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Part 1
Elected Officials

A. Council.

§101. Councilmen to be Paid Compensation.

It is hereby authorized and directed that compensation be paid to each member of Borough as set forth in §102.

(Ord. 5/11/1964, §1)

§102. Compensation of Individual Councilmen Fixed.

Compensation is hereby fixed and shall be paid as follows:

- | | | |
|----|-----------------------------|--------------------|
| A. | Council President | \$125.00 per month |
| B. | Other individual Councilmen | \$100.00 per month |

(Ord. 5/11/1964, §2; as amended by Ord. 1226, 12/29/1969, §1)

B. Mayor.

§111. Salary of Mayor.

The salary for the Mayor of Pottstown shall be increased to two thousand (\$2,000.00) dollars annually. Said salary shall become effective as of January 1, 1980.

(Ord. 1231, 2/9/1970)

Part 2
Appointed Officials

A. Manager.

§201. Office of Borough Manager Created.

The office of the Borough Manager be and the same is hereby created, subject to the right of the Borough, by ordinance, at any time, to abolish said office.

(Ord. 11/10/1944, §1)

§202. Appointment, Tenure and Removal of Manager; Vacancies.

Borough Council shall elect, by a majority vote of all the members, one person to fill said office for a specified term. The Borough Manager shall be an at-will employee and shall be subject to removal by Council at any time by a vote of the majority of all the members for any reason.

(Ord. 11/10/1944, §2; as amended by Ord. 1768, 5/23/1994, §1)

§203. Qualifications of Manager; Residence.

1. The Borough Manager shall be a citizen of the United States, at least 21 years of age, with any of the following qualifications:
 - A. A registered engineer.
 - B. A graduate of a college or university majoring in borough managership or municipal affairs.
 - C. Such qualifications as Council deems equivalent to Subsection 1A and/or B above.
2. During the term of office, the Borough Manager shall reside within the Borough.

(Ord. 11/10/1944, §3; as amended by Ord. 1420, 3/13/1970, §1; and by Ord. 1768, 5/23/1994, §2)

§204. Manager's Bond.

Before entering upon his duties, the Borough Manager shall, at the expense of the Borough, file with the Borough a bond to be approved by the Council, with a bonding com-

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pany as surety, in such amount as established by resolution. The bond shall be in favor of the Mayor and Borough Council, conditioned for the favorable performance of his duties as Borough Manager.

(Ord. 11/10/1944, §4; as amended by Ord. 5/8/1946, §1; and by Ord. 1735, 4/12/1993)

§205. Manager's Salary.

The salary of the Borough Manager shall be fixed from time to time by ordinance or by resolution of Borough Council.

(Ord. 11/10/1944, §5; as amended by Ord. 1018, 5/19/1964, §1)

§206. General Authority of Manager.

The Borough Manager shall carry on the business of the Borough under the direction of the Borough Council, and his powers and duties shall relate to the general management of all Borough business not expressly imposed or conferred by statute upon other Borough officers or hereinafter expressly reserved or restricted, and the Mayor is hereby authorized to delegate to the Borough Manager, subject to recall or rescission by written notification at any time, any of his nonlegislative and nonjudicial powers and duties.

(Ord. 11/10/1944, §6)

§207. Specific Powers and Duties of Manager.

Subject to recall or rescission at any time by resolution of the Borough Council, the powers and duties of the Borough Manager shall include the following:

- A. The Borough Manager, under the direction of the Mayor, shall execute and enforce the laws of the Commonwealth and ordinances, resolutions and by-laws of the Borough Council.
- B. He shall attend all meetings of the Borough Council and recommend such measures as he shall deem expedient.
- C. He shall make a monthly report to the Borough Council and at such other times as Borough Council may direct, upon the affairs of the Borough and keep the Borough Council duly advised of the Borough's financial condition and its financial needs.
- D. He shall prepare and submit to the Borough Council before the end of the fiscal year a tentative budget for the next fiscal year.

- E. The Borough Manager shall attend to the letting of contracts in due form of law and supervise the performance and faithful execution of the same, except insofar as such duties are expressly imposed upon some other Borough officer by statute.
- F. The Borough Manager shall have full power to purchase all supplies and equipment for the use of his own and various departments and offices of the Borough, provided, however, no single article or purchase shall be in excess of the maximum allowed by the current provisions of the Borough Code of the Commonwealth of Pennsylvania and the amendments thereto. He shall keep an account of all purchases made by him and shall, from time to time, as directed by Council, make a full written report thereof.
- G. He shall see that all monies owing the Borough are promptly paid and that proper proceedings are taken for the security and collection of all Borough claims.
- H. The Borough Manager shall annually present to the Borough Council, not more than 30 days after the close of each fiscal year, a correct and detailed statement and report of the preceding year's work at his office with a detailed statement of all monies received and expended.
- I. The Borough Manager shall supervise and direct all offices, duties and functions of all subordinate Borough employees in all departments and covering all functions of the Borough, except those involving the Police Department, in which case the exercise of such supervision by the Borough Manager shall not infringe in any way upon the executive powers and duties of the Mayor. However, in the event that the Mayor shall desire to invest or delegate the performance of such duties to the Borough Manager, as under the law may be delegated, then and in that event the Borough Manager shall undertake and perform such duties within the limits as outlined by the Mayor in the delegation thereof.
- J. The Borough Manager shall have the power to recommend to Borough Council the consolidation, creation and/or elimination of any department or departments of Borough operation which are not expressly required by statute.
- K. The Borough Manager shall perform such other duties as may be from time by time by ordinance conferred upon him.
- L. The Borough Manager shall cooperate with the Borough Council and Mayor at all times and in all matters that the best interests of the Borough and the general public may be served.
- M. The Borough Manager is hereby authorized and directed, and full power and authority is hereby vested in him, to employ and dismiss all regular Borough employees, excepting the appointive offices of the Borough, which

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by law are required to be filled by legislative action of Council, such as the Borough Treasurer, the Borough Solicitor and all members of the Police Department. Except for purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Borough Manager and neither the Council nor any member thereof shall give orders to any subordinates of the Borough Manager, either publicly or privately. The Borough Manager shall have full power and authority to direct the work, employment, and services of the said regular Borough employees over whom he is hereby given power of employment and dismissal.

(Ord. 11/10/1944, §7; as amended by Ord. 11/7/1946; by Ord. 1018, 5/19/1964, §2; by Res. 6/14/1965; by Ord. 1392, 10/10/1977, §§1,2; and by Ord. 1420, 3/13/1979, §2)

§208. Right of Borough to Amend or Repeal Manager Ordinance.

The Borough reserves the right at any time by ordinance to amend or otherwise modify or repeal this Part.

(Ord. 11/10/1944, §8)

B. Office of Code Enforcement.

§211. Application.

1. Applicable Codes and Ordinances. The term "applicable codes and ordinances" and the enforcement thereof as referred to in this §211, as well as other sections of this Part, shall apply to those codes and/or ordinances which are listed below, or any other subsequently enacted BOCA ordinance or National Electrical Code of a later edition, as follows:
 - A. BOCA National Building Code, 1990 Edition, as amended, as published by the Building Officials and Code Administrators International, Inc.
 - B. BOCA National Plumbing Code, 1990 Edition, as amended, as published by the Building Officials and Code Administrators International, Inc.
 - C. National Electrical Code, 1990 Edition, as amended, as published by the National Fire Protection Association.
 - D. BOCA National Fire Prevention Code, 1990 Edition, as amended, as published by the Building Officials and Code Administrators International, Inc.
 - E. BOCA National Property Maintenance Code, 1990 Edition, as amended, as published by the Building Officials and Code Administrators International, Inc.

- F. BOCA National Mechanical Code, 1990 Edition, as amended, as published by the Building Officials and Code Administrators International.

(Ord. 1579, 12/14/1987, §1; as amended by Ord. 1799, 4/10/1995, §1)

§212. Creation of Office of Code Enforcement.

1. Creation of Office of Code Enforcement. There is hereby created by the Mayor and Borough Council an office to be known as the "Office of Code Enforcement." Said office shall be responsible for administering and enforcing the provisions of Chapter 5 of this Code and of those other codes and/or ordinances of the Borough referred to as "applicable codes and ordinances" in §211 of this Part, which designates said Office of Code Enforcement as their official administration and enforcement agency.
2. Appointment of Code Enforcement Officer. There shall be appointed, by the Mayor and Borough Council, a Code Enforcement Officer who shall be in charge of the Office of Code Enforcement of the Borough. The Code Enforcement Officer shall supervise such other employees or assistants as shall be necessary for the administration and execution of the responsibilities of said office, as appointed and approved by the Mayor and Borough Council. Said Code Enforcement Officer, and other personnel, may consist of employees directly hired and compensated by the Borough.
3. Fire Chief. In accordance with the Fire Prevention Code of the Borough, the Chief of the Fire Department has been established as the authorized representative of the Office of Code Enforcement of the Borough, having all of the duties for enforcement of the Fire Prevention Code of the Borough provided for in this Part. The Fire Chief shall continue to serve in this capacity until such time as the Mayor and Borough Council declare otherwise.
4. Relief From Personal Liability. The Code Enforcement Officer, or other officials or employees, shall not, while acting for the Borough, render himself liable personally because of any act or omission as required or permitted in the discharge of his official duties. Any suit instituted against such Code Enforcement Officer, official or employee of his duties, shall be defended by the Solicitor of the Borough, and in no case will said Officer, official or employee be liable for costs in any action, suit or proceeding.
5. Official Record. An official record shall be kept of all business and activities of the Office of Code Enforcement, and all such records shall be open to the public for inspection at all appropriate times, except that no individual, owner, operator, occupant or other person shall be subject to unwarranted invasion of privacy, and except that all evidence or information obtained in the course of any inspection shall be kept confidential. Such evidence or information shall not be disclosed, except as may be necessary in the judgment of the Code Enforcement Officer for the proper and effective administration and enforcement of the provisions of this Part, and

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shall not otherwise be made public without the consent of the owner, occupant, operator or other person in charge of the unit, structure or premises inspected.

(Ord. 1579, 12/14/1987, §2)

§213. Duties and Powers of Code Enforcement Officer.

1. Enforcement by Code Enforcement Officer. The Code Enforcement Officer shall enforce and administer all of the provisions of this Part and those other applicable codes and ordinances which establish the Office of Code Enforcement as their official administration and enforcement agency.
2. Duties of Code Enforcement Officer. The duties of the Code Enforcement Officer shall include the receipt of applications, the issuance of permits, notices, certificates and orders, the making of inspections to determine conformance with applicable codes and ordinances, the undertaking of systematic inspection programs, the undertaking of research and investigations, the recommendation of appropriate administrative rules for review and adoption by the Code Hearing Board, the keeping of records, the issuance of written annual reports and such other activities as may be required.
3. Right of Entry.
 - A. In the discharge of his duties the Code Enforcement Officer or his authorized representative, upon showing proper identification where requested, is hereby authorized to enter and inspect, between the hours of 9:00 a.m. and 4:00 p.m., any structure or premises in the Borough to enforce the provisions of this Part and of those other applicable codes and ordinances. The assistance and cooperation of all other Borough officials, including police and fire departments, shall be available to the Code Enforcement Officer to assist in the performance of his duties and in securing right of entry.
 - B. The Code Enforcement Officer and the owner, operator, or occupant or other person in charge of any structure or premises subject to the provisions of this Part may agree to an inspection by appointment at a mutually convenient time.
 - C. The owner, operator, or occupant or other person in charge of any structure or premises shall give the Code Enforcement Officer entry and free access thereto and to every part of the structure or to the premises surrounding the structure.
 - D. If any owner, operator or occupant or other person in charge fails or refuses to permit entry and free access to the structure or premises under his control, or to any part thereof, with respect to any authorized inspection, the Code Enforcement Officer may, upon a showing that probable cause exists for the inspection, file a complaint and petition for and obtain an order di-

recting compliance with the inspection requirements of this Part from a court of competent jurisdiction. Any person who refuses to comply with such an order issued pursuant to this §213 shall be subject to such penalties as may be authorized by law for violation of a court order.

(Ord. 1579, 12/14/1987, §3)

§214. Permits, Certificates and Fees.

1. **Permit Required.** An application for a permit shall be required in accordance with the provisions of those applicable codes and ordinances which the Office of Code Enforcement has the responsibility to administer. Said application shall be submitted in such form as may be prescribed by the Code Enforcement Officer and shall be accompanied by any required fee.
2. **Action on Application.** The Code Enforcement Officer shall examine said application to determine compliance with those other applicable codes and ordinances of the Borough and shall, within 90 days after filing, either approve or reject said application. If said application is rejected, the Code Enforcement Officer shall inform the applicant in writing, stating the reasons for such rejection.
3. **Required Fees.** Applicants for permits required by any of the applicable codes and ordinances shall pay, at the time of application, to the Code Enforcement Officer, for use by the Borough, the fees prescribed therefor, as established from time to time by resolution.
4. **Time Limit on Application.**
 - A. An application for a permit for any proposed work shall be deemed to have been abandoned six months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that for reasonable cause, the Code Enforcement Officer may grant one or more extensions of time for additional periods not exceeding 90 days each.
 - B. All permits granted under any of the above applicable codes and ordinances shall be good for a period of one year, provided that extensions may be granted by the Code Enforcement Officer for good reason; except that any permit granted for demolition activities shall be valid for three months only, and if such demolition work is not completed within that time, any bond posted by the applicant shall be forfeited.
5. **Certificates.** The following certificates shall be required in accordance with the provisions of those other applicable codes or ordinances which the Office of Code Enforcement has the responsibility to administer. Said certificates may be issued separately or combined in the form of a single certificate.

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- A. Certificate of Occupancy; Residential Rental Registration; Residential Rental License. In accordance with §119.0 of the BOCA National Building Code, 1990 Edition, a certificate of use and occupancy shall be required, and no new building or portion of an existing building which is enlarged or altered, shall be used or occupied in whole or in part, until such certificate of use and occupancy and/or residential rental registration and/or residential rental license (where applicable) shall have been issued by the Code Enforcement Officer. In addition, a certificate of use and occupancy and/or residential rental registration and/or residential rental license shall be required pursuant to §§PM-106.6.1.1, PM 106.6.1.2, PM-106.6.1.3, PM-801.8 and PM-801.9 of the BOCA National Property Maintenance Code, 1990 Edition, as amended.
- B. Certificate of Approval. A Certificate of Approval shall be required for any electrical or plumbing work completed under the provisions of the applicable codes and ordinances. All applicants shall apply to the Office of Code Enforcement for such a Certificate of Approval within 30 days of the completion of the building, structure, work, or premises.
- C. Other Certificates. Any other permits, certificates or licenses as required by the applicable codes and ordinances shall be obtained by the applicant in accordance with the provisions of said applicable codes and ordinances. Application for such permits, certificates or licenses shall be made to the Code Enforcement Officer.

(Ord. 1579, 12/14/1987, §4; as amended by Ord. 1698, 5/11/1992, §1; by Ord. 1735, 4/12/1993; by Ord. 1799, 4/10/1995, §2; and by Ord. 1965, 5/12/2003, §1)

§215. Violations and Penalties.

1. Procedure in Case of Violations. With the exception of any violations pertaining to inspection of property transfers or residential rental licensing, for which no notices shall be required, and with the exception of any violations pertaining to snow removal from sidewalks, abandoned motor vehicles, the cutting of grass and weeds, or the improper accumulation and/or disposal of trash, refuse or garbage, which notice shall be effectuated by posting the property as set forth in Subsection 1F below whenever the Enforcement Officer determines that there are reasonable grounds to believe there has been a violation of any provisions of this Part, or any other applicable codes and ordinances, or any rules and regulations adopted pursuant thereto, the Code Officer shall proceed as follows:
 - A. Written notice, signed by the Code Enforcement Officer or his or her authorized representative, of the alleged violation shall be served upon the owner or owner's agent, occupant or other person in charge of the structure or rental unit. Service shall be made personally; by certified mail, return receipt requested; or, where the owner, owner's agent, occupant or other per-

son in charge cannot be located, by posting a notice at a prominent location in or about the structure or premises.

- B. Said notice shall include a statement of the reasons why the notice is being issued, the sections of the Code and/or ordinances which have been violated, and the remedial actions required.
- C. Said notice shall allow a period of time, no less than three days and no more than 60 days, for the initiation and correction of the alleged violation or of the remedial actions required, except where emergency conditions exist that require immediate corrective action, or where a property or rental unit is occupied without a permit and/or residential rental license.
- D. Said notice shall contain a statement indicating that citations will be filed if no request and approval for an extension of time is made to the Code Enforcement Officer or if no petition for an appeal or hearing is requested before the Code Hearing Board within five days from the receipt of said notice.
- E. The Code Enforcement Officer may grant a request for a reasonable extension of time where the Officer has evidence to believe that the responsible person is attempting to correct the alleged violation; however, no such extension of time may exceed a period of 90 days unless authorized by the Code Hearing Board upon appeal of the owner, owner's agent, occupant or other person in charge.
- F. For snow removal from sidewalks, for abandoned motor vehicles, for improper accumulation and/or disposal of trash, refuse and garbage, and/or the cutting of grass and weeds, the Code Officer shall post a notice at a prominent location in or about the structure or premises. Said notice shall be signed by the Code Enforcement Officer or his representative with the nature of the alleged violation, the section of the Code or ordinance violated, the time within to correct such violation prior to the Borough either issuing a citation and/or correcting the violation and lienning the property. The failure of the property owner to abate the violation within the time period required shall entitle the Borough to correct the violation and/or issue a citation against the responsible party.
- G. Chronic offender property shall be any property that has received two or more prior property maintenance citations of any nature within any twelve-month period. For any chronic offender property, no written notice of the alleged violation shall be required and no time period need be given to correct the violation. The Code Enforcement Officer, upon determination of a property maintenance code violation, may immediately issue a citation and proceed to prosecute the violation before the District Justice.

2. Penalties.

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- A. Any person who fails to correct a violation or institute a remedial action as ordered by the Code Enforcement Officer or who violates a provision or fails to comply with any requirements of this Part or of any of the other applicable codes or ordinances shall be subject, for each violation, to a fine of not less than \$50 nor more than \$1,000 and costs of prosecution; and in default of payment of such fine and costs, to imprisonment not exceeding 30 days; and each day's failure to comply with any such provision or requirement or any such order shall constitute a separate offense.
 - B. The imposition of the penalties herein prescribed shall not preclude the Solicitor representing the Borough from initiating, and he is hereby ordered to initiate, appropriate actions or proceedings at law, or in equity, to effect the purposes of this Part.
3. Dangerous and Unsafe Conditions and Structures and Dwellings Unfit for Human Habitation. Structures which contain dwellings which are unfit for human habitation, or structures which are dangerous or unsafe and structures which contain dangerous conditions or materials, as defined by the applicable codes and ordinances of the Borough, are hereby declared to be a public nuisance.
- A. General Procedure. The Code Enforcement Officer shall order the responsible owner, operator, occupant, or person in charge of the structure or premises which is dangerous, unsafe or unfit for human habitation to vacate, repair and/or demolish said structure and to remove the public nuisance as provided for in this Part and in the applicable codes and ordinances of the Borough in accordance with the laws of the Commonwealth of Pennsylvania.
 - B. Failure to Comply. Whenever an order to vacate, repair, and/or demolish a structure which is a public nuisance because it is unsafe, dangerous, or unfit for human habitation has not been complied with, the Code Enforcement Officer may, in accordance with the laws of the Commonwealth of Pennsylvania, proceed to cause the structure to be vacated, repaired, and/or demolished or take such other action as is necessary to abate the nuisance. Abatement under this §215 shall not commence until at least 10 days after the service of the order, except that the Code Enforcement Officer may determine that more immediate action is required because of the special emergency or dangerous conditions which exist.
 - C. Recovery of Expenses. The expenses incurred pursuant to this Part and of the other applicable codes and ordinances shall be paid by the responsible owner, operator, or occupant or by the persons who caused or maintained such a public nuisance.
 - D. The Code Enforcement Officer shall file on his records an affidavit stating with fairness and accuracy of the items and date of the expenses incurred. The Mayor and Borough Council may institute a suit to recover such expenses to be charged against the property as a lien.

(Ord. 1579, 12/14/1987, §5; as amended by Ord. 1705, 10/12/1992, §1; by Ord. 1799, 4/10/1995, §3; by Ord. 1913, 2/12/2001, §§3, 4; and by Ord. 1965, 5/12/2003, §2)

§216. Establishment of Code Hearing Board; Variances and Appeals.

1. Code Hearing Board. There is hereby established a Code Hearing Board, appointed by the Mayor and Borough Council, consisting of not less than three members nor more than five members, who shall serve without compensation but may be reimbursed for necessary reasonable expenses. Their term of office shall be for three years, except for those first appointed, so fixed that the term of office of at least one member shall expire each year. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of Borough Council may serve as members of the Code Hearing Board.
2. Powers of the Code Hearing Board. The Code Hearing Board shall have the following powers and duties:
 - A. Interpretation. On appeal from a determination of the Code Enforcement Officer or on request of any Borough official, the Code Hearing Board shall decide any questions involving the interpretation of any provision of this Part or of those of other applicable codes and ordinances.
 - B. Variances. The Code Hearing Board may grant a variance from the strict application of this Part or of those other applicable codes and ordinances. Such variances may be granted only in those cases which would result in practical difficulty or unnecessary hardship and where the public health and safety shall not be jeopardized.
 - C. Decide Appeals. The Code Hearing Board shall hear all appeals made to it including disruptive conduct as set forth in Ord. 1944, and, depending on its findings, shall decide whether such appeals shall be granted.
3. Requests for Appeals or Variances. Any person requesting a variance or aggrieved by a decision of the Code Enforcement Officer or by any other employee or official charged with the administration and enforcement of this Part and of those other applicable codes or ordinances may take an appeal to the Code Hearing Board. All appeals shall be made in writing, stating the grounds upon which the appeal is based, shall be accompanied by a fee, the amount of which shall be set from time to time by resolution of Borough Council and shall be transmitted to the Office of Code Enforcement. An appeal must be taken within five days of the action or of the receipt of written notice of any decision or ruling which is being appealed.
4. Appeals and Variance Procedure.
 - A. Public Hearing. The Code Hearing Board shall meet and conduct a hearing within 45 days of the receipt of an appeal or a request for a variance. All

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hearings shall be public, and all persons whose interest may be affected shall be given an opportunity to be heard.

- B. Decision of the Board. All decisions of the Board shall be in writing and a copy of each decision shall be sent to the applicant and to the Code Enforcement Officer. The Code Hearing Board shall also retain in its files a copy of each decision, which files shall be available for inspection by the public. Each decision shall set forth fully the reasons for the decision of the Code Hearing Board. The Code Hearing Board shall make an order on its decision and the Code Enforcement Officer shall take immediate action to carry out said order.
5. Inspection of Properties Pursuant to Property Maintenance Code Not Subject to Appeal and Variance Procedure. The appeal and variance procedure set forth herein shall not be available to any owner, owner's agent, occupant or other person in charge, of any residential, commercial, office, manufacturing and industrial buildings and rental units that require an inspection and issuance of a certificate of use and occupancy and/or the issuance of any residential rental license pursuant to any applicable Borough codes and ordinances.
6. Reports by the Code Hearing Board. The Code Hearing Board shall report to the Mayor and Borough Council periodically, at intervals of not later than 12 months. The report shall summarize all applications and appeals made to it since the last report and shall contain a summary of the Board's decision on each case. A copy of the report shall be filed with the Code Enforcement Officer. The Code Hearing Board may also submit to Borough Council advisory reports recommending changes and modifications in this Part or in those other applicable codes or ordinances.

(Ord. 1579, 12/14/1987, §6; as amended by Ord. 1799, 4/10/1995, §§4-8; by Ord. 1829, 9/9/1996, §1; and by Ord. 1965, 5/12/2003, §3)

§217. Short Title.

This Part shall be known and may be cited as the "Code Enforcement Ordinance of the Borough of Pottstown."

(Ord. 1579, 12/14/1987, §7)

C. Assistant Borough Solicitor.

§221. Office of Assistant Borough Solicitor Created.

There be and is hereby created the office of Assistant Borough Solicitor, who shall hold office concurrently with the duly elected Borough Solicitor, and who shall perform such duties as are assigned to him by the Borough Solicitor without compensation.

(Res. 4/16/1958)

D. Parking Enforcement Officer.

§231. Parking Enforcement Officer Created and Authority Delineated.

There is hereby created the office of "Parking Enforcement Officer," who shall have the powers of a police officer limited to those necessary and proper for the enforcement of parking laws.

(Ord. 1852, 7/14/1997, §1)

§232. Duties of Parking Enforcement Officer.

It shall be the duty of the Parking Enforcement Officer to check the parking meters for violations and to generally enforce parking laws and other such duties as may from time to time be assigned.

(Ord. 1852, 7/14/1997, §2)

§233. Departmental Assignment of Parking Enforcement Officer.

The position of Parking Enforcement Officer shall be in the Police Department under the Traffic Division supervisor.

(Ord. 1852, 7/14/1997, §3)

E. Assistant Borough Manager.

§241. Legislative Intent; Background.

1. In the course of practice, the Borough has recognized and created the position of Assistant Borough Manager, which practice dates back more than 40 years.
2. The Borough has previously generated a job description for the Assistant Borough Manager position and has entered into employment contracts for the position with various individuals.
3. The Borough has never formally created the position, via ordinance, enacted by Borough Council.
4. The Burgess and Town Council of the Borough of Pottstown now wish to formally create and establish the position of Assistant Borough Manager by ordinance. This Subpart 2E shall not affect any existing employment contract or job description unless there is a conflict between the provisions of this Subpart 2E and that

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employment agreement/job description, in which case the provisions of this Subpart 2E shall prevail.

(Ord. 2022, 5/8/2006)

§242. Establishment of Office.

There is hereby confirmed and formally established the office/position of the Assistant Borough Manager, who shall hold the office concurrently with the duly appointed Borough Manager.

(Ord. 2022, 5/8/2006)

§243. Power and Duties

The duties of the Assistant Borough Manager shall be prescribed by the Borough Manager. In the absence of the Borough Manager (whether by illness, vacancy or otherwise), the Assistant Borough Manager shall carry out all duties and responsibilities of the Borough Manager as set forth in §201 et seq. of Chapter 1, Administration and Government, of the Code of Ordinances of the Borough of Pottstown, as amended.

(Ord. 2022, 5/8/2006)

F. Fire Chief.

§251. Abolition of Office of Chief Engineer; Creation of Office of Fire Chief.

There is hereby abolished the office of Chief Engineer and there is hereby created the office of Fire Chief.

(Ord. 5/13/1963, §1)

§252. Authority of Fire Chief.

The administration of the fire laws of the Borough of Pottstown shall be enforced by the Fire Chief, who shall have the powers prescribed by law for fire chiefs in the boroughs of the Commonwealth of Pennsylvania. Said Fire Chief shall have the power and it shall be his duty to enforce the laws of the Commonwealth of Pennsylvania and to make and enforce such additional rules and regulations as permitted him by law, as well as any and all rules and regulations now or hereafter adopted by and enacted and ordained by the Borough Council.

(Ord. 5/13/1963, §2; as amended by Ord. 1735, 4/12/1993)

§253. Fire Chief Under Borough Manager.

The office of Fire Chief shall be in the department of the Borough Manager and shall further be under the direction of the Borough Manager.

(Ord. 5/13/1963, §3; as amended by Ord. 1830, 9/9/1996, §1)

§254. Membership of Fire Department.

The Fire Department of the Borough of Pottstown shall be composed of the following volunteer fire companies: the Empire Hook and Ladder Company No. 1; the Goodwill Fire Company No. 1; the North End Fire Company No 1; and the Philadelphia Steam Fire Engine Company No. 1.

(Ord. 1044, 5/19/1964)

§255. Personnel of the Fire Department.

1. The personnel of the Fire Department shall consist of the Fire Chief and a Fire Marshall. They shall be appointed in accordance with regulations and procedures of the Borough governing the appointment of all Borough personnel.
2. In appointing the personnel of the Fire Department, consideration shall be given as to the recommendation of the Borough Fire Committee as to qualified applicants.

(Ord. 1044, 5/19/1964, §2; as amended by Ord. 1830, 9/9/1996, §1)

§256. Qualifications of Fire Chief.

No person shall be eligible to the office of Borough Fire Chief, hereinafter referred to as the Fire Chief, who shall not have attained the age of 25 years. Nor shall any person be eligible for such office unless he shall be:

- A. A citizen of the United States.
- B. Reside within one mile of the Borough limits.
- C. An active, experienced fire fighter.
- D. In good standing in a Borough fire company.
- E. A member of the Fire Department for at least five years.

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(Ord. 1044, 5/19/1964, §3; as amended by Ord. 1720, 12/29/1992, §1)

§257. [Reserved]

(Ord. 1044, 5/19/1964, §4; as amended by Ord. 1720, 12/29/1992, §2; as repealed by Ord. 1830, 9/9/1996, §2)

§258. Election and Tenure of Assistant Fire Chief.

As the Borough Fire Chief is not required to and does not attend all fires and other emergencies, it is necessary to provide for command hierarchy for the orderly implementation of the policies of the Fire Department relating to firefighting responsibilities. Therefore, each of the Fire Chiefs of the volunteer fire companies, as elected by their respective membership, shall be deemed an Assistant Fire Chief of the Borough solely for the purpose of coordinating firefighting efforts at the fire scene. Such Fire Chief shall hold the rank of first, second, third and fourth, depending upon his or her seniority as a company Fire Chief.

(Ord. 1044, 5/19/1964, §5; as amended by Ord. 1585, 3/19/1988, §1; by Ord. 1735, 4/12/1993; and by Ord. 1830, 9/9/1996, §1)

§259. Removal of Fire Chief or Assistant Fire Chiefs; Vacancies.

At any time, Borough Council, by a vote of a majority of all the members thereof, may remove the Fire Chief for incompetency, neglect of duty or any other cause touching upon the powers and duties of such officer, on charges preferred and sustained, and after a public hearing before Council. Vacancies occurring in the office of Fire Chief in this or any other manner shall be temporarily filled by advancement of the First Assistant Fire Chief to the Office of Fire Chief, and to serve as such until the vacancy is filled by the appointment of a Fire Chief by the Borough Council.

(Ord. 1044, 5/19/1964, §6; as amended by Ord. 1830, 9/9/1996, §1)

§260. Compensation of Fire Chief.

The Fire Chief shall receive such compensation as the Borough Council shall from time to time determine, to be paid periodically from the Borough Treasury.

(Ord. 1044, 5/19/1964, §7; as amended by Ord. 1830, 9/9/1996, §1)

§261. [Reserved]

(Ord. 1044, 5/19/1964, §8; as repealed by Ord. 1830, 9/9/1996, §2)

§262. Specific Powers and Duties of Fire Chief.

1. The Fire Chief shall have full control over the Fire Department as it relates to firefighting emergencies and related duties when occasions arise, and shall dismiss each company when its services are no longer required. He shall make an effort to attend all fire emergencies in the Borough, and in case of fire and emergencies, he shall have full control over all fire apparatus, and shall give instructions as to how, when and where such apparatus is to be used, and where the hose shall be attached, shall direct the streams and shall have general control over such matters. When he shall deem the same to be necessary, the Fire Chief shall cause the scene of a fire to be roped off with no person to be admitted within the enclosure except firemen and those immediately interested in the property. He shall have authority, in any extreme emergency, to cause any building or structure or portion thereof within the Borough to be demolished to prevent spread of fire or further damage to property.
2. The Fire Chief shall, with approval of the Borough Manager, have the power and authority to establish suitable measures to put into effect temporary emergency practices and procedures necessary for the efficient operations of the Fire Department.
3. The Fire Chief shall investigate all fires and keep a correct record thereof. He shall make monthly reports to the Borough Manager of all fires and of any other matters pertaining to the Fire Department and the activities and needs thereof, and shall annually, in the month of February, submit a detailed report to the Borough Council.
4. The Fire Chief shall visit each fire company at least once a month, at which time he shall inspect the apparatus and equipment. He shall have free access at all times to the fire houses of the various fire companies comprising the Fire Department.

(Ord. 1044, 5/19/1964, §9; as amended by Ord 1830, 9/9/1996, §§1, 2)

§263. Authority Over Fire Department in Absence of Fire Chief.

Consistent with the provisions of §§258 and 259, the First Assistant Fire Chief shall become Acting Chief in the absence of the Fire Chief, the Second Assistant Fire Chief shall become Acting Chief in the absence of the Fire Chief and the First Assistant Fire Chief, the Third Assistant Fire Chief shall become Acting Chief in the absence of the Fire Chief and the First and Second Assistant; and the Fourth Assistant Fire Chief shall become Acting Chief in the absence of the Fire Chief and the First, Second and Third Assistant Fire Chiefs at the fire scene. In the absence of the Fire Chief and all Assistant Fire Chiefs and Company Assistant Fire Chiefs, the driver of the first fire apparatus to reach the scene shall be in charge. As soon as a higher-ranking member of the Fire De-

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partment shall arrive at the scene, the member in charge shall relinquish his authority to his superior. Any person acting as Fire Chief shall have and may exercise all authority vested by this Part in the Fire Chief.

(Ord. 1044, 5/19/1964, §10; as amended by Ord. 1830, 9/9/1996, §1)

§264. [Reserved]

(Ord. 1044, 5/19/1964, §11; as repealed by Ord. 1830, 9/9/1996, §2)

§265. [Reserved]

(Ord. 1044, 5/19/1964, §12; as repealed by Ord. 1830, 9/9/1996, §2)

§266. Authority to Take Apparatus Outside Borough.

No apparatus of the Fire Department belonging to the Borough shall at any time be taken beyond the limits of the Borough, unless the consent of the Fire Chief or officer acting as Fire Chief at the time shall be first had and obtained.

(Ord. 1044, 5/19/1964, §13)

§267. Fire Report Fee.

A fee, as established from time to time by resolution of Borough Council, shall be charged for a copy of a fire report.

(Ord. 1711, 11/9/1992, §1; as amended by Ord. 1735, 4/12/1993)

§268. Borough Fire Committee.

1. The Borough Fire Committee shall consist of the elected Company Fire Chiefs and their Assistant Company Fire Chiefs. The Fire Committee may seek recommendation of the Borough Fire Chief, who is a member of the Fire Committee, and shall facilitate Fire Committee meetings, but is not entitled to vote. All actions taken by the Fire Committee shall be authorized, ratified, approved and confirmed solely by the vote of the majority of the members of the Fire Committee, with each member thereof having one vote.

2. The Borough Fire Committee, which shall meet on at least a quarterly basis, shall make recommendations to the Borough Fire Chief in such matters as Fire Department administration, training, firefighting methods, developing specifications for and ordering of new equipment, fire alarm operation, fire alarm response and other matters pertaining to the management of the Fire Department.

(Ord. 1830, 9/9/1996, §3)

§269. Internal Organization of Volunteer Fire Companies.

1. Each volunteer fire company shall operate under its own bylaws, which shall be in accordance with generally accepted standards for similar organizations and with generally accepted accounting principals for similar organizations. Nothing in this chapter is intended to have any effect or control over the internal organization of the volunteer fire companies, including personnel and operational matters.
2. The Fire Chief and the subordinate officers of each volunteer fire company shall be in command of fire personnel at all fires. The volunteer fire companies shall also, under the oversight of the Borough Fire Chief, train the members of their companies. All companies shall adhere to Fire Department procedures, adopted by the Fire Committee.
3. The Fire Chiefs and their subordinate officers at each volunteer fire company shall continue to be responsible for maintenance, efficiency and conduct of their respective companies.

(Ord. 1830, 9/9/1996, §3)

§270. Appropriations to Volunteer Fire Companies.

1. Annual appropriations shall be made by the Borough to each volunteer fire company in the Borough which is a member of the Fire Department, subject to such reasonable conditions as the Borough Council may from time to time impose. In determining the amount of the appropriation to a particular volunteer company, the Borough will give consideration to the needs and requirements of each company.
2. Each volunteer fire company shall submit its needs and requirements to the Borough Council on or before July 31 of the ensuing year.

(Ord. 1830, 9/9/1996, §3)

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G. Office of Fire Marshall.

§271. Fire Marshall, Special Duties and Powers.

1. There is hereby created the office of Fire Marshall, which shall be under the supervision and direction of the Borough Manager. The Fire Marshall shall be appointed by and shall serve at the pleasure of Borough Council.
2. Specific Powers and Duties of Fire Marshall. The Fire Marshall shall have the following specific powers and duties:
 - A. In cooperation and conjunction with the Fire Chief, investigate all fires within the Borough, keep a correct written report thereof; to make written findings and conclusions as to the cause of fires; make monthly written reports to the Borough Manager of all fires and causes thereof.
 - B. Make all required written reports to the Commonwealth of Pennsylvania, State Fire Marshall.
 - C. In the event of suspected arson, or should a death occur from the results of fire, to promptly notify the Commonwealth of Pennsylvania, State Fire Marshall, of the same and request assistance from the Commonwealth of Pennsylvania, State Fire Marshall, in the investigation of the fire and death.
 - D. In the event of suspected arson, or should a death occur from the results of a fire, to cooperate with and assist the designated police officer or police officers in his or their criminal investigation of the said fire and/or death.
 - E. Participate in and conduct fire prevention seminars as requested by the school district, civic organizations and Borough Council.
 - F. Conduct and oversee all fire inspections required by local, State and fire laws including, but not limited to, the BOCA National Fire Prevention Code; attend all required Court sessions of code violations and criminal indictments arising out of fire occurrences.
 - G. Establish a program and time schedule for the purpose of insuring prompt compliance with all code violations.
 - H. Review all plans and specifications of new construction or major renovation work to be commenced within the Borough, and to further make findings and conclusions as to compliance with all fire regulations and laws in writing and to submit the said findings and conclusions to the Borough Manager and the Building and Inspections Department.
 - I. Prepare, develop and implement specific projects when assigned by the Borough Manager.

(Ord. 1720, 12/29/1992, §3)

Part 3

Police Department

A. Establishment of Police Department.

§301. Police Department Established.

A Police Department is hereby established in and for the Borough of Pottstown. The Chief of Police shall be the chief executive of the Police Department. Under the direction of the Mayor, the Chief of Police shall be in charge of the police force and shall have supervision over its members and shall prescribe rules and regulations for the exercise of their powers, duties and authority. Provided, nothing herein contained shall affect the authority of the Mayor to appoint special policemen during emergencies. Nor shall any rights and/or privileges now enjoyed by the present members of the Police Department of the Borough be affected in any manner by the provisions contained in this Part.

(Ord. 9/15/1953A, §1; as amended by Ord. 1017, 5/19/1964; and by Ord. 1160, 5/8/1967, §1)

§302. Grades in Police Department; Number of Members; Compensation.

Subordinate to the Chief of Police the following grades are hereby established in the Police Department: Captain, Sergeant, Patrolman, Probationary Patrolman. The number of persons to serve in each of the said grades, on a full-time or part-time basis, and the compensation of the Chief of Police and each of the other members of the Police Department shall be determined by the Borough Council from time to time.

(Ord. 9/15/1953A, §2; as amended by Ord. 1017, 5/19/1964, §2; and by Ord. 1160, 5/8/1967, §2)

§303. Probationary and Permanent Appointments.

All original appointments to the police force shall be for a probationary period of twelve (12) months. If at any time during the probationary period and before its close the conduct or fitness of the probationer has not been satisfactory to the Mayor, Chief of Police, and chairman of the Police Committee, the Police Committee and the Borough Council shall be notified in writing and the decision of the Council shall be given to the probationer in writing. If his work is satisfactory, his retention shall constitute a permanent appointment.

(Ord. 9/15/1953A, §3; as amended by Ord. 1160, 5/8/1967, §3)

§304. Attendance at Police Officers School.

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Each patrolman shall attend Police Officers School, at the discretion of the Police Committee, before the completion of the first year of service. He shall also take at least one (1) additional course before the completion of five (5) years of service, and as often thereafter as deemed advisable by the Police Committee.

(Ord. 9/15/1953A, §4)

§305. Policemen Not to Hold Other Employment Without Prior Approval of the Mayor and Chief of Police.

The position of police officers shall be considered as a full-time position and no officer shall accept any other job while a member of the force without prior approval of the Mayor and Chief of Police, who shall establish rules regulating such employment for the purpose of preserving and protecting the efficiency and integrity of the Police Department in the exercise of its powers, duties and authority.

(Ord. 9/15/1953A, §7; as amended by Res. 4/10/1967E)

§306. Employment of Special School Police Authorized.

The proper Borough authorities are hereby authorized and directed to employ and appoint special school police at salaries and in such numbers as from time to time may be determined by motion of Borough Council, to be specially assigned the sole duty of traffic control at designated street intersections generally used by school children, and as officers for the enforcement of traffic control to occupy or be present at such posts four (4) times daily during the periods immediately preceding and following the convening and dismissal of the Borough's public schools.

(Ord. 11/12/1952E, §1; as amended by Ord. 1160, 5/8/1967, §10)

§307. Powers of Special School Police.

Said special school police are hereby vested with the powers and authority of police officers necessary for the enforcement and control of all laws, rules, and regulations pertaining to the vehicular and pedestrian traffic in connection with the performance of their assigned duties at designated intersections, and shall have no other general police powers.

(Ord. 11/12/1952E, §2; as amended by Ord. 1160, 5/8/1967, §11)

§308. Status of Special School Police.

The duties of said special school police being limited to one (1) specifically designated function, performed on a part-time basis, said special school police are hereby declared not to be general members of the police force, and shall not be subject to the provisions of the Pennsylvania Police Civil Service Act, nor eligible to participate in or become members of the Police Pension Fund.

(Ord. 11/12/1952E, §3; as amended by Ord. 1160, 5/8/1967, §12)

B. [Reserved].

C. Police Outside Service Fees.

§321. Overhead Fee Rate of Outside Services by Police.

Fees will be charged at the applicable hourly rate for police officers, including fringe benefits. Except for school functions, the overhead fee rate for outside services provided by police officers shall be in an amount per hour, as established from time to time by resolution, for each officer engaged in such services. The overhead fee rate for outside services provided by police officers for school functions shall be in an amount per hour, as established from time to time by resolution, for each officer engaged in such services.

(Ord. 1376, 1/10/1977, §1; as amended by Ord. 1622, 5/8/1989, §2; and by Ord. 1735, 4/12/1993)

§322. Fee for Police Escort Services.

The fee for escort services provided by police officers shall be in an amount as established from time to time by resolution, regardless of the number of officers engaged in such services.

(Ord. 1376, 1/10/1977, §2; as amended by Ord. 1735, 4/12/1993)

D. ChesMont Emergency Response Team.

§331. Authorization of Intergovernmental Cooperation Agreement Establishing Police Emergency Response Team.

The President and Secretary of the Pottstown Borough Council are authorized to enter into an intergovernmental cooperation agreement establishing a police emergency response team to be known as "ChesMont Emergency Response Team (CMERT)."

(Ord. 1821, 2/12/1996, §1)

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§332. Intergovernmental Cooperation Agreement Requirements.

The intergovernmental cooperation agreement providing for CMERT shall contain the following:

- A. Provisions authorizing police officers to act outside the boundaries of their respective municipalities; establishing a Board of Chiefs; providing for meetings; directing finance procedures and records; setting a procedure for activation and operation of CMERT; providing for deputizing, immunity and claims; providing for additional municipalities; providing for interpretation of agreement; providing for termination and for effective date of the agreement.
- B. The intergovernmental cooperation agreement shall provide for termination upon thirty (30) days written notice.
- C. The purpose and objectives of the agreement shall be to have available for use throughout the territorial limits of all municipalities signing the agreement the services of police employed by any and all of the participating municipalities for CMERT activities.
- D. All financing arrangements shall be approved by resolution of Pottstown Borough Council.
- E. The organizational structure shall be by the Board of Chiefs, which shall be comprised of the Chief of Police of each Police Department of participating municipalities.
- F. All property, real or personal, acquired by CMERT shall be managed and controlled by the Board of Chiefs.
- G. CMERT shall be empowered to enter into contracts for insurance or other benefits only as authorized by the Pottstown Borough Council by resolution.
- H. The final form of any agreement and/or amendments thereto shall be approved by the Pottstown Borough Council.

(Ord. 1821, 2/12/1996, §1)

E. Arrest Without Warrant.

§341. Compliance.

This Part is intended to comply with 42 Pa.C.S. (Judiciary and Judicial Procedure), §8902, relating to arrests by police officers without warrants for certain summary offenses committed on or after January 17, 1996, where the following requirements are satisfied:

- A. The officer has probable cause to believe that one (1) of the following crimes is involved:
 - (1) 18 Pa.C.S. §5503, disorderly conduct.
 - (2) 18 Pa.C.S. §5505, public drunkenness.
 - (3) 18 Pa.C.S. §5507, obstructing highways/public passages.
 - (4) 18 Pa.C.S. §6308, purchase/consumption/transportation of liquor or malt or brewed beverages.
- B. The defendant's conduct is ongoing.
- C. The conduct constituting the crime is upon the officer's view.
- D. The conduct imperils the personal security of any person or endangers public or private property.

(Res. 5/13/1996B, §1)

§342. Guidelines.

There is hereby established the following guidelines of the Borough of Pottstown to permit the Borough police officers to affect an arrest where the above criteria has been satisfied:

- A. Upon arrest, the defendant shall be immediately transported to the Borough Police Department for processing and issuance of a citation.
- B. The defendant shall be processed without unnecessary delay and furnished with a copy of the citation.
- C. The defendant will then be released, provided he/she is no longer in a position of imperiled personal security.
- D. In the case of juveniles:
 - (1) An attempt shall be made to contact a parent, guardian or responsible person. Responsible Person – one who is responsible for the physical custody of a juvenile or is another adult acquaintance of the juvenile's parents or legal guardian who agrees and reasonably demonstrates the ability to provide supervision for the juvenile, until parents, legal guardian or next of kin can assume that responsibility.

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- (2) Juvenile shall be released to a parent, guardian or responsible person after processing and issuance of a citation.
- (3) If, after a period of six (6) hours, a parent, guardian or responsible person cannot be contacted or refuse to accept custody, the officer will contact the on-duty juvenile probation officer at the Juvenile Probation Department to arrange shelter for the juvenile.

(Res. 5/13/1996B, §2)

Part 4

Educational Assistance Program for Employees

§401. Adoption of Educational Assistance Program.

An educational assistance program for employees of the Borough of Pottstown be and is hereby adopted and approved. Said program is to be administered by the Borough Manager as is set forth in this Part.

(Res. 3/14/1966A)

§402. Definitions.

BOOKS AND MATERIALS – textbooks, notebooks, and other publications or material which the institution or sponsoring organization deems necessary for the student's active participation and successful completion of courses. Books and materials shall include laboratory equipment or depository fee covering breakage of same.

EXAMINATION COST – the charge or fees for the privilege of taking examinations prerequisite to successfully completing or receiving credit for a course.

REGISTRATION FEE – the cost for a student registering for a course.

TUITION – the charge determined by the sponsoring university, college, professional or trade society necessary to pay for courses, instruction, and administrative costs.

(Res. 3/14/1966A)

§403. Mandatory Training Financial Assistance.

The Borough of Pottstown shall pay the full cost of tuition, registration fees, books, travel, examinations, and basic living expenses connected with training or advanced education considered, in the opinion of the Borough Manager, to be necessary before an employee is advanced to a new position or continues in the Borough's service to maintain his present standing.

(Res. 3/14/1966A)

§404. Voluntary Training Financial Assistance.

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The Borough of Pottstown shall reimburse the cost of tuition, registration fees, books and examination costs up to a maximum of six hundred fifty dollars (\$650.00) in any one (1) calendar year for full-time employees who have successfully completed, with a passing grade of "C" or seventy (70) percent, or its equivalent, courses of study related to the employee's current or future work with the Borough of Pottstown and sponsored by recognized universities, junior colleges, professional or trade societies.

(Res. 3/14/1966A; as amended by Res. 3/14/1975; by Ord. 1439, 1/14/1980, §4; by Ord. 1656, 1/14/1991, §7; by Ord. 1696, 3/9/1992, §16; and by Ord. 1758, 12/30/1993, §1)

§405. Administrative Regulations; Voluntary Training.

1. Candidates for educational assistance must retain a satisfactory merit rating.
2. Studies or courses must be directly related to the employee's municipal work or to work to which he may transfer or progress in the future unless the course is necessary in the attainment of a degree.
3. Employees submitting applications for consideration by the Borough Manager, requesting educational financial assistance, prior to enrolling in a course of studies, shall have served for six (6) months of continuous, satisfactory service; provided that all such employees failing to successfully complete the required probationary period will not be reimbursed or will return their reimbursement before receiving a final pay check.
4. Students intentionally falsifying expenses shall forfeit all reimbursements and future participation in the educational assistance program.
5. All reimbursements shall be subject to the filing of the application and approval by the Borough Manager to determine eligibility, before the prospective student registers. The Borough Manager's decision shall prevail in the determination for eligibility for expenses, upon successful completion of the course, as reflected by the sponsoring organization's records.
6. Any assistance in the form of a scholarship, parental subsidy or any other assistance shall be deducted from the reimbursement.
7. All reimbursement shall be subject to Federal, State or local taxes, if applicable.

(Res. 3/14/1966A)

Part 5

Personnel Regulations

§501. Personnel Rules and Regulations Adopted.

This Part provides for the rules and regulations, approved and adopted by the Borough, pertaining to employees of the Borough of Pottstown.

(Res. 10/10/1966)

§502. Regular Work Week.

1. A full-time employee shall be an employee of the Borough of Pottstown fulfilling the minimum thirty-seven and one-half (37 1/2) hour work week.
2. The work week for full-time employees shall begin at 12:01 A.M. on Monday and end at 11:59 P.M. the following Sunday.
3. Paid holidays shall be counted as part of the regular work week in computing the employee's compensation.

(Res. 10/10/1966), §2; as amended by Res. 1/12/1970; by Res. 6/10/1974; by Res. 12/29/1975; and by Ord. 1696, 3/9/1992, §2)

§503. Overtime Compensation.

1. Salaried Employees.
 - A. Full-time salaried employees shall be eligible for overtime financial compensation at the rate of one and one-half (1 1/2) times the regular rate for all hours in excess of forty (40) hours per week, except exempt supervisory personnel.
 - B. All compensation for overtime shall be computed according to minimum time increments of each thirty (30) minutes worked in excess of the regular work week.
 - C. Exempt supervisory personnel shall not be eligible for overtime financial compensation for work performed beyond their normal responsibilities unless specifically approved by Council, but may be granted compensatory time off for emergency work at the discretion of the Borough Manager.

(Res. 10/10/1966, §3; as amended by Res. 1/12/1970; by Res. 12/28/1970; by Res. 12/29/1971A; by Res. 12/27/1972B; by Res. 12/26/1973A; by Res. 6/10/1974; by Res.

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10/14/1974; by Ord. 1332, 5/12/1975, §1; by Res. 12/29/1975; by Ord. 1374, 2/14/1977, §1; by Ord. 1512, 2/11/1985; and by Ord. 1696, 3/9/1992, §3)

§504. Special Compensation Provisions.

1. Temporary Assignment Compensation.

A. Salaried.

- (1) Where a full-time salaried employee is temporarily required to regularly serve in and accept the responsibility for work in a higher position classification, the employee shall receive the minimum rate of pay in the temporary assignment's minimum position classification grade or one (1) step above his present rate, whichever is higher, while on temporary assignment, subject to approval of the Borough Manager. To qualify for compensation in a higher class or position while on temporary assignment, the assignment shall be full-time regular and continuous for a period of one (1) work week or its excess. Compensation shall be retroactive to the date of the temporary assignment and shall apply to vacations, vacancies and all types of leave time.

(Res. 10/10/1966, §4; as amended by Res. 3/16/1967A; by Res. 12/28/1970; by Res. 12/29/1971A; by Res. 12/27/1972B; by Res. 12/26/1973A; by Res. 12/30/1974A; by Res. 12/29/1975; by Ord. 1374, §/14/1977, §1; by Ord. 1449, 1/14/1980, §1; by Ord. 1532, 2/10/1986; and by Ord. 1696, 3/9/1992, §4)

§505. Paid Holidays.

1. Every full-time employee of the Borough of Pottstown shall be granted the following paid holidays:

New Year's Day	Fourth of July	Thanksgiving Day
Washington's Birthday	Labor Day	Friday after Thanksgiving
Good Friday	Columbus Day	Christmas Day
Memorial Day	Veterans Day	

and three (3) personal days except that full-time employees hired after July 1st shall be entitled to one and one-half (1 1/2) personal days until January 1st, provided, the personal days shall be recognized on the date selected by the employee and approved by his/her immediate supervisor. When the above holiday falls on either Saturday or Sunday, the Borough Manager shall designate the preceding Friday or following Monday, as the date of the holiday recognition, based on community observance;

2. The employee shall have worked the regular working day before and after the holiday to qualify for compensation. In the event of absence on the working day before or after a holiday, leave of absence, sickness, accident or other excusable absence must be approved by the employer to qualify for the holiday's compensation.
3. An employee recognizing a personal day shall inform his supervisor of the celebration date at least one (1) week (7 days) prior to the date of celebration.
4. Upon request, an employee shall be paid the regular rate for unused holidays, if the Borough is unable to schedule such holidays within twelve (12) months of the day of observance. This provisions shall not be retroactive for holidays earned prior to January 1, 1976. Upon termination of employment, an employee will be eligible for payment of unused holidays and unused personal days up to one (1) year's time.

(Res. 10/10/1966, §5; as amended by Res. 3/16/1967C; by Res. 12/27/1972B; by Res. 12/30/1974A; by Res. 12/29/1975; by Ord. 1449, 12/30/1980, §1; by Ord. 1467, 12/29/1982, §1; by Ord. 1610, 12/29/1988, §1; and by Ord. 1696, 3/9/1992, §5)

§506. Vacation with Pay.

1. Vacation Schedule. Every regular, full-time employee shall be eligible for paid vacation leave in accordance with the following schedule:
 - A. After completion of one (1) full year of continuous service – ten (10) working days.
 - B. After completion of five (5) full years of continuous service – fifteen (15) working days.
 - C. After completion of ten (10) full years of continuous service – twenty (20) working days.
 - D. After completion of fifteen (15) years of continuous service – twenty-five (25) working days.
 - E. All vacation days shall be used within one (1) year from the date of their award. In the event an employee is unable to use all awarded vacation days during the required time period, a maximum of five (5) days may be carried over for three (3) additional months beyond the anniversary date. Any remaining vacation days not used within that additional three (3) month time period will be lost.
2. Vacation Pay.

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- A. The rate of vacation pay shall be the employee's regular straight time pay for his regular scheduled work week, or portion thereof, at the applicable rate when vacation is taken.
 - B. Employees who desire vacation pay in advance for approved leave shall give eight (8) calendar days notice to the Payroll Department. Employees who comply with this notice shall receive their check not later than three (3) calendar days prior to their vacation. This provision shall apply to weekly amounts only. Vacation checks not received in advance will be kept in the Finance Office when requested by the employee.
3. **Holiday Falling During Vacation Leave.** When an authorized holiday falls within an employee's vacation leave, time equivalent to the authorized holiday shall be granted in addition to the regular vacation leave.
 4. **Vacation Leave Upon Termination.** An employee who terminates employment with the employer shall give a minimum of two (2) working weeks notice in order to be eligible for payment of unused and accrued vacation leave upon termination. Employees voluntarily or involuntarily terminating service before one (1) year of continuous employment shall not be eligible for vacation leave. Employees terminating service after one (1) full year of continuous service from date of appointment, or anytime thereafter, shall be entitled to unused vacation leave and a pro-rated share of vacation earned on the basis of appointment date, prior to the date of resignation based on the following schedule:
 - A. One (1) month to three (3) months past the anniversary of employee's appointment date – twenty-five (25) percent of vacation leave which the employee earned as of his last anniversary date.
 - B. Four (4) months to six (6) months past the anniversary of employee's appointment date – fifty (50) percent of vacation leave days which the employee earned as of his last anniversary date.
 - C. Seven (7) months to nine (9) months past the anniversary of employee's appointment date – seventy-five (75) percent of vacation leave days which the employee earned as of his last anniversary date.
 - D. Ten (10) months to twelve (12) months past the anniversary of employee's appointment date – one hundred (100) percent of vacation leave days which the employee would have earned based on his next anniversary date.

All payments for vacation time due employees when separating from employment shall be in lump sum amounts and paid in the last applicable pay period.

(Res. 10/10/1966, §6; as amended by Res. 4/10/1967D; by Res. 1/13/1969; by Res. 12/29/1971A; by Res. 12/27/1972B; by Res. 12/26/1973A; by Res. 12/29/1975; by Ord. 1467, 12/29/1981, §1; by Ord. 1656, 1/14/1991, §1; by Ord. 1696, 3/9/1992, §6; by Ord. 1756, 12/13/1993, §§1, 2; and by Ord. 1829, 9/9/1996, §2)

§507. Sick Leave.

1. Eligibility. Regular full-time employees, upon completion of ninety (90) calendar days of employment, shall be eligible for six (6) days of accumulated sick leave. For every completed month of continuous service thereafter, a regular full-time employee shall earn one (1) additional sick leave day.
2. Employee Wellness Program. Employees shall be eligible for the following wellness program. Under this program, employees will receive a payment each year, during the last pay period, for not using sick leave days, under the following conditions:

Sick Leave Days Used	Payment
0 – .99	\$300.00
1.0 – 2.99	\$200.00
3.0 – 4.99	\$100.00
5.0 – 5.99	\$50.00
6.0 or more	No Payment

3. Accumulation. Eligible employees shall be entitled to accumulate a maximum of one hundred (100) paid sick leave days.
4. Donation. Employees may give sick leave days to other employees who have used their total accumulated paid sick leave days and have been certified by a doctor to be unable to return to work. Employee donations are limited to no more than ten (10) days to another employee and will be deducted from and added to the applicable employee's total accumulated paid sick leave days.
5. Payment of Unused Sick Leave Days. Upon superannuation retirement, an employee shall be paid for the number of unused sick leave days at the rate of fifteen dollars (\$15.00) per day. Any employee electing postretirement medical benefits shall forfeit his/her entitlement to payment for any unused sick leave days.
6. Limitation on Use of Sick Leave Days. Employees may not use paid sick leave days for absence due to an injury as defined by worker's compensation sustained through employment outside the employer's service.
7. Fitness for Work. Any sickness meeting the following listed conditions, at any time, shall require a doctor's certificate as to the extent of the illness and, when applicable, the employee's expected date of return to work. This certification must be submitted on the employee's first day back to work, or within forty-eight (48) hours of management's request.

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- A. Any sickness for three (3) or more consecutive days at any one (1) time.
- B. When an employee who has had at least six (6) periods of sick leave usage in the preceding twelve (12) months is absent for one (1) or more days. A period of sick leave usage shall be defined as one (1) (or a portion thereof) or more consecutive days in which an employee is in paid or unpaid sick leave status.
- C. When an employee has developed a pattern of abusing sick leave absences.

The Borough may require a physical examination at any time showing proper cause, with forty-eight (48) hours notice. The examination shall be conducted by a physician of the Borough's choice. The Borough shall pay the cost of the examination, and the employee shall not suffer any loss in pay or time if the examination is conducted during his/her regular work hours.

- 8. **Light Duty Assignment.** Any employee on worker's compensation or sick leave may be assigned to light duty work in or out of their classification by the employer; provided, the employee is certified capable of performing light duty by the physician in charge of the case. An employee assigned to light duty shall receive his/her regular rate of pay and benefits.
- 9. **Effect on Existing Employees.** At the time of the effective date of this Part, all employees which have accumulated between one hundred one (101) and one hundred fifty (150) paid sick leave days shall have their sick days reduced to the new maximum cap of one hundred (100) days. Any such employee who falls into this classification shall receive a one-time payment of ten dollars (\$10.00) per day for all days exceeding one hundred (100).

(Res. 10/10/1966, §7; as amended by Res. 1/13/1969; by Res. 1/12/1970; by Res. 12/28/1970; by Res. 12/26/1973A; by Ord. 1332, 5/12/1975, §2; by Ord. 1374, 2/14/1977, §1; by Ord. 1439, 1/14/1980, §1; by Ord. 1512, 2/11/1985; by Ord. 1532, 1/1/1986; by Ord. 1656, 1/14/1991, §2; by Ord. 1696, 3/9/1992, §7; and by Ord. 1890, 6/14/1999, §1)

§508. Injury Leave.

- 1. A full-time municipal employee disabled in the performance of duty shall be paid his monthly salary for a period not to exceed one hundred eighty (180) days from the date of disability less any funds received by the disabled employee through insurance or funds established by the Borough or workmen's compensation.
- 2. A certificate of the attending physician or surgeon attesting to the disability and the cause thereof shall be with the Borough Manager before the last day of each month in which the disability occurred or continues during the one hundred eighty (180)-day period. The Borough Manager shall have access to all medical, hospital and x-ray reports upon request.

3. Any injury sustained in the line of duty shall not be charged against the sick leave allowance time.
4. Absence due to off-the-job injury not connected with outside employment shall be treated as sickness with regard to leave and financial compensation.
5. Compensation for employees absent due to an injury incurred through employment outside the Borough's service shall be limited to variation, holidays and personal days.

(Res. 10/10/1966, §8; as amended by Ord. 1439, 1/14/1980, §1)

§509. Pay Periods.

1. The compensation for all full-time Borough employees shall be payable for the period Monday, 12:01 a.m. through Sunday, 11:59 p.m., of the preceding week, on Wednesday of each week provided that the Borough Manager may authorize issuance of checks to facilitate employee's utilization in the event of a special request or a bank holiday.
2. The rate of compensation for an employee shall become effective as of the date of initial employment or on the Monday following notification of promotion or change in position classification or step.

(Res. 10/10/1966, §9; as amended by Ord. 1332, 5/12/1975, §3)

§510. Special Leaves.

The following special leaves shall apply to all full-time employees:

A. Death in Family.

- (1) Absence for death in the immediate family shall be just cause for leave up to four (4) days with no deduction of pay and such absence shall not count as sick leave time.
- (2) The immediate family shall constitute parents, children, spouse, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparents of employee and employee's spouse, or a relative living in the household.

B. Leave of Absence.

- (1) The Borough Manager may authorize leaves of absence for full-time Borough employees including or excluding vacation, with or without

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pay, for any period or period not to exceed four (4) calendar months in any one (1) calendar year for the following purposes:

- (a) Attendance at college, university or business school for the purpose of training in subjects related to the work of the employee and which will benefit the employee and the Borough service.
 - (b) Urgent business requiring employee's attention for an extended period, such as settling estates.
 - (c) Liquidating a business.
 - (d) Service on a jury and attending court as a witness.
 - (e) For purposes other than the above, deemed beneficial to the Borough service.
- (2) In the event an employee serves in jury duty, daily compensation shall be determined as regular pay less jury duty compensation.
 - (3) Authorized leaves of absence shall not interrupt continuous service time.

(Res. 10/10/1966, §10; as amended by Res. 3/11/1968; by Res. 1/12/1970; by Res. 12/29/1975; by Ord. 1467, 12/29/1981, §1; and by Ord. 1696, 3/9/1992, §8)

§511. Absence Without Leave.

Any employee who intends to be absent from duty without leave shall report the reason to his supervisor prior to the date of absence where possible and in no case later than the beginning of the first workday. All unauthorized and unreported absences shall be considered absence without leave and deduction of pay shall automatically be made for the period of absence. Unauthorized absences constitute grounds for disciplinary action or dismissal.

(Res. 10/10/1966, §11)

§512. Military Service.

1. Military Leaves of Absence for Employees of the Borough.
 - A. Member of Pennsylvania National Guard generally. All employees of the Borough, who are members of the Pennsylvania National Guard, shall be entitled to leave of absence from their respective duties without loss of pay, time or efficiency rating on all days during which they shall, as members of the Pennsylvania National Guard, be engaged in active State duty. All such

employees shall, in addition, be entitled leave of absence from their respective duties without loss of pay, time or efficiency rating on all days not exceeding fifteen (15) days in any one year during which they shall, as members of the Pennsylvania National Guard, be engaged in training or other military duty under orders authorized by law. All such employees shall, in addition, be entitled to unpaid leave of absence from their respective duties without loss of seniority or efficiency rating on all days in excess of fifteen (15) days per year during which they shall be engaged in training for other military duties under orders authorized by law. (51 Pa.C.S.A. §4102(a))

- B. Members of Pennsylvania National Guard or other Reserve Components of US Armed Forces, Special Circumstances. The Borough may provide paid military leave or other compensation and/or continue medical and other benefits to employees who are members of the Pennsylvania National Guard or other reserve components of the United States Armed Forces for days in excess of fifteen (15) days per year, subject to approval by Borough Council, when the employee shall be engaged in training or other military duty under orders authorized by law. (51 Pa.C.S.A. §4102(b))
 - C. Enlistment or Draft of Employee. Whenever any employee shall, in time of war or armed conflict or emergency proclaimed by the Governor of Pennsylvania or by the President of the United States, enlist or shall, at any time, be drafted into active military service into the United States, the employee shall be automatically granted a military leave of absence. So long as an employee is on military leave of absence, the employee shall not be removed from the employee's employment and duties and the employee's duties shall either be performed by other employees or by a temporary substitute. During such time, the employee shall not receive any remuneration from the Borough. (51 Pa.C.S.A. §7302(a))
 - D. Members of Reserve Components or Pennsylvania National Guard Ordered to Active or Special Duty. Whenever any employee who is a member of a reserve component of the Armed Forces shall be called or ordered to active duty by the United States and whenever any employee who is a member of the Pennsylvania National Guard shall be ordered to active State duty or special State duty by the Governor or his designee, the employee shall automatically be granted a military leave of absence subject to the provisions of subsections 1(A) and 1(B). (51 Pa.C.S.A. §7302(b))
2. Expiration of Military Leaves of Absence.
- A. Employees Who Enlisted. Every military leave of absence granted to an employee by reason of the employee's enlistment in the active military service in time of war or armed conflict, or emergency proclaimed by the Governor or the President of the United States, shall expire ninety (90) days after the expiration of the first period of the employee's enlistment to expire at a time when the United States is not engaged in a war or armed conflict or emer-

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gency proclaimed by the Governor or by the President of the United States. (51 Pa.C.S.A. §7303(a))

- B. **Employees Who Are Drafted.** Every military leave of absence granted to an employee by reason of the employee having been drafted, shall expire ninety (90) days after the expiration of the period for which the employee was drafted. (51 Pa.C.S.A. §7303(b))
- C. **Employees Who Are Members of Reserve Components/Pennsylvania National Guard.** Every military leave of absence granted to an employee by reason of the employee having been called or ordered to military duty as a member of a reserve component of the Armed Forces of the United States shall expire ninety (90) days after the expiration of the period of the military duty. Every military leave of absence granted to an employee by reason of the employee having been ordered to active State duty or special State duty as a member of the Pennsylvania National Guard shall expire thirty (30) days after the expiration of the period of the State duty. (51 Pa.C.S.A. §7303(c))

(Res. 10/10/1966, §12; as amended by Ord. 1915, 3/15/2001, §2)

§513. Personal Expenses on Official Business and Official Use of Personal Vehicles.

- 1. An official or employee engaged in official business authorized by the Borough Manager may be reimbursed for all or part of necessarily incurred expenses. Employees shall be reimbursed for personal property broken or damaged while engaged in official business; provided, that no single item may be valued in excess of one hundred dollars (\$100.00).
- 2. The rate of twenty-five cents (25¢) per mile is established for the use of privately owned vehicles used by employees in the performance of Borough service when authorized by the Borough Manager, and payment shall be made upon submittal of accurate mileage records approved by the Borough Manager.

(Res. 10/10/1966, §§13,14; as amended by Res. 12/27/1972B; by Res. 12/26/1973A; by Res. 12/29/1975; by Ord. 1374, 2/14/1977, §1; and by Ord. 1696, 3/9/1992, §9)

§514. Position Classification and Pay Plan: Administration

- 1. **Probationary Period.** The first twelve (12) months of employment in a classified position through initial appointment as a Borough employee or through promotion shall be considered a probationary period.
- 2. **Pay Plan Administration.**

- A. The Borough Manager shall perform an annual evaluation of the salary plan. The evaluation will serve the following purposes:
 - (1) To establish salary and wage rates for positions which compare favorably with those in effect in private and governmental organizations.
 - (2) To compensate qualified employees for continued satisfactory performance or meritorious service.
 - (3) To arbitrate and adjust salary and wage classifications and steps with job tasks and responsibilities.
 - B. Adjustments in hourly and salaried rates for classified positions shall be determined by Council.
 - C. Changes in the compensation plan shall maintain the recognized relationship among position classifications, reflect cost-of-living adjustments and reflect prevailing rates of pay for comparable positions outside the Borough service.
3. Regulations.
- A. Employees shall be paid within the established salary range designated for the classification to which their position is assigned.
 - B. The minimum rate established for a salary or wage grade representing a job classification shall be the normal rate of pay upon employment, except under circumstances which appear to warrant appointing an employee of exceptional qualifications to a higher step within the grade, up to Step 3.
 - C. Merit increases shall not be limited to the time of annual review or budget adoption, but shall be based on length of time in step and exceptional meritorious service.
 - D. The Borough Manager shall, from time to time, recommend the creation or adjustment of job classifications within the pay grade and step plan subject to the approval of Borough Council.

(Res. 10/10/1966, §16; as amended by Ord. 1308, 6/10/1974; by Ord. 1656, 1/14/1991, §3; and by Ord. 1696, 3/9/1992, §10)

§515. Fringe Benefits.

- 1. Social Security. All full-time employees except those under Police Civil Service Regulations shall be eligible for Social Security upon date of appointment and the Social Security tax paid through payroll deductions.

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2. Accident, Sickness and Life Insurance. Full-time employees and their dependents shall be eligible for medical, hospital, dental, vision and prescription insurance benefits; said insurance benefits shall cover, for the employee only, the cost of the office visit/doctor's cost of an annual routine physical. Full-time employees shall be eligible for life, accidental death and disability insurance beginning on the date of appointment, and all other insurance benefits shall be upon completion of three (3) months of continuous service beginning with the date of appointment.
3. Retirement. Full-time employees, upon date of appointment, shall be eligible for participation in the Pennsylvania Municipal Employee's Retirement System.
4. Workmen's Compensation. All employees and officials shall be eligible for workmen's compensation.
5. Longevity Pay.
 - A. Employee Longevity Plan – Effective Date. The Employee Longevity Plan of the Borough of Pottstown, hereinafter referred to as "Longevity Pay Plan," shall become effective December 10, 1963.
 - B. Tenure of Eligibility. The minimum number of uninterrupted continuous years of service required for longevity payments shall be five (5) years, and longevity tenure shall be determined by the month in which the employee was appointed.
 - C. Coverage. All regular full-time employees hired prior to January 1, 1991, shall be eligible for longevity pay benefits. All regular full-time employees hired on or after January 1, 1991, shall not be eligible for longevity pay benefits.
 - D. Rate of Longevity Payment. The amount of longevity payment shall be based on the following schedules and payment shall be based on the number of uninterrupted continuous years of service.

Service Years	Payment
Five (5) to eight (8)	\$300.00
Nine (9) to thirteen (13)	\$550.00
Fourteen (14) to nineteen (19)	\$950.00
Twenty (20) and over	\$1,300.00

- E. Method of Longevity Payment. The longevity payments shall be made annually as lump sum cash payments and shall not be integrated with the employee's regular salary. The longevity payment shall be made on the last pay period of November in each year by a separate and distinct check

marked "Longevity Pay Check." Longevity payments for any employee who dies or retires shall be pro-rated from January 1st to date of separation.

- F. **Military Service.** The time purchased towards retirement credit for intervening and non-intervening military service shall not be eligible for longevity payment.
- 6. **Accident and Sickness/Income Disability Insurance.** Full-time employees shall be covered with an accident and sickness/income disability insurance policy which will provide salary maintenance at fifty (50) percent for up to six (6) months during each calendar year with an employee contribution of fifty (50) percent of the monthly premium cost paid by the employee through payroll deduction.
- 7. **Postretirement Medical Benefits.** Management employees with at least thirty (30) years of service and having obtained the age of fifty-five (55) or with at least twenty-five (25) years of service and having obtained the age of sixty (60) retiring on or after June 1, 1999, shall be eligible for certain health insurance benefits commensurate with active employees on an individual basis under the following conditions:
 - A. The cost to the Borough for such coverage shall never exceed the cost of securing such coverage at the time of the employee's retirement. Accordingly, the retiree will pay for any increases in insurance rates for this coverage.
 - B. The obligation to provide such coverage shall cease immediately upon the retiree becoming eligible for coverage under any other health insurance plan including, but not limited to, Medicare, either as an employee or dependent of an employee, or whether such coverage is provided on a contributory or noncontributory basis.
 - C. Coverage shall be limited to hospital coverage, major medical, prescription and dental.
 - D. Retiree shall be re-instated into the retiree health insurance plan when the retiree is no longer covered by any other health insurance coverage plan, as described above.
 - E. Any retiree that elects this benefit shall forfeit any entitlement to payment of unused sick leave days under §507(5).

(Res. 10/10/1966, §17; as amended by Res. 1/13/1969; by Res. 1/12/1970; by Res. 12/27/1972B; by Res. 12/29/1975; by Ord. 1374, 2/14/1977, §1; by Ord. 1439, 1/14/1980, §1; by Ord. 1467, 12/29/1981; by Ord. 1497, 12/28/1983; by Ord. 1656, 1/14/1991, §4; by Ord. 1696, 3/9/1992, §11; by Ord. 1758, 12/30/1993, §§2, 3; and by Ord. 1890, 6/14/1999, §2)

§516. Disciplinary Action.

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The Borough Manager or department head shall have the authority to discipline employees for unsatisfactory work, refusing to obey rules and regulations and for objectionable personal conduct. Penalties may range from a reprimand to suspension or dismissal from the service.

(Res. 10/10/1966, §21; as amended by Ord. 1399, 12/28/1977, §1; and by Ord. 1696, 3/9/1992, §12)

§517. Resignations.

Resignations shall be submitted in writing at least two (2) weeks prior to the final day of work. Failure to comply shall subject the employee to forfeiture of all prorated vacation time.

(Res. 10/10/1966, §21)

§518. Physical Examination.

All applicants for employment with the Borough of Pottstown shall undergo a physical examination which shall be conducted under the supervision of a doctor of medicine.

(Res. 10/10/1966, §22; as amended by Ord. 1696, 3/9/1992, §13)

§519. Policy for Full-Time Employees Over Age Sixty-Five (65).

An employee may be continued in the employ of the Borough beyond the anniversary of his sixty-fifth (65th) birthday upon recommendation of the Borough Manager and approval of Borough Council for a period of one (1) year and thereafter from year to year; provided, however, that retirement shall be mandatory for an employee at age seventy (70), five (5) years after his sixty-fifth (65th) birthday.

(Ord. 1242, 5/11/1970; as amended by Res. 12/29/1975)

§520. Employee Grievance Procedure.

1. Municipal employees shall have the right to appeal any alleged adverse employer action including, but not limited to, this Part, unwarranted demotion, dismissal, unfavorable performance rating, suspension or position classification.
2. The employee, if he wishes to appeal, shall submit such an appeal to the Borough Manager within fifteen (15) days after being informed of the adverse personnel action and shall specify the reasons for submitting his appeal.

3. The Borough Manager shall schedule a hearing date and time and shall review the grievance with the employee and his supervisor and shall within fifteen (15) days after the hearing notify the employee and his supervisor in writing of the hearing decision and the reasons for that decision.

(Ord. 1308, 6/10/1974)

Part 6**Employee Pay Classification Plan****§601. Employee Pay Classification Plan Established.**

The pay classification plan for all employees of the Borough of Pottstown is hereby approved and adopted. The pay classification plan shall be established and conducted in accordance with the pay classification plan regulations; the management position classification and grade and step pay schedule for salaried employees is contained in §602 as set forth below.

(Res. 3/14/1966; as amended by Res. 12/28/1967; and by Ord. 1696, 3/9/1992, §14)

§602. Management Position Classification and Grade and Step Pay Schedule; Salaried Employees.

1. Effective January 1, 1994, the following schedule shall apply:

POSITION	STEP/GRADE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
Assistant Borough Manager	S-0(A)	39,529	40,320	41,125	41,948	42,787
	S-0(B)	36,518	37,248	37,994	38,754	39,529
Department Directors	S-1(A)	36,518	37,248	37,994	38,754	39,529
	S-1(B)	33,737	34,411	35,100	35,802	36,518
Division Supervisors	S-2(A)	33,737	34,411	35,100	35,802	36,518
	S-2(B)	31,167	31,790	32,427	33,075	33,737
Division Assistant Supervisors	S-3(A)	31,167	31,790	32,427	33,075	33,737
	S-3(B)	28,794	29,369	29,957	30,556	31,167
Line Supervisors	S-4(A)	28,794	29,369	29,957	30,556	31,167
Program Administrators	S-4(B)	26,601	27,133	27,675	28,228	28,794
Executive Management	S-5(A)	22,699	23,153	23,616	24,088	24,513
Staff	S-5(B)	20,937	21,364	21,800	22,245	22,699
	S-5(C)	19,312	19,706	20,108	20,518	20,937
	S-5(D)	17,813	18,176	18,547	18,926	19,312
	S-5(E)	16,430	16,765	17,108	17,457	17,813

2. Management employee salary increases shall be based on merit evaluations.

(Res. 3/14/1966; as amended by Res. 12/28/1967; by Res. 1/13/1969; by Res. 1/12/1970; by Res. 12/28/1970; by Res. 12/29/1971A; by Res. 12/27/1972B; by Res. 12/26/1973A; by Res. 6/10/1974; by Res. 10/14/1974; by Res. 12/30/1974A; by Ord. 1328, 3/10/1975, §§1,2; by Res. 12/29/1975; by Ord. 1374, 2/14/1977, §3; by Ord. 1399, 12/28/1977, §2; by Ord. 1417,

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12/27/1978, §1; by Ord. 1422, 3/12/1979, §1; by Ord. 1427, 6/11/1979, §1; by Ord. 1439, 1/14/1980, §3; by Ord. 1449, 12/30/1980, §2; by Ord. 1467, 12/29/1981; by Ord. 1492, 2/28/1983, §1; by Ord. 1497, 12/28/1983; by Ord. 1610, 12/29/1988, §1; by Ord. 1633, 12/28/1989; by Ord. 1656, 1/14/1991, §5; by Ord. 1681, 9/9/1991, §1; by Ord. 1696, 3/9/1992, §15; and by Ord. 1758, 12/30/1993, §4)

§603. Pay Plan for School Crossing Guards.

School crossing guards shall be paid, effective January 1, 1995, at the rate of seven dollars (\$7.00) per hour and three dollars (\$3.00) for each call-out/trip.

(Ord. 1708, 10/12/1992, §1; as amended by Ord. 1765, 2/14/1994, §1; and by Ord. 1797, 4/10/1995)

Part 7

Police Pension Plan

A. Police Pension Plan

§701. Effective Date.

The mandatory police pension fund of the Borough of Pottstown, hereinafter referred to as the "pension fund," shall become effective as of July 8, 1991, on which date it shall replace the former police pension fund of the Borough of Pottstown enacted by an ordinance approved August 11, 1958, as amended, which former fund is hereinafter referred to as the "prior fund"; and the existing PMRS plan, approved January 14, 1982, as amended, and referred to as the "PMRS fund."

(Ord. 1679, 8/12/1991, §2)

§702. Establishment of Pension Plan and Pension Fund.

Pursuant to the terms and conditions of the Act of May 29, 1956, 53 P.S. 1767 et seq., there is hereby established in the Borough of Pottstown a police pension plan and police pension fund for the benefit of full-time police officers of the Borough. The pension plan shall be known as the "Borough of Pottstown Police Pension Plan," (hereinafter "plan"). The pension fund shall be known as the "Borough of Pottstown Police Pension Fund," (herein-after "fund").

(Ord. 1679, 8/12/1991, §3)

§703. Transfer of Existing Assets and Liability.

As of the effective date of the pension fund, all assets and liabilities of the former police pension fund of the Borough of Pottstown, and those as withdrawn from the Pennsylvania Municipal Retirement System, shall be transferred to the pension fund; thereafter, all payments of pensions and other benefits shall be made from the Pension Fund, and all contributions by the members, by the Borough of Pottstown and from all other sources shall be paid into the pension fund.

(Ord. 1679, 8/12/1991, §4)

§704. Membership.

All regular full-time members of the Pottstown Police Department of the Borough, as of the effective date who are subject to the provisions of Civil Service, shall become members of the pension fund. Those who have been members of the former "prior fund" shall

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be referred to hereinafter as "original members." Members of the PMRS fund shall be referred to hereinafter as "PMRS members." New members of the Police Department, after the effective date, shall become members of the pension fund upon becoming regular members of the Police Department.

(Ord. 1679, 8/12/1991, §5)

§705. Intent as to Former Prior Fund.

In recognition of the vested contract rights acquired and held by the "original members" and the "PMRS members" under the prior fund, it is the intent of this Part, as authorized and permitted by existing law, to preserve, continue and guarantee all such rights and benefits in every instance where those benefits under the "prior fund" and the "PMRS fund" may be more beneficial and advantageous to the "original members" than the regulations and benefits herein mandatorily imposed.

(Ord. 1679, 8/12/1991, §6)

§706. Establishment of Pension/Investment Board.

A Pension/Investment Board is hereby established for the purpose of administering the Borough of Pottstown's Police Pension Plan and Pension Fund, and which Board shall be known as the Borough of Pottstown's Police Pension/Investment Board, (hereinafter "Board").

- A. The Board shall consist of seven (7) members, three (3) of whom shall be police officers of the active employment of the Borough of Pottstown, elected by the Pottstown Police Officers' Association; one (1) of whom shall be an elected council member appointed by the Pottstown Borough Council; one (1) of whom shall be the Mayor of the Borough of Pottstown; and one (1) of whom shall be the duly appointed Borough Manager of the Borough of Pottstown; and one (1) of whom shall be the duly appointed Finance Director of the Borough of Pottstown. The Board shall elect a Chairman and Vice Chairman of the Board and vacancies of the Board shall be filled in the same fashion and manner as the previous occupant was selected.
- B. Members of the Board shall serve as such without compensation.
- C. The term of office for members of the Board shall be two (2) years; provided, that any member of the Board who is a police officer shall cease to be a member of the Board on the last day of his/her employment as a police officer of the Borough of Pottstown; and, provided, further, that any member of the Board who shall cease to be a member of the Borough government shall cease to be a member of the Board on the day he/she ceases to hold office as a Borough Council member and/or Mayor. Members may be reappointed or reelected.

- D. The duly appointed Manager of the Borough of Pottstown shall appoint an Executive Secretary as the non-voting Secretary of the Board, and who shall keep minutes of the Board's proceedings and all dates, records and documents pertaining to the Board's administration of the Pension Plan.
- E. No member of the Board shall be liable for any act or omission of any other member of the Board, nor for any act or omission on his/her own part, excepting only his/her own willful misconduct. The Borough shall indemnify and save harmless each and every member of the Board against any and all expense, claims, or liabilities arising from his or her membership on the Board, excepting those arising out of the Board member's own willful misconduct. Members of the Board shall serve without bond.
- F. No member of the Board shall vote on any matter in which he/she has a direct personal interest.
- G. The action of the Board shall be determined by the vote or other affirmative expression of a majority of its members. All actions of the Board shall be certified by its Chairman and attested to by its Secretary.
- H. The Board shall meet at least quarterly and at other times at the call of the Chairman or the request of the majority of the Board.

(Ord. 1679, 8/12/1991, §7; as amended by Ord. 1936, 4/8/2002)

§707. Powers and Duties of the Pension/Investment Board.

The Board shall have the following powers and duties:

- A. To administer the Borough of Pottstown Police Pension Plan in accordance with an agreement of trust entered into by the Borough Council of the Borough of Pottstown and a corporate fiduciary, which agreement of trust shall permit the fiduciary to manage and operate the fund and to receive, hold, invest and disburse any sum or sums as may be necessary to carry out the plan and all other applicable statutes, ordinances and regulations; or in accordance with an agreement of trust entered into by the Borough Council of the Borough of Pottstown and a private fiduciary commonly known as money managers of the Board's selection, as recommended through an investment consultant, which agreement of trust shall permit the money managers to operate the fund and to receive, hold, invest and disburse any sum or sums as may be necessary to carry out the plan and all other applicable statutes, ordinances and regulations.
- B. To provide guidance to the Trustee of the Borough of Pottstown Police Pension Fund, or its financial consultant, for the investment of all moneys deposited in such fund.

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- C. To make rules and regulations for the governance of the affairs of the Board to better enable it to carry out its powers and duties imposed hereunder.
- D. To employ, upon approval of the Borough Council, retain and compensate approved actuaries, accountants, attorneys, money managers and an investment consultant, as it may deem necessary, to carry out its duties hereunder. The expense of the administration of the fund and the plan shall be paid from the assets of the fund.
- E. To make all decisions pertinent to the award of any pension to any applicant or participant or for the return of any individual contributions to any person who may be entitled to the same under the plan.
- F. To designate the depository of the pension funds received through the Borough.

(Ord. 1679, 8/12/1991, §8)

§708. Creation and Maintenance of Pension Fund.

The Borough of Pottstown Police Pension Fund shall be created and administer the following resources:

- A. All funds, including those funds withdrawn from the Pennsylvania Municipal Retirement System and all funds on deposit and held for pension and retirement benefits of the police officers of the Borough of Pottstown, shall be transferred to the fund created hereby, subject to any liabilities which may exist against such fund.
- B. The allocation determined by Borough Council of the payments made by the Treasurer of the Commonwealth of Pennsylvania from the moneys received from the General Municipal Pension System State Aid Program.
- C. Payments made by contributions of the police officers in accordance with the Borough of Pottstown Police Pension Plan as may be in effect from time to time.
- D. Payments made by other gifts, grants, devises or bequests made to the fund.
- E. Such other payments as may, from time to time, be made by the Council to the fund from the general revenue of the Borough.
- F. All such payments received shall be deemed to be a part of the fund, and shall not be applied to any other account or disbursed in any manner, except as provided herein.

- G. Payments required under the plan shall be a charge only upon the fund and not upon other moneys or funds of the Borough.

(Ord. 1679, 8/12/1991, 59)

§709. Application of Certain Receipts.

The amounts of the payments made by the Treasurer of the Commonwealth of Pennsylvania from the moneys received from the General Municipal Pension System State Aid Program, which are determined by the Council to be deposited in the fund, shall be used and applied as follows:

- A. To pay expenses incurred for the administration of the fund and the plan;
- B. To reduce any unfunded liability, defined as the present value of liability of the fund on account of retirement benefits payable under this Part to police officers of the Borough of Pottstown for service prior to the date upon which they first made contributions to the plan, offset by the value of any assets in the fund; or after such liability has been funded;
- C. To apply against the annual obligation of the Borough for future service cost, defined as the amount of money required to be contributed annually into the fund on account of benefits payable under the plan to police officers of the Borough of Pottstown for service subsequent to the date of the establishment of the plan; or to the extent that the payment made be in excess of such obligation;
- D. To reduce member contributions;
- E. Any other moneys paid into the fund shall be applied equally against the member and Borough obligations for future service cost.

(Ord. 1679, 8/12/1991, §10)

§710. Management of the Pension Fund.

The fund shall be deposited with, managed and invested by the designated money manager(s) and investment consultant who shall carry out their responsibilities in accordance with the terms of a trust agreement; and, further subject to such investment policy and guidance as the Board shall, from time to time, give to the money manager(s) and/or investment consultant.

(Ord. 1679, 8/12/1991, 511)

§711. Determination of Benefits.

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The Board shall have full power and authority to make all decisions in accordance with the terms of this Part including, but not limited to, the following:

- A. To determine all questions relating to the eligibility of police officers to become participants in the plan.
- B. To compute and certify to the corporate fiduciary the amount and kind of benefits payable to participants.
- C. To make and publish such rules and regulations for the administration of the plan as are not inconsistent with the terms of this Part.
- D. The Council shall supply full and timely information to the Board on all matters relating to the pay of all police officers of the Borough of Pottstown, their retirement, death or other cause for termination of employment and such other pertinent data as the Board may require to carry out its duties and responsibilities hereunder. The Board shall be responsible to transmit to the corporate fiduciary of the fund such information as the corporate fiduciary requires to carry out its responsibilities under its agreement with the Borough.

(Ord. 1679, 8/12/1991, §12)

§712. Coverage.

This agreement shall cover all full-time police officers of the Borough of Pottstown, hereinafter referred to as "member." Every full-time police officer employed by the Borough shall, upon the commencement of his or her employment, be a member covered under this agreement and entitled to the benefits provided hereunder.

(Ord. 1679, 8/12/1991, §13)

§713. Superannuation Retirement Date.

The superannuation retirement date shall be the date on which the member has attained fifty (50) years of age and has completed twenty-five (25) years of service.

(Ord. 1679, 8/12/1991, §14)

§714. Basic Benefits.

The basic monthly pension benefit shall be one-half (1/2) of the monthly average salary of such member during the last thirty-six (36) months of employment.

(Ord. 1679, 8/12/1991, §15)

§715. Length of Service Increment.

In addition to the basic monthly pension benefit, those members eligible shall receive a monthly service increment to be determined by computing the number of whole years of service in excess of twenty-five (25) years and before attainment of age sixty-five (65), and multiplying this number by an amount equal to one-fortieth (1/40) of the amount of the basic monthly pension benefit. This service increment shall not, however, exceed one hundred (\$100.00) dollars per month.

(Ord. 1679, 8/12/1991, §16)

§716. Spouse's Pension Benefit.

Upon the death of a retired member, or upon the death of an active member who was eligible for retirement at the time of death, the surviving spouse (or the surviving minor children in the absence of a spouse or upon the remarriage of the surviving spouse) will receive a monthly pension equal to one-half (1/2) of the pension which such retired member was receiving or which such active member was eligible to receive if he/she had been retired at the time of death.

(Ord. 1679, 8/12/1991, §17)

§717. Disability Retirement.

1. If a member who was employed before the effective date of this Part has had ten (10) or more years of total service as a police officer, he/she may, upon application or on application of one (1) acting in his/her behalf, be retired by the Board on a disability allowance prior to his/her superannuation retirement date if the physician designated by the Board, after medical examination of the member made at the place of residence of the member or at a place mutually agreed upon, shall certify to the Board that the member is unable to perform the duties of a police officer. The disability benefits shall be equal to thirty (30%) percent of the member's monthly average salary during the last thirty-six (36) months of employment. When the disability of a member is determined to be service connected, no minimum period of service shall be required for eligibility.

2. Where the disability of a member is determined to be service-connected, permanent, and results in honorable discharge from service, the disability benefits shall be equal to seventy-five (75) percent of the member's monthly average salary during the last thirty-six (36) months of employment. The disability benefits shall not be reduced by the amount of any payments for which the member shall be eligible under the Act of June 2, 1915 (P.L. 736, No. 338), known as the Pennsylvania Workmen's Compensation Act, or the Act of June 21, 1939, (P.L. 566, No. 284), known as the Pennsylvania Occupational Disease Act.
3. Should a disability annuitant die before the total disability retirement allowance received is at least equal to the amount of his/her accumulated deductions at the time of disability retirement, then the Board shall pay to the named beneficiary, if living, or if the named beneficiary predeceased the annuitant, or no beneficiary was named, then to the annuitant's estate, an amount equal to the difference between such total retirement allowance received and the annuitant's accumulated deductions, including interest and excess interest earnings. If such difference is less than one hundred {\$100.00} dollars and no letters have been taken out on the estate within six (6) months after death, then such difference may be paid to the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker.
4. A monthly pension benefit of seventy-five (75) percent of the member's average monthly compensation during the last thirty-six (36) months of employment shall be paid to the survivor annuitant of officers dying or killed in the line of service.

(Ord. 1679, 8/12/1991, 318; as amended by Ord. 1777, 10/10/1994)

§718. Military Service.

1. Any police officer of the Borough of Pottstown who has been a full-time officer and a member under this plan for a period of at least six (6) months, and who shall enter into the military service of the United States, shall have credited to his/her employment record for pension or retirement benefits all of the time spent by him/her in such military service, if such person returns or has heretofore returned to his/her employment within six (6) months after his/her separation from the service.
2. An active member may be provided full service credit for each year of military service or fraction thereof, not to exceed five (5) years for military service prior to employment by the Borough at the option of Borough Council.
3. Should the Borough decline to purchase the military time for the intended member, the member will have the option of purchasing the military time. Should the member purchase the time, he may use one (1) of the following payment methods:
 - A. It may be paid in a lump sum within thirty (30) days; or,

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- B. It may be amortized with additional interest through salary deductions in amounts agreed upon by the member and the Board.
4. The amount due for purchase of credit for nonintervening military service shall be computed by applying the average normal cost rate for Borough pension plans as certified by the Public Employee's Retirement Study Commission, but not to exceed ten (10) percentum to the member's average annual rate of compensation over the first three (3) years of municipal service and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with interest at the rate of four and three-quarters (4 3/4) percentum compounded annually from the date of initial entry into municipal service to the date of payment.
5. Any member shall be eligible to receive service credit for intervening or nonintervening military service provided that he/she is not entitled to receive, eligible to receive now or in the future or is receiving retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency with the exception of a member eligible to receive or receiving military retirement pay earned by a combination of active duty and nonactive duty with a Reserve or National Guard component of the Armed Forces, which retirement pay is payable only upon the attainment of a specified age and period of service under 10 U.S.C., Ch. 67 (relating to retired pay for nonregular service).

(Ord. 1679, 8/12/1991, §19; as amended by Ord. 1777, 10/10/1994, §3)

§719. Members' Contributions.

All active members of the plan shall pay into the fund, monthly, an amount as set annually by resolution of the Pottstown Borough Council, not to exceed eight (8%) percent of their gross monthly compensation. Said payments shall be made by each active member of the plan during such periods of time as required by the Pottstown Borough Council.

(Ord. 1679, 8/12/1991, 320)

§720. Adjustment of Member Contributions.

If an actuarial study shows that the condition of the fund is such that payments into the fund by members may be reduced below the eight (8%) percent prescribed in 3719 hereof or eliminated, and that if such payments are reduced or eliminated, contributions from the General Fund of the Borough will not be required to keep the fund actuarially sound, the Council may, by resolution, on an annual basis, reduce or eliminate payments into the fund by members.

(Ord. 1679, 8/12/1991, 321)

§721. Vesting.

If a member, before reaching his/her superannuation retirement date and after having completed twelve (12) years of total service, for any reason, ceases to be a police officer of the Borough of Pottstown, he shall be entitled to vest his/her retirement benefits until his/her superannuation retirement date by filing with the Board a written notice of his/her intention to vest within ninety (90) days of the date of his/her termination. Upon reaching his/her superannuation retirement date, he shall be paid a partial retirement benefit determined by applying the percentage his/her years of service bear to the years of service which he/she would have rendered had he/she continued to work until his/her superannuation retirement date to the gross pension, which he/she would have earned had he/she continued as a full-time police officer to his/her superannuation retirement date, using, however, the monthly average salary during the appropriate period prior to his/her termination of employment.

(Ord. 1679, 8/12/1991, §22)

§722. Refund of Contributions.

Upon termination of full-time employment before completion of twelve (12) years of service or upon the death of a police officer before commencement of monthly pension benefits, a refund shall be made of any moneys paid by such police officer, with interest. The rate of interest shall be six and one-half (6.5%) percent per annum on and after January 1, 1991, until a new rate by the Board shall be established. In the case of death, such refund shall be paid to his/her designated beneficiary or, in the absence of such designation, to his/her estate.

(Ord. 1679, 8/12/1991, §23)

§723. Excess Investment Earning Accounts.

All moneys previously allocated to a member due to excess investment earnings under the Pennsylvania Municipal Retirement System shall remain to the credit of such member, and shall be accumulated with interest of six and one-half (6.5%) percent per annum to provide additional benefits to the member at retirement or termination. No future excess investment earnings shall be allocated to any member of the plan after the allocations are made upon the return of all moneys from PMRS withdrawals.

(Ord. 1679, 8/12/1991, §24)

§724. Early Retirement.

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A member employed before the effective date of this Part who is involuntarily terminated after having completed eight (8) years of total service or who voluntarily terminates after having completed twenty-four (24) years of total service, before reaching his/her superannuation retirement date, shall be eligible for an early retirement benefit. Such benefit shall be equal to one-half (1/2) of the monthly average salary of such member during the last thirty-six (36) months of employment, multiplied by the percentage his/her years of service bear to the years of service which he/she would have rendered had he/she continued to work until his/her superannuation retirement date, actuarially reduced for each year that such member's early retirement date precedes his/her superannuation retirement date.

(Ord. 1679, 8/12/1991, §25)

§725. Payments to be Free From All Claims.

All payments under the plan shall be, to the fullest extent permitted by law, free and clear of any debts, contracts, engagements, anticipations or liability to levy, attachment, execution or sequestration against the recipient, and shall not be subject to sale, assignment, transfer, claim, judgment or bankruptcy proceedings against the recipient of such payments, whether voluntary or involuntary.

(Ord. 1679, 8/12/1991, §26)

§726. Rights of Participants.

Any member of the plan shall have the right to:

- A. Inquire of the Board as to his or her status or condition in the plan, including prospective benefits to which such member may be entitled in the future.
- B. To examine records of the Board pertaining to his or her pension records.
- C. To appear personally before the Board with or without counsel and to be heard on any matter pertaining to his or her rights under the plan.

(Ord. 1679, 8/12/1991, 127)

§727. Social Security Offset.

The retirement benefits provided herein shall not be reduced by any social security payments received by a member or to which said member is entitled.

(Ord. 1679, 8/12/1991, §28)

§728. Modification.

The plan and fund established by this Part may be discontinued, modified, altered, terminated or repealed according to law by ordinance.

(Ord. 1679, 8/12/1991, §29)

§729. Cost of Living Allowance.

1. Any member retiring on or after January 1, 1995, under the terms and conditions of a superannuated retirement, shall be eligible to receive annual cost of living adjustments. These adjustments shall be effective on February 1st each year using the previous year's nonclerical Consumer Price Index for the greater Philadelphia area.
2. The total authorized cost of living allowance shall be a percentage of the final average monthly compensation (excluding length of service increment).
3. The annual cost of living allowance adjustments shall be based on the total monthly pension benefit the retiree was receiving the previous year.
4. In no case shall the monthly pension benefit exceed seventy-five (75) percent of the final monthly average of the compensations used to compute retirement benefits minus one hundred dollars (\$100.00), excepting State allocated, mandated or provided cost of living allowances.
5. The total cost of living allowance shall not exceed thirty (30) percent of the final monthly average of the compensations used to compute retirement benefits.
6. No increase in the presently authorized cost of living allowances shall be granted which would impair the actuarial soundness of the pension fund.
7. Cost of living adjustments are as follows:
 - A. For officers retiring on or after January 1, 1995, the cost of living allowance shall be capped at seven and one-half (1/2) percent of the final monthly average of the compensations used to compute retirement benefits.
 - B. For officers retiring on or after the effective date of this Part, the cost of living allowance shall be capped at fifteen (15) percent of the final monthly average of the compensations used to compute retirement benefits.

(Ord. 1679, 8/12/1991; as added by Ord. 1777, 10/10/1994, §3; as amended by Ord. 1854, 8/11/1997, §1, 2)

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B. Requirements of the Internal Revenue Code

§741. Intent.

The plan intended to be tax-qualified under the applicable provisions of §401(a) of the Internal Revenue Code, as amended, and shall be construed and applied in a manner consistent with such intent. The plan and its trust fund are for the exclusive benefit of plan members and their beneficiaries. The Pottstown Police Pension Plan is hereby amended with the provisions set forth below.

(Ord. 1938, 5/13/2002, §1)

§742. Definitions.

CODE – refers to the Internal Revenue Code, as amended periodically.

COMPENSATION – refers to plan member's wages as defined in Code §3401(a) for a plan year for which the Borough is required to provide the plan member a written statement under Code §§6041(d), 6051(a) (3) and 6052. Such 415 compensation shall include any elective deferrals defined in Code §402(g)(3) and all amounts contributed or deferred at the election of the plan members which are not includible in the gross income of the plan member by reason of either Code §§125, 402(e)(3), 402(h) (1) (B), 403(b), 414(h) (2) or 457.

MUNICIPALITY – refers to the Borough of Pottstown.

PLAN – refers to the Pottstown Police Pension Plan.

PLAN YEAR – refers to the calendar year.

REGULATION(S) – refers to the Income Tax Regulations, as amended periodically.

(Ord. 1938, 5/13/2002, §2)

§743. Distribution of Benefits.

1. Unless the plan member otherwise elects, the payments of benefits under the plan to the plan member will begin not later than the 60th day after the latest of the close of the plan year in which:
 - A. The plan member attains the earlier of age 65 or the normal retirement age specified under the plan,
 - B. Occurs the tenth anniversary of the year in which the plan member commenced participation in the plan, or

- C. The plan member terminates his service with the Borough.
2. In the case of a plan which provides for the payment of an early retirement benefit, a plan member who satisfied the service requirements for such early retirement benefit, but separated from the service (with any nonforfeitable right to an accrued benefit) before satisfying the age requirement for such early retirement benefit, is entitled upon satisfaction of such age requirement to receive a benefit not less than the benefit to which he would be entitled at the normal retirement age, actuarially reduced under regulations prescribed by the Secretary.
 3. A plan member's benefits must commence to be paid not later than April 1st of the calendar year following the later of (i) the calendar year in which the member attains age 70 1/2 or (ii) the calendar year in which the member retires. Such distributions must equal or exceed the required minimum distribution, and otherwise be made in a manner consistent with the requirements of Code §401(a) (9) and the regulations thereunder.
 4. Required distributions must be made over the lifetime or the life expectancy of the plan member or the joint lifetimes or joint life expectancy of the plan member and the plan member's designated beneficiary. The life expectancy of the plan member and plan member's spouse may be redetermined at the election of the plan member or the plan member's spouse. Such an election is irrevocable, once made. If no such election is made by the date benefit distributions must commence then the life expectancy of the plan member and the plan member's spouse shall not be recalculated. Tables V and VI of Regulation 1.72-9 shall be used for computing life expectancy or joint and survivor life expectancy.
 5. All benefit distributions to a plan member or the plan member's beneficiary shall be in accordance with the incidental death benefit requirements of Code §401(a) (9) (G) and the related regulations.

(Ord. 1938, 5/13/2002, §3)

§744. Compensation and Benefit Limitations.

The limitations and other requirements outlined below are intended to comply with Code §415 and the regulations thereunder, the terms of which are specifically incorporated herein by reference. The maximum compensation limit and benefits limitations under the Code are as follows:

- A. The compensation used in calculating a plan member's benefit cannot exceed the limits of Code §401(a) (17), as adjusted for cost-of-living increases, per Code §415(d).
- B. General Rule. In no event shall the annual retirement benefit payable to a plan member under this plan, together with retirement benefits provided

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under all qualified benefit plans maintained or previously maintained by the Borough, for any limitation year, which shall be the calendar year, exceed the maximum benefit permitted, as adjusted annually per Code §415(d), under Code §415(b) (including any applicable grandfathering rules). This plan section shall be applied in accordance with Code §415 and the regulations thereunder.

C. Adjustment of Limits.

(1) Where a retirement benefit commences before age sixty-two (62), the Code §415(b) (1) (A) dollar limit shall be reduced in accordance with Code §415(b)(2)(F). This reduction shall not result in a limit that is less than:

(a) Seventy-five thousand dollars (\$75,000.00) if the benefit begins at or after age fifty-five (55), or

(b) The actuarial equivalent of seventy-five thousand dollars (\$75,000.00) at age fifty-five (55) (determined in accordance with Code §415) if the benefit begins before age fifty-five (55).

(2) Where a retirement benefit commences after age sixty-five (65), the Code §415(b) (1) (A) dollar limit shall be increased as described in Code §415(b) (2) (F).

(3) The maximum benefit limit of Code §415(b) (1) shall be applied to benefits in the form of a straight-line annuity (with no ancillary benefits) without regard to benefits attributed to plan member contributions and rollover contributions. If the form payable to a plan member is other than a single life annuity or a Code §417(b) qualified joint and survivor annuity, the plan member's benefit shall not exceed the actuarial equivalent of the Code §415 (b) (1) maximum payable in the form of a single life annuity unless no such adjustment is required under Code §415 and related regulations.

(4) Notwithstanding the other rules of the plan and Code §415, if the plan member has not participated in a defined contribution plan of the Borough, the plan member's annual retirement benefit shall not be deemed to exceed the maximum benefit limit if it does not exceed the Code §415(b)(4) limit of ten thousand dollars (\$10,000.00), as adjusted for plan participation or service of less than ten (10) years in accordance with Code §415(b)(5).

D. Special Limitation for Qualified Police or Firefighters. For any plan member who is a qualified participant as defined under Code §415(b) (2) (H), the limitation under Code §415(b) (2) (C) shall not be reduced to an amount less than fifty thousand dollars (\$50,000.00) (adjusted per Code §415(d) as required by Code §415(b) (2) (G)).

- E. **Order of Defined Benefit Plan Reductions.** If the plan member participates or participated in any other defined benefit plan of the Borough, and the plan member's aggregate annual retirement benefit under this plan and such other plan exceeds the limits permitted under Code §415, such plan member's benefit shall be first reduced under this plan.

(Ord. 1938, 5/13/2002, §4)

§745. Vesting.

1. Notwithstanding the plan's vesting schedule, upon any amendment or restatement of the plan, a plan member's vested accrued benefit shall not be less than the vested accrued benefit immediately preceding such amendment or restatement.
2. Notwithstanding the plan's vesting schedule a plan member shall be one hundred percent (100%) vested when the plan member completes the age and service requirements for normal retirement at his normal retirement date under the plan.
3. Notwithstanding the plan's vesting schedule a plan member shall be one hundred percent (100%) vested in his accrued benefit (to the extent funded) as of the date of partial or complete plan termination.

(Ord. 1938, 5/13/2002, §5)

§746. Qualified Domestic Relations Order.

Notwithstanding §747, the plan shall recognize any qualified domestic relations order (QDRO) set forth under Code §414(p). Any plan member's benefits, rights or elections shall be subject to any rights afforded to the alternate payee by a QDRO. Further, distribution to an alternate payee is permitted if authorized by a QDRO, even if the plan member involved has not separated from service and has not reached the earliest retirement age under the plan.

(Ord. 1938, 5/13/2002, §6)

§747. Alienation.

No plan member or beneficiary shall have any benefit subject to any type of alienation, anticipation, assignment, charge, encumbrance, pledge, sale or transfer. Further, no benefits shall be subject to or liable for any debts, contracts, engagements, liabilities or torts. The only exceptions to this Section are those in Section V above and those referenced in Code §§401(a)(13) (C) and (D).

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(Ord. 1938, 5/13/2002, §7)

§748. Unlocatable Member or Beneficiary.

If any portion of a plan benefit is payable to a plan member or beneficiary at the later of the plan member's 62nd birthday or his normal retirement age and such benefit remains unpaid solely by reason that the Borough, after sending a registered letter to the last known address, return receipt requested, and after diligent effort fails to locate the plan member or beneficiary, the actuarial value of the benefit shall be forfeited and applied towards reducing plan costs. If, subsequent to the forfeiture, a plan member or beneficiary is located, the actuarial value of the forfeiture at the time it was forfeited (no adjustment for gains or losses) shall be restored.

(Ord. 1938, 5/13/2002, §8)

§749. Forfeitures.

Forfeitures must not be applied to increase the benefits any Borough employee would otherwise receive under the plan.

(Ord. 1938, 5/13/2002, §9)

§750. Merger or Consolidation.

In the case of any merger or consolidation with, or transfer of plan assets or liabilities to any other plan, each plan member would (if the plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer (if the plan had then terminated).

(Ord. 1938, 5/13/2002, §10)

§751. Actuarial Assumptions.

As required by Code §410(a) (25), the actuarial assumptions used to calculate plan benefits shall not be subject to the Borough's discretion.

(Ord. 1938, 5/13/2002, §11)

§752. Optional Direct Transfer of Eligible Rollover Distributions.

1. If any distributee of any eligible rollover distribution:

- A. Elects to have such distribution paid directly to an eligible retirement plan, and
- B. Specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe).

such distribution shall be made in the form of a direct trustee-to-trustee transfer of the eligible retirement plan so specified.

- 2. **Limitation.** Subsection (1) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided in subsection (1) (determined without regard to Code §§402(c) and 403(a)(4)).
- 3. **Eligible Rollover Distribution.** For purposes of this Section, the term "eligible rollover distribution" has the meaning given such term by Code §402(f)(2)(A).
- 4. **Eligible Retirement plan.** For purposes of this Section, the term "eligible retirement plan" has the meaning given such term by Code §402(c) (8)(B), except that qualified trust shall be considered an eligible retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions.

(Ord. 1938, 5/13/2002, §12)

Part 8

Municipal Employees Retirement System

§801. Intent.

The plan intended to be tax-qualified under the applicable provisions of §401(a) of the Internal Revenue Code, as amended, and shall be construed and applied in a manner consistent with such intent. The plan and its trust fund are for the exclusive benefit of plan members and their beneficiaries. The Pottstown Municipal Employee Retirement System (Nonuniform Employee Pension Plan) is hereby amended with the provisions set forth below.

(Ord. 1937, 5/13/2002, §1)

§802. Definitions.

CODE – refers to the Internal Revenue Code, as amended periodically.

COMPENSATION – refers to plan member's wages as defined in Code §3401 (a) for a plan year for which the Borough is required to provide the plan member a written statement under Code §§6041(d), 6051(a) (3) and 6052. Such 415 compensation shall include any elective deferrals defined in Code §402(g)(3) and all amounts contributed or deferred at the election of the plan members which are not includible in the gross income of the plan member by reason of either Code §§125, 402(e)(3), 402(h)(1)(B), 403(b), 414(h)(2) or 457.

MUNICIPALITY – refers to the Borough of Pottstown.

PLAN – refers to the Pottstown Municipal Employee Retirement System (Nonuniform Employee Pension Plan).

PLAN YEAR – refers to the calendar year.

REGULATION(S) – refers to the Income Tax Regulations, as amended periodically.

(Ord. 1937, 5/13/2002, §2)

§803. Distribution of Benefits.

1. Unless the plan member otherwise elects, the payments of benefits under the plan to the plan member will begin not later than the 60th day after the latest of the close of the plan year in which:

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- A. The plan member attains the earlier of age 65 or the normal retirement age specified under the plan,
 - B. Occurs the tenth anniversary of the year in which the plan member commenced participation in the plan, or
 - C. The plan member terminates his service with the Borough.
2. In the case of a plan which provides for the payment of an early retirement benefit, a plan member who satisfied the service requirements for such early retirement benefit, but separated from the service (with any nonforfeitable right to an accrued benefit) before satisfying the age requirement for such early retirement benefit, is entitled upon satisfaction of such age requirement to receive a benefit not less than the benefit to which he would be entitled at the normal retirement age, actuarially reduced under regulations prescribed by the Secretary.
 3. A plan member's benefits must commence to be paid not later than April 1 of the calendar year following the later of (i) the calendar year in which the member attains age 70 1/2 or (ii) the calendar year in which the member retires. Such distributions must equal or exceed the required minimum distribution, and otherwise be made in a manner consistent with the requirements of Code §401(a)(9) and the regulations thereunder.
 4. Required distributions must be made over the lifetime or life expectancy of the plan member or the joint life times or joint life expectancy of the plan member and the plan member's designated beneficiary. The life expectancy of the plan member and plan member's spouse may be redetermined at the election of the plan member or the plan member's spouse. Such an election is irrevocable, once made. If no such election is made by the date benefit distributions must commence then the life expectancy of the plan member and the plan member's spouse shall not be recalculated. Tables V and VI of Regulation 1.72-9 shall be used for computing life expectancy or joint and survivor life expectancy.
 5. All benefit distributions to a plan member or the plan member's beneficiary shall be in accordance with the incidental death benefit requirements of Code §401(a)(9)(G) and the related regulations.

(Ord. 1937, 5/13/2002, §3)

§804. Compensation and Benefit Limitations.

The limitations and other requirements outlined below are intended to comply with Code §415 and the regulations thereunder, the terms of which are specifically incorporated herein by reference. The maximum compensation limit and benefits limitations under the Code are as follows:

- A. The compensation used in calculating a plan member's benefit cannot exceed the limits of Code §401(a)(17), as adjusted for cost-of-living increases, per Code §415(d).
- B. General Rule. In no event shall the annual retirement benefit payable to a plan member under this plan, together with retirement benefits provided under all qualified benefit plans maintained or previously maintained by the Borough, for any limitation year, which shall be the calendar year, exceed the maximum benefit permitted, as adjusted annually per Code §415(d), under Code §415(b) (including any applicable grandfathering rules). This plan section shall be applied in accordance with Code §415 and the regulations thereunder.
- C. Adjustment of Limits.
 - (1) Where a retirement benefit commences before age sixty-two (62), the Code §415(b)(1)(A) dollar limit shall be reduced in accordance with Code §415(b)(2)(F). This reduction shall not result in a limit that is less than:
 - (a) Seventy-five thousand dollars (\$75,000.00) if the benefit begins at or after age fifty-five (55), or
 - (b) The actuarial equivalent of seventy-five thousand dollars (\$75,000.00) at age fifty-five (55) (determined in accordance with Code §415) if the benefit begins before age fifty-five (55).
 - (2) Where a retirement benefit commences after age sixty-five (65), the Code §415(b)(1)(A) dollar limit shall be increased as described in Code §415(b)(2)(F).
 - (3) The maximum benefit limit of Code §415(b)(1) shall be applied to benefits in the form of a straight-line annuity (with no ancillary benefits) without regard to benefits attributed to plan member contributions and rollover contributions. If the form payable to a plan member is other than a single life annuity or a Code §417(b) qualified joint and survivor annuity, the plan member's benefit shall not exceed the actuarial equivalent of the Code §415(b)(1) maximum payable in the form of a single life annuity unless no such adjustment is required under Code §415 and related regulations.
 - (4) Notwithstanding the other rules of the plan and Code §415, if the plan member has not participated in a defined contribution plan of the Borough, the plan member's annual retirement benefit shall not be deemed to exceed the maximum benefit limit if it does not exceed the Code §415(b)(4) limit of ten thousand dollars (\$10,000.00), as adjusted for plan participation or service of less than ten (10) years in accordance with Code §415(b)(5).

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- D. Special Limitation for Qualified Police or Firefighters. For any plan member who is a qualified participant as defined under Code §415(b)(2)(H), the limitation under Code §415(b) (2) (C) shall not be reduced to an amount less than fifty thousand dollars (\$50,000.00) (adjusted per Code §415(d) as required by Code §415(b)(2)(G)).
- E. Order of Defined Benefit Plan Reductions. If the plan member participates or participated in any other defined benefit plan of the Borough, and the plan member's aggregate annual retirement benefit under this plan and such other plan exceeds the limits permitted under Code §415, such plan member's benefit shall be first reduced under this plan.

(Ord. 1937, 5/13/2002, §4)

§805. Vesting.

1. Notwithstanding the plan's vesting schedule, upon any amendment or restatement of the plan, a plan member's vested accrued benefit shall not be less than the vested accrued benefit immediately preceding such amendment or restatement.
2. Notwithstanding the plan's vesting schedule a plan member shall be one hundred percent (100%) vested when the plan member completes the age and service requirements for normal retirement at his normal retirement date under the plan.
3. Notwithstanding the plan's vesting schedule a plan member shall be one hundred percent (100%) vested in his accrued benefit (to the extent funded) as of the date of partial or complete plan termination.

(Ord. 1937, 5/13/2002, §5)

§806. Qualified Domestic Relations Order.

Notwithstanding §807, the plan shall recognize any qualified domestic relations order (QDRO) set forth under Code §414(p). Any plan member's benefits, rights or elections shall be subject to any rights afforded to the alternate payee by a QDRO. Further, distribution to an alternate payee is permitted if authorized by a QDRO, even if the plan member involved has not separated from service and has not reached the earliest retirement age under the plan.

(Ord. 1937, 5/13/2002, §6)

§807. Alienation.

No plan member or beneficiary shall have any benefit subject to any type of alienation, anticipation, assignment, charge, encumbrance, pledge, sale or transfer. Further, no benefits shall be subject to or liable for any debts, contracts, engagements, liabilities or torts. The only exceptions to this paragraph are those in Section V, above and those referenced in Code §401(a)(13)(C) and (D).

(Ord. 1937, 5/13/2002, §7)

§808. Unlocatable Member or Beneficiary.

If any portion of a plan benefit is payable to a plan member or beneficiary at the later of the plan member's 62nd birthday or his normal retirement age and such benefit remains unpaid solely by reason that the Borough, after sending a registered letter, to the last known address, return receipt requested, and after diligent effort fails to locate the plan member or beneficiary, the actuarial value of the benefit shall be forfeited and applied towards reducing plan costs. If, subsequent to the forfeiture, a plan member or beneficiary is located, the actuarial value of the forfeiture at the time it was forfeited (no adjustment for gains or losses) shall be restored.

(Ord. 1937, 5/13/2002, §8)

§809. Forfeitures.

Forfeitures must not be applied to increase the benefits any Borough employee would otherwise receive under the plan.

(Ord. 1937, 5/13/2002, §9)

§810. Merger or Consolidation.

In the case of any merger or consolidation with, or transfer of plan assets or liabilities to any other plan, each plan member would (if the plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer (if the plan had then terminated).

(Ord. 1937, 5/13/2002, §10)

§811. Actuarial Assumptions.

As required by Code §410(a) (25), the actuarial assumptions used to calculate plan benefits shall not be subject to the Borough's discretion.

(Ord. 1937, 5/13/2002, §11)

§812. Optional Direct Transfer of Eligible Rollover Distributions.

1. If any distributee of any eligible rollover distribution:
 - A. Elects to have such distribution paid directly to an eligible retirement plan, and
 - B. Specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe),such distribution shall be made in the form of a direct trustee-to-trustee transfer of the eligible retirement plan so specified.
2. Limitation. Subsection (1) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided in subsection (1) (determined without regard to Code §§402(c) and 403(a) (4)).
3. Eligible Rollover Distribution. For purposes of this Section, the term "eligible rollover distribution" has the meaning given such term by Code §402(f)(2)(A).
4. Eligible Retirement Plan. For purposes of this Section, the term "eligible retirement plan" has the meaning given such term by Code §402(c) (8)(B), except that qualified trust shall be considered an eligible retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions.

(Ord. 1937, 5/13/2002, §12)

Part 9

Commissions and Committees

A. Shade Tree Commission.

§901. Shade Tree Commission Created.

A Shade Tree Commission is hereby created in and for the Borough of Pottstown, which shall be constituted as provided by law and shall perform all the duties and may exercise all the powers and authority conferred by law upon borough shade tree commissions.

(Ord. 6/15/1954A, §1)

§902. Assessment of Penalties.

The Shade Tree Commission may assess penalties of not more than six hundred dollars (\$600.00) for each and every violation of this Chapter, of any regulation of the Shade Tree Commission, or any provision of Article XXVII of the Borough Code of the Commonwealth of Pennsylvania so far as it relates to shade trees. Any penalty so assessed shall be a lien upon the real estate of the offender and may be collected as municipal claims are collected. All penalties or assessments imposed shall be paid to the Borough Treasurer to be placed to the credit of the Shade Tree Commission, subject to be drawn upon by the Commission for the purposes of this Chapter.

(Ord. 6/15/1954A, §2; as amended by Ord. 1770, 6/13/1994, §1)

§903. Membership of Shade Tree Commission; Appointment; Tenure; Vacancies.

The Commission shall be composed of five residents of the Borough of Pottstown, who shall be appointed by the Borough Council for five-year terms. The initial appointment of the two additional members shall be staggered so the term of one Commission member shall expire each year. Any vacancy during a term shall be filled by the Borough Council for the unexpired term.

(Ord. 6/15/1954A, §3; as amended by Res. 9/9/1968; and by Ord. 2035, 1/8/2007)

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B. Human Relations Commission.

§911. Human Relations Commission Established; Appointment; Service Without Compensation; Removal.

There is hereby established the Human Relations Commission of the Borough of Pottstown composed of nine (9) members. The Commission shall be non-partisan. All of the Commissioners shall be appointed by the Mayor subject to the approval and confirmation of the Borough Council. They shall serve without compensation. The Mayor, with the approval of the Borough Council, may remove any member without cause assigned.

(Ord. 1172, 10/9/1967, §1)

§912. Tenure of Members of Human Relations Commission; Vacancies.

Original members of said Commission shall serve terms as follows: three (3) members shall serve terms for three (3) years; three (3) members shall serve terms for two (2) years; and three (3) members shall serve terms for one (1) year, respectively. Thereafter, all appointments shall be for three (3) year terms; provided, that any vacancy shall be filled for the unexpired term in the same manner as original appointments.

(Ord. 1172, 10/9/1967, §2)

§913. Meetings of Human Relations Commission.

Meetings of the Commission shall be held at the call of the Mayor or the chairman of the Commission, and at such other times as the Commission may determine. Notice of the meeting shall be sent to all members at least forty-eight (48) hours in advance. A quorum shall consist of five (5) Commissioners.

(Ord. 1172, 10/9/1967, §3)

§914. Officers of Human Relations Commission; Rules of Procedure.

The Commission shall elect one (1) of its members as chairman, and may elect such other officers, within their group, as it may deem necessary and may adopt such rules of procedure as are necessary to accomplish the duties prescribed in §915 of this Part.

(Ord. 1172, 10/9/1967, §4)

§915. Jurisdiction of Human Relations Commission.

The Commission shall have the authority to perform the duties set forth in §916 of this Part. When the Commission is acting as a referral group for complaints of alleged dis-

crimination, the Commission shall have jurisdiction so long as at least one (1) of the parties maintains appropriate minimum contacts, which shall include, but not be limited to, property ownership or residency within the Borough of Pottstown.

(Ord. 1172, 10/9/1967; as added by Ord. 1949, 9/9/2002, §1)

§916. Duties of Human Relations Commission.

The Commission shall:

- A. Promote mutual understanding, respect, and cooperation among all racial, cultural, religious, ethnic, nationality and other groups within the Borough of Pottstown.
- B. Make studies into the status of human relations in the community at large.
- C. Cooperate with and assist other organizations, public or private, to improve relationships among the citizens of the Borough of Pottstown and the greater Pottstown area.
- D. Conduct an educational program for furtherance of the improvement of human relations in the Borough of Pottstown and adjacent communities.
- E. Act as a referral group for complaints of alleged discrimination within the Borough of Pottstown and the greater Pottstown area when permitted, and whenever possible, the Commission shall refer the complaints to appropriate social, civic or governmental agencies for further action.
- F. Prepare and submit an annual report of its activities to Borough Council and make such other reports or recommendations to Borough Council from time to time as it may determine necessary for the furtherance of improved human relations in the Borough of Pottstown and the surrounding affected communities.
- G. Comply with the requirements of a Local Human Relations Commission as set forth in the Pennsylvania statutes (see 43 P.S. §962.1) and Pennsylvania Regulations.

(Ord. 1172, 10/9/1967, §5; as amended by Ord. 1949, 9/9/2002, §2)

C. Community Development Committee.

§921. Community Development Committee Established; Function.

A broad base, Borough areawide Community Development Committee is hereby created and established to function in an advisory capacity to the Pottstown Borough Council

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for the purpose of recommending goals and objectives for housing and community development; review community development projects; study and make recommendations to Pottstown Borough on housing goals and objectives for housing and community development; review community development projects; study and make recommendations to Pottstown Borough Council on housing goals and further review the Housing Assistance Plan; and to hold public hearings for the purpose of implementing "interested citizens input" by receiving, reviewing and considering community projects and housing goals submitted by interested citizens to aid and assist the Borough of Pottstown in the preparation of its application for grant blocks under the Housing and Community Development Act of 1974.

(Res. 11/11/1974)

§922. Duties of Community Development Committee.

The said Committee created in this Part shall, within the framework and guidelines of the Housing and Community Development Act of 1974, make specific recommendations to the Pottstown Borough Council as to goals and objectives for community development, review and recommend housing goals to the Borough Council and assist in the formulation of a Housing Assistance Plan and to further review and make recommendations to Borough Council on the said Housing Assistance Plan; to review community development projects as presented by interested citizens and make further recommendations to Pottstown Borough Council for inclusion into the Housing and Community Development Plan any and all community development projects as submitted by interested citizens; and to ultimately recommend to the Pottstown Borough Council a three (3)-year plan and one (1)-year Action Plan of the Housing Assistance and Community Development Block Grant within the purview of the provisions of the Housing and Community Development Act of 1974.

(Res. 11/11/1974)

§923. Organization of Community Development Committee; Actions by Committee Restricted; Service Without Compensation; Public Hearings.

1. The said Community Development Committee created in this Part shall elect from its members its officers, which shall consist of a chairman, vice chairman and secretary. For the conducting of any meeting, hearing or taking of any action, a quorum shall consist of fifty-one (51%) percent of the members of the said Committee, and a majority vote of members present shall be required for taking of any formal action of the Community Development Committee.
2. Within the limits of funds appropriated by Borough Council, the Community Development Committee may employ a court reporter and other technical and clerical services. Legal, professional staffs and clerical staffs of the Borough Government shall be made available to the Committee as they shall require. There shall be no compensation for the performance of the duties of the Community Development Committee.

ment Committee members as it is the hope and desire of the members of the Pottstown Borough Council that each member shall give of his best efforts and time for public service.

3. The said Community Development shall, in addition to holding its meetings, for the purpose of developing community development projects as presented by interested citizens or citizen groups, conduct public hearings. Notice of the said meetings and public hearings shall be given to the public by publishing notice once in a newspaper of general circulation within the Borough at least forty-eight (48) hours prior to the time of the said meeting and/or public hearing. Said notice shall state the date, time and place of each meeting and/or public hearing.

(Res. 11/11/1974)

§924. Reports to Council by Community Development Committee.

The said Community Development Committee shall be a standing committee until dissolved by the Borough Council and shall file with the Pottstown Borough Council its first report no later than January 13, 1975, containing all of its findings, conclusions and recommendations to the ultimate goals and objectives for a community development plan; community development projects and the order of their priority, to be accomplished within the next three (3) years, with a recommended one (1)-year action plan; and to further recommend a housing assistance plan and to set forth long-term housing goals. It shall be the responsibility of the Community Development Committee to function and meet throughout each year so that it will be in a position to file an advisory report to the Pottstown Borough Council concerning the community development needs, objectives and goals to enable the Borough Council to properly prepare and submit on an annual basis its application for block grant funds.

(Res. 11/11/1974)

§925. Expenditures Authorized for Community Development Committee.

The resolution creating and establishing the broad base, Borough areawide Community Development Committee is hereby amended to include the authorization, within the limits of funds appropriated by Borough Council, for the Community Development Committee to expend all costs incidental to the preparation of the Community Development Plan, including, but not limited to, the reasonable costs of stenographic services, legal services, typing and clerical services, postage, advertising and copying. The said expenditures to be made by the Pottstown Borough Council are to be later reimbursed to the Borough from the community development funds as awarded under the Housing and Community Development Act of 1974, Block Grants.

(Res. 11/11/1974; as amended by Res. 12/9/1974C)

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D. Borough of Pottstown Cable Communications Commission.

§931. Commission Established.

After any franchise is granted, there shall be appointed a commission, to be known as the Borough of Pottstown Cable Communications Commission.

(Ord. 1375, 2/14/1977, §50)

§932. Commission Composition.

The Commission shall consist of five (5) residents of the Borough representative of its population characteristics, appointed by the Borough Council. Each member shall serve a term of three (3) years; provided, however, that appointments to the first Commission shall be for such terms as follows: two (2) members for a term of three (3) years; two (2) members for a term of two (2) years, and one (1) member for a term of one (1) year. Any vacancy in office shall be filled by the Borough Council for the remainder of the term. No employee or person with ownership interest in a cable television franchise granted pursuant to this Part shall be eligible for membership on the Commission.

(Ord. 1375, 2/14/1977, §51; as amended by Ord. 1847, 3/10/1997, §1)

§933. Commission Functions.

The Commission, in addition to any functions assigned to it elsewhere in this Part, shall have the following functions:

- A. Advise the Council on any renewal or renegotiated application for franchise.
- B. Advise the Council on matters which might constitute grounds for revocation of the franchise in accordance with this Part.
- C. Resolve disagreements among franchisees, subscribers and public and private users of a system; such decisions of the Commission shall be appealable to the Borough Council.
- D. Coordinate the franchisee's consultant services for best use of public facilities and channels of the system.
- E. Determine general policy relating to the service provided subscribers and the operation and use of public channels, with a view to maximizing the diversity of programs and services to subscribers. The use of public channels shall be allocated on a first come, first served basis, subject to limitation on monopolization of system time or prime times.

- F. Encourage use of public channels among the widest range of institutions, groups and individuals within the Borough. This endeavor shall be conducted with a view toward establishing different categories of uses, and the annual reports by the Commission to the Borough Council shall be by such categories, defined as follows:
 - (1) Local educational uses including library, public schools, etc.
 - (2) Public access for local programming under public control with guaranteed access for students and minority groups.
 - (3) Local government access channel (including fire, police, burglar alarms and public announcements).
 - (4) Off-the-air network and independent entertainment programs.
 - (5) Off-the-air educational programs.
 - (6) Information retrieval and professional communication.
- G. Cooperate with other systems, and supervise interconnection of systems.
- H. Audit all franchisee records required by this Part and, in the Commission's discretion, require the preparation and filing of information additional to that required herein.
- I. Make an annual report to the Council, including: an account of franchise fees received and distributed, the total number of hours of utilization of public channels, and hourly subtotals for various programming categories, and a review of any plans submitted during the year by franchisees for development of new services.
- J. Conduct evaluations of the system at least every three (3) years, with the franchisee, and pursuant thereto, make recommendations to the Council for amendments to this Part or the franchise agreement in accordance with provisions in regard to renegotiations.
- K. The Commission members shall serve without compensation.
- L. Commission may, with consent of the Borough Council, hire outside consulting service where required to perform their functions; however, all disbursements shall be made in accordance with the terms of the Borough Code and shall be processed through the Borough Secretary's Office.

(Ord. 1375, 2/14/1977, §52; as amended by Ord. 1735, 4/12/1993)

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§934. Action by Majority.

Any action of the Commission shall require the concurrence of four (4) members.

(Ord. 1375, 2/14/1977, §53)

E. Blighted Property Review Committee.

§941. Committee Established.

There is hereby created, effective immediately, a committee pursuant to the Act providing for blighted property removal, consisting of four members as specified by the Act, and known as the Blighted Property Review Committee.

(Ord. 1822, 2/12/1996, §1; as amended by Ord. 2050, 12/26/2007)

§942. Committee Composition.

The Committee shall be appointed by the Borough Council. At least one member of the Committee shall be a member of the Borough Council; at least one member of the Committee shall be a representative of the Redevelopment Authority of Montgomery County; at least one member shall be a representative of the Borough Planning Commission; and at least one representative shall be designated by the Chief Executive Officer or Officers of the executive branch of the government of the municipality.

(Ord. 1822, 2/12/1996, §1; as amended by Ord. 2050, 12/26/2007)

§943. Tenure of Committee Members.

The members of the Blighted Property Review Committee shall serve for annual terms beginning with the date of their appointment and ending on December 31 of the year they were appointed. Appointments to fill vacancies shall be only for the unexpired portion of a term ending at the end of the calendar year.

(Ord. 1822, 2/12/1996, §1; as amended by Ord. 2050, 12/26/2007)

§944. Committee Functions; Powers and Duties.

The Blighted Property Review Committee shall have power and authority to operate under the Act to provide for the designation, certification and removal of blighted property as defined in the Act, to operate in conjunction with and cooperate with the Redevelopment Authority of Montgomery County in bringing about the acquisition, by the exercise of eminent domain or otherwise, as authorized by the Act, and elimination of blighted property within the Borough; and to this end, said Committee shall have all

power and authority to do such acts and deeds as are necessary and appropriate to carry out the goals of the Act and of this Part.

(Ord. 1822, 2/12/1996, §1; as amended by Ord. 2050, 12/26/2007)

§945. Notice of Blighted Property.

Notice of the determination by the Committee that a property is blighted property within the meaning of the Act shall be given to the owner of the property or his agent by the Committee's resolution certifying the property to be blighted, together with or including an order from the Committee to the owner directing the elimination of the conditions, by personal service of the Committee's resolution upon the owner or by certified mail, return receipt requested, or by posting a copy of the Committee's resolution in a conspicuous place on the property. The owner or his agent shall have the right to appeal from the Committee's determination by filing a written notice of appeal with the Committee within 15 days after giving such notice, in which event a hearing before the Committee shall be scheduled.

(Ord. 1822, 2/12/1996, §1; as amended by Ord. 2050, 12/26/2007)

F. Pottstown Planning Commission.

§951. Definitions.

BOROUGH – Pottstown Borough, Montgomery County, Pennsylvania.

COUNCIL – Burgess and Town Council of the Borough of Pottstown.

MUNICIPALITIES PLANNING CODE – Pennsylvania Municipalities Planning Code, Act 247 of July 31, 1968, reenacted and amended by Act 170 of December 21, 1988, P.L. 1329.

PLANNING COMMISSION – Pottstown Borough Planning Commission.

(Ord. 1868, 9/14/1998, §1)

§952. Planning Commission Continued.

The Council hereby signifies its reaffirmation and desire to continue the Planning Commission under the provisions of the Municipalities Planning Code.

(Ord. 1868, 9/14/1998, §1)

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§953. Membership; Terms of Office.

1. The Planning Commission shall consist of five (5) members, appointed by Council, all of whom shall be residents of the Borough.
2. The term of office of members appointed after the effective date of this subpart shall be four (4) years or until a successor is appointed. In the event of a vacancy, the Council shall appoint a member to fill the unexpired term.

(Ord. 1868, 9/14/1998, §1)

§954. Current Members.

The names, addresses and term expiration of the current members of the Planning Commission are as follows: [Here followed the names, addresses and terms of the office of the current members of the Planning Commission.]

(Ord. 1868, 9/14/1998, §1)

§955. Removal of Members.

Any member of the 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 of the vote of Council taken after the member had received fifteen (15) days advanced 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 a removal shall be only for the unexpired term.

(Ord. 1868, 9/14/1998, §1)

§956. Powers and Duties.

1. The Planning Commission shall, at the request of the Council, have the power and shall be required to:
 - A. Prepare and update the comprehensive plan [for] the development of the Borough as set forth in the Municipalities Planning Code and present it for the consideration of the Council.
 - B. Maintain and keep on file records of its actions. All records and files of the Planning Commission shall be in the possession of the Council.
2. The Planning Commission, at the request of the Council, may:

- A. Make recommendations to the Council concerning the adoption or amendment of an official map.
- B. Prepare and present to the Council a zoning ordinance and make recommendations to the Council on proposed amendments to it.
- C. Prepare and recommend subdivision and land development and planned residential development regulations.
- D. Prepare and present to the Council a building code and a housing code and make recommendations concerning proposed amendments thereto.
- E. Do such other acts or make studies as may be necessary to fulfill the duties and obligations imposed by the Municipalities Planning Code.
- F. Prepare and present to the Council an environmental study.
- G. Submit to the Council a recommended capital improvements program.
- H. Prepare and present to the Council a water survey which shall be consistent with the State Water Plan and any applicable water resources plan adopted by the surrounding Delaware River Basin Commission. The water survey shall be conducted in consultation with any public water supplier in the area to the surveyed.
- I. Promote public interest in and understanding of the comprehensive plan and planning.
- J. Make recommendations to governmental, civic and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.
- K. Hold public hearings and meetings.
- L. Present testimony before any board.
- M. Require from other departments and agencies of the Borough such available information as relates to the work of the Planning Commission.
- N. In the performance of its functions, enter upon any land to make examinations and land surveys with the consent of the owner.
- O. Prepare and present to the Council a study regarding the feasibility and practicability of using renewable energy sources in specific areas within the Borough.
- P. Review the zoning ordinance, subdivision and land development ordinance, official map, provisions for planning residential development and such other

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ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

(Ord. 1868, 9/14/1998, §1)

§957. Assistance; Funds.

The Planning Commission may, with the consent of the Council, accept and utilize 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 Council may enter into agreements or contracts regarding the acceptance or utilization of the funds or assistance in accordance with the governmental procedures of the Borough.

(Ord. 1868, 9/14/1998, §1)

G. Regional Planning Commission.

§961. Creation Membership and Terms.

Borough of Pottstown shall join with the municipalities of Douglass Township, West Pottsgrove Township, Upper Pottsgrove Township, Lower Pottsgrove Township, New Hanover Township and North Coventry Township to create the Pottstown Area Regional Planning Commission as per the guidelines set forth in Article XI of the Pennsylvania Municipalities Code, Act 247, as amended, August 2000. Each participating municipality shall appoint two (2) members. The term of each member shall be two (2) years.

(Ord. 1914, 3/12/2001, §1)

§962. Purpose.

The seven (7) municipalities of the Pottstown Area have come to recognize that the issues associated with growth and development, such as, but not limited to, traffic congestion, air and water pollution and loss of open space are too large for any one municipality to deal with. They further recognize that current growth, and anticipated growth, if not properly managed will lead to the diminution of the region's quality of life. They are concerned that current zoning requirements which call for each and every municipality to provide for a full range of uses, regardless of historic development patterns, is inefficient and potentially destructive to the region's economic and social structure. To this end, the seven (7) municipalities of the Pottstown Area hereby embark on a course of action to implement regional planning. Borough of Pottstown empowers the Pottstown Area Regional Planning Commission to undertake the development of a Joint Municipal Comprehensive Plan that shall encompass the seven (7) municipalities of the Pottstown Area.

(Ord. 1914, 3/12/2001, §2)

§963. Powers and Duties.

The Pottstown Area Regional Planning Commission shall have the responsibilities to prepare a Joint Municipal Comprehensive Plan for the seven (7) participating municipalities of the Pottstown Area. To this end, the power and duties of the Commission are as follows:

- A. To prepare a Joint Municipal Comprehensive Plan pursuant to Article XI of the Pennsylvania Municipalities Planning Code.
- B. That in the preparation of the Joint Municipal Comprehensive Plan, the members of the Commission shall represent the interests of their respective municipalities and shall cast one (1) vote per municipality on all matters that require action.
- C. The recommendation of the Commission shall be advisory only.

(Ord. 1914, 3/12/2001, §3)

§964. Withdrawal.

Any participating municipality may withdraw from the Regional Planning Commission after six (6) months formal notice. Upon receiving notice that a municipality wishes to withdraw from the Planning Commission, the governing bodies of the remaining municipalities shall promptly schedule a meeting to consider whether the remaining municipalities wish to continue with the Regional Planning Commission.

(Ord. 1914, 3/12/2001, §4)

H. Building Code Appeals Board.

§971. Establishment of Construction Code Board of Appeals.

There is established a Construction Code Board of Appeals appointed by Borough Council consisting of three members. The term of office shall be for three years, except for those first appointed, shall be staggered so that the term of office of at least one member shall expire each year. Appointments to fill vacancies shall be only for the unexpired portion of the term.

(Res. 2005-25, 7/11/2005, §1)

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§972. Jurisdiction.

The Construction Code Board of Appeals shall have jurisdiction as permitted by the applicable sections of the Uniform Construction Code, the regulations as promulgated by the Pennsylvania Department of Labor and Industry and the provisions of the International Building Codes.

(Res. 2005-25, 7/11/2005, §2)

§973. Members.

The composition of the Construction Code Board of Appeals is as follows:

- A. A member of the Board of Appeals shall be qualified by training and experience to pass on matters pertaining to building construction. Training and experience may consist of licensure as an architect or engineer, experience in the construction industry and training or experience as an inspector or plan reviewer.
- B. Members of Borough Council and Borough Code Officials may not serve on the Board of Appeals.
- C. Members of the Board of Appeals shall reside within the Borough, except that the Borough may fill a position on the Board of Appeals with a qualified person who resides outside the Borough when it cannot find a person within the Borough who satisfies the requirements of this Section.

(Res. 2005-25, 7/11/2005, §3)

§974. Rules of Procedure and Operation.

The Rules of Procedure and Operation of the Construction Code Board of Appeals, which is attached hereto as Exhibit A¹, is hereby adopted and approved.

(Res. 2005-25, 7/11/2005, §4)

¹ Editor's Note: Exhibit A is on file in the office of the Director of Code Enforcement.

Part 10

Authorities

A. Municipal Authority.

§1001. Intention and Desire to Organize Municipal Authority.

The Mayor and Borough Council hereby signify their intention and desire to organize an authority under the provisions of the Municipality Authorities Act of 1945, as amended.

(Ord. 11/13/1950A, §1)

§1002. Execution of Articles of Incorporation Authorized.

The President, the Borough Council and the Borough Manager are hereby authorized and directed to execute on behalf of the Mayor and Borough Council, Articles of Incorporation for said authority, in substantially the following form:

ARTICLES OF INCORPORATION

To the Secretary of the Commonwealth
Commonwealth of Pennsylvania

In compliance with the requirements of the Act of May 2, 1945, P.L. 382, known as "Municipality Authorities Act of 1945," as amended. The Mayor and Borough Council of the Borough of Pottstown, Montgomery County, Pennsylvania, desiring to incorporate an authority thereunder, do hereby certify:

- A. The name of the Authority is "Pottstown Borough Authority."
- B. Said Authority is formed under the provisions of the Act of May 2, 1945, P.L. 382, as amended.
- C. No other Authority organized under the Act of May 2, 1945, P.L. 382, as amended, or under the Act of December 27, 1933 (Special Session, 1933, P.L. 114) is in existence in or for the incorporating municipality, the Mayor and Borough Council of the Borough of Pottstown. There is in existence in the Mayor and Borough of Pottstown an Authority created under the Act of June 28, 1935, P.L. 463, as amended, known as "Borough of Pottstown, Pennsylvania Authority."
- D. The name of the incorporating municipality is the Mayor and Borough Council of the Borough of Pottstown, Montgomery County, Pennsylvania.
- E. The names and addresses of its municipal authorities are as follows: [Here followed the names and addresses of the original authorities].

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- F. The ordinance authorizing the creation of said Authority, certified from the records of the Mayor and Town Council of the Borough of Pottstown, together with advertisement of notice of filing these Articles of Incorporation are each submitted herewith.
- G. The term of existence of this Authority shall be for a period ending on March 1, 2038.

(Ord. 11/13/1950A, §2; as amended by Ord. 1587, 4/27/1988, §2)

§1003. Initial Project to be Undertaken.

The initial project which shall be undertaken by the said Authority is: to acquire, hold, construct, improve, maintain, operate, own, lease in the capacity of either lessor or lessee, sewers, sewer systems or parts thereof and sewage treatment works including works for treatment and disposing of industrial waste for the Borough and for such other territory as it may be authorized to serve.

(Ord. 11/13/1950A, §5)

§1004. First Members of Board of Pottstown Borough Authority.

The following named persons be and they hereby are appointed as the first members of the Board of the Authority whose terms of office shall commence on the date of appointment and shall be computed from January 1, 1950: [Here followed the names, addresses and terms of office of the first members of the Board].

(Ord. 11/13/1950A, §6)

§1005. Additional Project for Pottstown Borough Authority.

In addition to the initial project designated for the Pottstown Borough Authority as set forth in this Part, and approved by the Mayor, there is hereby designated the following project: to acquire, hold, construct, improve, maintain, operate, own, lease in the capacity of either lessor or lessee, waterworks, water supply works, water distribution systems for the Borough and for such other territory as it may be authorized to serve.

(Ord. 10/13/1962, §1)

§1006. Health Centers as Additional Projects.

1. Pursuant to Section 5607(c) of the Act, the Borough Council hereby specifies health centers, as currently defined in the Act and as set forth in Subsection 2

hereof, as additional projects which the Authority is authorized to undertake. The authorization to undertake health center projects shall be in addition to all other types of projects which the Authority is authorized to undertake.

2. As used herein, the following terms shall have the following meanings:

HEALTH CENTER – a facility which:

- A. Is operated by a nonprofit corporation and:

- (1) Provides health care services to the public;
- (2) Provides health-care-related services or assistance to one or more organizations in aid of the provision of health care services to the public, including, without limitation, such facilities as blood banks, laboratories, research and testing facilities, medical and administrative office buildings and ancillary facilities;
- (3) Constitutes an integrated facility which provides substantial health care services on a nonsectarian basis and other reasonably related services, including, without limitation, life care or continuing care communities and nursing, personal care or assisted living facilities for the elderly, handicapped or disabled; or
- (4) Provides educational and counseling services regarding the prevention, diagnosis and treatment of health care problems; and

- B. If required by law to be licensed to provide such services by the Department of Health, the Department of Public Welfare or the Insurance Department, is so licensed or, in the case of a facility to be constructed, renovated or expanded, is designed to comply with applicable standards for such licensure.

3. All Authority obligations issued for health center projects shall be special obligations of the Authority, payable solely from and secured solely by the revenues and other funds derived from the project financed. No Authority financing of any health center project shall commit or be secured by the general credit of the Authority or by Authority revenues derived from its water or sewer systems or from any projects other than the specific health center facility which is the subject of the particular financing. No Authority financing of any health center project shall pledge the general credit or taxing power of the Commonwealth of Pennsylvania, the Borough or any other political subdivision of the Commonwealth.

(Ord. 2044, 9/10/2007)

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B. Airport Authority.

§1011. Intention and Desire to Organize Airport Authority.

The Mayor and Borough Council of the Borough of Pottstown hereby signify their intention and desire to organize an Airport Authority under the provisions of the "Municipality Authorities Act of 1945," as amended.

(Ord. 1250, 5/10/1971, §1)

§1012. Execution of Articles of Incorporation of Airport Authority Authorized.

The President and Secretary of Borough Council are hereby authorized and directed to execute on behalf of the Mayor or Borough Council Articles of Incorporation for said Authority, in substantially the following form:

ARTICLES OF INCORPORATION

To the Secretary of the Commonwealth,
Commonwealth of Pennsylvania

In compliance with the requirements of the Act of May 2, 1945, P.L. 382, as amended, known as the "Municipality Authorities Act of 1945," the Mayor and Borough Council of the Borough of Pottstown, Montgomery County, Pennsylvania, desiring to incorporate an authority thereunder, does hereby certify:

- A. The name of the Authority is "Pottstown Airport Authority."
- B. Said Authority is formed under the provisions of the Act of May 2, 1945, P.L. 382, as amended.
- C. There has been no other airport authority organized by the Borough of Pottstown under the Act of May 2, 1945, P.L. 382, as amended.
- D. The name of the incorporating municipality is Mayor and Borough Council of the Borough of Pottstown, Montgomery County, Pennsylvania.
- E. The names and addresses of its municipal authorities are as follows: [Here followed the names and addresses of the original municipal authorities].
- F. The names, addresses and terms of office of the first members of the Board of the Airport Authority to be formed hereby is as follows: [Here followed the names, addresses and terms of office of the first members of the Board.].

(Ord. 1250, 5/10/1971, §2)

§1013. First Members of the Board of Airport Authority.

The following named persons be and they are hereby appointed by the President of Borough Council as the first members of the Board of the Airport Authority, whose terms of office shall commence on the date of appointment and thereafter shall be computed from January 1 of each year: [Here followed the names, address and terms of office of the first Members of the Board].

(Ord. 1250, 5/10/1971, §6)

C. [Reserved].

D. Pottstown Downtown Improvement District Authority.

§1031. Intention and Desire to Organize Municipal Authority.

The Mayor and Borough Council hereby signify their intention and desire to organize and form a Municipal Business Authority under and by virtue of the Municipality Authorities Act of 1945, approved the 2nd day of May A.D. 1945, P.L. 382, as amended.

(Ord. 1581, 12/14/1987, §1)

§1032. Short Title.

The name of the Authority shall be the "Pottstown Downtown Improvement District Authority."

(Ord. 1581, 12/14/1987, §2)

§1033. Authority.

The Authority shall have authority, and the purpose thereof shall be, to develop and make business improvements and provide administrative services and to impose an assessment on each benefited property in the designated district.

(Ord. 1581, 12/14/1987, §3)

§1034. Purpose.

1. The Mayor and Borough Council declare that it is desirable for the preservation and revitalization of the central business district to have an Authority providing a management process to coordinate the collective public and private efforts of the Commercial District in providing improvements and service.

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2. The Articles of Incorporation of the said Authority are approved and adopted and the appropriate Borough Officials are hereby authorized and directed to execute the same on behalf of the Borough.

(Ord. 1581, 12/14/1987, §4)

§1035. Names and Terms of Office.

The names and original terms of office of the first members of the Authority Board are:
[Here followed the names and terms of office of the first Members of the Board].

(Ord. 1581, 12/14/1987, §6)

§1036. Borough Solicitor.

The Borough Solicitor is hereby directed to cause to be published as required by and in accordance with the Municipality Authorities Act of 1945, a notice containing a brief statement of the substance of this Part and of the Articles of Incorporation, which notice shall state that on a day certain, not less than three (3) days after the complete publication of said notice, the Articles of Incorporation will be filed with the Secretary of the Commonwealth of Pennsylvania.

(Ord. 1581, 12/14/1987, §7)

§1037. Officers.

The proper officers of the Borough shall file with the Secretary of the Commonwealth of Pennsylvania the Articles of Incorporation together with the proofs of publication of said notice.

(Ord. 1581, 12/14/1987, §8)

§1038. Approval.

Pursuant to the Act of April 10, 1980, P.L. 105, the Borough of Pottstown hereby retains the right to approve any plan of the Municipal Business Authority. The Borough of Pottstown retains this right only to the extent that no plan for services or improvements shall be approved which extends beyond December 31, 2008, unless this Part is otherwise amended by Council.

(Ord. 1612, 1/9/1989, §1; as amended by Ord. 1676, 7/8/1991, §1; by Ord. 1841, 12/9/1996, §1; by Ord. 1911, 12/29/2000, §2; and by Ord. 1984, 9/13/2004, §1)

Part 11

Firemen's Relief Association

§1101. Recognition of Firemen's Relief Association.

1. Volunteer Firemen's Relief Association of the Philadelphia Steam Fire Engine Company No. 1; North End Fire Company Relief Association of Pottstown, Pennsylvania; Volunteer Firemen's Relief Association of Empire Hook and Ladder Company, Pottstown, Pennsylvania; and, Goodwill S.F.E. Co. No. 1 of Pottstown, Pennsylvania, Volunteer Firemen's Relief Association are hereby recognized as actively engaged in providing fire protection and/or emergency services for the Borough.
2. The above named associations of the Borough are hereby designated the proper associations to receive such funds as are due and payable to the Borough Treasurer by the Treasurer of the State of Pennsylvania and the tax on premiums from foreign fire insurance companies.

(Ord. 1849, 5/12/1997, §1)

Part 12

Electronic Recordings of Council Meetings

§1201. Regulations of Use of Cameras and Recording Devices.

Cameras, including television and motion picture cameras, electronic sound recording devices, and any other mechanical, electronic or electronic recording devices collectively referred to as "electronic recording devices," may be used during meetings of the Borough Council, subject to the following conditions:

- A. Anyone desiring to use an "electronic recording device" shall register with the Borough Manager one-half (1/2) hour prior to the start of each meeting.
- B. The use of any "electronic recording device" shall be permitted in the two (2) designated areas of the public/press section of the Council Chamber and shall be in place prior to the opening of the public meeting.
- C. The operation of any such recording device shall be permitted only in such a manner as will cause a minimum of interference with or disturbance of the proceedings of Council. Due to the space limitation of the Council Chamber Room and not to deprive the general public and the residents of the Borough of Pottstown from opportunity of attendance of public meetings, the Borough Manager shall have the authority to require "pooling" between the news media of electronic recording devices. No electronic recording device or its paraphernalia shall be permitted within the core of the Chamber of the Council Members.
- D. Any supplemental lighting or television and motion picture cameras shall be used only with the exercise of extreme discretion with regard to the intensity and duration of such lighting and with a view to creating the least amount of interference with or disturbance of the proceedings of the Council and the least amount of discomfort to the members of the public in attendance. At the conclusion of the public meeting, all electronic recording devices and their paraphernalia including wires, microphones, etc., shall be removed within a reasonable time thereafter.
- E. The presiding officer shall have the authority to determine whether the intensity and/or duration of supplemental lighting is such that it disturbs the proceedings of the Council or, upon making such a determination, require that the use of such lighting be discontinued.

(Ord. 1554, 12/30/1986)

Part 13

Capital Reserve Fund

§1301. Creation of Capital Reserve Fund.

A separate fund hereby is created and shall be maintained as a capital reserve fund for anticipated legal capital expenditures. The money in the fund shall be used, from time to time, for the construction, purchase or replacement of or addition to municipal buildings, equipment, machinery, motor vehicles or other capital assets of the Borough and for no other purpose.

(Ord. 1783, 11/14/1994)

§1302. Appropriations to Capital Reserve Fund.

Council may appropriate monies from the general Borough funds to be paid into the capital reserve fund or place in the fund any monies received from the sale, lease or other disposition of Borough property or from any other source, unless received or acquired for another particular purpose.

(Ord. 1783, 11/14/1994)

§1303. Control, Investment and Administration of Capital Reserve Fund.

The capital reserve fund shall be controlled, invested, reinvested and administered and the monies expended for any of the purposes for which the fund is created in such manner as may be determined by Council. The money in the fund, when invested, shall be invested in securities designated by law as legal investments for sinking funds of municipalities.

(Ord. 1783, 11/14/1994)

§1304. Withdrawal of Funds.

No funds shall be withdrawn from the capital reserve fund except as authorized by Council and upon the signature of the President and Secretary of Council, the Finance Director and the Borough Treasurer.

(Ord. 1783, 11/14/1994)

Part 14

Environmental Advisory Council

§1401. Purpose of Part.

Pursuant to the authority granted to the Borough of Pottstown as a municipal corporation to establish an Environmental Advisory Council (53 Pa.C.S.A. §2322, et seq.), the Borough of Pottstown enacts the following ordinance.

(Ord. 1966, 6/9/2003, §1)

§1402. Establishment and Purpose of Environmental Advisory Council.

Consistent with the statutes of the Commonwealth of Pennsylvania (53 Pa.C.S.A. §2322 et seq.), Borough Council hereby establishes an Environmental Advisory Council ("Council") to advise other local governmental agencies including, but not limited to, the Planning Commission, the Parks and Recreation Board and elected officials, on matters dealing with protection, conservation, management, promotion and use of natural resources, including air, land and water resources, located within the corporate limits of the Borough of Pottstown.

(Ord. 1966, 6/9/2003, §2)

§1403. Composition and Organization of Council.

1. **Composition.** The Council shall be composed of no less than five (5) residents of the Borough of Pottstown, who shall be appointed and all vacancies filled by Borough Council. Whenever possible, one (1) member of the Council shall also be a member of the Pottstown Planning Commission.
2. **Term of Office.** Council members shall serve for three (3) years except that initial appointments shall be so staggered that the terms of approximately one-third of the membership shall expire each year, the terms of their successors to be of three (3) years each.
3. **Compensation and Expenses.** Council members shall receive no compensation for their services, but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.
4. **Chairman.** Borough Council shall designate the Chairman of the Council.

(Ord. 1966, 6/9/2003, §3)

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§1404. The Powers and Duties of the Council.

1. General Rule. The Council shall have the power to:
 - A. Identify environmental problems and recommend plans and programs to the appropriate agencies for the promotion and conservation of the natural resources and for the protection and improvement of the quality of the environment within the corporate limits of the Borough of Pottstown.
 - B. Make recommendations as to the possible use of open land areas of the Borough of Pottstown within its corporate limits.
 - C. Promote a community environmental program.
 - D. Keep an index of all open areas, publicly or privately owned, including floodprone areas, swamps and other unique natural areas, for the purpose of obtaining information on the proper use of those areas.
 - E. Advise the appropriate local government agencies, including the Planning Commission, Parks and Recreation Board and Borough Council, in the acquisition of both real and personal property by gift, purchase, grant, bequest, easement, devise or lease, in matters dealing with the purposes of this Part.
2. Limitation. The Council shall not exercise any powers or perform any duties which by law are conferred or imposed upon a Commonwealth agency.

(Ord. 1966, 6/9/2003, §4)

§1405. Records and Reports.

The Council shall keep records of its meetings and activities and shall make an annual report which shall be printed in the annual report of the Borough of Pottstown, or, if none is produced, shall be otherwise made known and available.

(Ord. 1966, 6/9/2003, §5)

§1406. Appropriations for Expenses of Council.

The Borough Council of Pottstown may appropriate funds for the expenses incurred by the Council. Expenses may be expanded for those administrative, clerical, printing and legal services as may be required and as shall be within the limit of funds appropriated to the Council. The whole or any part of any funds so appropriated in any year may be placed in a conservation fund and allowed to accumulate from year to year or may be expended in any year.

(Ord. 1966, 6/9/2003, §6)

§1407. Coordination with State Agencies.

The Council shall look to the State Conservation Commission for assistance which may include educational services, exchange of information, assignment of technical personnel for natural resources planning assistance, and the coordination of State and local conservation activities. The Council shall look to the Department of Community and Economic Development for assistance in planning for the management, use and development of open space and recreation areas.

(Ord. 1966, 6/9/2003, §7)

Part 15

Collection of Delinquent Accounts

§1501. Background/Legislative Intent.

1. To be fair to all property owners in this Borough, it is necessary for this Borough to recover promptly the amount of delinquent unpaid municipal claims and, if necessary, by legal proceeding.
2. The Municipal Claims and Tax Liens Act, 53 P.S. §7101 et seq. (the "Act"), authorizes the adding of additional attorneys' fees, charges, expenses, commissions and fees to the total payable with respect to unpaid municipal claims, but only if the Borough has approved by ordinance a schedule of such fees.
3. The Borough has determined that it is in the best interest of all property owners and other residents to have vigorous enforcement of all delinquent and other unpaid charges, utilizing the procedures set forth in the Act, except in the case of serious hardship, which the Borough will address on a case-by-case basis pursuant to uniform policies.
4. In addition to the collection of attorneys' fees for water, sewer and trash, which already are in effect, the Borough wishes to impose costs of collection on property owners for municipal claims as part of its Clean and Lien Program, as well as for all municipal claims for violations of Chapter 10, Health and Safety.
5. The Borough has reviewed the subject of penalties, interest, and attorneys' fees for collection matters and has determined that the fees set forth in the schedule hereby adopted are reasonable in amount for the services herein described.

(Ord. 2043, 8/13/2007)

§1502. Fees and Charges.

The following rates and fees shall apply to the collection of municipal claims for snow removal, abandoned motor vehicles, accumulation of trash and refuse, removal of grass and weeds, and all health and safety violations that are set forth in §215, Penalties and Violations, of Part 2B, Office of Code Enforcement, of Chapter 1, Administration and Government, and Chapter 9, Health and Safety, all of which are part of the Code of Ordinances of the Borough of Pottstown, as amended:

- A. **Administrative Charge.** Any administrative fee and all costs incurred in mailing a notice of delinquency, not to exceed \$50, shall be added to the unpaid claim.

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B. Interest. Interest will be assessed upon all delinquent municipal claims at a rate of 10% per annum and added to the unpaid claim.

C. Assessment of Legal Fees,.

(1) The Borough hereby approves the following fee schedule to compensate its attorneys for the collection of unpaid claims, which fees shall be added to the unpaid claim.

Legal Services	Fee For Services
Initial review and sending first demand letter	\$160
File lien and mail second demand letter	\$175
Prepare writ of scire facias	\$175
Obtain reissued writ	\$30
Prepare and mail letter under Pa.R.C.P. §237.1	\$30
Prepare motion for alternate service	\$175
Prepare default judgment	\$175
Prepare writ of execution	\$800
Attendance at sale; review schedule of distribution and resolve distribution issues	\$400
Continue Sheriff's sale	\$50
Petition to assess damages	\$50
Petition for free and clear sale	\$400
Prepare bankruptcy proof of claim	\$100
Handling fee for returned check	\$30
Handling fee to issue refund check	\$20
Bookkeeping fee for payment plan of more than 3 payments	\$50
Services not covered above	At an hourly rate between \$60 and \$225 per hour

(2) The amount of fees determined as set forth above are fair and reasonable for the services to be provided and shall be added to the Borough's claim in each account.

(3) There shall be added to the above amounts the reasonable out-of-pocket charges, costs, expenses, commissions and fees, such as but not limited to postage, title searches, Prothonotary fees and Sheriff fees.

- (4) The amount of charges, expenses, commissions and fees determined as set forth above shall be added to the Borough's claim in each account.

(Ord. 2043, 8/13/2007)

§1503. Collection Procedures.

1. The following collection procedures are hereby established in accordance with the Act:
 - A. At least 30 days prior to assessing or imposing attorneys' fees in connection with the collection of an account, the Borough or its designee shall mail or cause to be mailed, by certified mail, return receipt requested, a notice of such intention to the property owner or other entity liable for the account (the "property owner").
 - B. If the certified mail notice is undelivered, then, at least 10 days prior to the assessing or imposing of such attorneys' fees, the Borough or its designee shall mail or cause to be mailed, by first class mail, a second notice to the property owner.
 - C. All notices required by this Part shall be mailed to the property owner's last known post office address as recorded in the records or other information of the Borough or such other address as it may be able to obtain from the County Office of Assessment and Revision of Taxes.
 - D. Each notice as described above shall include the following:
 - (1) The type of fee or other charge, the date it became due and the amount owed, including penalty and interest.
 - (2) A statement of the Borough's intent to impose or assess attorneys' fees within 30 days after the mailing of the first notice or within 10 days after the mailing of the second notice.
 - (3) The manner in which the assessment or imposition of attorneys' fees may be avoided by payment of the account.
 - (4) The place of payment for accounts and the name and telephone number of the Borough representative designated as responsible for collection matters.
2. Related Action. The proper officials of the Borough are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this Part.

(Ord. 2043, 8/13/2007)