school districts within the county and contiguous school districts, municipalities and counties as well as the public meeting comments and the recommendations of the county planning agency. The comments of the counties, municipalities and school districts shall be made to the governing body within 45 days of receipt by the governing body, and the proposed comprehensive plan or amendment thereto shall not be acted upon until such comment is received. If, however, the counties, municipalities and school districts fail to respond within 45 days, the governing body may proceed without their comments.

(b) The governing body shall hold at least one public hearing pursuant to public notice. If, after the public hearing held upon the proposed plan or amendment to the plan, the proposed plan or proposed amendment thereto is substantially revised, the governing body shall hold another public hearing, pursuant to public notice, before proceeding to vote on the plan or amendment thereto.

(c) The adoption of the comprehensive plan, or any part thereof, or any amendment thereto, shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the governing body. The resolution shall refer expressly to the maps, charts, textual matter, and other matters intended to form the whole or part of the plan, and the action shall be recorded on the adopted plan or part.

(d) Counties shall in accordance with subsection (a.1) consider amendments to their comprehensive plan proposed by municipalities which are considering adoption or revision of their municipal comprehensive plans so as to achieve general consistency between the respective plans. County comprehensive plans shall be updated at least every ten years. Where two or more contiguous municipalities request amendments to a county comprehensive plan for the purpose of achieving general consistency between the municipal plans or multimunicipal plan and the county comprehensive plan, the county must accept the amendments unless good cause for their refusal is established.

Section 303. Legal Status of Comprehensive Plan Within the Jurisdiction that Adopted the Plan.

(a) Whenever the governing body, pursuant to the procedures provided in section 302, has adopted a comprehensive plan or any part thereof, any subsequent proposed action of the governing body, its departments, agencies and appointed authorities shall be submitted to the planning agency for its recommendations when the proposed action relates to:

- (1) the location, opening, vacation, extension, widening, narrowing or enlargement of any street, public ground, pierhead or watercourse;
- (2) the location, erection, demolition, removal or sale of any public structure located within the municipality;
- (3) the adoption, amendment or repeal of an official map, subdivision and land development ordinance, zoning ordinance or provisions for planned residential development, or capital improvements program: or
- (4) the construction, extension or abandonment of any water line, sewer line or sewage treatment facility.

(b) The recommendations of the planning agency including a specific statement as to whether or not the proposed action is in accordance with the objectives of the formally adopted comprehensive plan shall be made in writing to the governing body within 45 days.

(c) Notwithstanding any other provision of this act, no action by the governing body of a municipality shall be invalid nor shall the same be subject to challenge or appeal on the basis that such action is inconsistent with, or fails to comply with, the provision of a comprehensive plan.

(d) Municipal zoning, subdivision and land development regulations and capital improvement programs shall generally implement the municipal and multimunicipal comprehensive plan or, where none exists, the municipal statement of community development objectives.

Section 304. Legal Status of County Comprehensive Plans Within Municipalities.

(a) Following the adoption of a comprehensive plan or any part thereof by a county, pursuant to the procedures in section 302, any proposed action of the governing body of a municipality, its departments, agencies and appointed authorities within the county shall be submitted to the county planning agency for its recommendations if the proposed action relates to:

- (1) the location, opening, vacation, extension, widening, narrowing or enlargement of any street, public ground, pierhead or watercourse;
- (2) the location, erection, demolition, removal or sale of any public structures located within the municipality;

- (3) the adoption, amendment or repeal of any comprehensive plan, official map, subdivision or land ordinance, zoning ordinance or provisions for planned residential development; or
- (4) the construction, extension or abandonment of any water line, sewer line or sewage treatment facility.

(b) The recommendation of the planning agency shall be made to the governing body of the municipality within 45 days and the proposed action shall not be taken until such recommendation is made. If, however, the planning agency fails to act within 45 days, the governing body shall proceed without its recommendation.

Section 305. The Legal Status of Comprehensive Plans Within School Districts. Following the adoption of a comprehensive plan or any part thereof by any municipality or county governing body, pursuant to the procedures in section 302, any proposed action of the governing body of any public school district located within the municipality or county relating to the location, demolition, removal, sale or lease of any school district structure or land shall be submitted to the municipal and county planning agencies for their recommendations at least 45 days prior to the execution of such proposed action by the governing body of the school district.

Section 306. Municipal and County Comprehensive Plans.

(a) When a municipality having a comprehensive plan is located in a county which has adopted a comprehensive plan, both the county and the municipality shall each give the plan of the other consideration in order that the objectives of each plan can be protected to the greatest extent possible.

(b) Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of the comprehensive plan, or part thereof or amendment thereto, to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

(c) Counties shall consult with municipalities and solicit comment from school districts, municipal authorities, the Center for Local Government Services, for information purposes, and public utilities during the process of preparing or upgrading a county comprehensive plan in order to determine future growth needs.

Section 307. State Land Use and Growth Management Report. The Center for Local Government Services shall issue a land use and growth management report by the year 2005 and shall review and update the report at five-year intervals.

Article IV – Official Map

Section 401. Grant of Power.

(a) The governing body of each municipality shall have the power to make or cause to be made an official map of all or a portion of the municipality which may show appropriate elements or portions of elements of the comprehensive plan adopted pursuant to section 302 with regard to public lands and facilities, and which may include, but need not be limited to:

- (1) Existing and proposed public streets, watercourses and public grounds, including widenings, narrowings, extensions, diminutions, openings or closing of same.
- (2) Existing and proposed public parks, playgrounds and open space reservations.
- (3) Pedestrian ways and easements.
- (4) Railroad and transit rights-of-way and easements.
- (5) Flood control basins, floodways and flood plains, storm water management areas and drainage easements.
- (6) Support facilities, easements and other properties held by public bodies undertaking the elements described in section 301.

(b) For the purposes of taking action under this section, the governing body or its authorized designee may make or cause to be made surveys and maps to identify, for the regulatory purposes of this article, the location of property, trafficway alignment or utility easement by use of property records, aerial photography, photogrammetric mapping or other method sufficient for identification, description and publication of the map components. For acquisition of lands and easements, boundary descriptions by metes and bounds shall be made and sealed by a licensed surveyor.

Section 402. Adoption of the Official Map and Amendments Thereto.

(a) Prior to the adoption of the official map or part thereof, or any amendments to the official map, the governing body shall refer the proposed official map, or part thereof or amendment thereto, with an accompanying ordinance describing the proposed map, to the planning agency for review. The planning agency shall report its recommendations on said proposed official map and accompanying ordinance, part thereof, or amendment thereto within 45 days unless an extension of time shall be agreed to by the governing body. If, however, the planning agency fails to act within 45 days, the governing body may proceed without its recommendations.

(b) The county and adjacent municipalities may offer comments and recommendations during said 45-day review period in accordance with section 408. Local authorities, park boards, environmental boards and similar public bodies may also offer comments and recommendations to the governing body or planning agency if requested by same during said 45-day review period. Before voting on the enactment of the proposed ordinance and official map, or part thereof or amendment thereto, the governing body shall hold a public hearing pursuant to public notice.

(c) Following adoption of the ordinance and official map, or part thereof or amendment thereto, a copy of same, verified by the governing body, shall be submitted to the recorder of deeds of the county in which the municipality is located and shall be recorded within 60 days of the effective date. The fee for recording and indexing ordinances and amendments shall be paid by the municipality enacting the ordinance or amendment and shall be in the amount prescribed by law for the recording of ordinances by the recorder of deeds.

Section 403. Effect of Approved Plats on Official Map. After adoption of the official map, or part thereof, all streets, watercourses and public grounds and the elements listed in section 401 on final, recorded plats which have been approved as provided by this act shall be deemed amendments to the official map. Notwithstanding any of the other terms of this article, no public hearing need be held or notice given if the amendment of the official map is the result of the addition of a plat which has been approved as provided by this act.

Section 404. Effect of Official Map on Mapped Streets, Watercourses and Public Grounds. The adoption of any street, street lines or other public lands pursuant to this article as part of the official map shall not, in and of itself, constitute or be deemed to constitute the opening or establishment of any street nor the taking or acceptance of any land, nor shall it obligate the municipality to improve or maintain any such street or land. The adoption of proposed watercourses or public grounds as part of the official map shall not, in and of itself, constitute or be deemed to constitute a taking or acceptance of any land by the municipality.

Section 405. Buildings in Mapped Streets, Watercourses or Other Public Grounds. For the purpose of preserving the integrity of the official map of the municipality, no permit shall be issued for any building within the lines of any street, watercourse or public ground shown or laid out on the official map. No person shall recover any damages for the taking for public use of any building or improvements constructed within the lines of any street, watercourse or public ground after the same shall have been included in the official map, and any such building or improvement shall be removed at the expense of the owner. However, when the property of which the reserved location forms a part, cannot yield a reasonable return to the owner unless a permit shall be granted, the owner may apply to the governing body for the grant of a special encroachment permit to build. Before granting any special encroachment permit authorized in this section, the governing body may submit the application for a special encroachment permit to the local planning agency and allow the planning agency 30 days for review and comment and shall give public notice and hold a public hearing at which all parties in interest shall have an opportunity to be heard. A refusal by the governing body to grant the special encroachment permit applied for may be appealed by the applicant to the zoning hearing board in the same manner, and within the same time limitation, as is provided in Article IX.

Section 406. Time Limitations on Reservations for Future Taking. The governing body may fix the time for which streets, watercourses and public grounds on the official map shall be deemed reserved for future taking or acquisition for public use. However, the reservation for public grounds shall lapse and become void one year after an owner of such property has submitted a written notice to the governing body announcing his intentions to build, subdivide or otherwise develop the land covered by the reservation, or has made formal application for an official permit to build a structure for private use, unless the governing body shall have acquired the property or begun condemnation proceedings to acquire such property before the end of the year.

Section 407. Release of Damage Claims or Compensation. The governing body may designate any of its agencies to negotiate with the owner of land under the following circumstances:

- (1) whereon reservations are made;
- (2) whereon releases of claims for damages or compensation for such reservations are required; or
- (3) whereon agreements indemnifying the governing body from claims by others may be required.

Any releases or agreements, when properly executed by the governing body and the owner and recorded, shall be binding upon any successor in title.

Section 408. Notice to Other Municipalities.

(a) When any county has adopted an official map in accordance with the terms of this article, a certified copy of the map and the ordinances adopting it shall be sent to every municipality within said county. All amendments shall be sent to the aforementioned municipalities. The powers of the governing bodies of counties to adopt, amend and repeal official maps shall be limited to land and watercourses in those municipalities wholly or partly within the county which have no official map in effect at the time an official map is introduced before the governing body of the county, and until the municipal official map is in effect. The adoption of an official map by any municipality, other than a county, whose land or watercourses are subject to county official mapping, shall act as a repeal pro tanto of the county official map within the municipality adopting such ordinance. Notwithstanding any of the other terms or conditions of this section the county official map shall govern as to county streets and public grounds, facilities and improvements, even though such streets or public grounds, facilities and improvements are located in a municipality which has adopted an official map.

(b) When a municipality proposes to adopt an official map, or any amendment thereto, a copy of the map and the proposed ordinance adopting it, or any amendment thereto, shall be forwarded for review to the county planning

agency, or if no such agency exists to the governing body of the county at the same time it is submitted for review to the municipal planning agency. The comments of the county planning agency shall be made to the governing body of the municipality within 45 days, and the proposed action shall not be taken until such comments are received. If, however, the planning agency fails to act within 45 days, the governing body may proceed without its comments.

(c) Additionally, if any municipality proposes to adopt an official map, or amendment thereto, that shows any street or public lands intended to lead into any adjacent municipality a copy of said official map or amendment shall be forwarded to such adjacent municipality for review and comment by the governing body and planning agency of the adjacent municipality. The comments of the adjacent municipality shall be made to the governing body of the municipality proposing the adoption within 45 days, and the proposed action shall not be taken until such comments are received. If, however, the adjacent municipality fails to act within 45 days, the governing body of the proposing municipality may proceed without its comments. When a municipality adopts an official map, a certified copy of the map, the ordinance adopting it and any later amendments shall be forwarded, within 30 days after adoption, to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located. Additionally, if any municipality adopts an official map, or amendment thereto, that shows any street or public lands intended to lead into any adjacent municipality, a certified copy of said official map or amendment shall be forwarded to such adjacent municipality.

Article V – Subdivision and Land Development

Section 501. Grant of Power. The governing body of each municipality may regulate subdivisions and land development within the municipality by enacting a subdivision and land development ordinance. The ordinance shall require that all subdivision and land development plats of land situated within the municipality shall be submitted for approval to the governing body or, in lieu thereof, to a planning agency designated in the ordinance for this purpose, in which case any planning agency action shall be considered as action of the governing body. All powers granted herein to the governing body or the planning agency shall be exercised in accordance with the provisions of the subdivision and land development ordinance. In the case of any development governed by planned residential development provisions adopted pursuant to Article VII, however, the applicable provisions of the subdivision and land development ordinance shall be as modified by such provisions and the procedures which shall be followed in the approval of any plat, and the rights and duties of the parties thereto shall be governed by Article VII and the provisions adopted thereunder. Provisions regulating mobilehome parks shall be set forth in separate and distinct articles of any subdivision and land development ordinance adopted pursuant to Article V or any planned residential development provisions adopted pursuant to Article VII.

Section 502. Jurisdiction of County Planning Agencies; Adoption by Reference of County Subdivision and Land Development Ordinances.

(a) When any county has adopted a subdivision and land development ordinance in accordance with the terms of this article, a certified copy of the ordinance shall be sent to every municipality within the county. All amendments shall also be sent to the aforementioned municipalities. The powers of governing bodies of counties to enact, amend and repeal subdivision and land development ordinances shall be limited to land in those municipalities wholly or partly within the county which have no subdivision and land development ordinance in effect at the time a subdivision and land development ordinance is introduced before the governing body of the county, and until the municipal subdivision and land development ordinance is in effect and a certified copy of such ordinance is filed with the county planning agency, if one exists.

(b) The enactment of a subdivision and land development ordinance by any municipality, other than a county, whose land is subject to a county subdivision and land development ordinance shall act as a repeal protanto of the county subdivision and land development ordinance within the municipality adopting such ordinance. However, applications for subdivision and land development located within a municipality having adopted a subdivision and land development ordinance as set forth in this article shall be forwarded upon receipt by the municipality to the county planning agency for review and report together with a fee sufficient to cover the costs of the review and report which fee shall be paid by the applicant: Provided, That such municipalities shall not approve such applications until the county report is received or until the expiration of 30 days from the date the application was forwarded to the county.

(c) Further, any municipality other than a county may adopt by reference the subdivision and land development ordinance of the county, and may by separate ordinance designate the county planning agency, with the county planning agency's concurrence, as its official administrative agency for review and approval of plats.

Section 502.1. Contiguous Municipalities.

(a) The county planning commission shall offer a mediation option to any municipality which believes that its citizens will experience harm as the result of an applicant's proposed subdivision or development of land in a contiguous municipality, if the municipalities agree. In exercising such an option, the municipalities shall comply with the procedures set forth in Article IX. The cost of the mediation shall be shared equally by the municipalities unless otherwise agreed. The applicant shall have the right to participate in the mediation.

(b) The governing body of the municipality may appear and comment before the governing body of a contiguous municipality and the various boards and commissions of the contiguous municipality considering a proposed subdivision, change of land use or land development.

Section 503. Contents of Subdivision and Land Development Ordinance. The subdivision and land development ordinance may include, but need not be limited to:

- (1) Provisions for the submittal and processing of plats, including the charging of review fees, and specifications for such plats, including certification as to the accuracy of plats and provisions for preliminary and final approval and for processing of final approval by stages or sections of development. Such plats and surveys shall be prepared in accordance with the act of May 23, 1945 (P.L.913, No.367), known as the "Engineer, Land Surveyor and Geologist Registration Law," except that this requirement shall not preclude the preparation of a plat in accordance with the act of January 24, 1966 (1965 P.L.1527, No.535), known as the "Landscape Architects' Registration Law," when it is appropriate to prepare the plat using professional services as set forth in the definition of the "practice of landscape architecture" under section 2 of that act. Review fees may include reasonable and necessary charges by the municipality's professional consultants for review and report thereon to the municipality. Such review fees shall be based upon a schedule established by ordinance or resolution. Such review fees shall be reasonable and in accordance with the ordinary and customary charges for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the professional consultant for comparable services to the municipality for services which are not reimbursed or otherwise imposed on applicants. Fees charged to the municipality relating to any appeal of a decision on an application shall not be considered review fees and may not be charged to an applicant.
 - (i) The governing body shall submit to the applicant an itemized bill showing work performed, identifying the person performing the services and the time and date spent for each task. Nothing in this subparagraph shall prohibit interim itemized billing or municipal escrow or other security requirements. In the event the applicant disputes the amount of any such review fees, the applicant shall, no later than 100 days after the date of transmittal of the bill to the applicant, notify the municipality and the municipality's professional consultant that such fees are disputed, and shall explain the basis of their objections to the fees charged, in which case the municipality shall not delay or disapprove a subdivision or land development application due to the applicant's dispute over fees. Failure of the applicant to dispute a bill within 100 days shall be a waiver of the applicant's right to arbitration of that bill under section 510 (g).
 - (ii) In the event that the municipality's professional consultant and the applicant cannot agree on the amount of review fees which are reasonable and necessary, then the applicant and the municipality shall follow the procedure for dispute resolution set forth in section 510(g), provided that the arbitrator resolving such dispute shall be of the same profession or discipline as the professional consultant whose fees are being disputed.
 - (iii) Subsequent to a decision on an application, the governing body shall submit to the applicant an itemized bill for review fees, specifically designated as a final bill. The final bill shall include all review fees incurred at least through the date of the decision on the application. If for any reason additional review is required subsequent to the decision, including inspections and other work to satisfy the conditions of the approval, the review fees shall be charged to the applicant as a supplement to the final bill.
- (1.1) Provisions for the exclusion of certain land development from the definition of land development contained in section 107 only when such land development involves:
 - (i) the conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;
 - (ii) the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; or
 - (iii) the addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this subclause, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

- (2) Provisions for insuring that:
- (i) the layout or arrangement of the subdivision or land development shall conform to the comprehensive plan and to any regulations or maps adopted in furtherance thereof;
 - (ii) streets in and bordering a subdivision or land development shall be coordinated, and be of such widths and grades and in such locations as deemed necessary to accommodate prospective traffic, and facilitate fire protection;
 - (iii) adequate easements or rights-of-way shall be provided for drainage and utilities;
 - (iv) reservations if any by the developer of any area designed for use as public grounds shall be suitable size and location for their designated uses; and
 - (v) land which is subject to flooding, subsidence or underground fires either shall be made safe for the purpose for which such land is proposed to be used, or that such land shall be set aside for uses which shall not endanger life or property or further aggravate or increase the existing menace.
- (3) Provisions governing the standards by which streets shall be designed, graded and improved, and walkways, curbs, gutters, street lights, fire hydrants, water and sewage facilities and other improvements shall be installed as a condition precedent to final approval of plats in accordance with the requirements of section 509. The standards shall insure that the streets be improved to such a condition that the streets are passable for vehicles which are intended to use that street: Provided, however, That no municipality shall be required to accept such streets for public dedication until the streets meet such additional standards and specifications as the municipality may require for public dedication.
- (4) Provisions which take into account phased land development not intended for the immediate erection of buildings where streets, curbs, gutters, street lights, fire hydrants, water and sewage facilities and other improvements may not be possible to install as a condition precedent to final approval of plats, but will be a condition precedent to the erection of buildings on lands included in the approved plat.
- (4.1) Provisions which apply uniformly throughout the municipality regulating minimum setback lines and minimum lot sizes which are based upon the availability of water and sewage, in the event the municipality has not enacted a zoning ordinance.
- (5) Provisions for encouraging and promoting flexibility, economy and ingenuity in the layout and design of subdivisions and land developments, including provisions authorizing alterations in site requirements and for encouraging other practices which are in accordance with modern and evolving principles of site planning and development.
- (6) Provisions for encouraging the use of renewable energy systems and energy-conserving building design.
- (7) Provisions for soliciting reviews and reports from adjacent municipalities and other governmental agencies affected by the plans.
- (8) Provisions for administering waivers or modifications to the minimum standards of the ordinance in accordance with section 512.1, when the literal compliance with mandatory provisions is shown to the satisfaction of the governing body or planning agency, where applicable, to be unreasonable, to cause undue hardship, or when an alternative standard can be demonstrated to provide equal or better results.
- (9) Provisions for the approval of a plat, whether preliminary or final, subject to conditions acceptable to the applicant and a procedure for the applicant's acceptance or rejection of any conditions which may be imposed, including a provision that approval of a plat shall be rescinded automatically upon the applicant's failure to accept or reject such conditions within such time limit as may be established by the governing ordinance.
- (10) Provisions and standards for insuring that new developments incorporate adequate provisions for a reliable, safe and adequate water supply to support intended uses within the capacity of available resources.

- (11) Provisions requiring the public dedication of land suitable for the use intended; and, upon agreement with the applicant or developer, the construction of recreational facilities, the payment of fees in lieu thereof, the private reservation of the land, or a combination, for park or recreation purposes as a condition precedent to final plan approval, provided that:
- (i) The provisions of this paragraph shall not apply to any plan application, whether preliminary or final, pending at the time of enactment of such provisions.
 - (ii) The ordinance includes definite standards for determining the proportion of a development to be dedicated and the amount of any fee to be paid in lieu thereof.
 - (iii) The land or fees, or combination thereof, are to be used only for the purpose of providing, acquiring, operating or maintaining park or recreational facilities reasonably accessible to the development.
 - (iv) The governing body has a formally adopted recreation plan, and the park and recreational facilities are in accordance with definite principles and standards contained in the subdivision and land development ordinance.
 - (v) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by future inhabitants of the development or subdivision.
 - (vi) A fee authorized under this subsection shall, upon its receipt by a municipality, be deposited in an interest-bearing account, clearly identified as reserved for providing, acquiring, operating or maintaining park or recreational facilities. Interest earned on such accounts shall become funds of that account.
 - (vii) Upon request of any person who paid any fee under this subsection, the municipality shall refund such fee, plus interest accumulated thereon from the date of payment, if the municipality had used the fee paid for a purpose other than the purposes set forth in this section.
 - (viii) No municipality shall have the power to require the construction of recreational facilities or the dedication of land, or fees in lieu thereof, or private reservation except as may be provided by statute.

Section 503.1. Water Supply. Every ordinance adopted pursuant to this article shall include a provision that, if water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the governing body or planning agency, as the case may be, that the subdivision or development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.

Section 504. Enactment of Subdivision and Land Development Ordinance.

(a) Before voting on the enactment of a proposed subdivision and land development ordinance, the governing body shall hold a public hearing thereon pursuant to public notice. A brief summary setting forth the principal provisions of the proposed ordinance and a reference to the place within the municipality where copies of the proposed ordinance may be secured or examined shall be incorporated in the public notice. Unless the proposed subdivision and land development ordinance shall have been prepared by the planning agency, the governing body shall submit the ordinance to the planning agency at least 45 days prior to the hearing on such ordinance to provide the planning agency an opportunity to submit recommendations. If a county planning agency shall have been created for the county in which the municipality adopting the ordinance is located, then, at least 45 days prior to the public hearing on the ordinance, the municipality shall submit the proposed ordinance to said county planning agency for recommendations.

(b) Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of the subdivision and land development ordinance to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 505. Enactment of Subdivision and Land Development Ordinance Amendment.

(a) Amendments to the subdivision and land development ordinance shall become effective only after a public hearing held pursuant to public notice in the manner prescribed for enactment of a proposed ordinance by this article. In addition, in case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency for recommendations at least 30 days prior to the date fixed for the public hearing on such proposed amendment. If a county planning agency shall have been created for the county in which the municipality proposing the amendment is located, then, at least 30 days prior to the hearing on the amendment, the municipality shall submit the proposed amendment to said county planning agency for recommendations.

(b) Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of any amendment to the subdivision and land development ordinance to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 506. Publication, Advertisement and Availability of Ordinance.

(a) Proposed subdivision and land development ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than seven days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

- (1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.
- (2) An attested copy of the proposed ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

(b) In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall, at least ten days prior to enactment, readvertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

(c) Subdivision and land development ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

Section 507. Effect of Subdivision and Land Development Ordinance. Where a subdivision and land development ordinance has been enacted by a municipality under the authority of this article no subdivision or land development of any lot, tract or parcel of land shall be made, no street, sanitary sewer, storm sewer, water main or other improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with the provisions of such ordinance.

Section 508. Approval of Plats. All applications for approval of a plat (other than those governed by Article VII), whether preliminary or final, shall be acted upon by the governing body or the planning agency within such time limits as may be fixed in the subdivision and land development ordinance but the governing body or the planning agency shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the governing body or the planning agency (whichever first reviews the application) next following the date the application is filed, or after a final order of the court remanding an application, provided that should the said next regular meeting occur more than 30 days following the filing of the application, or the final order of the court, the said 90-day period shall be measured from the 30th day following the day the application has been filed.

- (1) The decision of the governing body or the planning agency shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 days following the decision.
- (2) When the application is not approved in terms as filed the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite to the provisions of the statute or ordinance relied upon.
- (3) Failure of the governing body or agency to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of communication shall have like effect.
- (4) Changes in the ordinance shall affect plats as follows:
 - (i) From the time an application for approval of a plat, whether preliminary or final, is duly filed as provided in the subdivision and land development ordinance, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.
 - (ii) When an application for approval of a plat, whether preliminary or final, has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval. The five-year period shall be extended for the duration of any litigation, including appeals, which prevent the commencement or completion of the development, and for the duration of any sewer or utility moratorium or prohibition which was imposed subsequent to the filing of an application for preliminary approval of a plat. In the event of an appeal filed by any party from the approval or disapproval of a plat, the five-year period shall be extended by the total time from the date the appeal was filed until a final order in such matter has been entered and all appeals have been concluded and any period for filing appeals or requests for reconsideration have expired. Provided, however, no extension shall be based upon any water or sewer moratorium which was in effect as of the date of the filing of a preliminary application.
 - (iii) Where final approval is preceded by preliminary approval, the aforesaid five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.
 - (iv) Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.
 - (v) In the case of a preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the governing body in its discretion.

- (vi) Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the governing body in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section.
 - (vii) Failure of landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.
- (5) Before acting on any subdivision plat, the governing body or the planning agency, as the case may be, may hold a public hearing thereon after public notice.
- (6) No plat which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless the plat contains a notice that a highway occupancy permit is required pursuant to section 420 of the act of June 1, 1945 (P.L.1242, No.428), known as the "State Highway Law," before driveway access to a State highway is permitted. The department shall, within sixty days of the date of receipt of an application for a highway occupancy permit,
- (i) approve the permit, which shall be valid thereafter unless, prior to commencement of construction thereunder, the geographic, physical or other conditions under which the permit is approved change, requiring modification or denial of the permit, in which event the department shall give notice thereof in accordance with regulations,
 - (ii) deny the permit,
 - (iii) return the application for additional information or correction to conform with department regulations or,
 - (iv) determine that no permit is required in which case the department shall notify the municipality and the applicant in writing. If the department shall fail to take any action within the 60-day period, the permit will be deemed to be issued. The plat shall be marked to indicate that access to the State highway shall be only as authorized by a highway occupancy permit. Neither the department nor any municipality to which permit-issuing authority has been delegated under section 420 of the "State Highway Law" shall be liable in damages for any injury to persons or property arising out of the issuance or denial of a driveway permit, or for failure to regulate any driveway. Furthermore, the municipality from which the building permit approval has been requested shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the department.
- (7) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX.

Section 508.1. Notice to School District. Each month a municipality shall notify in writing the superintendent of a school district in which a plan for a residential development was finally approved by the municipality during the preceding month. The notice shall include, but not be limited to, the location of the development, the number and types of units to be included in the development and the expected construction schedule of the development.

Section 509. Completion of Improvements or Guarantee Thereof Prerequisite to Final Plat Approval.

(a) No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition, or improved as may be required by the sub-division and land development ordinance and any walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by the subdivision and land development ordinance have

been installed in accordance with such ordinance. In lieu of the completion of any improvements required as a condition for the final approval of a plat, including improvements or fees required pursuant to section 509(l), the subdivision and land development ordinance shall provide for the deposit with the municipality of financial security in an amount sufficient to cover the costs of such improvements or common amenities including, but not limited to, roads, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required. The applicant shall not be required to provide financial security for the costs of any improvements for which financial security is required by and provided to the Department of Transportation in connection with the issuance of a highway occupancy permit pursuant to section 420 of the act of June 1, 1945 (P.L.1242, No.428) known as the "State Highway Law."

(b) When requested by the developer, in order to facilitate financing, the governing body or the planning agency, if designated, shall furnish the developer with a signed copy of a resolution indicating approval of the final plat contingent upon the developer obtaining a satisfactory financial security. The final plat or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the governing body; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.

(c) Without limitation as to other types of financial security which the municipality may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this section.

(d) Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the Commonwealth.

(e) Such bond, or other security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.

(f) The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the municipality may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the municipality may require the developer to post additional security in order to assure that the financial security equals but does not exceed said 110%. Any additional security shall be posted by the developer in accordance with this subsection.

(g) The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The municipality, upon the recommendation of the municipal engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the municipality are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the municipality and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the municipality and the applicant or developer.

(h) If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security [or] to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure.

(i) In the case where development is projected over a period of years, the governing body or the planning agency may authorize submission of final plats by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.

(j) As the work of installing the required improvements proceeds, the party posting the financial security may request the governing body to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the governing body, and the governing body shall have 45 days from receipt of such request within which to allow the municipal engineer to certify, in writing, to the governing body that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification the governing body shall authorize release by the bonding company or lending institution of an amount as estimated by the municipal engineer fairly representing the value of the improvements completed or, if the governing body fails to act within said 45-day period, the governing body shall be deemed to have approved the release of funds as requested. The governing body may, prior to [final] release at the time of completion and certification by its engineer, retain 10% of the [original amount of the posted financial security for the aforesaid] estimated cost of the remaining improvements.

(k) Where the governing body accepts dedication of all or some of the required improvements following completion, the governing body may require the posting of financial security to secure structural integrity of said dedicated improvements as well as the functioning of said dedicated improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said dedicated improvements.

(l) If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the municipality, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this section.

(m) If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this section, the municipality shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plat upon actual completion of the improvements depicted upon the approved final plat. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following: the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings. Any ordinance or statute inconsistent herewith is hereby expressly repealed.

Section 510. Release from Improvement Bond.

(a) When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the municipal governing body, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the municipal engineer. The municipal governing body shall, within ten days after receipt of such notice, direct and authorize the municipal engineer to inspect all of the aforesaid improvements. The municipal engineer shall, thereupon, file a report, in writing, with the municipal governing body, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the municipal engineer of the aforesaid authorization from the governing body; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the municipal engineer, said report shall contain a statement of reasons for such nonapproval or rejection.

- (b) The municipal governing body shall notify the developer, within 15 days of receipt of the engineer's report, in writing by certified or registered mail of the action of said municipal governing body with relation thereto.
- (c) If the municipal governing body or the municipal engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.
- (d) If any portion of the said improvements shall not be approved or shall be rejected by the municipal governing body, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.
- (e) Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise, any determination of the municipal governing body or the municipal engineer.
- (f) Where herein reference is made to the municipal engineer, he shall be a duly registered professional engineer employed by the municipality or engaged as a consultant thereto.
- (g) The municipality may prescribe that the applicant shall reimburse the municipality for the reasonable and necessary expense incurred in connection with the inspection of improvements. The applicant shall not be required to reimburse the governing body for any inspection which is duplicative of inspections conducted by other governmental agencies or public utilities. The burden of proving that any inspection is duplicative shall be upon the objecting applicant. Such reimbursement shall be based upon a schedule established by ordinance or resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipality's professional consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the professional consultant to the municipality for comparable services when fees are not reimbursed or otherwise imposed on applicants.
- (1) The governing body shall submit to the applicant an itemized bill showing the work performed in connection with the inspection of improvements performed, identifying the person performing the services and the time and date spent for each task. In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, no later than 100 days after the date of transmittal of a bill for inspection services, notify the municipality and the municipality's professional consultant that such inspection expenses are disputed as unreasonable or unnecessary and shall explain the basis of their objections to the fees charged, in which case the municipality shall not delay or disapprove a request for release of financial security, a subdivision or land development application or any approval or permit related to development due to the applicant's dispute of inspection expenses. Failure of the applicant to dispute a bill within 100 days shall be a waiver of the applicant's right to arbitration of that bill under this section.
 - (1.1) Subsequent to the final release of financial security for completion of improvements for a subdivision or land development or any phase thereof, the professional consultant shall submit to the governing body a bill for inspection services, specifically designated as a final bill, which the governing body shall submit to the applicant. The final bill shall include inspection fees incurred through the release of financial security.
 - (2) If, the professional consultant and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant shall have the right, within 100 days of the transmittal of the final bill or supplement to the final bill to the applicant, to request the appointment of another professional consultant to serve as an arbitrator. The applicant and professional consultant whose fees are being challenged shall by mutual agreement, appoint another professional consultant to review any bills the applicant has disputed and which remain unresolved and make a determination as to the amount thereof which is reasonable and necessary. The arbitrator shall be of the same profession as the professional consultant whose fees are being challenged.
 - (3) The arbitrator so appointed shall hear such evidence and review such documentation as the arbitrator in his or her sole opinion deems necessary and shall render a decision no later than 50 days after the date of appointment. Based on the decision of the arbitrator, the applicant or the professional consultant whose

fees were challenged shall be required to pay any amounts necessary to implement the decision within 60 days. In the event the municipality has paid the professional consultant an amount in excess of the amount determined to be reasonable and necessary, the professional consultant shall within 60 days reimburse the excess payment

- (4) In the event that the municipality's professional consultant and applicant cannot agree upon the arbitrator to be appointed within 20 days of the request for appointment of an arbitrator, then, upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the municipality is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such arbitrator, who, in that case, shall be neither the municipality's professional consultant nor any professional consultant who has been retained by, or performed services for, the municipality or the applicant within the preceding five years.
- (5) The fee of the arbitrator shall be paid by the applicant if the disputed fee is upheld by the arbitrator. The fee of the arbitrator shall be paid by the charging party if the disputed fee is \$2,500 or greater than the payment decided by the arbitrator. The fee of the arbitrator shall be paid in an equal amount by the applicant and the charging party if the disputed fee is less than \$2,500 of the payment decided by the arbitrator.
- (6) In the event that the disputed fees have been paid and the arbitrator finds that the disputed fees are unreasonable or excessive by more than \$10,000, the arbitrator shall:
 - (i) award the amount of the fees found to be unreasonable or excessive to the party that paid the disputed fee; and
 - (ii) impose a surcharge of 4% of the amount found as unreasonable or excessive to be paid to the party that paid the disputed fee.
- (7) A municipality or an applicant shall have 100 days after paying a fee to dispute any fee charged as being unreasonable or excessive.

Section 511. Remedies to Effect Completion of Improvements. In the event that any improvements which may be required have not been installed as provided in the subdivision and land development ordinance or in accord with the approved final plat the governing body of the municipality is hereby granted the power to enforce any corporate bond, or other security by appropriate legal and equitable remedies. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the governing body of the municipality may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.

Section 512.1. Modifications.

- (a) The governing body or the planning agency, if authorized to approve applications within the subdivision and land development ordinance, may grant a modification of the requirements of one or more provisions if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the ordinance is observed.
- (b) All requests for a modification shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the ordinance involved and the minimum modification necessary.
- (c) If approval power is reserved by the governing body, the request for modification may be referred to the planning agency for advisory comments.
- (d) The governing body or the planning agency, as the case may be, shall keep a written record of all action on all requests for modifications.

Section 513. Recording Plats and Deeds.

(a) Upon the approval of a final plat, the developer shall within 90 days of such final approval or 90 days after the date of delivery of an approved plat signed by the governing body, following completion of conditions imposed for such approval, whichever is later, record such plat in the office of the recorder of deeds of the county in which the municipality is located. Whenever such plat approval is required by a municipality, the recorder of deeds of the county shall not accept any plat for recording, unless such plat officially notes the approval of the governing body and review by the county planning agency, if one exists.

(b) The recording of the plat shall not constitute grounds for assessment increases until such time as lots are sold or improvements are installed on the land included within the subject plat.

Section 514. Effect of Plat Approval on Official Map. After a plat has been approved and recorded as provided in this article, all streets and public grounds on such plat shall be, and become a part of the official map of the municipality without public hearing.

Section 515. Penalties. (515 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 515.1. Preventive Remedies.

(a) In addition to other remedies, the municipality may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

(b) A municipality may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of any ordinance adopted pursuant to this article. This authority to deny such a permit or approval shall apply to any of the following applicants:

- (1) The owner of record at the time of such violation.
- (2) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
- (3) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
- (4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the municipality may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

Section 515.2. Jurisdiction. District justices shall have initial jurisdiction in proceedings brought under section 515.3.

Section 515.3. Enforcement Remedies.

(a) Any person, partnership or corporation who or which has violated the provisions of any subdivision or land development ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the

person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

(b) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

Article V-A – Municipal Capital Improvement

** Compiler's Note: (a)(9) of Act 1996-58, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that housing, community assistance and other functions under Article V-A are transferred from the Department of Community Affairs to the Department of Community and Economic Development.*

(Art. added Dec. 19, 1990, P.L.1343, No.209)

Section 501-A. Purposes. To further the purposes of this act in an era of increasing development and of a corresponding demand for municipal capital improvements, to insure that the cost of needed capital improvements be applied to new developments in a manner that will allocate equitably the cost of those improvements among property owners and to respond to the increasing difficulty which municipalities are experiencing in developing revenue sources to fund new capital infrastructure from the public sector, the following powers are granted to all municipalities, other than counties, which municipalities have adopted either a municipal or county comprehensive plan, subdivision and land development ordinance and zoning ordinance.

Section 502-A. Definitions. The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Adjusted for family size,” adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, than the base income eligibility level determined as provided in the definition of low- to moderate-income persons based upon a formula as established by the rule of the agency.

“Adjusted gross income,” all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by rule of the department, adjusted for family size, less deductions under section 62 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. 62 et seq.).

“Affordable,” with respect to the housing unit to be occupied by low- to moderate-income persons, monthly rents or monthly mortgage payments, including property taxes and insurance, that do not exceed 30% of that amount which represents 100% of the adjusted gross annual income for households within the metropolitan statistical area (MSA) or, if not within the MSA, within the county in which the housing unit is located, divided by 12.

“Agency,” the Pennsylvania Housing Finance Agency as created pursuant to the act of December 3, 1959 (P.L.1688, No.621), known as the “Housing Finance Agency Law.”

* “Department,” the Department of Community and Economic Development of the Commonwealth.

“Existing deficiencies,” existing highways, roads or streets operating at a level of service below the preferred level of service designated by the municipality, as adopted in the transportation capital improvement plan.

“Highways, roads or streets,” any highways, roads or streets identified on the legally adopted municipal street or highway plan or the official map which carry vehicular traffic, together with all necessary appurtenances, including bridges, rights-of-way and traffic control improvements. The term shall not include the interstate highway system.

“Impact fee,” a charge or fee imposed by a municipality against new development in order to generate revenue for funding the costs of transportation capital improvements necessitated by and attributable to new development.

“Low- to moderate-income persons,” one or more natural persons or a family, the total annual adjusted gross household income of which is less than 100% of the median annual adjusted gross income for households in this Commonwealth or is less than 100% of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within the MSA, within the county in which the household is located, whichever is greater.

“New development,” any commercial, industrial or residential or other project which involves new construction, enlargement, reconstruction, redevelopment, relocation or structural alteration and which is expected to generate additional vehicular traffic within the transportation service area of the municipality.

“Offsite improvements,” those public capital improvements which are not onsite improvements and that serve the needs of more than one development.

“Onsite improvements,” all improvements constructed on the applicant's property, or the improvements constructed on the property abutting the applicant's property necessary for the ingress or egress to the applicant's property, and required to be constructed by the applicant pursuant to any municipal ordinance, including, but not limited to, the municipal building code, subdivision and land development ordinance, PRD regulations and zoning ordinance.

“Pass-through trip,” a trip which has both an origin and a destination outside the service area.

“Road improvement,” the construction, enlargement, expansion or improvement of public highways, roads or streets. It shall not include bicycle lanes, bus lanes, busways, pedestrian ways, rail lines or tollways.

“Traffic or transportation engineer or planner,” any person who is a registered professional engineer in this Commonwealth or is otherwise qualified by education and experience to perform traffic or transportation planning analyses of the type required in this act and who deals with the planning, geometric design and traffic operations of highways, roads and streets, their networks, terminals and abutting lands and relationships with other modes of transportation for the achievement of convenient, efficient and safe movement of goods and persons.

“Transportation capital improvements,” those offsite road improvements that have a life expectancy of three or more years, not including costs for maintenance, operation or repair.

“Transportation service area,” a geographically defined portion of the municipality not to exceed seven square miles of area which, pursuant to the comprehensive plan and applicable district zoning regulations, has an aggregation of sites with development potential creating the need for transportation improvements within such area to be funded by impact fees. No area may be included in more than one transportation service area.

Section 503-A. Grant of Power.

(a) The governing body of each municipality other than a county, in accordance with the conditions and procedures set forth in this act, may enact, amend and repeal impact fee ordinances and, thereafter, may establish, at the time of municipal approval of any new development or subdivision, the amount of an impact fee for any of the offsite public transportation capital improvements authorized by this act as a condition precedent to final plat approval under the municipality's subdivision and land development ordinance. Every ordinance adopted pursuant to this act shall include, but not be limited to, provisions for the following:

- (1) The conditions and standards for the determination and imposition of impact fees consistent with the provisions of this act.
- (2) The agency, body or office within the municipality which shall administer the collection, disbursement and accounting of impact fees.
- (3) The time, method and procedure for the payment of impact fees.
- (4) The procedure for issuance of any credit against or reimbursement of impact fees which an applicant may be entitled to receive consistent with the provisions of this act.
- (5) Exemptions or credits which the municipality may choose to adopt. In this regard the municipality shall have the power to:
 - (i) Provide a credit of up to 100% of the applicable impact fees for all new development and growth which constitutes affordable housing to low- and moderate-income persons.
 - (ii) Provide a credit of up to 100% of the applicable impact fees for growth which are determined by the municipality to serve an overriding public interest.

- (iii) Exempt de minimus applications from impact fee requirements. If such a policy is adopted, the definition of de minimus shall be contained in the ordinance.

(b) No municipality shall have the power to require as a condition for approval of a land development or subdivision application the construction, dedication or payment of any offsite improvements or capital expenditures of any nature whatsoever or impose any contribution in lieu thereof, exaction fee, or any connection, tapping or similar fee except as may be specifically authorized under this act.

(c) No municipality may levy an impact fee prior to the enactment of a municipal impact fee ordinance adopted in accordance with the procedures set forth in this act, except as may be specifically authorized by the provisions of this act. A transportation impact fee shall be imposed by a municipality within a service area or areas only where such fees have been determined and imposed pursuant to the standards, provisions and procedures set forth herein.

(d) Impact fees may be used for those costs incurred for improvements designated in the transportation capital improvement program which are attributable to new development, including the acquisition of land and rights-of-way; engineering, legal and planning costs; and all other costs which are directly related to road improvements within the service area or areas, including debt service. Impact fees shall not be imposed or used for costs associated with any of the following:

- (1) Construction, acquisition or expansion of municipal facilities other than capital improvements identified in the transportation capital improvements plan required by this act.
- (2) Repair, operation or maintenance of existing or new capital improvements.
- (3) Upgrading, updating, expanding or replacing existing capital improvements to serve existing developments in order to meet stricter safety, efficiency, environmental or regulatory standards not attributable to new development.
- (4) Upgrading, updating, expanding or replacing existing capital improvements to remedy deficiencies in service to existing development or fund deficiencies in existing municipal capital improvements resulting from a lack of adequate municipal funding over the years for maintenance or capital construction costs.
- (5) Preparing and developing the land use assumptions, roadway sufficiency analysis and transportation capital improvement plan, except that impact fees may be used for no more than a proportionate amount of the cost of professional consultants incurred in preparing a roadway sufficiency analysis of infrastructure within a specified transportation service area, such allowable proportion to be calculated by dividing the total costs of all road improvements in the adopted transportation capital improvement program within the transportation service area attributable to projected future development within the service area, as defined in section 504-A(e)(1)(iii), by the total costs of all road improvements in the adopted transportation capital improvement program within the specific transportation service area, as defined in section 504-A.

(e) Nothing in this act shall be deemed to alter or affect a municipality's existing power to require an applicant for municipal approval of any new development or subdivision from paying for the installation of onsite improvements as provided for in a municipality's subdivision and land development ordinance as authorized by this act.

(f) No municipality may delay or deny any application for building permit, certificate-of-occupancy, development or any other approval or permit required for construction, land development, subdivision or occupancy for the reason that any project of an approved capital improvement program has not been completed.

(g) A municipality which has enacted an impact fee ordinance on or before June 1, 1990, may for a period not to exceed one year from the effective date of this article, adopt an impact fee ordinance to conform with the standards and procedures set forth in this article. Where a fee previously imposed pursuant to an ordinance in effect on June 1, 1990, for transportation improvements authorized by this article is greater than the recalculated fee due under the newly adopted ordinance, the individual who paid the fee is entitled to a refund of the difference. If the recalculated fee is greater than the previously paid fee, there shall be no additional charge.

(h) The powers provided by this section may be exercised by two or more municipalities, other than counties, which have adopted a joint municipal comprehensive plan pursuant to Article XI through a joint authority, subject to the conditions and procedures set forth in this article.

Section 504-A. Transportation Capital Improvements Plan.

(a) A transportation capital improvements plan shall be prepared and adopted by the governing body of the municipality prior to the enactment of any impact fee ordinance. The municipality shall provide qualified professionals to assist the transportation impact fee advisory committee or the planning commission in the preparation of the transportation capital improvements plan and calculation of the impact fees to be imposed to implement the plan in accordance with the procedures, provisions and standards set forth in this act.

(b)(1) An impact fee advisory committee shall be created by resolution of a municipality intending to adopt a transportation impact fee ordinance. The resolution shall describe the geographical area or areas of the municipality for which the advisory committee shall develop the land use assumptions and conduct the roadway sufficiency analysis studies.

- (2) The advisory committee shall consist of no fewer than 7 nor more than 15 members, all of whom shall serve without compensation. The governing body of the municipality shall appoint as members of the advisory committee persons who are either residents of the municipality or conduct business within the municipality and are not employees or officials of the municipality. Not less than 40% of the members of the advisory committee shall be representatives of the real estate, commercial and residential development, and building industries. The municipality may also appoint traffic or transportation engineers or planners to serve on the advisory committee provided the appointment is made after consultation with the advisory committee members. The traffic or transportation engineers or planners appointed to the advisory committee may not be employed by the municipality for the development of or consultation on the roadways sufficiency analysis which may lead to the adoption of the transportation capital improvements plan.
- (3) (The governing body of the municipality may elect to designate the municipal planning commission appointed pursuant to Article II as the impact fee advisory committee. If the existing planning commission does not include members representative of the real estate, commercial and residential development, and building industries at no less than 40% of the membership, the governing body of the municipality shall appoint the sufficient number of representatives of the aforementioned industries who reside in the municipality or conduct business within the municipality to serve as ad hoc voting members of the planning commission whenever such commission functions as the impact fee advisory committee.
- (4) No impact fee ordinance may be invalidated as a result of any legal action challenging the composition of the advisory committee which is not brought within 90 days following the first public meeting of said advisory committee.
- (5) The advisory committee shall serve in an advisory capacity and shall have the following duties:
 - (i) To make recommendations with respect to land use assumptions, the development of comprehensive road improvements and impact fees.
 - (ii) To make recommendations to approve, disapprove or modify a capital improvement program by preparing a written report containing these recommendations to the municipality.
 - (iii) To monitor and evaluate the implementation of a capital improvement program and the assessment of impact fees, and report annually to the municipality with respect to the same.
 - (iv) To advise the municipality of the need to revise or update the land use assumptions, capital improvement program or impact fees.

(c)(1) As a prerequisite to the development of the transportation capital improvements plan, the advisory committee shall develop land use assumptions for the determination of future growth and development within the designated area or areas as described by the municipal resolution and recommend its findings to the governing body. Prior to the issuance and presentation of a written report to the municipality on the recommendations for proposed land use assumptions upon which to base the development of the transportation capital improvements plan, the advisory committee shall conduct a public hearing, following the providing of proper notice in accordance with section 107, for the consideration of the land use assumption proposals.

Following receipt of the advisory committee report, which shall include the findings of the public hearing, the governing body of the municipality shall by resolution approve, disapprove or modify the land use assumptions recommended by the advisory committee.

(2) The land use assumptions report shall:

- (i) Describe the existing land uses within the designated area or areas and the highways, roads or streets incorporated therein.
 - (ii) To the extent possible, reflect projected changes in land uses, densities of residential development, intensities of nonresidential development and population growth rates which may affect the level of traffic within the designated area or areas over a period of at least the next five years. These projections shall be based on an analysis of population growth rates during the prior five-year period, current zoning regulations, approved subdivision and land developments, and the future land use plan contained in the adopted municipal comprehensive plan. It may also refer to all professionally produced studies and reports pertaining to the municipality regarding such items as demographics, parks and recreation, economic development and any other study deemed appropriate by the municipality.
- (3) If the municipality is located in a county which has created a county planning agency, the advisory committee shall forward a copy of their proposed land use assumptions to the county planning agency for its comments at least 30 days prior to the public hearing. At the same time, the advisory committee shall also forward copies of the proposed assumptions to all contiguous municipalities and to the local school district for their review and comments.

(d)(1) Upon adoption of the land use assumptions by the municipality, the advisory committee shall prepare, or cause to be prepared, a roadway sufficiency analysis which shall establish the existing level of infrastructure sufficiency and preferred levels of service within any designated area or areas of the municipality as described by the resolution adopted pursuant to the creation of the advisory committee. The roadway sufficiency analysis shall be prepared for any highway, road or street within the designated area or areas on which the need for road improvements attributable to projected future new development is anticipated. The municipality shall commission a traffic or transportation engineer or planner to assist the advisory committee in the preparation of the roadway sufficiency analysis. Municipalities may jointly commission such engineer or planner to assist in the preparation of multiple municipality roadway sufficiency analyses. In preparing the roadway sufficiency analysis report, the engineer may consider and refer to previously produced professional studies and reports relevant to the production of the roadway sufficiency analysis as required by the section. It shall be deemed that the roads, streets and highways not on the roadway sufficiency analysis report are not impacted by future development. The roadway sufficiency analysis shall include the following components:

- (i) The establishment of existing volumes of traffic and existing levels of service.
- (ii) The identification of a preferred level of service established pursuant to the following:
 - (A) The level of service shall be one of the categories of road service as defined by the Transportation Research Board of the National Academy of Sciences or the Institute of Transportation Engineers. The municipality may choose to select a level of service on a transportation service area basis as the preferred level of service. The preferred levels of service shall be designated by the governing body of the municipality following determination of the existing level of service as established by the roadway sufficiency analysis. If the preferred level of service is designated as greater than the existing level of service, the municipality shall be required to identify road improvements needed to correct the existing deficiencies.
 - (B) Following adoption of the preferred level of service, such level of service may be waived for a particular road segment or intersection if the municipality finds that one or more of the following effectively precludes provision of road improvements necessary to meet the level of service: geometric design limitations, topographic limitations or the unavailability of necessary right-of-way.
- (iii) The identification of existing deficiencies which need to be remedied to accommodate existing traffic at the preferred level of service.

- (iv) The specification of the required road improvements needed to bring the existing level of service to the preferred level of service.
 - (v) A projection of anticipated traffic volumes, with a separate determination of pass-through trips, for a period of not less than five years from the date of the preparation of the roadway sufficiency analysis based upon the land use assumptions adopted under this section.
 - (vi) The identification of forecasted deficiencies which will be created by “pass-through” trips.
- (2) The advisory committee shall provide the governing body with the findings of the roadway sufficiency analysis. Following receipt of the advisory committee report, the governing body shall by resolution approve, disapprove or modify the roadway sufficiency analysis recommended by the advisory committee.

(e)(1) Utilizing the information provided by the land use assumption and the roadway sufficiency analysis as the basis for determination of the need for road improvements to remedy existing deficiencies and accommodate future projected traffic volumes, the advisory committee shall identify those capital projects which the municipality should consider for adoption in its transportation capital improvements plan and shall recommend the delineation of the transportation service area or areas. The capital improvement plan shall be developed in accordance with generally accepted engineering and planning practices. The capital improvement program shall include projections of all designated road improvements in the capital improvement program. The total cost of the road improvements shall be based upon estimated costs, using standard traffic engineering standards, with a 10% maximum contingency which may be added to said estimate. These costs shall include improvements to correct existing deficiencies with identified anticipated sources of funding and timetables for implementation. The transportation capital improvements plan shall include the following components:

- (i) A description of the existing highways, roads and streets within the transportation service area and the road improvements required to update, improve, expand or replace such highways, roads and streets in order to meet the preferred level of service and usage and stricter safety, efficiency, environmental or regulatory standards not attributable to new development.
- (ii) A plan specifying the road improvements within the transportation service area attributable to forecasted pass-through traffic so as to maintain the preferred level of service after existing deficiencies identified by the roadway sufficiency analysis have been remedied.
- (iii) A plan specifying the road improvements or portions thereof within the transportation service area attributable to the projected future development, consistent with the adopted land use assumptions, in order to maintain the preferred level of service after accommodation for pass-through traffic and after existing deficiencies identified in the roadway sufficiency analysis have been remedied.
- (iv) The projected costs of the road improvements to be included in the transportation capital improvements plan, calculating separately for each project by the following categories:
 - (A) The costs or portion thereof associated with correcting existing deficiencies as specified in subparagraph (i).
 - (B) The costs or portions thereof attributable to providing road improvements to accommodate forecasted pass-through trips as specified in subparagraph (ii).
 - (C) The costs of providing necessary road improvements or portions thereof attributable to projected future development as specified in subparagraph (iii); provided that no more than 50% of the cost of the improvements to any highway, road or street which qualifies as a State Highway or portion of the rural State Highway System as provided in section 102 of the act of June 1, 1945 (P.L.1242, No. 428), known as the “State Highway Law” may be included.
- (v) A projected timetable and proposed budget for constructing each road improvement contained in the plan.
- (vi) The proposed source of funding for each capital improvement included in the road plan. This shall include anticipated revenue from the Federal Government, State government, municipality, impact fees and any other source. The estimated revenue for each capital improvement in the plan which is to be provided by impact fees shall be identified separately for each project.

- (2) The source of funding required for projects to remedy existing deficiencies as set forth in paragraph (1)(i) and the road improvements attributable to forecasted pass-through traffic as set forth in paragraph (1)(ii) shall be exclusive of funds generated from the assessment of impact fees.
- (3) Upon the completion of the transportation capital improvements plan and prior to its adoption by the governing body of the municipality and the enactment of a municipal impact fee ordinance, the advisory committee shall hold at least one public hearing for consideration of the plan. Notification of the public hearing shall comply with the requirement of section 107. The plan shall be available for public inspection at least ten working days prior to the date of the public hearing. After presentation of the recommendation by the advisory committee or its representatives at a public meeting of the governing body, the governing body may make such changes to the plan prior to its adoption as the governing body deems appropriate following review of the public comments made at the public hearing.
- (4) The governing body may periodically, but no more frequently than annually, request the impact fee advisory committee to review the capital improvements plan and impact fee charges and make recommendations for revisions for subsequent consideration and adoption by the governing body based only on the following:
 - (i) New subsequent development which has occurred in the municipality.
 - (ii) Capital improvements contained in the capital improvements plan, the construction of which has been completed.
 - (iii) Unavoidable delays beyond the responsibility or control of the municipality in the construction of capital improvements contained in the plan.
 - (iv) Significant changes in the land use assumptions.
 - (v) Changes in the estimated costs of the proposed transportation capital improvements, which may be recalculated by applying the construction cost index as published in the American City/County Magazine or the Engineering News Record.
 - (vi) Significant changes in the projected revenue from all sources listed needed for the construction of the transportation capital improvements.
- (f) Any improvements to Federal-aid or State highways to be funded in part by impact fees shall require the approval of the Department of Transportation and, if necessary, the United States Department of Transportation. Nothing in this act shall be deemed to alter or diminish the powers, duties or jurisdiction of the Department of Transportation with respect to State highways or the rural State highway system.
- (g) Two or more municipalities may, upon agreement, appoint a joint impact fee advisory committee which may develop roadway sufficiency analyses and transportation capital improvements plans for the participating municipalities. The members of the advisory committee must be either residents of or conduct business within one of the participating municipalities.

Section 505-A. Establishment and Administration of Impact Fees.

- (a) (1) The impact fee for transportation capital improvements shall be based upon the total costs of the road improvements included in the adopted capital improvement plan within a given transportation service area attributable to and necessitated by new development within the service area as calculated pursuant to section 504-A(e)(1)(iv)(c), divided by the number of anticipated peak hour trips generated by all new development consistent with the adopted land use assumptions and calculated in accordance with the Trip Generation Manual published by the Institute of Transportation Engineers, fourth or subsequent edition as adopted by the municipality by ordinance or resolution to equal a per trip cost for transportation improvements within the service area.

- (2) The specific impact fee for a specific new development or subdivision within the service area for road improvements shall be determined as of the date of preliminary land development or subdivision approval by multiplying the per trip cost established for the service area as determined in section 503-A(a) by the estimated number of peak-hour trips to be generated by the new development or subdivision using generally accepted traffic engineering standards.
- (3) A municipality may authorize or require the preparation of a special transportation study in order to determine traffic generation or circulation for a new nonresidential development to assist in the determination of the amount of the transportation fee for such development or subdivision. The municipality shall set forth by ordinance the circumstances in which such a study should be authorized or required, provided however, that no special transportation study shall be required when there is no deviation from the land use assumptions resulting in increased density, intensity or trip generation by a particular development. A developer or municipality may, however, at any time, voluntarily prepare and submit a traffic study for a proposed development or may have such a study prepared at its expense after the development is completed to include actual trips generated by the development for use in any appeal as provided for under this act. The special transportation study shall be prepared by a qualified traffic or transportation engineer using procedures and methods established by the municipality based on generally accepted transportation planning and engineering standards. The study, where required by the municipality, shall be submitted prior to the imposition of an impact fee and shall be taken into consideration by the municipality in increasing or reducing the amount of the impact fee for the new development for the amount shown on the impact fee schedule adopted by the municipality.

(b) The governing body shall enact an impact ordinance setting forth a description of the boundaries and a fee schedule for each transportation service area. At least ten working days prior to the adoption of the ordinance at a public meeting, the ordinance shall be available for public inspection. The impact fee ordinance shall include, but not be limited to, those provisions set forth in section 503-A(a) and conform with the standards, provisions and procedures set forth in this act.

(c)(1) A municipality may give notice of its intention to adopt an impact fee ordinance by publishing a statement of such intention twice in one newspaper of general circulation in the municipality. The first publication shall not occur before the adoption of the resolution by which the municipality establishes its impact fee advisory committee. The second publication shall occur not less than one nor more than three weeks thereafter.

- (2) A municipal impact fee ordinance adopted under and pursuant to this act may provide that the provisions of the ordinance may have retroactive application, for a period not to exceed 18 months after the adoption of the resolution creating an impact fee advisory committee pursuant to section 504-A (b)(1), to preliminary or tentative applications for land development, subdivision or PRD. with the municipality on or after the first publication of the municipality's intention to adopt an impact fee ordinance; provided, however, that the impact fee imposed on building permits for construction of new development approved pursuant to such applications filed during the period of pendency shall not exceed \$1,000 per anticipated peak hour trip as calculated in accordance with the generally accepted traffic engineering standards as set forth under the provisions of subsection (a)(1) or the subsequently adopted fee established by the ordinance, whichever is less.
- (3) No action upon an application for land development, subdivision or PRD. shall be postponed, delayed or extended by the municipality because adoption of a municipal impact fee ordinance is being considered. Furthermore, the adoption of an impact fee ordinance more than 18 months after adoption of a resolution creating the impact fee advisory committee shall not be retroactive or applicable to plats submitted for preliminary or tentative approval prior to the legal publication of the proposed impact fee ordinance and any fees collected pursuant to this subsection shall be refunded to the payor of such fees; provided the adoption of the impact fee ordinance was not delayed due to the initiation of any litigation challenging the adoption of such ordinance.

(d) Any impact fees collected by a municipality pursuant to a municipal ordinance shall be deposited by the municipality into an interest-bearing fund account designated solely for impact fees, clearly identifying the transportation service area from which the fee was received. Funds collected in one transportation service area must

be accounted for and expended within that transportation service area, and such funds shall only be expended for that portion of the transportation capital improvements identified as being funded by impact fees under the transportation capital improvements plan. Notwithstanding any other provisions of this act, municipalities may expend impact fees paid by an applicant on projects not contained in the adopted transportation capital improvement plan, or may provide credit against impact fees for the value of any construction projects not contained in the transportation capital improvement plan which are performed at the applicant's expense, if all of the following criteria are met:

- (1) The applicant has provided written consent to use of its collected impact fees, or the provision of such credit against the applicant's impact fees, for specific transportation projects which are not included in the transportation capital improvement plan.
- (2) The alternative transportation projects, whether highway or multimodal, have as their purpose the reduction of traffic congestion or the removal of vehicle trips from the roadway network.
- (3) The municipality amends its transportation capital improvement plan components required by section 504-A(e)(1)(vi) to provide replacement of the collected impact fees transferred to transportation projects outside the approved transportation capital improvement plan from sources other than impact fees or developer contributions within three years of completion of the alternative projects to which the transferred fees were applied or for which credit was provided. All interest earned on such funds shall become funds of that account. The municipality shall provide that an accounting be made annually for any fund account containing impact fee proceeds and earned interest. Such accounting shall include, but not be limited to, the total funds collected, the source of the funds collected, the total amount of interest accruing on such funds and the amount of funds expended on specific transportation improvements. Notice of the availability of the results of the accounting shall be included and published as part of the annual audit required of municipalities. A copy of the report shall also be provided to the advisory committee.

(e) All transportation impact fees imposed under the terms of this act shall be payable at the time of the issuance of building permits for the applicable new development or subdivision. The municipality may not require the applicant to provide a guarantee of financial security for the payment of any transportation impact fees, except the municipality may provide for the deposit with the municipality of financial security in an amount sufficient to cover the cost of the construction of any road improvement contained in the transportation capital improvement plan which is performed by the applicant.

(f) An applicant shall be entitled to a credit against the impact fee in the amount of the fair market value of any land dedicated by the applicant to the municipality for future right-of-way, realignment or widening of any existing roadways or for the value of any construction of road improvements contained in the transportation capital improvement program which is performed at the applicant's expense. The amount of such credit for any capital improvement constructed shall be the amount allocated in the capital improvement program, including contingency factors, for such work. The fair market value of any and dedicated by the applicant shall be determined as of the date of the submission of the land development or subdivision application to the municipality.

(g) Impact fees previously collected by a municipality shall be refunded, together with earned accrued interest thereon, to the payor of such fees from the date of payment under any of the following circumstances:

- (1) In the event that a municipality terminates or completes an adopted capital improvements plan for a transportation service area and there remains at the time of termination or completion undispersed funds in the accounts established for that purpose, the municipality shall provide written notice by certified mail to those persons who previously paid the fees which remain undispersed of the availability of said funds for refund of the person's proportionate share of the fund balance. The allocation of the refund shall be determined by generally accepted accounting practices. In the event that any of the funds remain unclaimed following one year after the notice, which notice shall be provided to the last known address provided by the payor of the fees to the municipality, the municipality shall be authorized to transfer any funds so remaining to any other fund in the municipality without any further obligation to refund said funds.
- (2) If the municipality fails to commence construction of any transportation service area road improvements within three years of the scheduled construction date set forth in the transportation capital improvements plan, any person who paid any impact fees pursuant to that transportation capital improvements plan shall,

upon written request to the municipality, receive a refund of that portion of the fee attributable to the contribution for the uncommenced road improvement, plus the interest accumulated thereon from the date of payment.

- (3) If, upon completion of any road improvements project, the actual expenditures of the capital project are less than 95% of the costs properly allocable to the fee paid within the transportation service area in which the completed road improvement was adopted, the municipality shall refund the pro rata difference between the budgeted costs and the actual expenditures, including interest accumulated thereon from the date of payment, to the person or persons who paid the impact fees for such improvements.
- (4) If the new development for which transportation impact fees were paid is not commenced prior to the expiration of building permits issued for the new development within the time limits established by applicable building codes within the municipality or if the building permit as issued for the new development is altered and the alteration results in a decrease in the amount of the impact fee due in accordance with the calculations set forth in subsection (a)(1).

(h) Where an impact fee ordinance has been adopted pursuant to the other provisions of this act, the ordinance may impose an additional impact fee upon new developments which generate 1,000 or more new peak-hour trips, net of pass-by trips as defined by the current edition of the institute of transportation engineers trip generation manual, during the peak-hour period designated in the ordinance. In such case, the impact fee ordinance adopted under this act may require the applicant for such a development to perform a traffic analysis of development traffic impact on highways, roads or streets outside the transportation service area in which the development site is located but within the boundaries of the municipality or municipalities adopting a joint municipal impact fee ordinance or municipalities which are participating in a joint municipal authority authorized to impose impact fees by this article. Any such highways, roads or streets or parts thereof outside the transportation service area which will accommodate 10% or more of development traffic and 100 or more new peak-hour trips may be required to be studied, and the ordinance may require the applicant to mitigate the traffic impacts of the development on such highways, roads and streets to maintain the predevelopment conditions after completion of the development.

Section 506-A. Appeals.

(a) Any person required to pay an impact fee shall have the right to contest the land use assumptions, the development and implementation of the transportation capital improvement program, the imposition of impact fees, the periodic updating of the transportation capital improvement program, the refund of impact fees and all other matters relating to impact fees, including the constitutionality or validity of the impact fee ordinance by filing an appeal with the court of common pleas.

(b) A master may be appointed by the court to hear testimony on the issues and return the record and a transcript of the testimony, together with a report and recommendations, or the court may appoint a master to hold a nonrecord hearing and to make recommendations and return the same to the court, in which case either party may demand a hearing de novo before the court.

(c) Any cost incurred by parties in such an appeal shall be the separate responsibility of the parties.

Section 507-A. Prerequisites for Assessing Sewer and Water Tap-in Fees.

(a) No municipality may charge any tap-in connection or other similar fee as a condition of connection to a municipally owned sewer or water system unless such fee is calculated as provided in the applicable provisions of the act of May 2, 1945, (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."

(b) Where a municipally owned water or sewer system is to be extended at the expense of the owner or owners of properties or where the municipality otherwise would construct the connection end or customer facilities services (other than water meter installation), the property owner or owners shall have the right to construct such extension or make such connection and install such customer facilities himself or themselves or through a subcontractor in accordance with the "Municipality Authorities Act of 1945."

(c) Where a property owner or owners construct or cause to be constructed any addition, expansion or extension to or of a sewer or water system of a municipality whereby such addition, expansion or extension provides future excess capacity to accommodate future development upon the lands of others, the municipality shall provide for the reimbursement to the property owner or owners in accordance with the provisions of the "Municipality Authorities Act of 1945."

Section 508-A. Joint Municipal Impact Fee Ordinance.

(a) For the purpose of permitting municipalities which cooperatively plan for their future to also provide for transportation capital improvements in a cooperative manner, the governing bodies of each municipality which has adopted a joint municipal comprehensive plan pursuant to Article XI, in accordance with the conditions and procedures set forth in this article, may cooperate with one or more municipalities to enact, amend and repeal joint transportation impact fee ordinances to accomplish the purposes of this act in accordance with this article.

(b) The procedures set forth in this article shall be applicable to the enactment of a joint municipal impact fee ordinance.

(c) Each municipality party to a joint municipal impact fee ordinance shall approve the advisory committee and shall adopt the land use assumptions, roadway sufficiency analysis, capital improvement plan, and ordinances and amendments thereto in accordance with the procedures in this article, and no such ordinance shall become effective until it has been properly adopted by all the participating municipalities.

Article VI – Zoning

Section 601. General Powers. The governing body of each municipality, in accordance with the conditions and procedures set forth in this act, may enact, amend and repeal zoning ordinances to implement comprehensive plans and to accomplish any of the purposes of this act.

Section 602. County Powers. The powers of the governing bodies of counties to enact, amend and repeal zoning ordinances shall be limited to land in those municipalities, wholly or partly within the county, which have no zoning ordinance in effect at the time a zoning ordinance is introduced before the governing body of the county and until the municipality's zoning ordinance is in effect. The enactment of a zoning ordinance by any municipality, other than the county, whose land is subject to county zoning shall act as a repeal protanto of the county zoning ordinance within the municipality adopting such ordinance.

Section 602.1. County Review; Dispute Resolution. The county planning commission shall offer a mediation option to any municipality which believes that its citizens will experience harm as the result of the adoption of a zoning ordinance or an amendment to an existing zoning ordinance in contiguous municipalities, if the contiguous municipalities agree. In exercising such an option, the municipalities shall comply with the procedures set forth in Article IX. The cost of the mediation shall be shared equally by the parties, unless otherwise agreed.

Section 603. Ordinance Provisions.

(a) Zoning ordinances should reflect the policy goals of the statement of community development objectives required in section 606, and give consideration to the character of the municipality, the needs of the citizens and the suitabilities and special nature of particular parts of the municipality.

(b) Zoning ordinances, except to the extent that those regulations of mineral extraction by local ordinances and enactments have heretofore been superseded and preempted by the act of May 31, 1945 (P.L.1198, No.418), known as the "Surface Mining Conservation and Reclamation Act," the act of December 19, 1984 (P.L.1093, No.219), known as the "Noncoal Surface Mining Conservation and Reclamation Act," and the act of December 19, 1984 (P.L.1140, No.223), known as the "Oil and Gas Act," and to the extent that the subsidence impacts of coal extraction are regulated by the act of April 27, 1966 (1ST Sp.Sess., P.L.31, No.1), known as "The Bituminous Mine Subsidence and Land Conservation Act," and that regulation of activities related to commercial agricultural production would exceed the requirements imposed under the act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act," regardless of whether any agricultural operation within the area to be affected by the ordinance would be a concentrated animal operation as defined by the "Nutrient Management Act," the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," or the act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances," or that regulation of other activities are preempted by other federal or state laws may permit, prohibit, regulate, restrict and determine:

- (1) Uses of land, watercourses and other bodies of water.
- (2) Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures.
- (3) Areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures.
- (4) Density of population and intensity of use.
- (5) Protection and preservation of natural and historic resources and prime agricultural land and activities.

(c) Zoning ordinances may contain:

- (1) provisions for special exceptions and variances administered by the zoning hearing board, which provisions shall be in accordance with this act;
- (2) provisions for conditional uses to be allowed or denied by the governing body after recommendations by the planning agency and hearing, pursuant to express standards and criteria set forth in the zoning

ordinance. Notice of hearings on conditional uses shall be provided in accordance with section 908(1), and notice of the decision shall be provided in accordance with section 908(10). In allowing a conditional use, the governing body may attach such reasonable conditions and safeguards, other than those related to off-site transportation or road improvements, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance;

(2.1) ((2.1) deleted by amendment June 22, 2000, P.L.495, No. 68)

(2.2) provisions for regulating transferable development rights, on a voluntary basis, including provisions for the protection of persons acquiring the same, in accordance with express standards and criteria set forth in the ordinance and section 619.1;

(3) provisions for the administration and enforcement of such ordinances;

(4) such other provisions as may be necessary to implement the purposes of this act;

(5) provisions to encourage innovation and to promote flexibility, economy and ingenuity in development, including subdivisions and land developments as defined in this act;

(6) provisions authorizing increases in the permissible density of population or intensity of a particular use based upon expressed standards and criteria set forth in the zoning ordinance; and

(7) provisions to promote and preserve prime agricultural land, environmentally sensitive areas and areas of historic significance.

(c) amended July 4, 2008, P.L.319, No.39)

(d) Zoning ordinances may include provisions regulating the siting, density and design of residential, commercial, industrial and other developments in order to assure the availability of reliable, safe and adequate water supplies to support the intended land uses within the capacity of available water resources.

(e) Zoning ordinances may not unduly restrict the display of religious symbols on property being used for religious purposes.

(f) Zoning ordinances may not unreasonably restrict forestry activities. To encourage maintenance and management of forested or wooded open space and promote the conduct of forestry as a sound and economically viable use of forested land throughout this commonwealth, forestry activities, including, but not limited to, timber harvesting, shall be a permitted use by right in all zoning districts in every municipality.

(g)(1) zoning ordinances shall protect prime agricultural land and may promote the establishment of agricultural security areas.

(2) zoning ordinances shall provide for protection of natural and historic features and resources.

(h) Zoning ordinances shall encourage the continuity, development and viability of agricultural operations. Zoning ordinances may not restrict agricultural operations or changes to or expansions of agricultural operations in geographic areas where agriculture has traditionally been present, unless the agricultural operation will have a direct adverse effect on the public health and safety. Nothing in this subsection shall require a municipality to adopt a zoning ordinance that violates or exceeds the provisions of the act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act," the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," or the act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances."

(i) Zoning ordinances shall provide for the reasonable development of minerals in each municipality.

(j) Zoning ordinances adopted by municipalities shall be generally consistent with the municipal or multimunicipal comprehensive plan or, where none exists, with the municipal statement of community development objectives and

the county comprehensive plan. If a municipality amends its zoning ordinance in a manner not generally consistent with its comprehensive plan, it shall concurrently amend its comprehensive plan in accordance with Article III.

(k) A municipality may amend its comprehensive plan at any time, provided that the comprehensive plan remains generally consistent with the county comprehensive plan and compatible with the comprehensive plans of abutting municipalities.

(l) Zoning ordinances shall permit no-impact home-based businesses in all residential zones of the municipality as a use permitted by right, except that such permission shall not supersede any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community.

Section 603.1. Interpretation of Ordinance Provisions. In interpreting the language of zoning ordinances to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction.

Section 604. Zoning Purposes. The provisions of zoning ordinances shall be designed:

- (1) To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations, airports, and national defense facilities, the provisions of adequate light and air; access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.
- (2) To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- (3) To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- (4) To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.
- (5) To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

Section 605. Classifications. In any municipality, other than a county, which enacts a zoning ordinance, no part of such municipality shall be left unzoned. The provisions of all zoning ordinances may be classified so that different provisions may be applied to different classes of situations, uses and structures and to such various districts of the municipality as shall be described by a map made part of the zoning ordinance. Where zoning districts are created, all provisions shall be uniform for each class of uses or structures, within each district, except that additional classifications may be made within any district:

- (1) For the purpose of making transitional provisions at and near the boundaries of districts. (1.1) For the purpose of regulating nonconforming uses and structures.
- (2) For the regulation, restriction or prohibition of uses and structures at, along or near:
 - (i) major thoroughfares, their intersections and interchanges, transportation arteries and rail or transit terminals;
 - (ii) natural or artificial bodies of water, boat docks and related facilities;
 - (iii) places of relatively steep slope or grade, or other areas of hazardous geological or topographic features;

- (iv) public buildings and public grounds;
- (v) aircraft, helicopter, rocket, and spacecraft facilities;
- (vi) places having unique historical, architectural or patriotic interest or value; or
- (vii) flood plain areas, agricultural areas, sanitary landfills, and other places having a special character or use affecting and affected by their surroundings.

As among several classes of zoning districts, the provisions for permitted uses may be mutually exclusive, in whole or in part.

- (3) For the purpose of encouraging innovation and the promotion of flexibility, economy and ingenuity in development, including subdivisions and land developments as defined in this act, and for the purpose of authorizing increases in the permissible density of population or intensity of a particular use based upon expressed standards and criteria set forth in the zoning ordinance.
- (4) For the purpose of regulating transferable development rights on a voluntary basis.

Section 606. Statement of Community Development Objectives. Zoning ordinances enacted after the effective date of this act should reflect the policy goals of the municipality as listed in a statement of community development objectives, recognizing that circumstances can necessitate the adoption and timely pursuit of new goals and the enactment of new zoning ordinances which may neither require nor allow for the completion of a new comprehensive plan and approval of new community development objectives. This statement may be supplied by reference to the community comprehensive plan or such portions of the community comprehensive plan as may exist and be applicable or may be the statement of community development objectives provided in a statement of legislative findings of the governing body of the municipality with respect to land use; density of population; the need for housing, commerce and industry; the location and function of streets and other community facilities and utilities; the need for preserving agricultural land and protecting natural resources; and any other factors that the municipality believes relevant in describing the purposes and intent of the zoning ordinance.

Section 607. Preparation of Proposed Zoning Ordinance.

- (a) The text and map of the proposed zoning ordinance, as well as all necessary studies and surveys preliminary thereto, shall be prepared by the planning agency of each municipality upon request by the governing body.
- (b) In preparing a proposed zoning ordinance, the planning agency shall hold at least one public meeting pursuant to public notice and may hold additional public meetings upon such notice as it shall determine to be advisable.
- (c) Upon the completion of its work, the planning agency shall present to the governing body the proposed zoning ordinance, together with recommendations and explanatory materials.
- (d) The procedure set forth in this section shall be a condition precedent to the validity of a zoning ordinance adopted pursuant to this act.
- (e) If a county planning agency shall have been created for the county in which the municipality adopting the ordinance is located, then at least 45 days prior to the public hearing by the local governing body as provided in section 608, the municipality shall submit the proposed ordinance to said county planning agency for recommendations.

Section 608. Enactment of Zoning Ordinance. Before voting on the enactment of a zoning ordinance, the governing body shall hold a public hearing thereon, pursuant to public notice, and pursuant to mailed notice and electronic notice to any owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has made a timely request in accordance with section 109. The vote on the enactment by the governing body shall be within 90 days after the last public hearing. Within 30 days after enactment, a copy of the zoning ordinance shall be forwarded to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 608.1. Municipal Authorities and Water Companies.

- (a) A municipal authority, water company or any other municipality that plans to expand water, sanitary sewer or storm sewer service via a new main extension to a proposed development that has not received any municipal approvals within the municipality shall notify the municipality by certified mail, return receipt requested, of its intention and shall provide the municipality an opportunity to provide written comment on whether the proposed expansion of service within the municipality is generally consistent with the zoning ordinance.
- (b) The purpose of the requirement of this section is to provide the municipal authority, water company or any other municipality with information regarding how its decision to expand service may potentially enhance and support or conflict with or negatively impact on the land use planning of municipalities.
- (c) Nothing in this section shall be construed as limiting the right of a municipal authority, water company or any other municipality to expand service as otherwise permitted by law.
- (d) Except as provided in section 619.2, nothing in this act shall be construed as limiting the authority of the Pennsylvania Public Utility Commission over the implementation, location, construction and maintenance of public utility facilities. The requirement of this section shall not apply to an expansion of service by a municipal authority, water company or other municipality which is ordered by a court or a federal or state agency.
- (e) As used in this section:
- (1) A “decision to expand service within the municipality” shall mean a decision to expand the number of its individual service connections for distribution or collection within a municipality as a result of a main extension; but, if the number of individual service connections are not being increased, locating or acquiring transmission lines or interceptors, or wells, reservoirs, aquifers, pump stations, water storage tanks or other facilities by a municipal authority or water company in a new area of a municipality shall not be deemed an expansion of service.
 - (2) A “water company” shall include any person or corporation, including a municipal corporation operating beyond its corporate limits, which furnishes water to or for the public for compensation.
- (f) Nothing in this section shall be construed to authorize a municipality to regulate the allocation or withdrawal of water resources by any person, municipal authority or water company that is otherwise regulated by the Pennsylvania Public Utility Commission or other Federal or state agencies or statutes.

Section 609. Enactment of Zoning Ordinance Amendments.

- (a) For the preparation of amendments to zoning ordinances, the procedure set forth in section 607 for the preparation of a proposed zoning ordinance shall be optional.
- (b)(1) Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice, and pursuant to mailed notice and electronic notice to an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has made a timely request in accordance with section 109. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
- (2)(i) In addition to the requirement that notice be posted under clause (1), where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality at least thirty days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection.
- (ii) This clause shall not apply when the rezoning constitutes a comprehensive rezoning.

(c) In the case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency at least 30 days prior to the hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.

(d) If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the governing body shall hold another public hearing, pursuant to public notice, mailed notice and electronic notice, before proceeding to vote on the amendment.

(e) If a county planning agency shall have been created for the county in which the municipality proposing the amendment is located, then at least 30 days prior to the public hearing on the amendment by the local governing body, the municipality shall submit the proposed amendment to the county planning agency for recommendations.

(f) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX.

(g) Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 609.1. Procedure for Landowner Curative Amendments.

(a) A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided as provided in section 916.1. The governing body shall commence a hearing thereon within 60 days of the request as provided in section 916.1. The curative amendment and challenge shall be referred to the planning agency or agencies as provided in section 609 and notice of the hearing thereon shall be given as provided in section 610 and in section 916.1.

(b) The hearing shall be conducted in accordance with section 908 and all references therein to the zoning hearing board shall, for purposes of this section be references to the governing body: provided, however, that the provisions of section 908 (1.2) and (9) shall not apply and the provisions of section 916.1 shall control. If a municipality does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire zoning ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

(c) The governing body of a municipality which has determined that a validity challenge has merit may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The governing body shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

- (1) the impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
- (2) if the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;
- (3) the suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;
- (4) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and

- (5) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

Section 609.2. Procedure for Municipal Curative Amendments. If a municipality determines that its zoning ordinance or any portion thereof is substantially invalid, it shall take the following actions:

- (1) A municipality shall declare by formal action, its zoning ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following such declaration and proposal the governing body of the municipality shall:
 - (i) By resolution make specific findings setting forth the declared invalidity of the zoning ordinance which may include:
 - (A) references to specific uses which are either not permitted or not permitted in sufficient quantity;
 - (B) reference to a class of use or uses which require revision; or
 - (C) reference to the entire ordinance which requires revisions.
 - (ii) Begin to prepare and consider a curative amendment to the zoning ordinance to correct the declared invalidity.
- (2) Within 180 days from the date of the declaration and proposal, the municipality shall enact a curative amendment to validate, or reaffirm the validity of, its zoning ordinance pursuant to the provisions required by section 609 in order to cure the declared invalidity of the zoning ordinance.
- (3) Upon the initiation of the procedures, as set forth in clause (1), the governing body shall not be required to entertain or consider any landowner's curative amendment filed under section 609.1 nor shall the zoning hearing board be required to give a report requested under section 909.1 or 916.1 subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by clause (1)(a). Upon completion of the procedures as set forth in clauses (1) and (2), no rights to a cure pursuant to the provisions of sections 609.1 and 916.1 shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended zoning ordinance for which there has been a curative amendment pursuant to this section.
- (4) A municipality having utilized the procedures as set forth in clauses (1) and (2) may not again utilize said procedure for a 36-month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its zoning ordinance, pursuant to clause (2); provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the municipality by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the municipality may utilize the provisions of this section to prepare a curative amendment to its ordinance to fulfill said duty or obligation.

Section 610. Publication, Advertisement and Availability of Ordinances.

(a) Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than 7 days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

- (1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.
- (2) An attested copy of the proposed ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

(b) In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall, at least ten days prior to enactment, readvertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

(c) Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

Section 611. Publication After Enactment. (611 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 613. Registration of Nonconforming Uses, Structures and Lots. Zoning ordinances may contain provisions requiring the zoning officer to identify and register nonconforming uses, structures and lots, together with the reasons why the zoning officer identified them as nonconformities.

Section 614. Appointment and Powers of Zoning Officer. For the administration of a zoning ordinance, a zoning officer, who shall not hold any elective office in the municipality, shall be appointed. The zoning officer shall meet qualifications established by the municipality and shall be able to demonstrate to the satisfaction of the municipality a working knowledge of municipal zoning. The zoning officer shall administer the zoning ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the zoning ordinance. Zoning officers may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of their employment.

Section 615. Zoning Appeals. All appeals from decisions of the zoning officer shall be taken in the manner set forth in this act.

Section 616. Enforcement Penalties. (616 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 616.1. Enforcement Notice.

(a) If it appears to the municipality that a violation of any zoning ordinance enacted under this act or prior enabling laws has occurred, the municipality shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

(b) The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

(c) An enforcement notice shall state at least the following:

- (1) The name of the owner of record and any other person against whom the municipality intends to take action.
- (2) The location of the property in violation.
- (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
- (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (5) That the recipient of the notice has the right to appeal to the zoning hearing board within a prescribed period of time in accordance with procedures set forth in the ordinance.
- (6) That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.

(d) In any appeal of an enforcement notice to the zoning hearing board the municipality shall have the responsibility of presenting its evidence first.

(e) Any filing fees paid by a party to appeal an enforcement notice to the zoning hearing board shall be returned to the appealing party by the municipality if the zoning hearing board, or any court in a subsequent appeal, rules in the appealing party's favor.

Section 617. Causes of Action. In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any ordinance enacted under this act or prior enabling laws, the governing body or, with the approval of the governing body, an officer of the municipality, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least 30 days prior to the time the action is begun by serving a copy of the complaint on the governing body of the municipality. No such action may be maintained until such notice has been given.

Section 617.1. Jurisdiction. District justices shall have initial jurisdiction over proceedings brought under section 617.2.

Section 617.2. Enforcement Remedies.

(a) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the municipality whose ordinance has been violated.

(b) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

Section 617.3. Finances and Expenditures.

(a) The governing body may appropriate funds to finance the preparation of zoning ordinances and shall appropriate funds for administration, for enforcement and for actions to support or oppose, upon appeal to the courts, decisions of the zoning hearing board.

(b) The governing body shall make provision in its budget and appropriate funds for the operation of the zoning hearing board.

(c) The zoning hearing board may employ or contract for and fix the compensation of legal counsel, as the need arises. The legal counsel shall be an attorney other than the municipal solicitor. The board may also employ or contract for and fix the compensation of experts and other staff and may contract for services as it shall deem necessary. The compensation of legal counsel, experts and staff and the sums expended for services shall not exceed the amount appropriated by the governing body for this use.

(d) For the same purposes, the governing body may accept gifts and grants of money and services from private sources and from the county, State and Federal Governments.

(e) The governing body may prescribe reasonable fees with respect to the administration of a zoning ordinance and with respect to hearings before the zoning hearing board. Fees for these hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.

Section 618. Finances. (618 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 619. Exemptions. This article shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

Section 619.1. Transferable Development Rights.

(a) To and only to the extent a local ordinance enacted in accordance with this article and Article VII so provides, there is hereby created, as a separate estate in land, the development rights therein, and the same are declared to be severable and separately conveyable from the estate in fee simple to which they are applicable.

(b) The development rights shall be conveyed by a deed duly recorded in the office of the recorder of deeds in and for the county in which the municipality whose ordinance authorizes such conveyance is located.

(c) The recorder of deeds shall not accept for recording any such instrument of conveyance unless there is endorsed thereon the approval of the municipal governing body having zoning or planned residential development jurisdiction over the land within which the development rights are to be conveyed, dated not more than 60 days prior to the recording.

(d) No development rights shall be transferable beyond the boundaries of the municipality wherein the lands from which the development rights arise are situated except that, in the case of a joint municipal zoning ordinance, or a written agreement among two or more municipalities, development rights shall be transferable within the boundaries of the municipalities comprising the joint municipal zoning ordinance or where there is a written agreement, the boundaries of the municipalities who are parties to the agreement.

Section 619.2. Effect of Comprehensive Plans and Zoning Ordinances.

(a) When a county adopts a comprehensive plan in accordance with sections 301 and 302 and any municipalities therein have adopted comprehensive plans and zoning ordinances accordance with sections 301, 303(d) and 603(j), Commonwealth agencies shall consider and may rely upon comprehensive plans and zoning ordinances when reviewing applications for the funding or permitting of infrastructure or facilities.

(b) The Center for Local Government Services shall work with municipalities to coordinate Commonwealth agency program resources with municipal planning and zoning activities. Upon request, the center for local government services shall assist municipalities in identifying and assessing the impact of Commonwealth agency decisions and their effect on municipal and multimunicipal planning and zoning. Upon the authorization of the governor, the center for local government services shall have access to information, services, functions and other resources in the possession of executive agencies under the governor's jurisdiction to fulfill its obligations under this section.

(c) When municipalities adopt a joint municipal zoning ordinance:

- (1) Commonwealth agencies shall consider, and may rely upon the joint municipal zoning ordinance for the funding or permitting of infrastructure or facilities.
- (2) The municipalities may, by agreement, share tax revenues and fees remitted to municipalities located within the joint municipal zone.

Section 621. Prohibiting the Location of Methadone Treatment Facilities in Certain Locations.

(a)(1) Notwithstanding any other provision of law to the contrary and except as provided in subsection (b), a methadone treatment facility shall not be established or operated within 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

(2) The provisions of this subsection shall apply whether or not an occupancy permit or certificate of use has been issued to the owner or operator of a methadone treatment facility for a location that is within 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

(b) Notwithstanding subsection (a), a methadone treatment facility may be established and operated closer than 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility if, by majority vote, the governing body for the municipality in which the proposed methadone treatment facility is to be located votes in favor of the issuance of an occupancy permit or certificate of use for said facility at such a location. At least 14 days prior to the governing body of a municipality voting on whether to approve the issuance of an occupancy permit or certificate of use for a methadone treatment facility at a location that is closer than 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility, one or more public hearings regarding the proposed methadone treatment facility location shall be held within the municipality following public notice. All owners of real property located within 500 feet of the proposed location shall be provided written notice of said public hearings at least 30 days prior to said public hearings occurring.

(c) This section shall not apply to a methadone treatment facility that is licensed by the Department of Health prior to May 15, 1999.

(d) As used in this section, the term “methadone treatment facility” shall mean a facility licensed by the Department of Health to use the drug methadone in the treatment, maintenance or detoxification of persons.

Article VII – Planned Residential Development

Section 701. Purposes. In order that the purposes of this act be furthered in an era of increasing urbanization and of growing demand for housing of all types and design; to insure that the provisions of Article VI which are concerned in part with the uniform treatment of dwelling type, bulk, density, intensity and open space within each zoning district, shall not be applied to the improvement of land by other than lot by lot development in a manner that would distort the objectives of that Article VI; to encourage innovations in residential and nonresidential development and renewal so that the growing demand for housing and other development may be met by greater variety in type, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses; so that greater opportunities for better housing and recreation may extend to all citizens and residents of this Commonwealth; and in order to encourage a more efficient use of land and of public services and to reflect changes in the technology of land development so that economies secured may enure to the benefit of those who need homes and for other uses; and, in aid of these purposes, to provide a procedure which can relate the type, design and layout of residential and nonresidential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential and nonresidential areas, and to insure that the increased flexibility of regulations over land development authorized herein is carried out under such administrative standards and procedures as shall encourage the disposition of proposals for land development without undue delay, the following powers are granted to all municipalities.

Section 702. Grant of Power. The governing body of each municipality may enact, amend and repeal provisions within a zoning ordinance fixing standards and conditions for planned residential development. The enactment of such provisions shall be in accordance with the procedures required for the enactment of an amendment of a zoning ordinance as provided in Article VI of this act. Pursuant to such provisions the governing body may approve, modify or disapprove any development plan within the municipality adopting such provisions or designate the planning agency as its official agency for such purposes. Such provisions shall:

- (1) Specify whether the governing body, or the planning agency shall administer planned residential development provisions pursuant to the provisions of this article;
- (2) Set forth the standards, conditions and regulations for a planned residential development consistent with the provisions of this article; and
- (3) Set forth the procedures pertaining to the application for, hearing on and tentative and final approval of a planned residential development, which shall be consistent with the provisions of this article for such applications and hearings.

Section 702.1. Transferable Development Rights. Municipalities electing to enact planned residential development provisions may also incorporate therein provisions for transferable development rights, on a voluntary basis, in accordance with express standards and criteria set forth in the ordinance and with the requirements of Article VI.

Section 703. Applicability of Comprehensive Plan and Statement of Community Development Objectives. All provisions and all amendments thereto adopted pursuant to this article shall be based on and interpreted in relation to the statement of community development objectives of the zoning ordinance and may be related to either the comprehensive plan for the development of the municipality prepared under the provisions of this act or a statement of legislative findings in accordance with section 606. Every application for approval of a planned residential development either shall be based on and interpreted in relation to the statement of community development objectives, and may be related to the comprehensive plan, or shall be based on and interpreted in relation to the statement of legislative findings.

Section 704. Jurisdiction of County Planning Agencies.

(a) When any county has adopted planned residential development provisions in accordance with the terms of this article, a certified copy of such provisions shall be sent to every municipality within the county. All amendments shall also be sent to the aforementioned municipalities.

(b) The powers of governing bodies of counties to enact, amend and repeal planned residential development provisions shall not supersede any local planned residential development, zoning or subdivision and land development ordinance which is already in effect or subsequently becomes effective in any municipality within such county, provided that a certified copy of such provision is filed with the county planning agency, if one exists. However, all applications for tentative approval of planned residential development of land located within a municipality having adopted planned residential development provisions as set forth in this article shall nevertheless be referred to the county planning agency, if one exists, for study and recommendation and such county planning agency shall be required to report to such municipality within 30 days or forfeit the right to review.

Section 705. Standards and Conditions for Planned Residential Development.

(a) All provisions adopted pursuant to this article shall set forth all the standards, conditions and regulations by which a proposed planned residential development shall be evaluated, and said standards, conditions and regulations shall be consistent with the following subsections.

(b) The provisions adopted pursuant to this article shall set forth the uses permitted in a planned residential development, which uses may include but shall not be limited to:

- (1) Dwelling units of any dwelling type or configuration, or any combination thereof.
- (2) Those nonresidential uses deemed to be appropriate for incorporation in the design of the planned residential development.

(c) The provisions may establish regulations setting forth the timing of development among the various types of dwellings and may specify whether some or all nonresidential uses are to be built before, after or at the same time as the residential uses.

(d) The provisions adopted pursuant to this article shall establish standards governing the density, or intensity of land use, in a planned residential development. The standards may vary the density or intensity of land use, otherwise applicable to the land under the provisions of a zoning ordinance of the municipality within the planned residential development in consideration of all of the following:

- (1) The amount, location and proposed use of common open space.
- (2) The location and physical characteristics of the site of the proposed planned residential development.
- (3) The location, design, type and use of structures proposed.

(e) In the case of a planned residential development proposed to be developed over a period of years, standards established in provisions adopted pursuant to this article may, to encourage the flexibility of housing density, design and type intended by this article:

- (1) Permit a variation in each section to be developed from the density, or intensity of use, established for the entire planned residential development.
- (2) Allow for a greater concentration of density or intensity of land use, within some section or sections of development, whether it be earlier or later in the development than upon others.
- (3) Require that the approval of such greater concentration of density or intensity of land use for any section to be developed be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by a grant of easement or by covenant in favor of the municipality, provided that such reservation shall, as far as practicable, defer the precise location of such common open space until an application for final approval is filed, so that flexibility of development which is a prime objective of this article, can be maintained.

(f) The standards for a planned residential development established by provisions adopted pursuant to this article may require that the common open space resulting from the application of standards for density, or intensity of land use, shall be set aside for the use and benefit of the residents in such development and may include provisions which shall determine the amount and location of said common open space and secure its improvement and maintenance for common open space use, subject, however, to the following:

- (1) The municipality may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the municipality need not require, as a condition of the approval of a planned residential development, that land proposed to be set aside for common open space be dedicated or made available to public use. The provisions may require that the landowner provide for and establish an organization for the ownership and maintenance of the common open space, and that such organization shall not be dissolved nor shall it dispose of the common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the public.
 - (2) In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the planned residential development fail to maintain the common open space in reasonable order and condition in accordance with the development plan, the municipality may serve written notice upon such organization or upon the residents of the planned residential development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be corrected within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice. At such hearing the municipality may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected.
 - (3) If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within said 30 days or any extension thereof, the municipality, in order to preserve the taxable values of the properties within the planned residential development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said maintenance by the municipality shall not constitute a taking of said common open space, nor vest in the public any rights to use the same.
 - (4) Before the expiration of said year, the municipality shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the planned residential development, to be held by the governing body or its designated agency, at which hearing such organization or the residents of the planned residential development shall show cause why such maintenance by the municipality shall not, at the option of the municipality, continue for a succeeding year. If the governing body, or its designated agency, shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the municipality shall cease to maintain said common open space at the end of said year. If the governing body or its designated agency shall determine that such organization is not ready and able to maintain said common open space in a reasonable condition, the municipality may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.
 - (5) The decision of the governing body or its designated agency shall be subject to appeal to court in the same manner, and within the same time limitation, as is provided for zoning appeals by this act.
 - (6) The cost of such maintenance by the municipality shall be assessed ratably against the properties within the planned residential development that have a right of enjoyment of the common open space, and shall become a lien on said properties. The municipality at the time of entering upon said common open space for the purpose of maintenance shall file a notice of lien in the office of the prothonotary of the county, upon the properties affected by the lien within the planned residential development.
- (g) Provisions adopted pursuant to this article may require that a planned residential development contain a minimum number of dwelling units.
- (h) The authority granted a municipality by Article V to establish standards for the location, width, course and surfacing of streets, walkways, curbs, gutters, street lights, shade trees, water, sewage and drainage facilities, easements or rights-of-way for drainage and utilities, reservations of public grounds, other improvements, regulations for the height and setback as they relate to renewable energy systems and energy-conserving building design, regulations for the height and location of vegetation with respect to boundary lines, as they relate to renewable energy systems and energy-conserving building design, regulations for the type and location of

renewable energy systems or their components and regulations for the design and construction of structures to encourage the use of renewable energy systems, shall be vested in the governing body or the planning agency for the purposes of this article. The standards applicable to a particular planned residential development may be different than or modifications of, the standards and requirements otherwise required of subdivisions authorized under an ordinance adopted pursuant to Article V, provided, however, that provisions adopted pursuant to this article shall set forth the limits and extent of any modifications or changes in such standards and requirements in order that a landowner shall know the limits and extent of permissible modifications from the standards otherwise applicable to subdivisions.

(i) The provisions adopted pursuant to this article shall set forth the standards and criteria by which the design, bulk and location of buildings shall be evaluated, and all such standards and criteria for any feature of a planned residential development shall be set forth in such provisions with sufficient certainty to provide reasonable criteria by which specific proposals for a planned residential development can be evaluated. All standards in such provisions shall not unreasonably restrict the ability of the landowner to relate his development plan to the particular site and to the particular demand for housing existing at the time of development.

(j) Provisions adopted pursuant to this article shall include a requirement that, if water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the planned residential development, applicants shall present evidence to the governing body or planning agency, as the case may be, that the planned residential development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement, or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.

Section 706. Enforcement and Modification of Provisions of the Plan. To further the mutual interest of the residents of the planned residential development and of the public in the preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of the said residents upon the provisions of the development plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement or otherwise shall be subject to the following provisions:

- (1) The provisions of the development plan relating to:
 - (i) the use, bulk and location of buildings and structures;
 - (ii) the quantity and location of common open space, except as otherwise provided in this article; and
 - (iii) the intensity of use or the density of residential units; shall run in favor of the municipality and shall be enforceable in law or in equity by the municipality, without limitation on any powers of regulation otherwise granted the municipality by law.
- (2) All provisions of the development plan shall run in favor of the residents of the planned residential development but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by said residents acting individually, jointly, or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the planned residential development except as to those portions of the development plan which have been finally approved and have been recorded.
- (3) All those provisions of the development plan authorized to be enforced by the municipality under this section may be modified, removed, or released by the municipality, except grants or easements relating to the service or equipment of a public utility, subject to the following conditions:
 - (i) No such modification, removal or release of the provisions of the development plan by the municipality shall affect the rights of the residents of the planned residential development to maintain and enforce those provisions, at law or equity, as provided in this section.

- (ii) No modification, removal or release of the provisions of the development plan by the municipality shall be permitted except upon a finding by the governing body or the planning agency, following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of this article, that the same is consistent with the efficient development and preservation of the entire planned residential development, does not adversely affect either the enjoyment of land abutting upon or across the street from the planned residential development or the public interest, and is not granted solely to confer a special benefit upon any person.
- (4) Residents of the planned residential development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan but no such action shall affect the right of the municipality to enforce the provisions of the development plan in accordance with the provisions of this section.

Section 707. Application for Tentative Approval of Planned Residential Development. In order to provide an expeditious method for processing a development plan for a planned residential development under the provisions adopted pursuant to the powers granted herein, and to avoid the delay and uncertainty which would arise if it were necessary to secure approval, by a multiplicity of local procedures, of a plat of subdivision as well as approval of a change in the zoning regulations otherwise applicable to the property, it is hereby declared to be in the public interest that all procedures with respect to the approval or disapproval of a development plan for a planned residential development and the continuing administration thereof shall be consistent with the following provisions:

- (1) An application for tentative approval of the development plan for a planned residential development shall be filed by or on behalf of the landowner.
- (2) The application for tentative approval shall be filed by the landowner in such form, upon the payment of such a reasonable fee and with such officials of the municipality as shall be designated in the provisions adopted pursuant to this article.
- (3) All planning, zoning and subdivision matters relating to the platting, use and development of the planned residential development and subsequent modifications of the regulations relating thereto, to the extent such modification is vested in the municipality, shall be determined and established by the governing body or the planning agency.
- (4) The provisions shall require only such information in the application as is reasonably necessary to disclose to the governing body or the planning agency:
 - (i) the location, size and topography of the site and the nature of the landowner's interest in the land proposed to be developed;
 - (ii) the density of land use to be allocated to parts of the site to be developed;
 - (iii) the location and size of the common open space and the form of organization proposed to own and maintain the common open space;
 - (iv) the use and the approximate height, bulk and location of buildings and other structures;
 - (v) the feasibility of proposals for water supply and the disposition of sanitary waste and storm water;
 - (vi) the substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities;
 - (vii) the provisions for parking of vehicles and the location and width of proposed streets and public ways;
 - (viii) the required modifications in the municipal land use regulations otherwise applicable to the subject property;
 - (viii.1) the feasibility of proposals for energy conservation and the effective utilization of renewable energy sources; and
 - (ix) in the case of development plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the planned

residential development are intended to be filed and this schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted.

- (5) The application for tentative approval of a planned residential development shall include a written statement by the landowner setting forth the reasons why, in his opinion, a planned residential development would be in the public interest and would be consistent with the comprehensive plan for the development of the municipality.
- (6) The application for and tentative and final approval of a development plan for a planned residential development prescribed in this article shall be in lieu of all other procedures or approvals, otherwise required pursuant to Articles V and VI of this act.

Section 708. Public Hearings.

(a) Within 60 days after the filing of an application for tentative approval of a planned residential development pursuant to this article, a public hearing pursuant to public notice on said application shall be held by the governing body or the planning agency, if designated, in the manner prescribed in Article IX.

(b) The governing body or the planning agency may continue the hearing from time to time, and where applicable, may refer the matter back to the planning agency for a report, provided, however, that in any event, the public hearing or hearings shall be concluded within 60 days after the date of the first public hearing.

(c) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section and by subsequent sections in this article prior to final approval by the governing body. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX.

Section 709. The Findings.

(a) The governing body, or the planning agency, within 60 days following the conclusion of the public hearing provided for in this article or within 180 days after the date of filing of the application, whichever occurs first, shall, by official written communication, to the landowner, either:

- (1) grant tentative approval of the development plan as submitted;
- (2) grant tentative approval subject to specified conditions not included in the development plan as submitted; or
- (3) deny tentative approval to the development plan.

Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within 30 days after receiving a copy of the official written communication of the governing body notify such governing body of his refusal to accept all said conditions, in which case, the governing body shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the governing body of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

(b) The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and said communication shall set forth with particularity in what respects the development plan would or would not be in the public interest, including, but not limited to, findings of fact and conclusions on the following:

- (1) in those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the municipality;
- (2) the extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;

- (3) the purpose, location and amount of the common open space in the planned residential development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;
- (4) the physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;
- (5) the relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established; and
- (6) in the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan.

(c) In the event a development plan is granted tentative approval, with or without conditions, the governing body may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three months and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than 12 months.

Section 710. Status of Plan After Tentative Approval.

(a) The official written communication provided for in this article shall be certified by the municipal secretary or clerk of the governing body and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, it shall be deemed an amendment to the zoning map, effective upon final approval, and shall be noted on the zoning map.

(b) Tentative approval of a development plan shall not qualify a plat of the planned residential development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the municipality pending an application or applications for final approval, without the consent of the landowner, provided an application or applications for final approval is filed or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.

(c) In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the governing body in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those local ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the zoning map and in the records of the municipal secretary or clerk of the municipality.

Section 711. Application for Final Approval.

(a) An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the official of the municipality designated by the ordinance and within the time or times specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, covenants, easements, performance bond and such other requirements as may be specified by ordinance, as well as any conditions set forth in the official written communication at the time of tentative approval. A public hearing on an application for final approval of the development plan, or part thereof, shall not be required provided the development plan, or the part thereof,

submitted for final approval, is in compliance with the development plan theretofore given tentative approval and with any specified conditions attached thereto.

(b) In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the ordinance and the official written communication of tentative approval, the municipality shall, within 45 days from the date of the regular meeting of the governing body or the planning agency, whichever first reviews the application, next following the date the application is filed, grant such development plan final approval. Provided, however, that should the next regular meeting occur more than 30 days following the filing of the application, the 45-day period shall be measured from the 30th day following the day the application has been filed.

(c) In the event the development plan as submitted contains variations from the development plan given tentative approval, the approving body may refuse to grant final approval and shall, within 45 days from the date of the regular meeting of the governing body or the planning agency, whichever first reviews the application, next following the date the application is filed, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest.

Provided, however, that should the next regular meeting occur more than 30 days following the filing of the application, the 45-day period shall be measured from the 30th day following the day the application has been filed. In the event of such refusal, the landowner may either:

- (1) refile his application for final approval without the variations objected; or
- (2) file a written request with the approving body that it hold a public hearing on his application for final approval.

If the landowner wishes to take either such alternate action he may do so at any time within which he shall be entitled to apply for final approval, or within 30 additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within 30 days after request for the hearing is made by the landowner, and the hearing shall be conducted in the manner described in this article for public hearings on applications for tentative approval. Within 30 days after the conclusion of the hearing, the approving body shall by official written communication either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in this article. Failure of the governing body or agency to render a decision on an application for final approval and communicate it to the applicant within the time and in the manner required by this section shall be deemed an approval of the application for final approval, as presented, unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner or presentation of communication shall have like effect.

(d) A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the approving body and shall be filed of record forthwith in the office of the recorder of deeds before any development shall take place in accordance therewith. Upon the filing of record of the development plan the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion, in accordance with the time provisions stated in section 508, of said planned residential development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat, the developer shall record the plat in accordance with the provisions of section 513(a) and post financial security in accordance with section 509.

(e) In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the approving body in writing; or, in the event the landowner shall fail to commence and carry out the planned residential development in accordance with the time provisions stated in section 508 after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is reclassified by enactment of an amendment to the municipal zoning ordinance in the manner prescribed for such amendments in Article VI.

(f) Each month a municipality shall notify in writing the superintendent of a school district in which development plans for a planned residential development were finally approved by the municipality during the preceding month. The notice shall include, but not be limited to, the location of the development, the number and types of units to be included in the development and the expected construction schedule of the development.

Section 712.1. Jurisdiction. District justices shall have initial jurisdiction over proceedings brought under section 712.2.

Section 712.2. Enforcement Remedies.

(a) Any person, partnership or corporation, who or which has violated the planned residential development provisions of any ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the appropriate rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of planned residential development provisions shall be paid over to the municipality whose ordinance has been violated.

(b) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

Section 713. Compliance by Municipalities. Municipalities with planned residential development ordinances shall have five years from the effective date of this amendatory act to comply with the provisions of this article.

Article VII-A – Traditional Neighborhood Development

Section 701-A. Purposes and Objectives.

(a) This article grants powers to municipalities for the following purposes:

- (1) to insure that the provisions of Article VI which are concerned in part with the uniform treatment of dwelling type, bulk, density, intensity and open space within each zoning district, shall not be applied to the improvement of land by other than lot by lot development in a manner that would distort the objectives of Article VI;
- (2) to encourage innovations in residential and nonresidential development and renewal which makes use of a mixed use form of development so that the growing demand for housing and other development may be met by greater variety in type, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses;
- (3) to extend greater opportunities for better housing, recreation and access to goods, services and employment opportunities to all citizens and residents of this Commonwealth;
- (4) to encourage a more efficient use of land and of public services to reflect changes in the technology of land development so that economies secured may benefit those who need homes and for other uses;
- (5) to allow for the development of fully integrated, mixed-use pedestrian-oriented neighborhoods;
- (6) to minimize traffic congestion, infrastructure costs and environmental degradation;
- (7) to promote the implementation of the objectives of the municipal or multimunicipal comprehensive plan for guiding the location for growth;
- (8) to provide a procedure, in aid of these purposes, which can relate the type, design and layout of residential and nonresidential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential and nonresidential areas; and
- (9) to insure that the increased flexibility of regulations over land development authorized herein is carried out under such administrative standards and procedure as shall encourage the disposition of proposals for land development without undue delay.

(b) The objectives of a traditional neighborhood development are:

- (1) to establish a community which is pedestrian-oriented with a number of parks, a centrally located public commons, square, plaza, park or prominent intersection of two or more major streets, commercial enterprises and civic and other public buildings and facilities for social activity, recreation and community functions;
- (2) to minimize traffic congestion and reduce the need for extensive road construction by reducing the number and length of automobile trips required to access everyday needs;
- (3) to make public transit a viable alternative to the automobile by organizing appropriate building densities;
- (4) to provide the elderly and the young with independence of movement by locating most daily activities within walking distance;
- (5) to foster the ability of citizens to come to know each other and to watch over their mutual security by providing public spaces such as streets, parks and squares and mixed use which maximizes the proximity to neighbors at almost all times of the day;
- (6) to foster a sense of place and community by providing a setting that encourages the natural intermingling of everyday uses and activities within a recognizable neighborhood;

- (7) to integrate age and income groups and foster the bonds of an authentic community by providing a range of housing types, shops and workplaces; and
- (8) to encourage community oriented initiatives and to support the balanced development of society by providing suitable civic and public buildings and facilities.

Section 702-A. Grant of Power. The governing body of each municipality may enact, amend and repeal provisions of a zoning ordinance in order to fix standards and conditions for traditional neighborhood development. The provisions for standards and conditions for traditional neighborhood development shall be, except as otherwise provided in this article, consistent with Article VI and shall be included within the zoning ordinance and the enactment of the traditional neighborhood development provisions shall be in accordance with the procedures required for the enactment of an amendment of a zoning ordinance as provided in Article VI. The provisions shall:

- (1) Set forth the standards, conditions and regulations for a traditional neighborhood development consistent with this article. A zoning ordinance or amendment may authorize and provide standards, conditions and regulations for traditional neighborhood development that:
 - (i) designate a part or parts of the municipality as a district or districts which are reserved exclusively for traditional neighborhood development; or
 - (ii) permit the creation of a traditional neighborhood development in any part of the municipality or in one or more specified zoning districts.
- (2) Set forth the procedures pertaining to the application for, hearing on and preliminary and final approval of a traditional neighborhood development, which shall be consistent with this article for those applications and hearings.

Section 703-A. Transfer Development Rights. Municipalities electing to enact traditional neighborhood development provisions may also incorporate provisions for transferable development rights, on a voluntary basis, in accordance with express standards and criteria set forth in the ordinance and with the requirements of Article VI.

Section 704-A. Applicability of Comprehensive Plan and Statement of Community Development Objectives. All provisions and all amendments to the provisions adopted pursuant to this article shall be based on and interpreted in relation to the statement of community development objectives of the zoning ordinance and shall be consistent with either the comprehensive plan of the municipality or the statement of community development objectives in accordance with section 606. Every application for the approval of a traditional neighborhood development shall be based on and interpreted in relation to the statement of community development objectives, and shall be consistent with the comprehensive plan.

Section 705-A. Forms of Traditional Neighborhood Development. A traditional neighborhood development may be developed and applied in any of the following forms.

- (1) As a new development.
- (2) As an outgrowth or extension of existing development.
- (3) As a form of urban infill where existing uses and structures may be incorporated into the development.
- (4) In any combination or variation of the above.

Section 706-A. Standards and Conditions for Traditional Neighborhood Development.

(a) All provisions adopted pursuant to this article shall set forth all the standards, conditions and regulations by which a proposed traditional neighborhood development shall be evaluated, and those standards, conditions and regulations shall be consistent with the following subsections.

(b) The provisions adopted pursuant to this article shall set forth the uses permitted in traditional neighborhood development, which uses may include, but shall not be limited to:

- (1) Dwelling units of any dwelling type or configuration, or any combination thereof.
- (2) Those nonresidential uses deemed to be appropriate for incorporation in the design of the traditional neighborhood development.

(c) The provisions may establish regulations setting forth the timing of development among the various types of dwellings and may specify whether some or all nonresidential uses are to be built before, after or at the same time as the residential uses.

(d) The provisions adopted pursuant to this article shall establish standards governing the density, or intensity of land use, in a traditional neighborhood development. The standards may vary the density or intensity of land use, otherwise applicable to the land under the provisions of a zoning ordinance of the municipality within the traditional neighborhood development. It is recommended that the provisions adopted by the municipality pursuant to this article include, but not be limited to, all of the following:

- (1) The amount, location and proposed use of common open space, providing for parks to be distributed throughout the neighborhood as well as the establishment of a centrally located public commons, square, park, plaza or prominent intersection of two or more major streets.
- (2) The location and physical characteristics of the site of the proposed traditional neighborhood development, providing for the retaining and enhancing, where practicable, of natural features such as wetlands, ponds, lakes, waterways, trees of high quality, significant tree stands and other significant natural features. These significant natural features should be at least partially fronted by public tracts whenever possible.
- (3) The location and physical characteristics of the site of the proposed traditional neighborhood development so that it will develop out of the location of squares, parks and other neighborhood centers and subcenters. Zoning changes in building type should generally occur at mid-block rather than mid-street and buildings should tend to be zoned by compatibility of building type rather than building use. The proposed traditional neighborhood development should be designed to work with the topography of the site to minimize the amount of grading necessary to achieve a street network, and some significant high points of the site should be set aside for public tracts for the location of public buildings or other public facilities.
- (4) The location, design, type and use of structures proposed, with most structures being placed close to the street at generally the equivalent of one-quarter the width of the lot or less. The distance between the sidewalk and residential dwellings should, as a general rule, be occupied by a semi-public attachment, such as a porch or, at a minimum, a covered entryway.
- (5) The location, design, type and use of streets, alleys, sidewalks and other public rights-of-way with a hierarchy of streets laid out with an interconnected network of streets and blocks that provide multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally. As such, most streets, except alleys, should have sidewalks.
- (6) The location for vehicular parking with the street plan providing for on street parking for most streets, with the exception of alleys. All parking lots, except where there is a compelling reason to the contrary, should be located either behind or to the side of buildings and, in most cases, should be located toward the center of blocks such that only their access is visible from adjacent streets. In most cases, structures located on lots smaller than 50 feet in width should be served by a rear alley with all garages fronting on alleys. Garages not served by an alley should be set back from the front of the house or rotated so that the garage doors do not face any adjacent streets.
- (7) The minimum and maximum areas and dimensions of the properties and common open space within the proposed traditional neighborhood development and the approximate distance from the center to the edge of the traditional neighborhood development. It is recommended that the distance from the center to the edge of the traditional neighborhood development be approximately one-quarter mile or less and not more than one-half mile. Traditional neighborhood developments in excess of one-half mile distance from center to edge should be divided into two or more developments.
- (8) The site plan to provide for either a natural or manmade corridor to serve as the edge of the neighborhood. When standing alone, the traditional neighborhood development should front on open space to serve as its

edge. Such open space may include, but is not limited to, parks, a golf course, cemetery, farmland or natural settings such as woodlands or waterways. When adjacent to existing development the traditional neighborhood development should either front on open space, a street or roadway, or any combination hereof.

- (9) The greatest density of housing and the preponderance of office and commercial uses should be located to anchor the traditional neighborhood development. If the neighborhood is adjacent to existing development or a major roadway then office, commercial and denser residential uses may be located at either the edge or the center, or both. Commercial uses located at the edge of the traditional neighborhood development may be located adjacent to similar commercial uses in order to form a greater commercial corridor.

(e) In the case of a traditional neighborhood development proposed to be developed over a period of years, standards established in provisions adopted pursuant to this article may, to encourage the flexibility of housing density, design and type intended by this article:

- (1) Permit a variation in each section to be developed from the density, or intensity of use, established for the entire traditional neighborhood development.
- (2) Allow for a greater concentration of density or intensity of land use, within some section or sections of development, whether it be earlier or later in the development than upon others.
- (3) Require that the approval of such greater concentration of density or intensity of land use for any section to be developed be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by a grant of easement or by covenant in favor of the municipality, provided that the reservation shall, as far as practicable, defer the precise location of such common open space until an application for final approval is filed so that flexibility of development which is a prime objective of this article can be maintained.

(f) Provisions adopted pursuant to this article may require that a traditional neighborhood development contain a minimum number of dwelling units and a minimum number of nonresidential units.

(g)(1) The authority granted a municipality by Article V to establish standards for the location, width, course and surfacing of streets, walkways, curbs, gutters, street lights, shade trees, water, sewage and drainage facilities, easements or rights-of-way for drainage and utilities, reservations of public grounds, other improvements, regulations for the height and setback as they relate to renewable energy systems and energy-conserving building design, regulations for the height and location of vegetation with respect to boundary lines, as they relate to renewable energy systems and energy-conserving building design, regulations for the type and location of renewable energy systems or their components and regulations for the design and construction of structures to encourage the use of renewable energy systems, shall be vested in the governing body or the planning agency for the purposes of this article.

- (2) The standards applicable to a particular traditional neighborhood development may be different than or modifications of the standards and requirements otherwise required of subdivisions or land development authorized under an ordinance adopted pursuant to Article V, provided, however, that provisions adopted pursuant to this article shall set forth the limits and extent of any modifications or changes in such standards and requirements in order that a landowner shall know the limits and extent of permissible modifications from the standards otherwise applicable to subdivisions or land development.

Section 707-A. Sketch Plan Presentation. The municipality may informally meet with a landowner to informally discuss the conceptual aspects of the landowner's development plan prior to the filing of the application for preliminary approval for the development plan. The landowner may present a sketch plan to the municipality for discussion purposes only, and during the discussion the municipality may make suggestions and recommendations on the design of the developmental plan which shall not be binding on the municipality.

Section 708-A. Manual of Written and Graphic Design Guidelines. Where it has adopted provisions for traditional neighborhood development, the governing body of a municipality may also provide, upon review and recommendation of the planning commission, where one exists, a manual of written and graphic design guidelines.

The manual may be included in or amended into the subdivision and land development, the zoning ordinance or both.

Section 708.1-A. Subdivision and Land Development Ordinance Provisions Applicable to Traditional Neighborhood Development. The municipality may enact subdivision and land development ordinance provisions applicable to a traditional neighborhood development to address the design standards that are appropriate to a traditional neighborhood development, including, but not limited to, compactness, pedestrian orientation, street geometry or other related design features. The provisions may be included as part of any ordinance pertaining to traditional neighborhood development and may be subject to modification similar to section 512.1.

Section 709-A. Applicability of Article to Agriculture. Zoning ordinances shall encourage the continuity, development and viability of agricultural operations. Zoning ordinances may not restrict agricultural operations or changes to or expansions of agricultural operations in geographic areas where agriculture has traditionally been present, unless the agricultural operation will have a direct adverse effect on the public health and safety. Nothing in this section shall require a municipality to adopt a zoning ordinance that violates or exceeds the provisions of the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," the act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances," and the act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act."

Article VIII – Zoning Challenges; General Provisions

(Art. repealed June 1, 1972, P.L.333, No.93)

Article VIII-A – Joint Municipal Zoning

Section 801-A. General Powers.

(a) For the purpose of permitting municipalities which cooperatively plan for their future to also regulate future growth and change in a cooperative manner, the governing body of each municipality, in accordance with the conditions and procedures set forth in this act, may cooperate with one or more municipalities to enact, amend and repeal joint municipal zoning ordinances in order to implement joint municipal comprehensive plans and to accomplish any of the purposes of this act.

(b) A joint municipal zoning ordinance shall be based upon an adopted joint municipal comprehensive plan and shall be prepared by a joint municipal planning commission established under the provisions of this act.

Section 802-A. Relation to County and Municipal Zoning. The enactment by any municipality of a joint municipal zoning ordinance whose land is subject to county or municipal zoning shall constitute an immediate repeal of the county or municipal zoning ordinance within the municipality adopting such ordinance as of the effective date of the joint municipal zoning ordinance.

Section 803-A. Ordinance Provisions. Joint municipal zoning ordinances may permit, prohibit, regulate, restrict and determine and may contain the same elements as authorized for municipal zoning ordinances by section 603.

Section 804-A. Zoning Purposes. The provisions of joint municipal zoning ordinances shall be designed to serve the same purposes for the area of its jurisdiction as is required by section 604 for municipal zoning ordinances.

Section 805-A. Classifications. The authorizations and requirements of section 605 shall be applicable to joint municipal zoning ordinances. No area of a municipality party to a joint municipal zoning ordinance shall be left unzoned.

Section 806-A. Statement of Community Development Objectives.

(a) Every joint municipal zoning ordinance shall contain a statement of community development objectives as defined by section 606.

(b) The statement of community development objectives shall be based upon the joint municipal comprehensive plan and may be supplemented by a statement of legislative findings of the governing bodies party to the joint municipal zoning ordinance as defined by section 606.

(c) The community development objectives for a joint municipal zoning ordinance shall relate to the area within the jurisdiction of the ordinance, shall identify the community development objectives of each municipality party to the joint municipal zoning ordinance and the relationship of these objectives to those of the area and shall, in addition, include the basis for the geographic delineation of the area which the ordinance regulates.

Section 807-A. Preparation of Proposed Zoning Ordinance. The requirements of section 607 as applicable to municipal zoning ordinances shall equally apply to the preparation of a joint municipal zoning ordinance except that:

- (1) The joint municipal planning commission shall assume the preparation responsibilities of the planning agency and shall be directed by the governing bodies of the participating municipalities.

- (2) At least one public meeting shall be held by the joint municipal planning commission within the area of jurisdiction of the proposed joint municipal zoning ordinance.

Section 808-A. Enactment of Zoning Ordinance.

- (a) The procedural requirements of section 608 shall be applicable to the enactment of a joint municipal zoning ordinance.
- (b) Each municipality party to a joint municipal zoning ordinance shall enact the ordinance and it shall not become effective until it has been properly enacted by all the participating municipalities.
- (c) No municipality may withdraw from or repeal a joint municipal zoning ordinance during the first three years following the date of its enactment. If, at any time after the end of the second year following the enactment of a joint municipal zoning ordinance, a municipality wishes to repeal and withdraw from a joint municipal zoning ordinance, it shall enact an ordinance, which shall be effective no sooner than one year after its enactment, repealing the joint municipal zoning ordinance and shall provide immediately and concurrently one year's advanced written notice of its repeal and withdrawal to the governing bodies of all municipalities party to the joint municipal zoning ordinance. The repeal and withdrawal may become effective within less than one year with the unanimous approval, by ordinance, of the governing bodies of all municipalities party to the joint municipal zoning ordinance.

Section 809-A. Enactment of Zoning Ordinance Amendments.

- (a) The procedural requirements for amendments to a joint municipal zoning ordinance shall be as required by section 609, except that all proposed amendments shall also be submitted to the joint municipal planning commission for review at least 30 days prior to the hearing on such proposed amendments.
- (b) The governing bodies of the other participating municipalities shall submit their comments, including a specific recommendation to adopt or not to adopt the proposed amendment, to the governing body of the municipality within which the amendment is proposed no later than the date of the public hearing. Failure to provide comments shall be construed as a recommendation to adopt the proposed amendments.
- (c) No amendments to the joint municipal zoning ordinance shall be effective unless all of the participating municipalities approve the amendment.

Section 810-A. Procedure for Curative Amendments. Curative amendments shall be filed in accordance with the requirements of section 609.1 with the municipality within which the landowner's property is located: Provided, however, That the governing body before which the curative amendment is brought shall not have the power to adopt any amendment to the joint municipal zoning ordinance without the approval of the other municipalities participating in the joint municipal zoning ordinance. The challenge shall be directed to the validity of the joint municipal zoning ordinance as it applies to the entire area of its jurisdiction.

Section 811-A. Area of Jurisdiction for Challenges. In any challenge to the validity of the joint municipal zoning ordinance, the court shall consider the validity of the ordinance as it applies to the entire area of its jurisdiction as enacted and shall not limit consideration to any single constituent municipality.

Section 812-A. Procedure for Joint Municipal Curative Amendments.

- (a) The governing bodies of all the participating municipalities may declare the joint municipal zoning ordinance or portions thereof substantially invalid and prepare a municipal curative amendment pursuant to section 609.2.
- (b) The provisions of section 609.2(4) shall apply to all municipalities participating in the joint municipal zoning ordinance.
- (c) (1) In the case of a joint municipal curative amendment involving two or three municipalities, the municipalities shall have nine months from the date of declaration of partial or total invalidity to enact a curative amendment.
 - (2) Subject to the limitation contained in clause (3), where there are more than three municipal parties, the nine-month period shall be extended on additional month for each municipality in excess of three that is a party to the joint municipal zoning ordinance.

- (3) Notwithstanding the additional periods provided for in clause (2), a curative amendment shall be enacted by the parties to a joint municipal zoning ordinance not later than one year from the date of declaration of partial or total invalidity.

Section 813-A. Publication, Advertisement and Availability of Ordinances. The content of public notices and the procedures for the advertisement and enactment of joint municipal zoning ordinances and amendments shall be regulated by section 610.

Section 814-A. Registration of Nonconforming Uses. The registration of nonconforming uses shall be as specified by section 613.

Section 815-A. Administration.

(a) The governing bodies of the municipalities adopting the joint municipal zoning ordinance may establish a joint zoning hearing board pursuant to the authority of section 904, except that:

- (1) The joint municipal zoning ordinance shall either create a joint zoning hearing board to administer the entire joint municipal zoning ordinance or provide for the retention or creation of individual zoning hearing boards in each of the individual participating municipalities to administer the new joint municipal zoning ordinance as to properties located within each of the individual participating municipalities.
- (2) These same procedures shall be followed by a joint zoning hearing board as set forth in Article IX for individual municipal zoning hearing boards.

(b) The joint municipal zoning ordinance shall specify the number of zoning officers to be appointed to administer the ordinance pursuant to section 614. One zoning officer may be appointed by each municipality to administer the ordinance within the municipal boundaries or a single zoning officer may be appointed to administer the ordinance throughout the jurisdiction of the ordinance.

Section 816-A. Zoning Appeals. All rights and procedures provided in Articles IX and X-A shall pertain to joint municipal zoning.

Section 817-A. Enforcement Penalties. Penalties for violation of a joint municipal zoning ordinance shall be as specified in section 617.1.

Section 818-A. Enforcement Remedies.

(a) Enforcement remedies shall be as specified in section 617.

(b) In addition, the provisions of a joint municipal zoning ordinance shall be binding upon the municipalities and may be enforced by appropriate remedy by any one or more of the municipalities against any other municipality party thereto.

Section 819-A. Finances.

(a) The governing body of a municipality may appropriate and receive funds for a joint municipal zoning ordinance in the same manner as authorized for a municipal zoning ordinance by section 617.2.

(b) A joint municipal zoning ordinance shall specify the manner and extent of financing the costs for administration and enforcement, including the financial responsibilities for defending legal challenges to the ordinance.

Section 820-A. Exemptions. The exemptions for a joint municipal zoning ordinance shall be those identified by section 619.

Section 821-A. Existing Bodies. Municipalities which, on or before the effective date of this amendatory act, established joint bodies under former Article XI-A of this act, shall have five years from the effective date of this amendatory act to comply with the provisions of this article.

Article IX – Zoning Hearing Board and other Administrative Proceedings

Section 901. General Provisions. Every municipality which has enacted or enacts a zoning ordinance pursuant to this act or prior enabling laws, shall create a zoning hearing board. As used in this article, unless the context clearly indicates otherwise, the term “board” shall refer to such zoning hearing board.

Section 902. Existing Boards of Adjustment. (902 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 903. Membership of Board.

(a) The membership of the board shall, upon the determination of the governing body, consist of either three or five residents of the municipality appointed by resolution by the governing body. The terms of office of a three member board shall be three years and shall be so fixed that the term of office of one member shall expire each year. The terms of office of a five member board shall be five years and shall be so fixed that the term of office of one member of a five member board shall expire each year. If a three member board is changed to a five member board, the members of the existing three member board shall continue in office until their term of office would expire under prior law. The governing body shall appoint two additional members to the board with terms scheduled to expire in accordance with the provisions of this section. The board shall promptly notify the governing body of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the board shall hold no other elected or appointed office in the municipality nor shall any member be an employee of the municipality.

(b) The governing body may appoint by resolution at least one but no more than three residents of the municipality to serve as alternate members of the board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of section 906, an alternate shall be entitled to participate in all proceedings and discussions of the board to the same and full extent as provided by law for board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall hold no other elected or appointed office in the municipality, including service as a member of the planning commission or as a zoning officer, nor shall any alternate be an employee of the municipality. Any alternate may participate in any proceeding or discussion of the board but shall not be entitled to vote as a member of the board nor be compensated pursuant to section 907 unless designated as a voting alternate member pursuant to section 906.

Section 904. Joint Zoning Hearing Boards.

(a) Two or more municipalities may, by ordinances enacted in each, create a joint zoning hearing board in lieu of a separate board for each municipality. A joint board shall consist of two members appointed from among the residents of each municipality by its governing body.

(b) The term of office of members of joint boards shall be five years, except that of the two members first appointed from each municipality, the term of office of one member shall be three years. When any vacancies occur, the joint board shall promptly notify the governing body which appointed the member whose office has become vacant, and such governing body shall appoint a member for the unexpired portion of the term. Members of the joint board shall hold no other office in the participating municipality.

(c) Where legal counsel is desired, an attorney, other than the solicitors of the participating municipalities, may be appointed to serve as counsel to the joint zoning hearing board.

(d) In all other respects, including the appointment and seating of alternate members, joint zoning hearing boards shall be governed by provisions of this act not inconsistent with the provisions of this section.

Section 905. Removal of Members. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the governing body which appointed the member,

taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

Section 906. Organization of Board.

(a) The board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the board, but the board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the board as provided in section 908.

(b) The chairman of the board may designate alternate members of the board to replace any absent or disqualified member and if, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the board shall designate as many alternate members of the board to sit on the board as may be needed to reach a quorum. Any alternate member of the board shall continue to serve on the board in all proceedings involving the matter or case for which the alternate was initially appointed until the board has made a final decision on the matter or case. Designation of an alternate pursuant to this section shall be made on a case by case basis in rotation according to declining seniority among all alternates.

(c) The board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the municipality and laws of the Commonwealth. The board shall keep full public records of its business, which records shall be the property of the municipality, and shall submit a report of its activities to the governing body as requested by the governing body.

Section 907. Expenditures for Services. Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the board may receive compensation for the performance of their duties, as may be fixed by the governing body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the governing body. Alternate members of the board may receive compensation, as may be fixed by the governing body, for the performance of their duties when designated as alternate members pursuant to section 906, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members of the governing body.

Section 908. Hearings. The board shall conduct hearings and make decisions in accordance with the following requirements:

- (1) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- (1.1) The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.
- (1.2) The first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the

completion of the applicant's case-in-chief. And applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

- (2) The hearings shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final.
- (3) The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the board. The board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the board for that purpose.
- (4) The chairman or acting chairman of the board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- (5) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- (6) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- (7) The board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer or shall be paid by the person appealing from the decision of the board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- (8) The board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- (9) The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under section 916.1 where the board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection (1.2), the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the board to meet or render a

decision as hereinabove provided, the board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this section. If the board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- (10) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the board not later than the last day of the hearing, the board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

Section 908.1. Mediation Option.

(a) Parties to proceedings authorized in this article and Article X-A may utilize mediation as an aid in completing such proceedings. In proceedings before the zoning hearing board, in no case shall the zoning hearing board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this article and Article X-A once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

(b) Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:

- (1) Funding mediation.
- (2) Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
- (3) Completing mediation, including time limits for such completion.
- (4) Suspending time limits otherwise authorized in this act, provided there is written consent by the mediating parties, and by an applicant or municipal decision making body if either is not a party to the mediation.
- (5) Identifying all parties and affording them the opportunity to participate.
- (6) Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
- (7) Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision making body pursuant to the authorized procedures set forth in the other sections of this act.

(c) No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

Section 909. Board's Functions: Appeals from the Zoning Officer. (909 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 909.1. Jurisdiction.

(a) The zoning hearing board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- (1) Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to sections 609.1 and 916.1(a)(2).
- (2) Deleted by 2008, July 4, P.L. 319, No. 39, §3, imd. effective.

- (3) Appeals from the determination of the zoning officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
 - (4) Appeals from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.
 - (5) Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 910.2.
 - (6) Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 912.1.
 - (7) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning ordinance.
 - (8) Appeals from the zoning officer's determination under section 916.2.
 - (9) Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Article V or VII applications.
- (b) The governing body or, except as to clauses (3), (4) and (5), the planning agency, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) All applications for approvals of planned residential developments under Article VII pursuant to the provisions of section 702.
 - (2) All applications pursuant to section 508 for approval of subdivisions or land developments under Article V. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by a planning agency rather than the governing body shall vest exclusive jurisdiction in the planning agency in lieu of the governing body for purposes of the provisions of this paragraph.
 - (3) Applications for conditional use under the express provisions of the zoning ordinance pursuant to section 603(c)(2).
 - (4) Applications for curative amendment to a zoning ordinance pursuant to sections 609.1 and 916.1(a)(2).
 - (5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in section 609. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.
 - (6) Appeals from the determination of the zoning officer or the municipal engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to application for land development under Articles V and VII. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the zoning officer or the municipal engineer shall be to the zoning hearing board pursuant to subsection (a)(9). Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the planning agency, all appeals from determinations under this paragraph shall be to the planning agency and all appeals from the decision of the planning agency shall be to court.
 - (7) Applications for a special encroachment permit pursuant to section 405 and applications for a permit pursuant to section 406.

Section 910. Board Functions: Challenge to the Validity of any Ordinance or Map. (910 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 910.1. Applicability of Judicial Remedies. Nothing contained in this article shall be construed to deny the appellant the right to proceed directly to court where appropriate, pursuant to the Pennsylvania Rules of Civil Procedure No. 1091 (relating to action in mandamus).

Section 910.2. Zoning Hearing Board's Functions; Variances.

(a) The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The board may grant a variance, provided that all of the following findings are made where relevant in a given case:

- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
- (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (3) That such unnecessary hardship has not been created by the appellant.
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

(b) In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and the zoning ordinance.

Section 912. Board's Functions: Variances. (912 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 912.1. Zoning Hearing Board's Functions; Special Exception. Where the governing body, in the zoning ordinance, has stated special exceptions to be granted or denied by the board pursuant to express standards and criteria, the board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the board may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance.

Section 913. Board's Functions: Special Exceptions. (913 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 913.1. Unified Appeals. (913.1 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 913.2. Governing Body's Functions; Conditional Uses.

(a) Where the governing body, in the zoning ordinances, has stated conditional uses to be granted or denied by the governing body pursuant to express standards and criteria, the governing body shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. The hearing shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board. However, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final. In granting a conditional use, the governing body may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act in the zoning ordinance.

(b)(1) The governing body shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the governing body. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

- (2) Where the governing body fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in section 908 (1.2), the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the governing body to meet or render a decision as hereinabove provided, the governing body shall give public notice of the decision within ten days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this act. If the governing body shall fail to provide such notice, the applicant may do so.
- (3) Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.

Section 913.3. Parties Appellant Before the Board. Appeals under section 909.1(a)(1), (2), (3), (4), (7), (8) and (9) may be filed with the board in writing by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Requests for a variance under section 910.2 and for special exception under section 912.1 may be filed with the board by any landowner or any tenant with the permission of such landowner.

Section 914. Parties Appellant Before Board. (914 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 914.1. Time Limitations.

(a) No person shall be allowed to file any proceeding with the board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to section 709 or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map pursuant to section 916.2 shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

(b) All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

Section 915. Time Limitations; Persons Aggrieved. (915 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 915.1. Stay of Proceedings.

(a) Upon filing of any proceeding referred to in section 913.3 and during its pendency before the board, all land development pursuant to any challenged ordinance, order or approval of the zoning officer or of any agency or body, and all official action thereunder, shall be stayed unless the zoning officer or any other appropriate agency or body certifies to the board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the board or by the court having jurisdiction of zoning appeals, on petition, after notice to the zoning officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the board.

(b) After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

(c) The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

(d) If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

Section 916. Stay of Proceedings. (916 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 916.1. Validity of Ordinance; Substantive Questions.

(a) A landowner who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either:

- (1) to the zoning hearing board under section 909.1(a); or
- (2) to the governing body under section 909.1(b)(4), together with a request for a curative amendment under section 609.1.

(b) Persons aggrieved by a use or development permitted on the land of another by an ordinance or map, or any provision thereof, who desires to challenge its validity on substantive grounds shall first submit their challenge to the zoning hearing board for a decision thereon under section 909.1(a)(1).

(c) The submissions referred to in subsections (a) and (b) shall be governed by the following:

- (1) In challenges before the zoning hearing board, the challenging party shall make a written request to the board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge. Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment under section 609.1, his application to the governing body shall contain, in addition to the requirements of the written request hereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof. Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting his challenge.
- (2) If the submission is made by the landowner to the governing body under subsection (a)(2), the request also shall be accompanied by an amendment or amendments to the ordinance proposed by the landowner to cure the alleged defects therein.
- (3) If the submission is made to the governing body, the municipal solicitor shall represent and advise it at the hearing or hearings referred to in section 909.1(b)(4).
- (4) The governing body may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present their witnesses on its behalf.
- (5) Based upon the testimony presented at the hearing or hearings, the governing body or the zoning board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by a governing body is found to have merit, the governing body shall proceed as provide in section 609.1. If a challenge heard by a zoning hearing board is found to have merit, the decision of the zoning hearing board shall include recommended amendments to the challenged ordinance which will cure the defects found. In reaching its decision, the zoning hearing board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:

- (i) the impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
 - (ii) if the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;
 - (iii) the suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;
 - (iv) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
 - (v) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- (6) The governing body or the zoning hearing board, as the case may be, shall render its decision within 45 days after the conclusion of the last hearing.
- (7) If the governing body or the zoning board, as the case may be, fails to act on the landowner's request within the time limits referred to in paragraph (6), a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.

(d) The zoning hearing board or governing body, as the case may be, shall commence its hearings within 60 days after the request is filed unless the landowner requests or consents to an extension of time.

(e) Public notice of the hearing shall include notice that the validity of the ordinance or map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments may be examined by the public.

(f) The challenge shall be deemed denied when:

- (1) the zoning hearing board or governing body, as the case may be, fails to commence the hearing within the time limits set forth in subsection (d);
- (2) the governing body notifies the landowner that it will not adopt the curative amendment;
- (3) the governing body adopts another curative amendment which is unacceptable to the landowner; or
- (4) the zoning hearing board or governing body, as the case may be, fails to act on the request 45 days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and municipality.

(g) Where, after the effective date of this act, a curative amendment proposal is approved by the grant of a curative amendment application by the governing body pursuant to section 909.1(b)(4) or a validity challenge is sustained by the zoning hearing board pursuant to section 909.1(a)(1) or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary or tentative approval pursuant to Article V or VII. Within the two-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of section 508(4) shall apply. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have one year within which to file for a building permit. Within the one-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

(h) Where municipalities have adopted a multimunicipal comprehensive plan pursuant to Article XI but have not adopted a joint municipal ordinance pursuant to Article VIII-A and all municipalities participating in the multimunicipal comprehensive plan have adopted and are administering zoning ordinances generally consistent with the provisions of the multimunicipal comprehensive plan, and a challenge is brought to the validity of a zoning ordinance of a participating municipality involving a proposed use, then the zoning hearing board or governing body, as the case may be, shall consider the availability of uses under zoning ordinances within the municipalities participating in the multimunicipal comprehensive plan within a reasonable geographic area and shall not limit its consideration to the application of the zoning ordinance on the municipality whose zoning ordinance is being challenged.

(i) A landowner who has challenged on substantive grounds the validity of a zoning ordinance or map either by submission of a curative amendment to the governing body under subsection (a) (2) or to the zoning hearing board under section 909.1 (a) (1) shall not submit any additional substantive challenges involving the same parcel, group of parcels or part thereof until such time as the status of the landowner's original challenge has been finally determined or withdrawn: Provided, however, that if after the date of the landowner's original challenge the municipality adopts a substantially new or different zoning ordinance or zoning map, the landowner may file a second substantive challenge to the new or different zoning ordinance or zoning map under subsection (a).

Section 916.2. Procedure to Obtain Preliminary Opinion. In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under section 914.1 by the following procedure:

- (1) The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.
- (2) If the zoning officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under section 914.1 and the time therein specified for commencing a proceeding with the board shall run from the time when the second notice thereof has been published.

Section 917. Applicability of Ordinance Amendments. When an application for either a special exception or a conditional use has been filed with either the zoning hearing board or governing body, as relevant, and the subject matter of such application would ultimately constitute either a land development as defined in section 107 or a subdivision as defined in section 107, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by either the zoning hearing board or governing body, as relevant, applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six months or longer as may be approved by either the zoning hearing board or the governing body following the date of such approval in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed before either the zoning hearing board or governing body, as relevant. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of section 508(1) through (4), and specifically to the time limitations of section 508(4) which shall commence as of the date of filing such land development or subdivision plan.

Section 918. Special Applicability Provisions. A municipal zoning ordinance enacted on or before August 21, 2000 shall not be invalidated, superseded or affected by any amendatory provision of the act of June 22, 2000 (P.L. 483 No.67), entitled "An act amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, 'An act to

empower cities of the second class a, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts,' adding definitions; providing for intergovernmental cooperative planning and implementation agreements; further providing for repeals; and making an editorial change," or the act of June 22, 2000 (P.L.495, No.68), entitled "An act amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, 'An act to empower cities of the second class a, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts,' further providing for the purpose of the act; adding certain definitions; further providing for various matters relating to the comprehensive plan and for compliance by counties; providing for funding for municipal planning and for neighboring municipalities; further providing for certain ordinances; adding provisions relating to projects of regional impact; providing for traditional neighborhood development; further providing for grant of power, for contents of subdivision and land development ordinance, for approval of plats and for recording of plats and deeds; and providing for municipal authorities and water companies and for transferable development rights," and such ordinance provisions shall continue in full force and effect until February 21, 2001; provided, however, any such ordinance shall be subject to such amendatory provisions on and after February 22, 2001.

Article X – Appeals

(Art. repealed Dec. 21, 1988, P.L.1329, No.170)

Article X-A – Appeals to Court

Section 1001-A. Land Use Appeals. The procedures set forth in this article shall constitute the exclusive mode for securing review of any decision rendered pursuant to Article IX or deemed to have been made under this act.

Section 1002-A. Jurisdiction and Venue on Appeal; Time for Appeal.

(a) All appeals from all land use decisions rendered pursuant to Article IX shall be taken to the court of common pleas of the judicial district wherein the land is located and shall be filed within 30 days after entry of the decision as provided in 42 Pa.C.S. § 5572 (relating to time of entry of order) or, in the case of a deemed decision, within 30 days after the date upon which notice of said deemed decision is given as set forth in section 908(9) of this act. It is the express intent of the General Assembly that, except in cases in which an unconstitutional deprivation of due process would result from its application, the 30-day limitation in this section should be applied in all appeals from decisions.

(b) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption shall be raised by appeal taken directly to the court of common pleas of the judicial district in which the municipality adopting the ordinance is located in accordance with 42 Pa.C.S. § 5571.1 (relating to appeals from ordinances, resolutions, maps, etc.)

(1002-A amended July 4, 2008, P.L.319, No.39)

Section 1002.1-A. Time for Appeal; Procedural Defects of Decisions.

(a) This section shall apply to all appeals challenging the validity of a land use decision on the basis of a defect in procedures prescribed by statute or ordinance.

(b) Except as otherwise provided in section 108, all appeals challenging the validity of a decision solely on the basis of a defect in procedure shall be filed within the time period provided in section 1002-A(a) unless a party establishes each of the following:

- (1) That the person filing the appeal had insufficient actual or constructive notice of the decision to permit filing an appeal within the time period provided in section 1002-A(a). Notice of a hearing prior to the entry of a decision in accordance with section 908(1), notice of a decision in accordance with section 908(10) or notice of a deemed decision provided in accordance with this act shall establish constructive notice as a matter of law in any appeal under this section.
- (2) That because of the insufficient actual or constructive notice of the decision, the application of the time limitation in section 1002-A(a) would result in an impermissible deprivation of constitutional rights.

(c) Appeals under this section shall only be permitted by an aggrieved person who can establish that reliance on the validity of the challenged decision resulted or could result in a use of property that directly affects such person's substantive property rights.

(d) No decision challenged in an appeal pursuant to this section shall be deemed void from inception except as follows:

- (1) In the case of an appeal brought within the time period provided in section 1002-A(a), the party alleging the defect must meet the burden of proving that there was a failure to strictly comply with procedure.
- (2) In the case of an appeal exempt from the time period provided in section 1002-A(a) or brought pursuant to section 108, the party alleging the defect must meet the burden of proving that because of the alleged defect in procedure alone:
 - (i) the public was denied notice sufficient to permit participation in the proceedings prior to the entry of the decision to the extent such participation was authorized by statute or ordinance; or
 - (ii) those whose substantive property rights were or could be directly affected by the entry of the decision were denied an opportunity to participate in proceedings prior to the entry of the decision.

(e) Substantial compliance with notice of a hearing required prior to the entry of a decision in accordance with section 908(1) shall establish notice adequate to permit public participation as a matter of law in any appeal under this section.

(f) An adjudication that a decision is void from inception shall not affect any previously acquired rights of property owners who have exercised good faith reliance on the validity of the decision prior to the determination.

(1002.1-A added July 4, 2008, P.L.319, No.39)

Compiler's Note: Section 6 of Act 39 of 2008, which added section 1002.1-A, provided that section 1002.1-A shall apply beginning on the effective date of an amendment to 42 Pa.C.S. that provided for appeals from ordinances, resolutions, maps and similar actions of a political subdivision. Section 5571.1 of Title 42 (relating to appeals from ordinances, resolutions, maps, etc.) was added July 4, 2008, P.L.325, No.40, effective immediately.

Section 1003-A. Appeals to Court; Commencement; Stay of Proceedings.

(a) Land use appeals shall be entered as of course by the prothonotary or clerk upon the filing of a land use appeal notice which concisely sets forth the grounds on which the appellant relies. The appeal notice need not be verified. The land use appeal notice shall be accompanied by a true copy thereof.

(b) Upon filing of a land use appeal, the prothonotary or clerk shall forthwith, as of course, send to the governing body, board or agency whose decision or action has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding said governing body, board or agency, within 20 days after receipt thereof, to certify to the court its entire record in the matter in which the land use appeal has been taken, or a true and complete copy thereof, including any transcript of testimony in existence and available to the governing body, board or agency at the time it received the writ of certiorari.

(c) If the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven days after the land use appeal is filed, shall serve a true copy of the land use appeal notice by mailing said notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the municipality and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of court.

(d) The filing of an appeal in court under this section shall not stay the action appealed from, but the appellants may petition the court having jurisdiction of land use appeals for a stay. If the appellants are persons who are seeking to prevent a use or development of the land of another, whether or not a stay is sought by them, the landowner whose use or development is in question may petition the court to order the appellants to post bond as a condition to proceeding with the appeal. After the petition for posting a bond is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the landowners to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for posting a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court. The question of the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order

directing the respondent to the petition for posting a bond to post a bond shall be interlocutory. If an appeal is taken by a respondent to the petition for posting a bond from an order of the court dismissing a land use appeal for refusal to post a bond, such responding party, upon motion of petitioner and, after hearing in the court having jurisdiction of land use appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by petitioner.

Section 1004-A. Intervention. Within the 30 days first following the filing of a land use appeal, if the appeal is from a board or agency of a municipality, the municipality and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service of the same, upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

Section 1005-A. Hearing and Argument of Land Use Appeal. If, upon motion, it is shown that proper consideration of the land use appeal requires the presentation of additional evidence, a judge of the court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review, or may refer the case to a referee to receive additional evidence, provided that appeals brought before the court pursuant to section 916.1 shall not be remanded for further hearings before any body, agency or officer of the municipality. If the record below includes findings of fact made by the governing body, board or agency whose decision or action is brought up for review and the court does not take additional evidence or appoint a referee to take additional evidence, the findings of the governing body, board or agency shall not be disturbed by the court if supported by substantial evidence. If the record does not include findings of fact or if additional evidence is taken by the court or by a referee, the court shall make its own findings of fact based on the record below as supplemented by the additional evidence, if any.

Section 1006-A. Judicial Relief.

(a) In a land use appeal, the court shall have power to declare any ordinance or map invalid and set aside or modify any action, decision or order of the governing body, agency or officer of the municipality brought up on appeal.

(b) Where municipalities have adopted a joint municipal comprehensive plan and enacted a zoning ordinance or ordinances consistent with the joint municipal comprehensive plan within a region pursuant to Articles VIII-A and XI, the court, when determining the validity of a challenge to such a municipality's zoning ordinance, shall consider the zoning ordinance or ordinances as they apply to the entire region and shall not limit its consideration to the application of the zoning ordinance within the boundaries of the respective municipalities.

(b.1) Where municipalities have adopted a multimunicipal comprehensive plan pursuant to Article XI but have not adopted a joint municipal ordinance pursuant to Article VIII-A and all municipalities participating in the multimunicipal comprehensive plan have adopted and are administering zoning ordinances generally consistent with the provisions of the multimunicipal comprehensive plan, and a challenge is brought to the validity of a zoning ordinance of a participating municipality involving a proposed use, then the court shall consider the availability of uses under zoning ordinances within the municipalities participating in the multimunicipal comprehensive plan within a reasonable geographic area and shall not limit its consideration to the application of the zoning ordinance on the municipality whose zoning ordinance is being challenged.

(b.2) Notwithstanding any provisions of this section to the contrary, each municipality shall provide for reasonable coal mining activities in its zoning ordinance.

(c) If the court finds that an ordinance or map, or a decision or order thereunder, which has been brought up for review unlawfully prevents or restricts a development or use which has been described by the landowner through plans and other materials submitted to the governing body, agency or officer of the municipality whose action or failure to act is in question on the appeal, it may order the described development or use approved as to all elements or it may order it approved as to some elements and refer other elements to the governing body, agency or officer having jurisdiction thereof for further proceedings, including the adoption of alternative restrictions, in accordance with the court's opinion and order.

(d) Upon motion by any of the parties or upon motion by the court, the judge of the court may hold a hearing or hearings to receive additional evidence or employ experts to aid the court to frame an appropriate order. If the court

employs an expert, the report or evidence of such expert shall be available to any party and he shall be subject to examination or cross-examination by any party. He shall be paid reasonable compensation for his services which may be assessed against any or all of the parties as determined by the court. The court shall retain jurisdiction of the appeal during the pendency of any such further proceedings and may, upon motion of the landowner, issue such supplementary orders as it deems necessary to protect the rights of the landowner as declared in its opinion and order.

(e) The fact that the plans and other materials are not in a form or are not accompanied by other submissions which are required for final approval of the development or use in question or for the issuance of permits shall not prevent the court from granting the definitive relief authorized. The court may act upon preliminary or sketch plans by framing its decree to take into account the need for further submissions before final approval is granted.

Article XI – Intergovernmental Cooperative Planning and Implementation Agreements

Section 1101. Purposes. It is the purpose of this article:

- (1) To provide for development that is compatible with surrounding land uses and that will complement existing land development with a balance of commercial, industrial and residential uses.
- (2) To protect and maintain the separate identity of Pennsylvania's communities and to prevent the unnecessary conversion of valuable and limited agricultural land.
- (3) To encourage cooperation and coordinated planning among adjoining municipalities so that each municipality accommodates its share of the multimunicipal growth burden and does not induce unnecessary or premature development of rural lands.
- (4) To minimize disruption of the economy and environment of existing communities.
- (5) To complement the economic and transportation needs of the region and this Commonwealth.
- (6) To provide for the continuation of historic community patterns.
- (7) To provide for coordinated highways, public services and development.
- (8) To ensure that new public water and wastewater treatment systems are constructed in areas that will result in the efficient utilization of existing systems, prior to the development and construction of new systems.
- (9) To ensure that new or major extension of existing public water and wastewater treatment systems are constructed only in those areas within which anticipated growth and development can adequately be sustained within the financial and environmental resources of the area.
- (10) To identify those areas where growth and development will occur so that a full range of public infrastructure services including sewer, water, highways, police and fire protection, public schools, parks, open space and other services can be adequately planned and provided as needed to accommodate the growth that occurs.
- (11) To encourage innovations in residential, commercial and industrial development to meet growing population demands by an increased variety in type, design and layout of structures and by the conservation and more efficient use of open space ancillary to such structures.
- (12) To facilitate the development of affordable and other types of housing in numbers consistent with the need for such housing as shown by existing and projected population and employment data for the region.

Section 1102. Intergovernmental Cooperation Planning and Implementation Agreements. For the purpose of developing, adopting and implementing a comprehensive plan for the entire county or for any area within the county, the governing bodies of municipalities located within the county or counties may enter into intergovernmental cooperative agreements, as provided by 53 Pa C.S. Ch. 23 Such. A (relating to intergovernmental cooperation), except for any provisions permitting initiative and referendum. Such agreements may also be entered into between and among counties and municipalities for areas that include municipalities in more than one county, and between and among counties, municipalities, authorities and special districts providing water and sewer facilities, transportation planning or other services within the area of a plan and with the opportunity for the active participation of State agencies and school districts.

Implementation of the comprehensive plan and subdivision and zoning ordinances shall be accomplished in accordance with articles of this act.

Section 1103. Finances, Staff and Program. County or Multimunicipal Comprehensive Plans.

(a) The comprehensive plan that is the subject of an agreement may be developed by the municipalities or at the request of the municipalities, by the county planning agency, or agencies in the case of a plan covering municipalities in more than one county, in cooperation with municipalities within the area and shall include all the elements required or authorized in section 301 for the region of the plan, including a plan to meet the housing needs of present residents and those individuals and families anticipated to reside in the area of the plan, which may include conservation of presently sound housing, rehabilitation of housing in declining neighborhoods and the accommodations of expected new housing in different dwelling types and of appropriate densities for households of all income levels. The plan may:

- (1) Designate growth areas where:
 - (i) Orderly and efficient development to accommodate the projected growth of the area within the next 20 years is planned for residential and mixed use densities of one unit or more per acre.
 - (ii) Commercial, industrial and institutional uses to provide for the economic and employment needs of the area and to insure that the area has an adequate tax base are planned for.
 - (iii) Services to serve such development are provided or planned for.
- (2) Designate potential future growth areas where future development is planned for densities to accompany the orderly extension and provision of services.
- (3) Designate rural resource areas, if applicable, where:
 - (i) Rural resource uses are planned for.
 - (ii) Development at densities that are compatible with rural resource uses are or may be permitted.
 - (iii) Infrastructure extensions or improvements are not intended to be publicly financed by municipalities except in villages, unless the participating or affected municipalities agree that such service should be provided to an area for health or safety reasons or to accomplish one or more of the purposes set forth in section 1101.
- (4) Plan for the accommodation of all categories of uses within the area of the plan, provided, however, that all uses need not be provided in every municipality, but shall be planned and provided for within a reasonable geographic area of the plan.
- (5) Plan for developments of area wide significance and impact, particularly those identified in section 301(3) and (4).
- (6) Plan for the conservation and enhancement of the natural, scenic, historic and aesthetic resources within the area of the plan,

(b) The county may facilitate a multimunicipal process and may enter into cooperative planning agreements with participating municipalities governing particular planning subjects and responsibilities. The planning process shall include a public participation process to assure that all governing bodies, municipal authorities, school districts and agencies, whether public or private, having jurisdiction or operating within the area of the plan and landowners and citizens affected by the plan have an opportunity to be heard prior to the public hearings required for the adoption of the plan under section 302(a).

(c) Adoption of the plan and plan amendments shall conform to the requirements of section 302, and may be reflected on the official map of each participating municipality pursuant to section 401. Where a county and municipality have developed and adopted a comprehensive county or multimunicipal plan that conforms to the requirements of this article within five years prior to the date of adoption of this article, the plan may be implemented by agreements as provided for in this article.

Section 1104. Implementation Agreements.

(a) In order to implement multimunicipal comprehensive plans, under section 1103 counties and municipalities shall have authority to enter into intergovernmental cooperative agreements.

(b) Cooperative implementation agreements shall:

- (1) Establish the process that the participating municipalities will use to achieve general consistency between the county or multimunicipal comprehensive plan and zoning ordinances, subdivision and land development and capital improvement plans within participating municipalities, including adoption of conforming ordinances by participating municipalities within two years and a mechanism for resolving disputes over the interpretation of the multimunicipal comprehensive plan and the consistency of implementing plans and ordinances.
- (2) Establish a process for review and approval of developments of regional significance and impact that are proposed within any participating municipality. Subdivision and land development approval powers under this act shall only be exercised by the municipality in which the property where the approval is sought. Under no circumstances shall a subdivision or land development applicant be required to undergo more than one approval process.
- (3) Establish the role and responsibilities of participating municipalities with respect to implementation of the plan, including the provision of public infrastructure services within participating municipalities as described in subsection (d), the provision of affordable housing, and purchase of real property, including rights-of-way and easements.
- (4) Require a yearly report by participating municipalities to the county planning agency and by the county planning agency to the participating municipalities concerning activities carried out pursuant to the agreement during the previous year. Such reports shall include summaries of public infrastructure needs in growth areas and progress toward meeting those needs through capital improvement plans and implementing actions, and reports on development applications and dispositions for residential, commercial, and industrial development in each participating municipality for the purpose of evaluating the extent of provision for all categories of use and housing for all income levels within the region of the plan.
- (5) Describe any other duties and responsibilities as may be agreed upon by the parties.

(c) Cooperative implementation agreements may designate growth areas, future growth areas and rural resource areas within the plan. The agreement shall also provide a process for amending the multimunicipal comprehensive plan and redefining the designated growth area, future growth area and rural resource area within the plan.

(d) The county may facilitate convening representatives of municipalities, municipal authorities, special districts, public utilities, whether public or private, or other agencies that provide or declare an interest in providing a public infrastructure service in a public infrastructure service area or a portion of a public infrastructure service area within a growth area, as established in a county or multimunicipal comprehensive plan, for the purpose of negotiating agreements for the provision of such services. The county may provide or contract with others to provide technical assistance, mediation or dispute resolution services in order to assist the parties in negotiating such agreements.

Section 1105. Legal Effect.

(a) Where municipalities have adopted a county plan or a multimunicipal plan is adopted under this article and the participating municipalities have conformed their local plans and ordinances to the county or multimunicipal plan by implementing cooperative agreements and adopting appropriate resolutions and ordinances, the following shall apply:

- (1) Sections 916.1 and 1006-A.
- (2) State agencies shall consider and may rely upon comprehensive plans and zoning ordinances when reviewing applications for the funding or permitting of infrastructure or facilities.
- (3) State agencies shall consider and may give priority consideration to applications for financial or technical assistance for projects consistent with the county or multimunicipal plan.

(b) Participating municipalities that have entered into implementation agreements to carry out a county or multimunicipal plan as described in this article shall have the following additional powers:

- (1) To provide by cooperative agreement for the sharing of tax revenues and fees by municipalities within the region of the plan.
- (2) To adopt a transfer of development rights program by adoption of an ordinance applicable to the region of the plan so as to enable development rights to be transferred from rural resource areas in any municipality within the plan to designated growth areas in any municipality within the plan.

(c) Nothing in this article shall be construed to authorize a municipality to regulate the allocation or withdrawal of water resources by a municipal authority or water company that is otherwise regulated by the Pennsylvania Public Utility Commission or other Federal or State agencies or statutes.

(d) Except as provided in section 619.2, nothing in this article shall be construed as limiting the authority of the Pennsylvania Public Utility Commission over the implementation, location, construction and maintenance of public utility facilities and the rendering of public utility services to the public.

Section 1106. Specific Plans.

(a) Participating municipalities shall have authority to adopt a specific plan for the systematic implementation of a county or multimunicipal comprehensive plan for any nonresidential part of the area covered by the plan. Such specific plan shall include a text and a diagram or diagrams and implementing ordinances which specify all of the following in detail:

- (1) The distribution, location, extent of area and standards for land uses and facilities, including design of sewage, water, drainage and other essential facilities needed to support the land uses.
- (2) The location, classification and design of all transportation facilities, including, but not limited to, streets and roads needed to serve the land uses described in the specific plan.
- (3) Standards for population density, land coverage, building intensity and supporting services, including utilities.
- (4) Standards for the preservation, conservation, development and use of natural resources, including the protection of significant open spaces, resource lands and agricultural lands within or adjacent to the area covered by the specific plan.
- (5) A program of implementation including regulations, financing of the capital improvements and provisions for repealing or amending the specific plan. Regulations may include zoning, storm water, subdivision and land development, highway access and any other provisions for which municipalities are authorized by law to enact. The regulations may be amended into the county or municipal ordinances or adopted as separate ordinances. If enacted as separate ordinances for the area covered by the specific plan, the ordinances shall repeal and replace any county or municipal ordinances in effect within the area covered by the specific plan and ordinances shall conform to the provisions of the specific plan.

(b)(1) No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with an adopted county or multi-municipal comprehensive plan.

- (2) No capital project by any municipal authority or municipality shall be approved or undertaken, and no final plan, development plan or plat for any subdivision or development of land shall be approved unless such projects, plans or plats are consistent with the adopted specific plan.

(c) In adopting or amending a specific plan, a county and participating municipalities shall use the same procedures as provided in this article for adopting comprehensive plans and ordinances.

(d) Whenever a specific plan has been adopted, applicants for subdivision or land development approval shall be required to submit only a final plan as provided in Article V, provided that such final plan is consistent with and implements the adopted specific plan.

(e) A county or counties and participating municipalities are prohibited from assessing subdivision and land development applicants for the cost of the specific plan.

Section 1107. Saving Clause.

(a) The passage of this act and the repeal by it of any prior enabling laws relating to regional planning shall not invalidate any regional planning commission created under such other laws. This act, in such respect, shall be deemed a continuation and codification of such prior enabling laws.

(b) The amendment of this article shall not invalidate any joint municipal planning commission established under the former provisions of this article. A joint municipal planning commission shall continue to function under the amended provisions of this article.

Article XI-A – Wastewater Processing Cooperative Planning

Section 1101-A. Definitions. The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Environmental Protection of the Commonwealth. "Wastewater system official." Either:

- (1) the manager of a wastewater system; or
- (2) if a manager is not employed to oversee a wastewater system, the system municipal officials of the municipality in which the wastewater system exists.

Section 1102-A. Notification requirement.

(a) Notice to wastewater systems official.

- (1) Except as provided in paragraph (2), notwithstanding any other provision of law, this section applies to a person who files an application for:
 - (i) development, plat approval, planned residential development or waiver of land development under this act; or
 - (ii) a construction permit under section 502 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act.
- (2) This article does not apply to:
 - (i) an application that involves new construction or alteration or renovation of a one-family or two-family dwelling;
 - (ii) an application that has an approved sewer module; or
 - (iii) an application for which the department has issued a determination that sewage planning is not required or has granted an exemption from sewage planning.
- (3) A person subject to this subsection shall provide written notification of filing the application to the wastewater system official serving the property identified in the application. A copy of the written notification shall be provided by the person to the municipality.

(b) Failure to notify. No application subject to subsection (a) may be deemed by the municipality to be administratively complete until the municipality receives a copy of the written notification required by subsection (a).

Section 1103-A. Review by wastewater system officials.

(a) Wastewater systems review.

- (2) Upon receipt of the notification required under section 1102-A(a), the wastewater system official shall review the notification to determine the impact of the application on the wastewater system. The wastewater system official may request additional information, including a copy of the application, from the applicant.
- (2)(i) Except as provided under subparagraph (ii), review by the wastewater system official shall be completed within 30 days of receipt of the notification required under section 1102-A. For good cause shown, the wastewater system official may request and the municipality shall grant an extension of up to 15 days for completion of the review.

(ii) If another statute establishes an application review period of 30 days or less, the review period and extension provided under subparagraph (i) shall not apply and the wastewater system official shall complete the review within the review period provided by that statute.

(3) If a municipality does not receive any notice from the wastewater system official within the time period provided under paragraph (2), the municipality shall proceed with the application as if the application is in compliance with the requirements of the wastewater system.

(b) Notification of results of review.

(1) Upon completion of the review required under subsection (a), the wastewater system official shall notify the applicant and the municipality in writing of its findings, which shall include a statement regarding the expected impact of the application on the current wastewater system.

(2) If the application will cause the wastewater system to exceed its permitted capacity or will result in necessary upgrades to the wastewater system's infrastructure, the written notice of the wastewater system official shall include the specific reasons that are causing the wastewater system to exceed its permitted capacity or the necessity for upgrades to the wastewater system's infrastructure.

(c) Approval of applications. Except for applications which are exempt from the provisions of this article as provided under section 1102-A(a)(2), a municipality may not:

(1) grant final approval of an application for development, plat approval or planned residential development under this act unless final approval is conditioned upon receipt of a waiver of or an approved exemption from sewage planning or written approval of the application is received from the wastewater system official; or

(2) approve an application for a construction permit under section 502 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, unless the application has been reviewed under this section.

(d) Right of appeal. Any person aggrieved by a decision of a wastewater system official shall be entitled to seek the remedies provided under the act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act.

Section 1104-A. Applicability. This article shall apply as follows:

(1) This article shall apply to applications for development, plat approval, planned residential development, waiver of land development or construction permits if the development or construction utilizes wastewater treatment service provided by a county wastewater treatment authority incorporated in a county of the second class A.

(2) This article shall apply to all municipalities served by the authority under paragraph (1).

Section 1105-A. Adoption of Regional Zoning Ordinances. (1105-A repealed Dec. 21, 1988, P.L.1329, No.170)

Section 1106-A. Amendments to Regional Zoning Ordinance. (1106-A repealed Dec. 21, 1988, P.L.1329, No.170)

Section 1107-A. Regional Hearing Board. (1107-A repealed Dec. 21, 1988, P.L.1329, No.170)

Section 1108-A. Intention to Withdraw. (1108-A repealed Dec. 21, 1988, P.L.1329, No.170)

Article XII – Repeals

Section 1201. Specific Repeals. The following acts and parts of acts and amendments thereof are repealed to the extent hereinafter specified:

- (1) Section 12, act of May 16, 1891 (P.L.75, No.59), entitled “An act in relation to the laying out, opening, widening, straightening, extending or vacating streets and alleys, and the construction of bridges in the several municipalities of this Commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefited, and the construction of sewers and payment of the damages, costs and expenses thereof, including damages to private property resulting therefrom,” as to cities of the second class A, incorporated towns and townships of the first and second class.
- (2) Sections 1151, 1152, 1153, 1154, 1155, 1156, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1711, 1721, 1722, 2706, 2707, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209 and 3210, act of February 1, 1966 (P.L.1656, No.581), known as “The Borough Code,” absolutely.
- (3) Sections 2001, 3015, 3016, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3107.1, 3107.2, 3108, 3109, 3110, 3111, 3201, 3202 and 3203, act of June 24, 1931 (P.L.1206, No.331), known as “The First Class Township Code,” reenacted and amended May 27, 1949 (P.L.1955, No.569), absolutely.
- (4) Sections 2901, 2902, 2903, 2904, 2905, 2906, 3701, 3702, 4001, 4002, 4003, 4004, 4005, 4006, 4101, 4102, 4103, 4104, 4105, 4106, 4107, 4110, 4111, 4112, 4113, 4114, 4120, 4121, 4122, 4123, 4124, 4125, 4126, 4127, 4128 and 4129, act of June 23, 1931 (P.L.932, No.317), known as “The Third Class City Code,” reenacted and amended June 28, 1951 (P.L.662, No.164), absolutely.
- (5) Sections 1201-A, 1202-A, 1203-A, 1204-A, 1205-A, 1206-A, 1207-A, 1208-A, 1907.1, 1907.2, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2051, 2052, 2053, 2054, 2055, 2056 and 2057, act of May 1, 1933 (P.L.103, No.69), known as “The Second Class Township Code,” reenacted and amended July 10, 1947 (P.L.1481, No.567), absolutely.
- (6) The act of April 18, 1945 (P.L.258, No.117), entitled “An act requiring cities, boroughs, towns and townships to notify adjacent political subdivisions of proposed streets, roads and highways leading into them,” as to cities of the second class A and third class, boroughs, incorporated towns and townships of the first and second class.
- (7) Sections 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038 and 2039, act of August 9, 1955 (P.L.323, No.130), known as “The County Code,” absolutely.
- (8) Sections 2201 through 2211 and 2220 through 2239, act of July 28, 1953 (P.L.723, No.230), known as the “Second Class County Code,” in so far as they relate to counties of the second class A.

Section 1202. General Repeal. All other acts and parts of acts are repealed in so far as they are inconsistent herewith, but this act shall not repeal or modify any of the provisions of 66 Pa.C.S. Pt. I (relating to public utility code) 68 Pa.C.S. Pt. II Subpt. B (relating to condominiums), or any laws administered by the Department of Transportation of the Commonwealth of Pennsylvania.

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