

**THE MUNICIPALITY OF**

**ANTIETAM VALLEY**

**HOME RULE CHARTER**



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# The Municipality of Antietam Valley

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## HOME RULE CHARTER FOR

### THE MUNICIPALITY OF ANTIETAM VALLEY PENNSYLVANIA

#### ARTICLE I

#### **NAMES AND AUTHORITY, BOUNDARIES, POWERS, CONSTRUCTIONS, INTERGOVERNMENTAL RELATIONS, LEGAL ADVERTISING**

Section 101. Names and Authority. Pursuant to Act 102 of 2010, the Borough of Mt. Penn and the Township of Lower Alsace shall consolidate and become the Municipality of Antietam Valley as a Home Rule Municipality and continue to be a single municipal corporation and shall have and may exercise all powers and authority of local self-government and shall have complete powers of legislation and administration in relation to its municipal functions, including any additional powers and authority which may hereafter be granted to it. The Municipality shall have the power to enact ordinances and to make rules and regulations necessary and proper for carrying into execution its powers. This Home Rule Charter of The Municipality of Antietam Valley shall be known and may be cited as "the Charter." As used in this charter, the word "Municipality" shall mean The Municipality of Antietam Valley in Berks County, Pennsylvania.

Section 102. Boundaries. The boundaries of the Municipality shall be the actual boundaries of the former Borough of Mt. Penn and the former Township of Lower Alsace at the time this charter takes effect and as they may be lawfully changed thereafter.

Section 103. Powers of the Municipality. The Municipality shall have all powers possible for it to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this Charter.

Section 104. Construction of the Charter Generally. The powers of the Municipality under this Charter shall be construed liberally in favor of the Municipality, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

Section 105. Constitutional Construction. The provisions of this act are severable, and, if any of the provisions are held to be unconstitutional, that decision shall not affect the validity of any of the remaining provisions of this act. It is the legislative intent that this act would have been adopted had the unconstitutional provision not been included.

Section 106. Intergovernmental Relations. The Municipality may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

Section 107. Legal Advertising. When notice is required to be published by the Municipality in one or more newspapers, unless otherwise specified, publication shall be made in the legal notice section in a newspaper of general circulation in the Municipality.

# The Municipality of Antietam Valley

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## ARTICLE II ELECTION OF OFFICERS; VACANCIES IN OFFICE

Section 201. Municipal Officers to be Electors. No person is eligible for the office of supervisor or tax collector in the Municipality unless that person is a registered elector of the Municipality, is at least 18 years of age as of the date of his election to office, and shall have been a resident of the Municipality continuously for a period of one year prior to the date of his election to office. Each supervisor or tax collector, if elected, shall continue to reside in the Municipality during their term of office.

Section 202. Officers to be Elected and Prohibition. The electors of the Municipality at large shall elect five-supervisors and one tax collector. No person shall at the same time hold any other elected office, nor serve concurrently as an elected official and compensated employee of the Municipality except as expressly permitted elsewhere in the Charter.

Section 203. Supervisors. At the municipal election following the adoption of this Charter, the electors of the Municipality shall elect three supervisors to serve for a term of four years and two supervisors for a term of two years from the first Monday of January after the election. During the second municipal election cycle the two Supervisor positions elected to two year terms shall be open for election for full four year terms thereafter.

Section 204. Tax Collector. If the newly elected Board of Supervisors decide to continue with the elected Tax Collector position:

1. At the municipal election in the year 2017 and at the municipal election every four years after that, the electors of the Municipality shall elect one tax collector to serve for a term of four years, except when vacancies create shorter terms, from the first Monday of January after the election.
2. If the electors of the Municipality fail to choose a tax collector or if any person elected to the office fails to give the required bond or to take the required oath, the vacancy shall be filled under section 205.

Section 205. Vacancies in General. If the electors of the Municipality fail to choose a supervisor or tax collector or if any person elected to any office fails to serve in the office or if a vacancy occurs in the office by death, resignation, removal from the Municipality or otherwise, the Board of Supervisors or the vacancy board shall appoint a successor who is an elector of the Municipality, has resided in the Municipality continuously for at least one year prior to their appointment, and is a registered member of the same political party as of the date of the most recent election. Upon the failure of the Board of Supervisors to make the appointment within thirty days after the vacancy occurs, the vacancy shall be filled within fifteen additional days by the vacancy board. The vacancy board shall consist of the Board of Supervisors and one elector of the Municipality, who shall be appointed by the Board of Supervisors at the board's first meeting each calendar year or as soon after that as practical and who shall act as chair of the vacancy board. If the vacancy board fails to fill the position within fifteen days, the chair of the vacancy board shall, or if there is a vacancy in the chairmanship the remaining members of the vacancy board shall, petition the court of common pleas to fill the vacancy without regards to political party. If three or more vacancies in the office of supervisor occur on a five-member board, the court of common pleas shall fill the vacancies without regards to political party membership upon presentation of a petition signed by not less than fifteen electors of the Municipality. The successor so appointed shall hold the office until the first Monday in January after the first municipal election which occurs more than sixty days after the vacancy occurs, at which election an eligible person shall be elected for the unexpired term.

# The Municipality of Antietam Valley

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## ARTICLE III MUNICIPAL OFFICERS GENERALLY

Section 301. Oath of Office. Every person elected or appointed to Municipal office shall before assuming the duties of the office take and subscribe an oath or affirmation before a notary public, district justice or judge to support the Constitutions of the United States and of the Commonwealth and to perform the duties of the office with fidelity. A copy of the oath or affirmation shall be filed with the Municipal Secretary before assuming the duties of the office.

Section 302. Bonds. When any officer or employee of the Municipality is required to give bond for the faithful performance of the duties of the office, the bond shall be with a surety company or other company authorized by law to act as surety, and the Municipality may pay the premium on the bond.

Section 303. Incompatible Offices. No Municipal Officer may serve at the same time as an elected official of the Municipality and as an appointed officer of the Municipality. No former elected official shall hold any compensated appointive Municipal office or Municipal employment until one year after the expiration of the term for which he was elected or the expiration of the term through appointment under Section 205 of this Charter.

Section 304. Removal for Failure to Perform Duties. If any municipal officer fails to perform the duties of the office, the court of common pleas upon complaint in writing by five percent of the electors of the municipality may issue a rule upon the officer to show cause why the office should not be declared vacant. The officer shall respond to the rule within thirty days from its date of issue. Upon hearing, the court may declare the office vacant and require the vacancy to be filled under section 40 (53 P.S. §65503).

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## ARTICLE IV MUNICIPAL SUPERVISORS

Section 401. Supervisors and Government. The Municipality of Antietam Valley shall be governed and supervised by the Board of Supervisors which shall consist of five members.

Section 402. Organization Meeting; Appointment of Secretary and Treasurer. The Board of Supervisors shall meet at 12:00 Noon on January 1, 2016 to initiate the organization of the Municipality of Antietam Valley. From Midnight January 1, 2016 through the initial meeting at noon it is expressly understood that all departments and functions of Mt. Penn Borough and Lower Alsace Township shall continue functioning as in 2015. The Board of Supervisors shall elect one member as chair and another as vice-chair, and shall also appoint a Municipal Treasurer and a Municipal Secretary. The secretary shall be an individual; however, the Board of Supervisors may select a trust company, a banking institution or an individual to serve as treasurer or the Board of Supervisors may appoint one individual to serve as both secretary and treasurer. Each succeeding year after 2016 the Board of Supervisors shall meet at a time and place on the first Monday in January of each year and this meeting may be considered a regular monthly meeting of the Board of Supervisors. The first order of business at this meeting shall be organization of the Board of Supervisors. If the first Monday is a legal holiday, the meeting shall be held the following day. The Board of Supervisors shall likewise elect one member as chair and another as vice-chair, and shall also appoint a Municipal Treasurer and a Municipal Secretary. The secretary shall be an individual; however, the Board of Supervisors may select a trust company, a banking institution or an individual to serve as treasurer or the Board of Supervisors may appoint one individual to serve as both secretary and treasurer.

Section 403. Monthly Meetings; Quorum and Voting. The Board of Supervisors shall meet for the transaction of business at least once each month at a place determined by the Board of Supervisors. A quorum shall be three members of the five-member Board of Supervisors. An affirmative vote of a majority of the entire Board of Supervisors at a public meeting is necessary in order to transact any business. A member shall not be disqualified from voting on any issue before the board solely because the member has previously expressed an opinion on the issue in either an official or unofficial capacity.

Section 404. Special Meetings. Upon call of the chair or by agreement of a majority of its members, the Board of Supervisors may schedule special meetings of the Board of Supervisors after notice required under the act of July 3, 1986 (P.L.388, No. 84), known as the "Sunshine Act." Notice of a special meeting shall state the nature of the business to be conducted at the meeting.

Section 405. Minutes and Records.

1. The Board of Supervisors shall provide for the recording of minutes of its proceedings and other books it may find necessary in the performance of its duties. The records shall be made available to the independent auditor during the annual audit. Unless the custodian of the records agrees otherwise, the records shall be audited or inspected at the place where they are normally maintained. Supervisors who leave office shall deliver all Municipal records in their possession to their successors or to the Municipal secretary.

## The Municipality of Antietam Valley

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2. All Municipal records required to be recorded or transcribed are valid if typewritten, printed, or photocopied, and, where recording in a specified book of record is required, including minutes of the proceedings of the Board of Supervisors, the records may be recorded or transcribed in a mechanical post binder book capable of being permanently sealed, with consecutively numbered pages with a security code printed thereon and a permanent locking device with the Municipal seal being impressed upon each page, or bound book with pages being consecutively numbered by transcribing directly upon the pages of the book of record, or may be attached to the book of record by stapling or by glue or any other adhesive substance or material, and all records previously recorded or transcribed in any manner authorized by this section are validated. When any record is recorded or transcribed by attaching the record or a copy of it to the book of record, the Municipal seal shall be impressed upon each page to which the record is attached, each impression covering both a portion of the attached record and a portion of the page of the book of record to which the record is attached. Original or certified copies of ordinances may also be stored in a locking or mechanical post binder book, capable of being permanently sealed, without being fastened onto pages in the binder.

Section 406. Compensation of Supervisors and Standards for Additional Compensation of Supervisors. Supervisors may receive as compensation an amount established by ordinance not in excess of the maximum provided in Commonwealth Code for Second Class Townships. At inception the compensation for supervisors for the Municipality of Antietam Valley shall be \$1,800.00 annually to be paid in accordance with the motion of the Board of Supervisors at the original reorganization meeting of 2016. No change in compensation shall become effective for any member of Board of Supervisors until the commencement of his/her next term of office, and no change shall be adopted less than twelve (12) months prior to the commencement of a new term.

In addition, supervisors may work during periods of declared local emergencies when requested by and at the direction of the Municipal Manager. Supervisors working under a declared local emergency are restricted to earning compensation on an hourly basis at a cumulative amount equal to or less than one half of the annual compensation granted as supervisors under this Charter. As an exception, if there is a Commonwealth declared emergency, any compensation earned by the supervisors during those declared emergencies is exempt from the maximum cumulative amount listed earlier in this section. Likewise, during Commonwealth emergencies, supervisors may only work as called on by the Municipality Manager and at their direction. At inception in 2016 the rate of compensation shall be \$15.00 per hour and shall be adjusted annually by the U.S. Bureau of Labor Statistics CPIU. At the reorganization meeting each year the adjusted rate of compensation shall be read into the minutes of the meeting.

In performance of their duties, supervisors may not receive any additional compensation in any form nor be eligible for any benefits whether or not provided to employees of the Municipality, including but not limited to participation in the municipal pension plan nor inclusion in group life, health, hospitalization, medical service and accident insurance plans paid in whole or in part by the Municipality.

Section 407. Duties of Supervisors. The Board of Supervisors shall:

1. Be charged with the general governance of the Municipality and the execution of legislative, executive and administrative powers in order to ensure sound fiscal management and to secure the health, safety and welfare of the citizens of the Municipality.
2. Have the responsibility for maintenance of Municipality-owned equipment and facilities.
3. Employ persons as may be necessary for the general conduct of the business of the Municipality and provide for the compensation, organization and supervision of the persons so employed. Supervisors shall cause to have records kept and reports made and filed giving the names of all persons employed, dates on which work was done and the number of hours worked with compensation paid to each person and the capacity in which employed.

## The Municipality of Antietam Valley

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4. Authorize attendance at conferences, institutes, schools and conventions. Any supervisor, elected or appointed officer or Municipal employee may if directed by the Board of Supervisors attend any conference, institute, school or convention dealing with the duties and functions of elected or appointed officers or employees. The expenses for attending conferences, institutes, schools, or conventions may be paid by the Municipality and are limited to the registration fee, mileage for the use of a personal vehicle or reimbursement of actual transportation, lodging, or per diem expenses going to and returning from the meeting. Every attendee shall submit to the Board of Supervisors an itemized account of expenses incurred at the conferences, institutes, schools and conventions. The Board of Supervisors may authorize employees to be compensated at their regular employee rate during their attendance at the conference, institute, school, or convention.
5. Perform duties and exercise powers as may be imposed or conferred by law or the rules and regulations of any agency of the Commonwealth.

Section 408. Chair and Vice Chair. The Chair of the Board of Supervisors shall preside at meetings of the board, be recognized as the head of the Municipal government for ceremonial purposes, and perform other duties as specified by this Charter, the Board of Supervisors, or applicable law. The Vice Chair shall act as Chair during the Chair's absence and/or inability to serve.



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## ARTICLE V MUNICIPAL TREASURER

Section 501. Municipal Treasurer. The Board of Supervisors shall appoint a Municipal treasurer and if desired an Assistant Treasurer to serve at the pleasure of the Board of Supervisors.

Section 502. Treasurer's Bond. The Municipal treasurer, if an individual, shall give bond with a surety company in an amount established by the Board of Supervisors for the faithful performance of the duties of the office. The amount of the bond shall equal the highest amount of Municipal funds estimated by the Board of Supervisors to be available to the Municipal treasurer at any time during the current year. The bond shall be filed with the Municipal Secretary or Manager.

Section 503. Treasurer's Compensation. The Board of Supervisors shall determine the compensation, if any, of the Municipal treasurer.

Section 504. Treasurer's Duties. The Municipal treasurer shall:

1. Receive all moneys due the Municipality and deposit them promptly in a designated depository in the name of the Municipality.
2. Keep distinct and accurate accounts of all sums received from taxes and other sources, which accounts shall be open to the inspection of the Board of Supervisors and any citizen of this Commonwealth.
3. Pay out all moneys of the Municipality only on direction by the Board of Supervisors.
4. Annually state the accounts and make them available to the independent auditor for examination.
5. Preserve the account books, papers, documents and other records of the office and turn them over to the successor in office.

Section 505. Use of Special Funds; Penalty. When any moneys are collected for any special purpose, no Municipal treasurer or Board of Supervisors may apply those moneys to any purpose other than that for which they were collected. Every misapplication shall be a misdemeanor of the third degree, and, in addition to the fine or penalty which may be imposed upon conviction, the defendant shall be required to pay restitution in the amount of moneys improperly spent.

Section 506. Penalty for Failure to Perform Duties. A Municipal treasurer who fails to perform any duties of the office other than those for which specific penalties are provided commits a summary offense and, in addition to the fine or penalty which may be imposed upon conviction, is required to pay to the Municipality an amount equal to the amount of the financial loss that occurred, if any, for not performing the duties of the office. That person is disqualified from holding the office of Municipal treasurer.

Section 507. Depositories of Municipal Funds.

1. The Board of Supervisors shall designate by resolution a depository or depositories for Municipal funds. Any funds deposited with any banking institution of this Commonwealth shall be insured with the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund or their successor agencies, to the extent that accounts are so insured. The Board of Supervisors shall require each banking institution to furnish additional bond, insurance or security to cover the amount of any deposits in excess of the insured limits. The designation is valid for a period of one year or until another depository or other depositories are designated by similar action of the Board of Supervisors.
2. The depository or depositories shall be banks, banking institutions or trust companies located in this Commonwealth.

## The Municipality of Antietam Valley

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3. The Municipal treasurer or assistant treasurer shall, upon the designation of the depository or depositories by the Board of Supervisors, immediately transfer thereto the Municipal funds and after that make deposits solely in the depository or depositories in the name of the Municipality.
4. No Municipal treasurer or assistant treasurer complying with the provisions of this section, nor his surety or sureties, shall be chargeable with losses of Municipal funds caused solely by the failure or negligence of the depository or depositories.

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## ARTICLE VI MUNICIPAL SECRETARY

Section 601. Municipal Secretary. The Board of Supervisors shall appoint a Municipal secretary to serve at the pleasure of the Board of Supervisors.

Section 602. Secretary's Duties. The Municipal secretary is a clerk to the Board of Supervisors. The Municipal secretary shall:

1. Record the proceedings of the Board of Supervisors and all court orders relative to the laying out, opening and vacating of roads in a minute book.
2. Preserve the minute book and other records and turn them over to the successor in office.
3. With the consent of the Board of Supervisors and in conformity with other laws governing the retention and disposition of municipal records, have the authority to destroy records and papers of the Municipality other than the minute book and account book after the lapse of six years from the date of the records.
4. Inform supervisors of all Municipal meetings, including special meetings of the Board of Supervisors.

Section 603. Secretary's Compensation. The Board of Supervisors shall determine the compensation of the Municipal secretary.

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## **ARTICLE VII AUDITORS; ACCOUNTANTS**

Section 701. Annual Financial Audit. The Municipality shall provide for an annual independent audit of all financial transactions to be conducted by a certified public accountant or a firm of certified public accountants. This audit shall be made in accordance with generally accepted professional auditing standards and procedures and shall be completed within six months after the close of the fiscal year. No certified public accountant or firm of certified public accountants shall conduct the audit for more than three consecutive years unless no other qualified accountant or firm competes for the contract.

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## ARTICLE VIII TAX COLLECTOR

Section 801. Tax Collector; Powers, Duties and Liabilities. Whether elected or appointed, the tax collector shall collect all municipal real estate taxes levied within the municipality. The tax collector may also be designated in the tax-levying ordinance or resolution or be employed by the tax-levying authority to collect taxes levied under the act of December 31, 1965 (P.L. 1257, No. 511), known as "The Local Tax Enabling Act." In addition to the powers, duties and responsibilities under this Charter, the tax collector shall exercise all the powers and perform all the duties and be subject to all the obligations and responsibilities for the collection of taxes as are conferred upon tax collectors under Pennsylvania law.

# The Municipality of Antietam Valley

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## ARTICLE IX MUNICIPAL SOLICITOR

Section 901. Municipal Solicitor. The Board of Supervisors may appoint and determine the compensation of a Municipal solicitor. The Municipal solicitor shall be licensed to practice law in this Commonwealth and may be one person or a law firm, partnership, association or professional corporation. The Municipal solicitor serves at the pleasure of the Board of Supervisors.

Section 902. Solicitor to Have Control of Legal Matters. The Municipal solicitor shall direct and control the legal matters of the Municipality and no official or official body of the Municipality, except as otherwise provided under law shall employ an additional attorney without the assent or ratification of the Board of Supervisors.

Section 903. Duties of Solicitor. The Municipal solicitor, when directed or requested so to do, shall prepare or approve any bonds, obligations, contracts, leases, conveyances, ordinances and assurances to which the Municipality may be a party. The Municipal solicitor shall commence and prosecute all actions brought by the Municipality for or on account of any of the estates, rights, trusts, privileges, claims or demands, as well as defend the Municipality or any Municipal officer against all actions or suits brought against the Municipality or Municipal officer in which any of the estates, rights, privileges, trusts, ordinances or accounts of the Municipality may be brought in question before any court in this Commonwealth and do every professional act incident to the office which the Municipal solicitor may be authorized or required to do by the Board of Supervisors or by any resolution. The Municipal solicitor shall furnish the Board of Supervisors, upon request, with an opinion in writing upon any question of law.

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## ARTICLE X MUNICIPAL ENGINEER

Section 1001. Municipal Engineer. The Board of Supervisors may appoint and determine the compensation of a Municipal engineer who shall be a registered professional engineer or an engineering firm employing registered professional engineers. The Municipal engineer serves at the pleasure of the Board of Supervisors.

Section 1002. Engineer's Duties; Preparation of Plans. The Municipal engineer shall perform duties as the Board of Supervisors may direct for the construction, reconstruction, maintenance and repair of streets, roads, pavements, sanitary sewers, bridges, culverts and other engineering work. The Municipal engineer shall prepare plans, specifications and estimates of the work undertaken by the Municipality and furnish the Board of Supervisors with reports, information or estimates on any Municipal engineering work or on questions submitted by the Board of Supervisors.

Section 1003. Certificate of Commencement and of Completion of Municipal Improvements. The Municipal engineer shall certify to the Municipal secretary the date of commencement and of completion of all municipal improvements, the cost of which, in whole or in part, is to be paid by the owners of the abutting property. The certification shall be made a part of the permanent records of the Municipality. The certified time of commencement and completion is collusive on all parties. The term "certified time of completion" means the time of the completion of the whole contract for the improvement.

# The Municipality of Antietam Valley

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## ARTICLE XI MUNICIPAL MANAGER

### Section 1101. Municipal Manager, Appointment, Removal, Qualifications, Powers and Duties; Compensation; Bond.

1. The Board of Supervisors shall appoint one person to fill the office of Municipal Manager who shall serve at the pleasure of the Board of Supervisors;
2. The Municipal Manager shall be appointed on the basis of abilities and qualifications as demonstrated by professional preparation, training, and experience in public administration, finance, and/or other fields relevant to the duties of the position;
3. The powers and duties of the Municipal Manager shall be established by ordinance. The compensation shall be set by resolution and paid out of the general fund of the Municipality. The Board of Supervisors may delegate, subject to recall, any of their non-legislative powers and duties to the Municipal Manager. The Municipal Manager shall give bond to the Municipality, with sufficient surety, in the amount directed by the Board of Supervisors, conditioned for the faithful performance of the duties of the office;
4. The office of Municipal Manager is not incompatible with the office of Municipal secretary, Municipal treasurer or any other Municipal office or employment, except that of supervisor or Municipal police officer.

### Section 1102. The Office of Municipal Manager for the Municipality of Antietam Valley herein incorporates the following criteria into the expectations of the performance of duties by the Manager.

1. Work in partnership with elected officials to develop sound approaches to community challenges by bringing together resources to make the right things happen and produce results that matter;
2. Promote ethical government through commitment to a set of ethical standards that goes beyond those required by law;
3. Encourage inclusion and build consensus among diverse interests (including those of elected officials, the business community, and citizens) by focusing on the entire community rather than the centralized interests of one or two individuals;
4. Promote equity and fairness by ensuring that services are fairly distributed and that administrative decisions (such as hiring and contracting) are based on merit rather than favoritism;
5. Develop and sustain organizational excellence and promote innovation. The Municipal Manager shall professionally focus relentlessly on efficient and equitable service delivery, policy implementation, and evaluation. They align the local government's administrative systems with the values, mission, and policy goals defined by the community and elected officials;
6. Function as the Chief Executive Officer of the Municipality and be responsible to the Board of Supervisors for the complete operation and management of the Municipality including the express responsibility to execute all policies and procedures established by the Board of Supervisors. The Board of Supervisors shall set policy and procedures acting collectively and shall work through the Municipal Manager in the execution of Policies and Procedures with the staff;
7. The Municipal Manager shall serve at the will of the Board of Supervisors and shall be retained by contract which would include appropriate benefits and notification of termination and appeal process.



# The Municipality of Antietam Valley

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## ARTICLE XII CORPORATE POWERS

Section 1201. Suits. The Municipality may sue and be sued.

Section 1202. Property; Penalty for Violation.

1. The Board of Supervisors may purchase, acquire by gift or otherwise, hold, lease, let and convey, by sale or lease, any real and personal property it judges to be to the best interest of the Municipality;
2. Any supervisor who votes in favor of or knowingly participates in the sale or lease of Municipal real or personal property in violation of this article is subject to surcharge to the extent of any loss or injury to the Municipality as a result of the sale or lease.

Section 1203. Real Property.

1. No real estate owned by the Municipality having a value in excess of ten thousand dollars (\$10,000) (adjusted annually by the change in the U.S. Bureau of Labor Statistics CPIU) may be sold except in one of the following ways:
  - a. Public Bid or Auction. Real Estate may be sold by the Municipality to the highest bidder after due notice by advertisement for bids or advertisement of a public auction in one newspaper of general circulation in the Municipality. The advertisement shall be published once not less than ten days before the date set for the opening of bids or public auction, and the date for opening bids or public auction shall be announced in the advertisement. The award of contracts shall be made only by public announcement at a regular or special meeting of the Board of Supervisors or at the public auction.
  - b. Sale through Licensed Broker. Real Estate may be sold by the Municipality by listing the same with a licensed real estate broker or agent.
2. The Board of Supervisors shall reject all bids or offers if the bids or offers are deemed to be less than the fair market value of the property. In all cases, the Board of Supervisors shall establish a minimum price based on the fair market value of the real property.
3. The requirements of this section do not apply to conveyances or leases of real property by a Municipality to any of the following:
  - A municipal corporation;
  - The Federal Government;
  - The Commonwealth;
  - A school district;
  - A municipal authority;
  - A county;
  - A public utility;
  - A volunteer fire company;
  - A nonprofit corporation engaged in community, industrial, or commercial development;
  - A volunteer ambulance service or volunteer rescue squad located within the Municipality;
  - A nonprofit corporation organized as a public library;
  - A nonprofit medical service corporation;
  - A nonprofit housing corporation;
  - A nonprofit organization providing community service or development activities;
  - A nonprofit corporation established for the preservation of historical, architectural or aesthetic sites of artifacts; or
  - A nonprofit association or nonprofit corporation organized to acquire and maintain real property for the preservation, conservation and stewardship of open space.

Such conveyances or leases shall be at the sole discretion of the Municipality.

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4. When real property is sold to a nonprofit corporation organized as a public library or to a nonprofit medical service corporation, nonprofit housing corporation, volunteer fire company, volunteer ambulance service or volunteer rescue squad, the Board of Supervisors may elect to accept any nominal consideration for the property as it believes appropriate. Real property sold under this subsection is subject to the condition that when the property is not used for the purposes of the corporation or volunteer fire company, the property reverts to the Municipality.
5. No real estate may be purchased by a Municipality unless the Board of Supervisors obtains at least one appraisal on the real property in question by a person authorized to perform an appraisal on the subject property under the act of July 10, 1990 (P.L.404, No.98), known as the "Real Estate Appraisers Certification Act," and the Municipal supervisors may require that an environmental impact statement be prepared, indicating the potential liability of the Municipality for any environmental problems associated with the real estate to be purchased. The person making the appraisal shall not be interested directly or indirectly in any aspect of the sale of the real estate. The price paid by the Board of Supervisors for the purchase of the real estate shall not exceed the price established by the appraisal: Provided, however, that if more than one appraisal is obtained, the price paid by the Board of Supervisors shall not exceed the average of the appraisals.
6. When real property has been dedicated, deeded or devised to a Municipality to be used for a designated purpose and the real property is accepted and used for that purpose, or the real property is not used for the purpose designated for a period of ten years or more, and the Board of Supervisors determine that it is not possible or not desirable for the best interest of the Municipality to use the real property for the purpose designated, the Board of Supervisors, with the prior approval of the court of common pleas, may by ordinance dispose of the real property free and clear of any public right.

### Section 1204. Personal Property.

1. No personal property of the Municipality shall be sold or disposed of without the approval of the Board of Supervisors. No personal property owned by the Municipality, the estimated fair market value of which is five thousand dollars (\$5,000) or more, shall be sold except to the highest bidder after due notice by advertisement for bids or for public auction in one newspaper of general circulation in the Municipality. The advertisement shall be published once not less than ten days before the date set for the opening of bids or public auction, and the date for opening bids or public auction shall be announced in the advertisement. The advertisement for electronic auction sales authorized in subsection (4) shall include the Internet address or means of accessing the electronic auction and the date, time and duration of the electronic auction. If after attempting twice to receive bids or if at a public auction no bid was received, the Board of Supervisors may by resolution adopt a procedure by which the personal property may be sold without further action of the Board of Supervisors. A procedure adopted pursuant to this authorization shall be subject to and shall conform to the requirements of any law governing the sale of property by municipal corporations generally when no bids have been received. The award of contracts shall be made only by public announcement at a regular or special meeting of the Board of Supervisors or at the public auction. Except as provided in subsection (4), all bids shall be accepted on the condition that payment of the purchase price in full is made immediately upon acceptance of the successful bid. The Board of Supervisors may reject any bids received if the bids are believed to be less than the fair market value of the property.
2. With respect to personal property, either individual items or lots of items, the fair market value of which is estimated to be less than five thousand dollars (\$5,000), the Board of Supervisors shall by resolution adopt a procedure by which the property may be sold without further action by the Board of Supervisors. The Board of Supervisors may arrange for the sale of the item or items at public auction.

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3. The bidding and advertising requirements of this section do not apply to the following transactions:

- (a) If personal property of the Municipality is being traded in or exchanged for other personal property;
- (b) The sale or lease of personal property to any municipal corporation, the Federal Government, the Commonwealth or any institution district, school district, municipality authority, county, public utility, volunteer fire company, nonprofit corporation engaged in community industrial development, volunteer ambulance service or volunteer rescue squad located within the Municipality, nonprofit corporation organized as a public library, nonprofit medical service corporation, nonprofit housing corporation, nonprofit organizations providing community service or development activities or nonprofit corporation established for the preservation of historical, architectural or aesthetical sites or artifacts.

- 4. A “public auction” shall include the use of a certified public auctioneer or an online or electronic auction sale. During an electronic auction sale, bids shall be accepted electronically at the time and in the manner designated in the advertisement. During the electronic auction, each bidder shall have the capability to view the bidder’s bid rank or the high bid price. Bidders may increase their bid prices during the electronic auction. The record of the electronic auction shall be accessible for public inspection. The purchase price shall be paid by the high bidder immediately or at a reasonable time after the conclusion of the electronic auction as determined by the Municipality. In the event that shipping costs are incurred, they shall be paid by the high bidder.
- 5. At any sale of personal property of the Municipality that has complied with the advertising requirements of subsection (1), the Municipality may provide additional public notice of the sale by bids or public auction in any manner deemed appropriate by the Municipality.

Section 1205. Boards of Supervisors to Exercise Powers. The corporate powers of the Municipality shall be exercised by the Board of Supervisors. If no specific authority is given for the payment of costs incurred in the exercise of any power contained in this act, the expenses may be paid from the general Municipal fund.

Section 1206. General Powers. The Board of Supervisors may make and adopt any ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth necessary for the proper management, care and control of the Municipality and its finances and the maintenance of peace, good government, health and welfare of the Municipality and its citizens, trade, commerce and manufacturers.

Section 1207. Intergovernmental Cooperation. The Board of Supervisors may by ordinance make agreements with other municipal corporations in performing governmental powers, duties and functions and in carrying into effect provisions of the act of July 12, 1972 (P.L. 762, No. 180), referred to as the Intergovernmental Cooperation Law.

Section 1208. Capital Reserve Fund.

- 1. The Board of Supervisors may create and maintain a separate capital reserve fund for any anticipated capital expenses, which fund shall be designated for a specific purpose or purposes when created. The moneys in the fund shall be used for no other purpose unless the Board of Supervisors declares that conditions in the Municipality make other expenses more urgent than those for which the fund was created.
- 2. The Board of Supervisors may appropriate moneys from the general Municipal funds to be paid into the capital reserve fund or place in the fund any moneys received from the sale, lease or other disposition of any Municipal property or from any other source.

# The Municipality of Antietam Valley

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## Section 1209. Operating Reserve Fund.

1. The Board of Supervisors shall have the power to create and maintain a separate operating reserve fund in order to minimize future revenue shortfalls and deficits, provide greater continuity and predictability in the funding of vital government services, minimize the need to increase taxes to balance the budget in times of fiscal distress, provide the capacity to undertake long-range financial planning and develop fiscal resources to meet long-term needs. The fund shall be maintained at twenty (20) percent of the established General Fund.
2. The Board of Supervisors may annually make appropriations from the general fund of the Municipality to the operating reserve fund, but no appropriation shall be made to the operating reserve fund if the effect of the appropriation would cause the fund to exceed five per centum of the estimated revenues of the Municipality's general fund in the current fiscal year.
3. The Board of Supervisors may at any time by resolution make appropriations from the operating reserve fund for the following purposes only:
  - a. To meet emergencies involving the health, safety or welfare of the residents of the Municipality;
  - b. to counterbalance potential budget deficits resulting from shortfalls in anticipated revenues or program receipts from whatever source; or
    - (1) To provide for anticipated operating expenditures related either to the planned growth of existing projects or programs or to the establishment of new projects or programs if for each such project or program appropriations have been made and allocated to a separate restricted account established within the operating reserve fund.
  - c. The operating reserve fund shall be invested, reinvested and administered in a manner consistent with the investment of Municipal funds generally.

Section 1210. Indebtedness. The Board of Supervisors may incur indebtedness and issues notes, bonds or other evidence of indebtedness under the act of July 12, 1972 (P.L. 78 1, No. 185), known as the "Local Government Unit Debt Act," to provide sufficient moneys for any expense of the Municipality.

## Section 1211. Insurance.

1. The Board of Supervisors shall secure workers' compensation insurance for its employees, including volunteer firemen and volunteer ambulance and rescue personnel of companies duly recognized by the Municipality by resolution, killed or injured in the course of their appointed functions or while performing any other duties expressly authorized by the board of supervisors.
2. The Board of Supervisors shall contract with any insurance company to insure property owned by the Municipality.
3. The Board of Supervisors shall contract with any insurance company to insure any public liability of the Municipality, including insurance on every Municipal officer, official and employee for liability arising from errors and omissions in the performance of their duties in the course of their employment, except that liability of elected or appointed officials or officers for surcharge under law shall not be affected hereby.
4. The Board of Supervisors may contract with any insurance company for the pensioning of employees and may pay part or all of the premiums or charges for group pension or annuity plans. This provision is subject to the following qualifications:
  - a. -The Board of Supervisors may deduct from the employee's pay, salary or compensation the part of the premium or charge that is payable by the employee;
  - b. Elected officials and appointed Municipal officials who are not employees of the Municipality are not eligible for participation in any pension or annuity contract paid in whole or in part by the Municipality.

## The Municipality of Antietam Valley

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Section 1212. Land Use Regulations. The Board of Supervisors may plan for the development of the Municipality through zoning, subdivision and land development regulations under the act of July 31, 1968 (P.L. 805, No. 247), known as the "Pennsylvania Municipalities Planning Code."

Section 1213. Building and Housing Regulations. The Board of Supervisors may enact and enforce ordinances to govern and regulate the construction, alteration, repair, occupation, maintenance, sanitation, lighting, ventilation, water supply, toilet facilities, drainage, use and inspection of all buildings and housing constructed, erected, altered, designed or used for any use or occupancy and the sanitation and inspection of land. If any building and housing or structure is constructed, reconstructed, altered, repaired, converted or maintained or any building, housing or land is used in violation of any ordinance enacted under this section, the Board of Supervisors, in addition to penalties provided by the ordinances, may institute appropriate actions or proceedings at law or in equity to prevent and restrain the unlawful construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation and to prevent the use or occupancy of the building, housing or structure.

Section 1214. Numbering of Buildings.-The board of supervisors may by ordinance require and regulate the numbering of buildings. (53 P.S. §66520)

Section 1215. Insect, Pest and Vector Programs.-The Board of Supervisors may appropriate moneys toward insect, pest and vector programs. (53 P.S. §66521)

Section 1216. Sewage Treatment Facilities Regulations.-The Board of Supervisors may by ordinance make regulations respecting the installation of individual or community sewage treatment facilities under the act of January 24, 1966 (1965 P.L. 1535, No. 537), known as the "Pennsylvania Sewage Facilities Act." (53 P.S. §66522)

Section 1217. Surplus Foods.-The board of supervisors may appropriate moneys for the handling, storage and distribution of surplus foods obtained through a Federal, State or local agency. (53 P.S. §66523)

Section 1218. Community Nursing Services.-The board of supervisors may appropriate moneys to nonprofit associations or corporations which provide community nursing services. (53 P.S. §66524)

Section 1219. Mental Health Centers.-The board of supervisors may appropriate moneys toward any nonprofit association or corporation which operates or conducts a mental health center. (53 P.S. §66525)

Section 1220. Hospitals.-The Board of Supervisors may appropriate not exceeding one dollar (\$1) for each resident each year toward the erection, maintenance or support of any medical center or hospital building facilities. If the total cost of the purchase or erection exceeds one hundred thousand dollars (\$100,000), approval by the appropriate health planning agency is required. The number of residents is determined from the latest official census. (53 P.S. §66526)

Section 1221. Building and Housing Inspectors. The Board of Supervisors may appoint one or more building and housing inspectors to enforce the building and housing regulations of the Municipality and for the inspection of the construction, alteration, repair and sanitation facilities of buildings and housing in the Municipality.

Section 1222. Building Lines. The Board of Supervisors may by ordinance establish and maintain uniform building lines upon any or all public streets or highways of the Municipality.

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Section 1223. Public Safety. The Board of Supervisors may adopt ordinances to secure the safety of persons or property within the Municipality and to define disturbing the peace within the limits of the Municipality.

Section 1224. Ambulances and Rescue and Life Saving Services.-The Board of Supervisors may acquire, operate and maintain motor vehicles for the purposes of conveying persons to and from hospitals, and it may appropriate moneys toward ambulance and rescue and lifesaving services and make contracts relating thereto. (53 P.S. §66528)

Section 1225 Nuisances.-The Board of Supervisors may by ordinance prohibit nuisances, including, but not limited to, the storage of abandoned or junked automobiles, on private and public property and the carrying on of any offensive manufacture or business. (53 P.S. §66529)

Section 1226 Regulation of Dogs.-The Board of Supervisors may by ordinance prohibit and regulate the running at large of dogs. (53 P.S. §66530)

Section 1227 Animal Shelters.-The Board of Supervisors may appropriate moneys to foster, encourage or assist the operation of humane societies, animal shelters or animal control centers or programs. (53 P.S. §66531)

Section 1228 Regulation of Business.

1. The Board of Supervisors may license and regulate by ordinance the following business activities within the municipality:
  - a. Transient merchants conducting business within the municipality, except farmers selling their own produce, or to any sale of goods, wares or merchandise donated by the owners thereof, the proceeds of which are to be applied to any charitable or philanthropic purpose or the imposition or collection of any license fee upon insurance companies or their agents or insurance brokers authorized to transact business under the insurance laws of this Commonwealth;
  - b. Cable television companies operating within the municipality to the extent allowed by Federal and State law and regulation;
  - c. Restaurants operating within the municipality. This power includes the power to inspect these establishments;
  - d. Junk dealers and the establishment and maintenance of junk yards and scrap yards, including, but not limited to, automobile junk yards or automobile grave yards.
2. The board of supervisors may establish license fees for regulated businesses enumerated in subsection (1). These fees shall bear a reasonable relationship to the cost of administering the ordinance and regulating, inspecting and supervising each business. Licenses may be issued on an annual or monthly basis and any fee charged to transient merchants shall not exceed three hundred dollars (\$300) per year or twenty-five dollars (\$25) each month or part of a month. (amended Dec. 18, 1996, P.L.1142, No. 172) (53 P.S. §66532)

Section 1229. Dangerous Structures. The Board of Supervisors may by ordinance require the owner to remove any nuisance or dangerous structure on public or private grounds after notice to the owner to do so. In the owner's default, the Board of Supervisors may remove the nuisance or structure and collect the cost of the removal, together with the penalty imposed by the ordinance, from the owner by summary proceedings or under law for the collection of municipal liens.



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Section 1230. Fireworks and Inflammable Articles.-The board of supervisors may:

1. By ordinance regulate and prohibit the manufacture of fireworks or inflammable or dangerous articles.
2. Grant permits for supervised public displays of fireworks and adopt rules and regulations governing the displays.
3. By ordinance adopt rules and regulations not inconsistent with State regulations relating to the storage of inflammable articles.
4. By ordinance impose other safeguards concerning inflammable articles as may be necessary.  
(53 P.S. §66534)

Section 1231. Human Services.-The Board of Supervisors may, under the provisions of the act of December 10, 1974 (P.L. 865, No. 292), entitled "An act authorizing municipalities to expend Federal general revenue sharing or general funds for social service programs for the poor, the disabled and the aging, and to jointly cooperate in the sponsorship, establishment, administration, maintenance and operation of such programs," by ordinance or resolution appropriate moneys for social service programs for the poor, the disabled and the aging. (53 P.S. §66535)

Section 1232. Cemeteries.

1. The Board of Supervisors may by ordinance make rules and regulations regarding the location, operation and maintenance of cemeteries in the municipality.
2. When any cemetery or burial ground is abandoned or is being neglected, the board of supervisors may give notice to the owner directing the removal of weeds, refuse and debris from the cemetery within thirty days. If the removal is not completed within thirty days after the notice, the board of supervisors shall provide for the removal to be done by employees of the municipality or persons hired for that purpose at the expense of the municipality. All costs of removal shall be assessed against the owner of the cemetery, if known, and collected under section 3302(b).
3. The cemetery shall remain open to the public under the regulation and control of the Board of Supervisors. (53 P.S. §66536)

Section 1233. Burial Plots of Service Persons.-The Board of Supervisors may purchase plots of ground in any cemetery or burial ground for the interment of deceased or former service men and women who at the time of their death maintained legal residence within the municipality. (53 P.S. §66537)

Section 1234. Care of Memorials.-The Board of Supervisors may maintain and repair any soldiers' monument or memorial existing or erected within the municipality and may receive funds from persons or organizations for those purposes. (53 P.S. §66538)

Section 1235. Libraries. The Board of Supervisors may, in accordance with the act of June 14, 1961 (P.L. 324, No. 188), known as "The Library Code," appropriate moneys toward any nonprofit association or corporation which operates or conducts a library or contract with or make grants to counties or municipal corporations for the furnishing of library service to the Municipality.

Section 1236. Observances and Celebrations.-The Board of Supervisors may appropriate moneys for the observance of holidays, centennials or other anniversaries or for municipal celebrations or civic projects or programs. (53 P.S. §66540)

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Section 1237. Historical Property. -The Board of Supervisors may acquire by purchase or by gift, repair, supervise, operate and maintain ancient landmarks and other property of historical or antiquarian interest and make appropriations to nonprofit associations or corporations organized to acquire and maintain historical properties. (53 P.S. §66541)

Section 1238. Community Development. -The Board of Supervisors may undertake community development programs, including, but not limited to, urban renewal, public housing, model cities programs and neighborhood development projects. (53 P.S. §66542)

Section 1239. Industrial Promotion. -The Board of Supervisors may make appropriations to an industrial development agency. (53 P.S. §66543)

Section 1240. Tourist Promotion Agencies. -The Board of Supervisors may appropriate moneys not in excess of ten cents (10¢) for each resident of the municipality, as determined by the latest official census, to any tourist promotion agency, as defined in the act of April 28, 1961 (P.L. 111, No. 50), known as the "Tourist Promotion Law," to assist the agencies in carrying out tourist promotional activities. (53 P.S. §66544)

Section 1241. Nonprofit Art Corporations. -The Board of Supervisors may appropriate moneys, not exceeding an amount equal to one mill of the real estate tax, to any nonprofit art corporation for the conduct of its artistic and cultural activities. For the purposes of this section, the term "nonprofit art corporation" means a local arts council, commission or coordinating agency or any other nonprofit corporation engaged in the production or display of works of art, including the visual, written or performing arts and the term "artistic and cultural activities" includes the display or production of theater, music, dance, painting, architecture, sculpture, arts and crafts, photography, film, graphic arts and design and creative writing. (53 P.S. §66545)

Section 1242. Neighborhood Crime Watch Programs. -The Board of Supervisors may appropriate moneys toward a neighborhood crime watch program. No municipality or municipal official is subject to contractual, tort or other liability as a result of making an appropriation under this section. (53 P.S. §66546)

Section 1243. Public Rewards. -The Board of Supervisors may offer rewards for information leading to the arrest and conviction of persons who commit capital or other crimes within the Municipality or for the violation of any municipal ordinance. (53 P.S. §66547)

Section 1244. Municipal Authorities. The Board of Supervisors may by ordinance or resolution individually or in cooperation with other municipal corporations form municipality authorities as authorized by the act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipality Authorities Act of 1945," specify the project or projects to be undertaken by the authorities, appoint members and establish their compensation.

Section 1245. Racetracks.

1. In addition to the powers and duties imposed upon the municipal supervisors by this act or any other provision of law, the Municipal Supervisors shall have the power and duty to secure the health, safety and welfare of persons and property by adopting an ordinance prohibiting the conducting of live horse race meets by a licensed corporation at a racetrack located within the area of fifty air miles from the center of an existing, currently licensed racetrack, notwithstanding the provisions of the act of December 17, 1981 (P.L. 435, No. 135), known as the "Race Horse Industry Reform Act," provided that a majority of electors of the municipality approve a referendum pursuant to subsection (2) prohibiting the conducting of such horse race meets within the Municipality.



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2. The Municipal supervisors may, or upon the petition of a number of electors of the municipality equal to at least twenty-five percent of the highest number of votes for a public office of the municipality at the last preceding municipal election shall, adopt a resolution directing the county board of elections to place a referendum question on the ballot for the primary or general election, with respect to the conducting of live horse race meets by licensed corporations within the municipality. The question shall be in the following form: Shall live horse race meets conducted by licensed corporations be prohibited within the area of fifty air miles from the center of an existing, currently licensed racetrack?
3. The definitions provided for in the "Race Horse Industry Reform Act" shall apply to this section. (53 P.S. §66549)

Section 1246. Conservation District. -The Board of Supervisors may make appropriations to a conservation district as defined in the act of May 15, 1945 (P.L.547, No.217), known as the "Conservation District Law." (1550 added June 22, 2000, P.L.400, No.55) (53 P.S. §66550)

Section 1247. Watershed Associations. -The Board of Supervisors may make appropriations to nonprofit watershed associations for watersheds serving the municipality. Such appropriations may not be used to undertake litigation against any municipal corporation or to seek redress against any individual landowner. (1551 added by Act 11 of 2005) (53 P.S. §66551)

Section 1248. Counties. -The Board of Supervisors may make appropriations to the county in which the municipality is situated for land acquisition related to community and economic development projects located within the municipality.(1552 added by Act 106 of 2006)  
(53 P.S. §66552)

Section 1249. Emergency Services.

1. The Municipality shall be responsible for ensuring that fire and emergency medical services are provided within the Municipality by the means and to the extent determined by the Municipality, including the appropriate financial and administrative assistance for these services.
2. The Municipality shall consult with fire and emergency medical service providers to discuss the emergency services needs of the Municipality.
3. The Municipality shall require any emergency services organizations receiving Municipal funds to provide to the Municipality an annual itemized listing of all expenditures of these funds before the Municipality may consider budgeting additional funding to the organization.

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## ARTICLE XIII ORDINANCES

### Section 1301. Ordinances.

1. The Board of Supervisors may adopt ordinances in which general or specific powers of the Municipality may be exercised, and, by the enactment of subsequent ordinances, the Board of Supervisors may amend, repeal or revise existing ordinances. All proposed ordinances, whether original, amended, repealed, revised, consolidated or codified, shall be published not more than sixty days nor less than seven days before passage at least once in one newspaper circulating generally in the Municipality. Public notices shall include either the full text or a brief summary of the proposed ordinance which lists the provisions in reasonable detail and a reference to a place within the Municipality where copies of the proposed ordinance may be examined. If the full text is not included, a copy shall be supplied to the publishing newspaper when the notice is published, and an attested copy shall be filed within thirty days after enactment in the county law library or other county office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing the ordinances. The date of such filing shall not affect the effective date of the ordinance, the validity of the process of the enactment or adoption of the ordinance; nor shall a failure to record within the time provided be deemed a defect in the process of the enactment or adoption of such ordinance. If substantial amendments are made in the proposed ordinance, before voting upon enactment, the Board of Supervisors shall at least ten days before enactment re-advertise in one newspaper of general circulation in the Municipality a brief summary setting forth all the provisions in reasonable detail, together with a summary of the amendments. Ordinances shall be recorded in the ordinance book of the Municipality and are effective five days after adoption unless a date later than five days after adoption is stated in the ordinance.
2. When maps, plans or drawings of any kind are adopted as part of an ordinance, instead of publishing them as part of the ordinance, the Board of Supervisors may refer in publishing the ordinance to the place where the maps, plans or drawings are on file and may be examined.
3. An ordinance enacted by the Board of Supervisors pursuant to this act shall prescribe the fines and penalties which may be imposed for its violation and shall, unless otherwise specified in another statute, designate the method of its enforcement in accordance with the following:
  - a. Civil enforcement.-Except as provided in paragraph (b), when the penalty imposed for the violation of an ordinance enacted pursuant to the provisions of this act is not voluntarily paid to the Municipality, the Municipality shall initiate a civil enforcement proceeding before a district justice. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. An ordinance which is to be enforced through a civil enforcement proceeding may prescribe civil penalties not to exceed six hundred dollars (\$600) per violation. In addition to or in lieu of civil actions before a district justice, the Municipality may enforce ordinances in equity. In any case where a penalty for a violation of a Municipal ordinance has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefore in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Municipality in the enforcement proceedings. The Municipality shall be exempt from the payment of costs in any civil case brought to enforce an ordinance in accordance with this paragraph.
  - b. Enforcement as summary offenses.-For an ordinance regulating building, housing, property maintenance, health, fire, public safety, parking, solicitation, curfew, water, air or noise pollution, the Board of Supervisors shall provide that its enforcement shall be by action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The municipal solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 83(c). The Board of Supervisors may prescribe criminal fines

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- not to exceed one thousand dollars (\$1,000) per violation and may prescribe imprisonment to the extent allowed by law for the punishment of summary offenses.
- c. Enforcement in equity.--Ordinances may be enforced by the Municipality through an action in equity brought in the court of common pleas of the county where the Municipality is situated.
  - d. Separate offenses.--Ordinances may provide that a separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of the ordinance which is found to have been violated.
  - e. Payment to treasurer.--All fines and penalties collected for the violation of any Municipal ordinance shall be paid to the Municipal treasurer.
  - f. Enforcement officers or agents.--The Board of Supervisors may delegate the initial determination of ordinance violation and the service of notice of violation to such officers or agents as the Municipality shall deem qualified for that purpose.
4. The Board of Supervisors shall prepare or have prepared a consolidation or codification of the general body of Municipal ordinances or the ordinances on a particular subject. The Board of Supervisors shall cause all Municipal ordinances and any resolutions or motions having legislative effect to be codified. The Board of Supervisors shall adopt the consolidation or codification as an ordinance of the Municipality, except the required advertised notice of the proposed adoption of the consolidation or codification shall include a listing of its table of contents. The procedure for the consolidation or codification of Municipal ordinances as a single ordinance may also be followed in enacting a complete group or body of ordinances repealing or amending existing ordinances as may be necessary in the course of preparing a consolidation or codification of the Municipal ordinances, except that the advertisement giving notice of the proposed adoption shall list, in lieu of a table of contents, the titles only of each of the ordinances in the complete group or body of ordinances.
  5. In the same manner as other ordinances, the Board of Supervisors may adopt, by reference to a standard or nationally recognized code in a Municipal ordinance, all or any portion of the code as an ordinance of the Municipality. No portion of any code which limits the work to be performed to any type of construction contractor or labor or mechanic classification shall be adopted. Copies of the proposed code or portion or amendment shall be filed with the Municipal secretary at least ten days before the Board of Supervisors considers the proposed ordinance and upon enactment kept with the ordinance book and available for public use, inspection and examination.
  6. Any person aggrieved by the adoption of any ordinance may make complaint as to the legality of the ordinance to the court of common pleas.

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## ARTICLE XIV PUBLIC BUILDINGS AND ASSETS

Section 1401. Municipal Buildings. The Board of Supervisors may procure by purchase, gift, devise or the exercise of eminent domain a lot or lots of ground located within or outside the limits of the Municipality and erect or use buildings thereon for Municipal purposes.

Section 1402. Use of Public Land Acquired for Other Purposes. When the Board of Supervisors desires to take any public lands previously granted or dedicated to a use or purpose for which they are no longer used, it shall pass an ordinance declaring its intention and shall petition the court of common pleas for leave to file the bond of the Municipality to secure any person or persons who may be entitled to compensation for the taking. The court shall direct notice to be given by publication in at least one newspaper circulating generally in the Municipality. The court may increase the amount of the bond, shall hear all exceptions that are filed against the petition and the sufficiency of the bond and may grant or deny the request of the petition. Upon the granting of the petition and the approval of the bond, the Board of Supervisors may enter lands for the purposes of erecting public buildings. The bond, which shall be in the name of the Commonwealth for the use of any person or persons who are entitled to damages by reason of the taking of the lands, shall remain on file for their use and benefit.

Section 1403. How Damages Are Assessed.-The compensation and damages arising from taking, using and appropriating private or public property for municipal purposes shall be ascertained, determined, awarded and paid under this act for eminent domain proceedings.  
(53 P.S. §66703)

Section 1404. Garages and Warehouses.-The board of supervisors may purchase or lease land inside or outside the limits of the municipality and erect garages, warehouses or other buildings as may be necessary for handling and storing equipment, materials and supplies. (53 P.S. §66704)

Section 1405. Restriction of Sale, Lease or Concession Agreement Regarding Certain Assets. Anything to the contrary set forth in this Charter notwithstanding, for the period beginning January 1, 2016 and ending December 31, 2025, the Board of Supervisors shall not approve the sale, lease or the execution of a concession agreement with respect to (a) the potable water system assets currently owned and operated by the Mount Penn Borough Municipal Authority or (b) the sanitary sewer system assets currently owned and operated by Antietam Valley Municipal Authority. After January 1, 2026, any such sale, lease or concession agreement may be approved only by Ordinance approved by four or more of the Supervisors.

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## ARTICLE XV FIRE PREVENTION AND PROTECTION

Section 1501. Authority of Board of Supervisors. The Board of Supervisors may provide for fire protection within the Municipality.

Section 1502. Assessment for Fire Protection. The Board of Supervisors may pay the cost for fire protection out of the general fund or by the establishment of a special fire prevention and protection assessment and tax. All moneys in the separate accounts for the special fire protection districts shall be paid into the general fund. The assessment may be billed on the annual real estate tax bill for Municipal purposes if authorized by the Board of Supervisors. All assessments for fire protection shall be collected by the tax collector.

Section 1503. Fire Hydrants and Water Supply.-(a)

1. The board of supervisors may place, replace, operate, maintain and repair or contract with water companies or municipal authorities for the placing, replacing, operating, maintaining and repairing of fire hydrants to water mains, maintaining pressures approved by fire insurance underwriters along highways, streets, roads and alleys within the municipality or provide for or acquire a water supply system equipped to supply sufficient water for the protection of property from fire. The moneys necessary for providing or acquiring these fire protection services may be obtained by one of the following methods:
  - a. The board of supervisors may annually assess the cost of fire protection by an equal assessment upon all property, whether or not exempt from taxation by existing law, within seven hundred and eighty feet of any fire hydrant based upon the assessment of property for county tax purposes;
  - b. The board of supervisors may annually assess the cost of fire protection by an equal assessment on all property, whether or not exempt from taxation under existing law, abutting upon highways, streets, roads and alleys within seven hundred and eighty feet of any fire hydrant in proportion to the number of feet the property abuts any water main or within seven hundred and eighty feet of any fire hydrant on the water main. The board of supervisors may provide for an equitable reduction from the frontage of lots at intersections or where, due to the irregular shape of lots, an assessment of the full frontage would be inequitable;
  - c. The board of supervisors may pay the cost for fire protection out of the general fund. If the board of supervisors elects to pay the cost of fire protection services out of the general fund, any special fire protection districts and annual assessments shall be abolished. All moneys in the separate accounts for the special fire protection districts shall be paid into the general fund.
2. When assessments are made under this section, no assessment shall be made against any farmland or an airport which is privately owned and which is neither open nor intended to be open to the public; but vacant lots between built-up sections, either tilled or not tilled, are not farmland.
3. All assessments for fire protection shall be collected by the tax collector under section 3301
4. The assessment may be billed on the annual real estate tax bill for municipality purposes if authorized by the board of supervisors. (53 P.S. §66802)

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## Section 1504. Fire Companies, Facilities and Training.-

1. The board of supervisors may appropriate moneys for the use of the municipality or to fire companies located in the municipality for the operation and maintenance of fire companies, for the purchase and maintenance of fire apparatus, for the construction, repair and maintenance of fire company houses, for training of fire company personnel and, as set forth in this section, for fire training schools or centers in order to secure fire protection for the inhabitants of the municipality. The fire companies shall submit to the board of supervisors an annual report of the use of the appropriated moneys for each completed year of the municipality before any further payments may be made to the fire companies for the current year.
2. The board of supervisors may by ordinance make rules and regulations for the government of fire companies which are located within the municipality and their officers.
3. The board of supervisors may make grants to near or adjacent municipal corporations or volunteer fire companies therein for fire protection in the municipality.
4. No volunteer fire company not in existence in the municipality before the effective date of this act may organize or operate unless the establishment or organization is approved by resolution of the board of supervisors.
5. The board of supervisors may annually appropriate funds to fire companies located within the municipality for the training of its personnel and to lawfully organized or incorporated county or regional firemen's associations or an entity created pursuant to the act of July 12, 1972 (P.L.762, No. 180), referred to as the Intergovernmental Cooperation Law, to establish, equip, maintain and operate fire training schools or centers for the purpose of giving instruction and practical training in the prevention, control and fighting of fire and related fire department emergencies to the members of fire departments and volunteer fire companies in any city, borough, town or township or home rule municipality within this Commonwealth. (1803) amended Dec. 18, 1996, P.L.1154 , No. 175)  
Compiler's Note: The act of July 12, 1972 (P.L. 762, No. 180), referred to as the Intergovernmental Cooperation Law.

Section 1505. Ponds, Dams or Impoundments for Fire Protection.-The board of supervisors may construct or contribute moneys for or participate in the construction of ponds, dams or other impoundments to provide water for fire protection for the municipality. (53 P.S. §66804)

Section 1506. Fire Prevention Code.-The board of supervisors may adopt any standard fire prevention code published and printed in book form as provided under this act for adopting standard codes. (53 P.S. §66805)

Section 1507. Prohibition of Fire-Producing Devices in Certain Retail Stores.-The board of supervisors may by ordinance prohibit the smoking or carrying of lighted cigarettes, cigars, pipes or matches and the use of matches or fire-producing devices in retail stores arranged to accommodate one hundred persons or more or which employ ten or more employees. Any ordinance passed under this section may not prohibit smoking in any restaurant room, rest room, beauty parlor, executive office or any shopping center area designated for smoking. (53 P.S. §66807)

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## ARTICLE XVI MUNICIPAL POLICE

Section 1601. Creating or Disbanding Police Force. The Board of Supervisors may by ordinance create or disband a police force within the Municipality and appoint police officers.

Section 1602. Appointment of Police. The Board of Supervisors shall provide for the organization and supervision and determine the number and the compensation of the police officers. The position of police officer is incompatible with the office of supervisor, auditor, tax collector and municipal manager. The chair of the Board of Supervisors may swear in police officers. The Board of Supervisors may assign any police officer to undergo a course of training at any training school for police officers established or made available by the Federal or State Government and provide for payment of the officer's expenses while in attendance at the training school.

Section 1603. Contracts to Secure Police Service. The Municipality may contract with any other municipal corporation to secure the services within the Municipality of the police of the municipal corporation. When any contract is made, the police officers of the employing municipal corporation have all the powers and authority conferred by law on police officers in the Municipality which has contracted to secure police service.

Section 1604. Contract to Provide Police Service. The Municipality may contract with any municipal corporation to provide police services within the other municipal corporation. When a contract is made, the Municipal police have all the powers and authority conferred by law on police in the municipal corporation which has contracted to secure police service.

Section 1605. Powers. Each Municipal police officer has those powers and abilities as are granted to police officers under the laws of this Commonwealth or the rules of the Supreme Court or the ordinances of the Municipality for which a fine or penalty is imposed unless otherwise prohibited in this Charter. Each police officer when on duty shall wear a shield or badge with the words "Central Berks" inscribed thereon. The Board of Supervisors may provide each police officer with a uniform, equipment and means of transportation and the maintenance thereof.

Section 1606. Shield. Each police officer when on duty shall wear a shield or badge with the words "Central Berks Police" and the name of the municipality inscribed thereon. (53 P.S. §66906)

Section 1607. Equipment. The board of supervisors may provide each police officer with a uniform, equipment and means of transportation and the maintenance thereof. (53 P.S. §66907)

Section 1608. Lockups. The board of supervisors may provide lockup facilities. (53 P.S. §66908)

Section 1609. Certain Compensation Prohibited. -No police officer may charge or accept any fee or other compensation in addition to the salary paid by the municipality for any service rendered or performed by the police officer, except public rewards. (53 P.S. §66909)



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## Section 1610. Police Pension Fund.

1. In those municipalities maintaining police forces of less than three full-time police officers, the board of supervisors may by ordinance or resolution establish a police pension fund or pension annuity into which each member of the police force may be required to pay a member contribution of an equal and proportionate charge which, except to the extent that section 607(c) of the act of December 18, 1984 (P.L. 1005, No. 205), known as the "Municipal Pension Plan Funding Standard and Recovery Act," applies, shall not exceed annually three percent of the pay of the member.
2. The fund shall be under the direction of the board of supervisors for the benefit of members of the police force who receive honorable discharge there from by reason of age or disability and the families of members who may be injured or killed in the service. Any allowances made to those who are retired by reason of disability or age shall be in conformity with a uniform scale.
3. The ordinance or resolution establishing the police pension fund shall prescribe a minimum period of continuous service of not less than twenty-five years, after which the members of the force may be retired from active duty. Municipal police officers so retired may be subject to service as police reserves until unfit for service by reason of age or disability, when they may be finally discharged.
4. The basis of the apportionment of the pension is determined by the rate of monthly pay of the member at the date of death, honorable discharge or retirement.
5. Municipality's shall make contributions to the police pension fund in an amount sufficient to meet the minimum obligation of the municipality with respect to the pension plan pursuant to the "Municipal Pension Plan Funding Standard and Recovery Act," and may take by gift, grant, devise or bequest any money or property in trust for the benefit of the police pension fund. The care, management, investment and disposal of trust funds or property is vested in the board of supervisors subject, whenever possible or practical, to any directions for administration which the donors of the funds and property may prescribe.
6. A person participating in the police pension fund and entitled to receive a benefit therefrom may not be deprived of his right to an equal and proportionate share therein except for the following causes: conviction of a crime or misdemeanor or failing to comply with some general regulation relating to the management of the fund, which may be made by ordinance or resolution and which provides that a failure to comply therewith terminates the right to participate in the pension fund after notice and hearing as it prescribes.
7. Police pension funds of the municipality with a police force of three or more full-time officers are governed by the act of May 29, 1956 (1955 P.L. 1804, No. 600), referred to as the Municipal Police Pension Law. (53 P.S. §66910)

Section 1611. Police Protection Districts.-On petition of a majority of the property owners of any territory within the municipality, the board of supervisors may designate the territory as a district for the purpose of providing police protection. The board of supervisors may annually assess the cost of the maintenance of the police protection by an equal assessment on all property benefited by the protection in proportion to the number of feet the property fronts on the street or highway or portion thereof to be protected. The board of supervisors may provide for an equitable reduction from the frontage of lots at intersections or where, due to the irregular shape of lots, an assessment of the full frontage would be inequitable. No assessment shall be made against any farmland, but vacant lots between built-up sections, whether tilled or not tilled, are not farmland. The assessment for each foot front against vacant lots shall be only twenty-five percent of the assessment for each foot front against property with improvements. All assessments for police protection shall be filed with the municipal tax collector under section 3301(a). (53 P.S. §66911)



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Section 1612. Removal of Police Officers.-No person employed as a regular full-time police officer in any police department, except officers appointed for a probationary period of one year or less, shall be suspended, removed or reduced in rank except under the act of June 15, 1951 (P.L. 586, No. 144), entitled "An act regulating the suspension, removal, furloughing and reinstatement of police officers in boroughs and townships of the first class having police forces of less than three members, and in townships of the second class." (53 P.S. §66912)

Section 1613. Auxiliary Police.-The board of supervisors may confirm persons to serve as auxiliary police officers under the act of January 14, 1952 (1951 P.L. 2016, No. 561), entitled "An act providing for supplementing the police forces of cities, boroughs, towns and townships, for the appointment, powers and control of auxiliary police therein, and for the transfer during disasters and emergencies of such auxiliary police, members of the regular police forces, and police equipment thereof". (53 P.S. §66913)

Section 1614. Special Fire Police.-The board of supervisors may confirm any members of a volunteer fire company to serve as special fire police under the act of June 18, 1941 (P.L. 137, No. 74), entitled, as amended, "An act providing for the appointment, powers and control of members of volunteer fire companies as special fire police, and conferring powers on them at fires attended by their fire companies in any city, borough, town, township or home rule municipality." The chairman of the board of supervisors may swear in special fire police officers. (1914 amended Dec. 18, 1996, P.L. 1142, No. 172) (53 P.S. §66914)

Section 1615. School Crossing Guards.

1. Upon request of the board of school directors of a school district located wholly or partially within the municipality, the board of supervisors by resolution may appoint school crossing guards to control and direct traffic at or near schools. The school crossing guards shall be in uniform and shall be authorized only in the management of traffic and pedestrians. School crossing guards serve at the pleasure of the board of supervisors, except as provided in subsection (3) and are not eligible to join any municipal pension fund. The board of supervisors shall determine the compensation of school crossing guards, to be paid by the municipality or jointly by the municipality and the school district in a ratio to be determined by the two boards. If the municipality and school district cannot determine the ratio of compensation to be paid by each board, each board shall pay one-half of the compensation of the school crossing guards.
2. The board of supervisors may create an educational service agency under section 402.1 of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L. 2897, No. 1), known as the "Unemployment Compensation Law," to provide school crossing guards to one or more educational institutions in conjunction with the school district. The educational service agency shall serve as the agency for management and control of the school crossing guards.

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3. The board of supervisors may approve an ordinance allowing a board of school directors to assume hiring and oversight of school crossing guards. Before the board of supervisors may approve such an ordinance, the board of directors of the school district shall approve a resolution requesting the authority to assume the hiring and oversight of school crossing guards. The ordinance shall outline how the police department will provide any necessary training and assistance of the school crossing guards while on duty. Such school crossing guards will be authorized only in the management of traffic and pedestrians in and around areas identified by the police department and the school district superintendent or his or her designees. The school crossing guards shall not come within the civil service provision of this act. Nor shall they fall under the bargaining unit of the school district nor be considered an employee as defined under section 1101-A of the act of March 10, 1949 (P.L. 30. No.14), known as the "Public School Code of 1949" or a "school employee" as defined under 24 PA.C.S. § 8102 (relating to definitions) or under any plans hereafter effective. Once the ordinance receives approval by the board of supervisors, the school district shall assume the cost of compensation, including fixing such compensation, if any, of the school crossing guards. Auxiliary policemen, appointed as prescribed by general law, may be hired by the school district to serve as school crossing guards. The board of school directors shall notify the board of supervisors of those hired to serve as school crossing guards and request the necessary training or assistance be provided as outlined by the ordinance. (1915 amended June 22, 2000, P.L.329, No. 35) (53 P.S. §66915)

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## ARTICLE XVII STREET LIGHTS

Section 1701. Lighting. The Board of Supervisors may light and illuminate the highways, roads and other public places of the Municipality and remove, alter or improve lighting as may be appropriate and in the best interests of the Municipality and make contracts for securing and maintaining a supply of light.

Section 1702. Costs.

1. The Board of Supervisors may pay for the cost of public lighting by any one or a combination of the following means:
  - a. From the general fund;
  - b. Through uniform annual assessments made upon benefited properties on the foot-front basis;
  - c. By uniform annual assessment upon each property benefited;
  - d. By an equal assessment upon each property benefited, based upon the assessment or county tax purposes;
  - e. By any combination of the above methods or other equitable means of assessment as the Board of Supervisors may determine.
2. If public street lighting is currently in existence and is being paid for by a certain means or method, the Board of Supervisors may alter or amend the means of assessing the cost of the lighting.
3. Properties are subject to assessment for this purpose, whether or not the property is exempt from taxation by existing law.
4. All annual assessments for streetlights shall be paid to the Municipal tax collector. The assessment may be billed on the annual real estate tax bill for general Municipal purposes if authorized by the Board of Supervisors. All funds collected through alternative 2 – 5 above shall be deposited in a separate fund used to pay for the expenses for the operation, maintenance, and new construction of the municipal street lighting system.

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## ARTICLE XVIII PARKS, RECREATION CENTERS AND FORESTS

Section 1801. Acquisition of Lands and Buildings. The Board of Supervisors may designate lands or buildings owned, leased or controlled by the Municipality for use as parks, playgrounds, playfields, gymnasiums, swimming pools, indoor recreation centers, public parks and other recreation areas and facilities and acquire lands or buildings by lease, gift, devise, purchase or by the exercise of the right of eminent domain for recreational purposes and construct and equip facilities for recreational purposes.

Section 1802. Recreation Facilities Employees. The Board of Supervisors may employ persons full time, part time, or seasonal to maintain the recreation facilities or supervise the use of the recreation facilities.

Section 1803. Regulation of Parks and Public Amusements.

1. The Board of Supervisors may by ordinance regulate the use and enjoyment by the public of any park or recreation grounds owned and operated by the Municipality or charitable organizations for the use of the public.
2. The Board of Supervisors may prescribe rules for the use by the public of parks and recreation grounds and the facilities and amusements connected therewith and post the rules at conspicuous places in the parks or recreation grounds. Any person who violates the rules commits a summary offense.
3. The Board of Supervisors may by ordinance not inconsistent with State law and regulations regulate the time of opening and closing and the conduct of places of public entertainment, amusement and recreation.
4. The Board of Supervisors may by ordinance or resolution appropriate funds for recreation programs not directly sponsored by the Municipality.

Section 1804. Creation of Recreation Boards.

1. The Board of Supervisors may by ordinance create a recreation board to supervise, regulate, equip and maintain the Municipal-funded recreation program and facilities. The recreation board shall have only those powers specifically delegated to it by the Board of Supervisors.
2. The recreation board, if established, shall consist of five persons. The members shall be appointed by the Board of Supervisors and shall serve for terms of five years or until their successors are appointed, except that the members' first appointment shall be appointed so that the terms of not more than two members expire annually. Members shall serve without pay but may be reimbursed by the Municipality for all expenses incurred in performing their duties. All persons appointed shall serve their full terms unless voluntarily resigned or removed by the Board of Supervisors for dereliction or neglect of duty. Vacancies occurring other than by expiration of term shall be for the unexpired term and shall be filled in the same manner as original appointments.
3. The members of a recreation board shall elect a chair and secretary and select all other necessary officers to serve for a period of one year. The recreation board may adopt rules and regulations for the conduct of all business within its jurisdiction and exercise powers and functions concerning parks and recreation facilities as may be delegated to it by the Board of Supervisors. The recreation board shall submit an annual report to the Board of Supervisors, including an analysis of the adequacy and effectiveness of community recreation areas, facilities and leadership.

Section 1805. Joint Ownership and Maintenance. The Board of Supervisors may join with any one or more municipal corporations, counties or school districts to acquire, create, equip, maintain and operate any park or recreation area to serve residents of the Municipality under Intergovernmental Cooperation Law.

Section 1806. Expenses for Maintenance. All expenses incurred in the operation of parks, recreation areas and facilities are payable from the general Municipal fund or from the treasury of the municipal corporations, counties or school districts under the agreement of the corporate authorities.

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## Section 1807. Forest Lands.

1. The Municipality may acquire, by purchase, gift or lease, and hold tracts of land covered with forest or tree growth, or suitable for the growth of trees, and administer the tracts under the direction of the Department of Conservation and Natural Resources (or its successor agency). The tracts may be of any size suitable for the purpose and may be located inside or outside the Municipal limits.
2. When the Board of Supervisors intends to acquire any lands for forests, it shall so declare by an ordinance, setting forth all facts and conditions relating to the proposed action.
3. Upon the acquisition of any forests or lands suitable for forests, the Board of Supervisors shall notify the Department of Conservation and Natural Resources which may make rules for the government and proper administration of the lands as may be necessary. The Department of Conservation and Natural Resources shall publish the rules, declare the uses of the forest under the intent of this article and make provision for its administration, maintenance, protection and development as necessary. The rules governing the administration of the forests shall have for their main purpose the producing of a continuing municipal revenue by the sale of forest products.
4. All revenue and emoluments arising from the forests shall be paid into the general Municipal fund.
5. Municipal forests may be used by the public as general outing or recreation grounds, subject to the rules of the Department of Conservation and Natural Resources governing their administration and rules adopted by the Board of Supervisors not inconsistent with law and the rules of the Department of Conservation and Natural Resources.
6. When the Board of Supervisors decides to sell or lease any Municipal forest, or part thereof, it shall so declare by an ordinance, setting forth all the facts and conditions relating to the proposed action. Nothing in this subsection shall prohibit the Board of Supervisors, at its discretion, by resolution, from allowing the selective harvesting of forest products for the purpose of properly caring for and maintaining a Municipal forest.
7. The Board of Supervisors may, on behalf of the Municipality, accept the title to lands which may be donated to the Municipal for any of the purposes mentioned in this article.

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## ARTICLE XIX ROADS, STREETS, BRIDGES AND HIGHWAYS

### Section 1901. Road and Bridge Maintenance, Repair and Construction.

1. The Board of Supervisors may purchase or hire materials, equipment, machinery and implements necessary for the construction, repair and maintenance of roads and bridges and make and maintain bridges over streams, gullies, canals and railroads where bridges are necessary for the ease and safety of travelers. The bridges shall be deemed to be a part of the road.
2. The Board of Supervisors may for adequate consideration construct, reconstruct, improve or maintain driveways on lands owned or occupied by school districts in the Municipality.
3. The Board of Supervisors may construct, reconstruct and improve and contract for the construction, reconstruction and improvement of roads in the Municipality.
4. The Board of Supervisors may for adequate consideration contract with the Commonwealth, a county or a municipal corporation to construct, reconstruct, improve or maintain public roads or highways under the jurisdiction of the Commonwealth, a county or a municipal corporation. Contracts executed under this subsection need not be submitted to the Local Government Commission for review under the act of July 12, 1972 (P.L. 762, No. 180), referred to as the Intergovernmental Cooperation Law.
5. The Board of Supervisors may employ one or more road masters. The road masters are subject to removal by the Board of Supervisors.

### Section 1902. Power to Lay Out, Open, Widen, Vacate, Et Cetera.

1. The Board of Supervisors may by ordinance enact, ordain, survey, lay out, open, widen, straighten, vacate and relay all roads and bridges and parts thereof which are located wholly or partially within the Municipality.
2. The Board of Supervisors may by ordinance provide for the widening, straightening or improvement of a State highway, with the consent of the Department of Transportation, and may spend Municipal funds in connection therewith.
3. When any petition is presented to the Board of Supervisors requesting the Board of Supervisors to open or vacate a specific road in the Municipality and the Board of Supervisors fails to act on the petition within sixty days, the petitioners may present their petition to the court of common pleas which shall proceed thereon under the act of June 13, 1836 (P.L. 551, No. 169), referred to as the General Road Law. If the Board of Supervisors acts on the petition but denies the request of the petition, the Board of Supervisors shall notify the person designated in the petition of its denial. If the request of the petition is denied, the petitioners, or a majority of them, may within thirty days after receipt of the notice petition the court of common pleas for the appointment of viewers and proceedings shall be taken thereon under the General Road Law.
4. No road shall be laid out and opened through any burial ground or cemetery, nor through any grounds occupied by a building used as a place for public worship or as a public or parochial school, educational or charitable institution or seminary, unless the consent of the owner of the premises is first secured. If the owner is unknown, this prohibition does not apply.

### Section 1903. Hearing; Report; Exceptions Thereto; View and Notice.

1. Before the passage of any ordinance for the laying out, opening, changing or vacating of any road or highway or section thereof, the Board of Supervisors shall give ten days' written notice to the owners of property adjacent to the road or portions thereof involved of the time and place set for a hearing on the proposed ordinance.
2. If the Board of Supervisors votes in favor of exercising the power, it shall enact the necessary ordinance and file a copy of the ordinance, together with a draft or survey of the road showing the location and width thereof, in the office of the clerk of the court of common pleas.

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3. Any resident or property owner affected by the ordinance may within thirty days after the enactment of the ordinance of the Board of Supervisors, upon entering in the court sufficient surety to indemnify the Board of Supervisors for all costs incurred in the proceedings, file exceptions to the ordinance together with a petition for a review. Upon receipt of the exception and surety, the court of common pleas shall appoint viewers from the county board of viewers for the purpose of reviewing the ordinance and exceptions thereto.
4. After the expiration of the term allowed for filing exceptions or upon the order of the court upon disposition of any exceptions, the court of common pleas, on application by petition by the Board of Supervisors or any person interested, shall appoint three viewers from the county board of viewers to assess the damages and benefits occasioned by the proceeding unless the damages and benefits are otherwise agreed upon.

Section 1904. Width of Public Roads. The width of the right-of-way of a public road in the Municipality shall not be less than fifty feet or more than one hundred and twenty feet, and the width of the right-of-way of alleys opened by the Municipality as public roads shall not be less than fifteen feet. The minimum required width shall be in addition to any width required for necessary slopes in cuts or fills.

Section 1905. Certain Roads Declared Public Roads.

1. Every road which has been used for public travel and maintained and kept in repair by the Municipality for a period of at least twenty-one years is a public road having a right-of-way of thirty-three feet even if there is no public record of the laying out or dedication for public use of the road.
2. In any proceeding pursuant to this section, any relevant oral or documentary evidence of public travel or maintenance and repairs by the Municipality shall, if presented, be considered, including, but not limited to:
  - a. Maps or surveys which are either generated by any governmental unit or are created pursuant to any judicial proceeding of the courts of this commonwealth.
  - b. Evidence concerning the distribution of government funds to the Municipality pursuant to the act of June 1, 1956 (1955 P.L. 1944, No. 655), referred to as the "Liquid Fuels Tax Municipal Allocation Law."
  - c. Approved subdivision plans, deeds or other documents containing a designation of the road as either a Municipal road or otherwise.
  - d. Evidence that the road is an extension from a public road or public cul de sac, a throughway between other municipality or state roads or provides the only access to a municipal boundary line.
  - e. Court orders, decisions, findings of fact or other matters of judicial record relating to public or private rights in the road.
3. For purposes of this section:
  - a. The frequency of use of a road may be considered relevant in any proceeding pursuant to this section, but, in the absence of additional findings on the purpose of such use, shall not alone be sufficient to establish that the road has been used for public travel.
  - b. The condition or sufficiency of the road surface for public travel may be considered relevant in any proceeding pursuant to this section, but, absent additional findings of actual public maintenance and repair, shall not alone be sufficient to establish maintenance and repair by the Municipality.



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4. Nothing in this section shall be construed as affecting the weight or persuasiveness of any evidence presented in accordance with subsection (b) or the relevance of any evidence presented except as otherwise provided in this section. (e) In any proceeding in which this section is relied upon to allege the existence of a public road, the proponent of the public status of the road shall present evidence first, and the burden shall then shift to the opponent to present evidence to refute the public status of the road.

### Section 1906. Opening, Repairing and Closing Roads.

1. Public roads in the Municipality shall, as soon as practicable, be effectually opened. All public roads shall at all seasons be kept in repair and reasonably clear of all impediments to easy and convenient traveling at the expense of the Municipality.
2. The Board of Supervisors may temporarily close any Municipal road when it determines that conditions have rendered that road unfit or unsafe for travel and immediate repair or maintenance, because of the time of year or other conditions, is impracticable. The road or portion of road closed shall be properly marked at its extremities, and a means of passage for the customary users of the road shall, when possible, be provided.
3. Anyone using the road or portion thereof after the road has been properly closed and marked, without a permit from the Board of Supervisors, commits a summary offense. All fines recovered are payable to the general fund. Persons who have no outlet due to the closing of a road may drive on, over or across the road with the written consent of, and subject to conditions imposed by, the Board of Supervisors or their agents or contractors without being subject to the penalties imposed by this section.

Section 1907. Time Within Which Roads to be Opened. When proceedings have been initiated under this act for the opening and laying out of any public road in the Municipality, the road shall be physically opened for use by the public within a period of five years after completion of the proceeding. If the road is not opened or if no proceedings have been commenced to compel the opening in five years, then the proceedings are void and the land proposed to be taken shall revert to the owners of the land free of any easement or right of the public to use the land.

### Section 1908. Detours.

1. Except for emergencies, no public road shall be closed to traffic except upon order of the Board of Supervisors, and no public road shall be closed to traffic when it has been designated as a detour by the Department of Transportation unless the written consent of the Department of Transportation is first obtained or unless the Board of Supervisors by resolution declares the closing necessary for the protection of the public safety.
2. When any public road is closed, the Board of Supervisors shall designate a detour on which shall be erected and maintained while the detour is in use legible direction signs at each public road intersection through the length of the detour. When the detour is in use, the Board of Supervisors shall maintain the detour in safe and passable condition, except for State and county highways. The Board of Supervisors shall immediately remove all detour signs when the road that was originally closed is open for traffic. Except for State and county highways, the Board of Supervisors may acquire, by agreement or right of eminent domain, right-of-way privileges over private property for the period when the road is closed to traffic. In the exercise of the rights conferred by this section, the Board of Supervisors may pay for the necessary maintenance, subsequent repair and land rental.
3. Any person who removes, defaces, destroys or disregards any barricade, light, danger sign, detour sign or warning of any other character whatsoever erected or placed under authority of this section or who drives on, over or across any road which has been properly closed commits a summary offense.



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4. In addition to the penalties imposed by this section, the Board of Supervisors may in an action at law recover damages from any person or persons who have damaged a road by driving on the road when it is closed to vehicular traffic under this act.
5. All fines and moneys collected under this section shall be paid to the Municipal treasurer.

### Section 1909. Relocating or Vacating Roads by Agreement.

1. When the Board of Supervisors relocates or vacates any part of any public road under its supervision and can agree with the property owners affected by the relocation or vacation, it may relocate or vacate the public road without the formality of a view.
2. A copy of the agreement setting forth the facts regarding the relocation or vacation, accompanied by a map or draft of the road agreed to be relocated or vacated, shall be presented and recorded in the office of the recorder of deeds or similar office in home rule counties after which the new location is the public road or the old location is vacated.

### Section 1910. Elimination of Curves; Acquisition of Views.

1. The Municipality may acquire, by purchase or by the right of eminent domain, any property and lands along or adjacent to any Municipal road that may be necessary to eliminate dangerous curves and widen roads and provide a free and unobstructed view over lands located at or near the intersection of any two roads or highways, or a road and a railroad or railway, or at any curve in any road, for the better protection and safety to the traveling public.
2. The proceedings for the condemnation of the property or land and for the assessment of damages for property or land taken, injured or destroyed shall conform to the act of June 22, 1964 (Sp.Sess. P.L. 84, No. 6), known as the "Eminent Domain Code.

### Section 1911. Roads in or near Public Parks.

1. The Board of Supervisors may contract with the Commonwealth, a county or a municipal corporation owning and operating parks inside the Municipality to establish, relocate, alter or vacate public roads inside or contiguous to those parks. The Board of Supervisors shall take no action with respect to the public roads without the written consent and agreement of the Commonwealth, county or Municipal Corporation owning and operating the parks. Any road when altered or relocated under this section shall be maintained and repaired the same as other Municipal roads.
2. The agreement shall be adopted by ordinance, and, within thirty days, the road shall be a public road of the Municipality.
3. The owner of any land through which any public road may be located or relocated may apply by petition to the court of common pleas, setting forth the injury which has been sustained by reason of the relocation of the public road, and the proceedings relative to the assessment and payment of damages of the landowner shall be under this act for eminent domain.

### Section 1912. Petition of Property Owners for Improvements.

1. The Municipality may improve any public street in the Municipality upon the petition of property owners representing a majority in number of feet front of the properties abutting on the street proposed to be improved at the expense of the property owners.
2. The cost of the improvement may be collected from the owners of the real estate abutting on the street or highway, or part thereof, by an equal assessment on the foot-front basis.
3. The assessments for improvement shall be filed and collected by the Municipal treasurer.
4. The term "owner," as used in this section, means all individuals and public or private corporations, co-partnerships and associations having title in the assessed property. If the owner is a nonresident of the Municipality and the place of residence is unknown or if the ownership of the property cannot be ascertained, the notice shall be posted on the premises and a copy shall be left with the occupant, if any.

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## Section 1913. Improvements Without Petition.

1. The Board of Supervisors may by ordinance provide for the construction, reconstruction, repair or other improvements to any public street in the Municipality.
2. The cost of improvements may be collected from the owners of the real estate abutting on the street or highway, or part thereof, by an equal assessment on the foot-front basis; but in no instance shall any abutting property owner be liable for the cost of improvements in an amount greater than fifteen percent of the assessed valuation of the abutting property: Provided, further, with respect to any property used exclusively for forestry purposes, for agricultural purposes, or for both as of the time of the assessment, that the assessment shall be based upon the actual foot frontage of such property or one hundred and fifty feet, whichever is less. Any expense above the maximum liability of abutting property owners shall be paid by the Municipality.
3. All assessments for improvements shall be filed and collected by the Municipal treasurer.
4. If abutting property owners fail to pay the expenses of the improvements for which they are liable, the Board of Supervisors may recover the amount by action of assumpsit or may file municipal liens therefor against the abutting properties under law for the filing and collection of municipal liens.

## Section 1914. Acceptance of Land for Road Purposes.

1. The Board of Supervisors may by resolution accept any land dedicated by deed to the Municipality to be used as a road, street or alley. A copy of the resolution, together with a draft or survey of the road, street or alley, showing location and width thereof, shall be filed with the clerk of the court of common pleas.
2. When plans of dedicated roads, streets or alleys located in the Municipality have been approved and recorded under this article, the Board of Supervisors may by resolution accept any roads, streets or alleys as public roads if shown in the plans as dedicated to that use and if the roads or streets are not less than thirty-three feet in width and the alleys are not less than fifteen feet in width.
3. Upon the filing with the court of common pleas of the county a certified and attested copy of the resolution, the roads, streets or alleys become a part of the public road system of the Municipality and shall be so recorded in the court.

## Section 1915. Approval of Plans.

1. No person shall construct, open or dedicate any road or any drainage facilities for public use or travel without first submitting plans thereof to the Board of Supervisors for its approval. The plans shall be prepared under rules and regulations adopted by the Board of Supervisors and shall show the profiles of the roads, the course, structure and capacity of any drainage facilities, the method of drainage of the adjacent or contiguous territory and any other details that may be required under the rules or regulations adopted by the Board of Supervisors. The Board of Supervisors may alter the plans and specify any changes or modifications of any kind and may make its approval of the plans subject to those alterations, changes or modifications. The plans when so approved shall be signed by the Board of Supervisors, and a copy shall be filed with the secretary of the Municipality. No road or drainage facilities shall be opened, constructed or dedicated for public use or travel except in compliance with plans approved by the Board of Supervisors and until the approved plan is recorded as required in this section.
2. If the Board of Supervisors refuses to approve any plans submitted to it under this section, any person aggrieved by the action of the Board of Supervisors may within thirty days appeal to the court of common pleas. The court shall hear the matter de novo and, after hearing, may enter a decree affirming, reversing or modifying the action of the Board of Supervisors.
3. The action of the Board of Supervisors or of the court on appeal, in approving any plans shall be recorded by the person applying for the approval in the office of the county recorder of deeds or similar office in home rule counties.
4. No person shall present to the recorder of deeds or similar office in home rule counties any plan which has not been approved by the Board of Supervisors. Approval shall be so indicated on the plan presented for recording.

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5. If any road or any drainage facilities are opened, constructed or dedicated for public use or travel, except in compliance with plans approved and recorded, neither the Board of Supervisors nor any public authorities shall be required to place, construct or operate any sewer, drain, water pipe or other facilities or do any work of any kind in or upon that road; and neither the Board of Supervisors nor any other public authorities have any responsibility of any kind with respect to the road or drainage facilities even if they are in use by the public. Nothing in this act shall prevent the laying of trunk sewers, drains or water or gas mains if required by engineering necessity for the accommodation of other territory.
6. Any person who constructs, opens or dedicates any road or any drainage facilities in connection therewith for public use or travel in any Municipality without having first complied with this section and any resolutions of the Board of Supervisors commits a misdemeanor of the third degree and is subject to a suit for all costs and damages incurred by the Municipality or property owners in the course of correcting all substantive violations of State or municipal law or regulations resulting from or arising out of the unlawfully recorded plan. All fines and moneys so recovered shall be paid to the Municipal treasurer.
7. No approval of plans by the Board of Supervisors shall obligate or require the Municipality to construct, reconstruct, maintain, repair or grade the roads.

Section 1916. Markers and Monuments. The Board of Supervisors and its agents may enter any land and property and maintain markers and monuments in carrying out its powers and duties under this article.

Section 1917. Powers of State and Counties Preserved. Nothing contained in this article shall be held to restrict or limit the Department of Transportation or any county in the exercise of any of its duties, powers and functions under any State law.

Section 1918. Power to Open Drains and Ditches.

1. The Board of Supervisors or its agents may enter any lands or enclosures and cut, open, maintain and repair drains or ditches through the property when necessary to carry the water from the roads.
2. Any person who damages or diverts any drain or ditch without the authority of the Board of Supervisors commits a summary offense and is liable for the cost of restoring the drain or ditch. All fines and moneys so recovered shall be paid to the Municipal treasurer.

Section 1919. Railroad Crossings.

1. Every Municipality constructing a road across a railroad shall construct the road above or below the grade thereof unless permitted by the Pennsylvania Public Utility Commission to construct the road at grade.
2. Any crossing of a railroad by a road or any vacation of any road crossing a railroad shall be made only under the jurisdiction of the Pennsylvania Public Utility Commission. Compensation for damages to the owners of adjacent property taken, injured or destroyed shall be determined under 66 Pa. C.S. (relating to public utilities).

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Section 1920. Permits. No railroad or street railway shall be constructed upon any Municipal road, nor shall any railroad or street railway crossings, driveway connections, gas pipe, water pipe, electric conduits or other piping be laid upon or in, nor shall any telephone, telegraph or electric light or power poles or any coal tipples or any other obstructions be erected upon or in, any portion of a Municipal road except under conditions, restrictions and regulations specified in permits granted by the Municipality for that purpose. Each application shall be submitted to the Municipality in duplicate. The Municipality shall collect a fee as determined by the Department of Transportation for processing the application and another fee for making the inspection. Each application shall be accompanied by both fees. When the Municipality grants the permit, the Board of Supervisors or its agents shall inspect the work authorized by the permit upon the completion thereof and, when necessary, enforce compliance with the conditions, restrictions and regulations specified by the Municipality. In addition to that inspection, the Board of Supervisors or its agents may re-inspect the work not more than two years after its completion, and, if any settlement of the road surface or other defect appears in the work contrary to the conditions, restrictions and regulations of the Municipality, it may enforce compliance therewith. If the applicant fails to rectify a defect which presents an immediate or imminent safety or health problem within forty-eight hours or any other defect within sixty days after written notice from the Board of Supervisors to do so, the Board of Supervisors or its agents may do the work and impose upon the applicant the cost thereof, together with an additional twenty percent of the cost, which may be recovered by an action in assumpsit in the court of common pleas of the county. All fees received by the Municipality shall be paid into the Municipal treasury. Nothing in this section shall be construed to require a permit in advance for emergency repairs necessary for the safety of the public or the restoration or continuance of public utility service or other public service, but application for the permit and the fees shall be submitted within five days after completion of the work, after which time the remaining provisions of this section apply. Nothing in this section authorizes the Municipality to regulate or control the operations of any permittee except under this section.

Section 1921. Penalty for Destroying Signs. A person shall not destroy, remove, injure or deface any sign legally erected upon or near any public street, road or bridge by the Board of Supervisors, or by any club, association or other organized body, for the direction, guidance or safety of travelers. A person shall not destroy, remove, injure or deface any temporary traffic-control device legally erected to enhance traffic or worker safety in a construction or maintenance work zone, including, but not limited to, cones, batons, barrels, barricades, signs, sign trucks, arrow boards or other devices specified in a traffic safety plan approved by the Municipality or the Department of Transportation. Any person who violates this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) for the first offense and a mandatory fine of five hundred dollars (\$500) for the second or any subsequent offense, with costs of prosecution, together with the value of the destroyed, removed or defaced sign. All fines and moneys imposed and collected shall be paid to the Municipal treasurer.

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## Section 1922. Protection of Highways from Snowdrifts.

1. The Board of Supervisors may enter private property adjacent to any public road or highway and place thereon a snow fence to within a limit of one hundred feet from the right-of-way line of the public road in order to eliminate snow drifting on the traveled portion of the public road. (
2. A snow fence may not be placed before the first day of November or remain in place after the first day of April of the succeeding year unless the written consent of the owner is obtained, agreeing to an extension of time for the removal of the snow fence.
3. If the Board of Supervisors and the owner of the property upon which a snow fence is placed and removed under this section cannot agree to the amount of compensation, if any, to be paid to the owner for placing the fence, including the amount of damages, if any, to be paid for injury to the property resulting from placing and removing the fence, the owner may petition the court of common pleas of the county for the appointment of viewers to ascertain the amount of damage incurred in the manner provided in this act for eminent domain proceedings. Damages, if any, when ascertained shall be paid by the Municipality from the general Municipal fund.

## Section 1923. Saving Trees and Shrubberty.

1. The Board of Supervisors or its agents shall not remove any shrub or tree growing within the right-of-way of any Municipal road or street except those shrubs and trees the Board of Supervisors finds to constitute a hazardous or dangerous condition to the use of the highway or those which impair the use or maintenance of the public road or street. No tree having a trunk diameter in excess of six inches shall be removed without notice of the proposed removal having first been given to the abutting property owner. The Municipal supervisors shall determine by resolution the form of notice to property owners.
2. All logs, cordwood, branch wood or other forms of wood derived from the destruction or removal of any trees growing along the highways shall be surrendered to and remain the property of the abutting owners.
3. The Board of Supervisors may clear out brush and other refuse along the sides of the road to the legal width thereof. All clearing and removal of brush and refuse shall be confined to growth that is within the right-of-way and to the removal of branches that in any way interfere with public travel. No other injury by fire, cutting, abrasion or otherwise shall be done to the standing timber.
4. Any person who violates the provisions of this section commits a summary offense. All fines shall be paid into the general Municipal fund. Nothing in this section prevents the Board of Supervisors or other persons in their employ from removing roadside trees which may be thrown down by wind or lodged in a position as to be a menace to public travel or which, by reason of any other cause, may become a source of danger to the public.

Section 1924. Obstructions and Nuisances. Any person who obstructs any public road or commits any nuisance thereon by felling trees, making fences, turning the road, diverting water onto or in any other way and who does not, on notice given by the Board of Supervisors, immediately remove the obstruction or nuisance and repair the damages done to the road commits a summary offense. Nothing in this section shall debar a prosecution for any nuisance as in case of misdemeanor at common law.

Section 1925. Traffic Lights and Signals. The Board of Supervisors may provide for the erection, maintenance and operation of traffic lights and traffic signals in accordance with applicable Commonwealth law.

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## Section 1926. Regulation of Parking.

1. The Board of Supervisors may by ordinance regulate parking, provide parking accommodations to promote the convenience and protection of the public, post signs regulating parking in areas established or designated for handicapped or severely disabled veteran parking and impose penalties for the violation of those regulations.
2. The Board of Supervisors may provide for the erection, maintenance and regulation of parking meters, and it may by ordinance establish parking meter charges and impose penalties for the violation of those regulations.

Section 1927. Naming of Streets. The Board of Supervisors may provide for and regulate the naming of streets, roads and highways. When the naming of a street, road or highway will affect signing maintained by the Department of Transportation, the Board of Supervisors shall notify the department.

Section 1928. Bike Paths. The Board of Supervisors may provide for the construction and maintenance of bike paths for the protection or convenience of the traveling public.

Section 1929. County Bridges. When the cost of construction or maintenance of a bridge located within the Municipal is paid in whole or in part by the county, the Board of Supervisors may make agreements for the maintenance and repair of the bridge.

## Section 1930. Boundary Roads and Bridges.

1. When any road or bridge, other than a State or county road or bridge, is created or located along, on or over boundaries between Municipalities and any other municipal corporation, the creation, location, construction, maintenance and repair of the road or bridge shall be the joint responsibility of the Municipality and the municipal corporation with which the common boundary is shared.
2. The Board of Supervisors may make agreements with any adjacent municipal corporation to provide for the apportionment of the cost of construction, repair and maintenance of boundary roads or bridges.
3. If an amicable agreement on the proportionate share of costs of construction, repair and maintenance of boundary roads or bridges cannot be executed, the Board of Supervisors or the governing body of the other municipal corporation involved may petition the court of common pleas of the county or counties for a determination of the rights and responsibilities of the respective municipal corporations involved.



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## Section 1931. Location, Lines, Grades and Width of Curbs, Sidewalks or Footpaths; Costs.

1. The board of supervisors may by ordinance regulate the line, grade and width of curbs, sidewalks or footpaths constructed along the roads or highways in the municipality, shall have general supervision over them and may establish a grade or grades for curbs, sidewalks or footpaths, which grade or grades may be separate and apart from the grade or grades established for the cartway or roadway.
2. If the highway is a State or county highway, the written consent of the Department of Transportation or the county commissioners shall first be obtained. (c)
3. The costs of construction of sidewalks, footpaths or curbs may be paid by one of the following methods:
  - a. The board of supervisors, upon the request of any landowner whose land fronts upon a public road or highway within the municipality, may establish a sidewalk or curbs along one or both sides of the road or highway along the lands of the owner. When the sidewalks or curbs are established, the landowner shall pay for the construction of the sidewalks or curbs and keep them in repair.
  - b. The board of supervisors may construct sidewalks or curbs along the roads or highways, upon the petition of property owners representing a majority in number of feet front of the properties abutting on the roads or highways where the sidewalks or curbs are to be constructed. When a petition is filed with the board of supervisors, the property owner shall be given notice by the board of supervisors to construct the sidewalk or curb. If the owner fails to complete the sidewalk or curb within a period of sixty days after the receipt of the notice, the board of supervisors may construct the sidewalk or curb. When any sidewalk or curb is constructed by the board of supervisors, the expense of the construction of the sidewalk or curb shall be paid by the abutting property owners in proportion to their frontage. If the owners fail to pay the expenses of the construction of the sidewalk or curb, the board of supervisors may recover the amount by action of assumpsit or may file municipal liens therefor against the abutting properties under law for the filing and collection of municipal liens.
  - c. The board of supervisors may by ordinance in absence of a petition, provide for the construction, reconstruction and repair of sidewalks and curbs within the municipality. When any sidewalks or curbs are constructed, reconstructed or repaired by the board of supervisors under the ordinance, the expense of the construction of the sidewalks or curbs shall be paid by the abutting property owners in proportion to their frontage, but no owner shall be liable for the cost of construction of the sidewalk or curb in an amount greater than fifteen percent of the assessed valuation of the abutting property. Any expense above the maximum liability of abutting property owners shall be paid by the municipality. If abutting property owners fail to pay the expenses of the construction of the sidewalks or curbs for which they are liable, the board of supervisors may recover the amount by action of assumpsit or may file municipal liens therefor against the abutting properties under law for the filing and collection of municipal liens.
  - d. When the board of supervisors establishes that any part of any road or highway is dangerous to the traveling public and the danger could be materially reduced or lessened by the construction of a sidewalk, curb or footpath, the board of supervisors may lay out and construct a sidewalk, curb or footpath along the dangerous portion of the road or highway at municipality's expense.
4. All assessments for costs levied under this article shall be filed with the municipal treasurer and collected under section 3302(a). (53 P.S. §67401)

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## ARTICLE XX SANITARY SEWERS

Section 2001. Sanitary Sewers. The Board of Supervisors may establish and construct sanitary sewer systems which shall if possible be constructed along and within the lines of the rights-of-way of public roads. If the Board of Supervisors determines that the systems shall be located on or through private property, the Board of Supervisors may acquire the land by gift, purchase or eminent domain.

Section 2002. Sanitary Sewer Connections.

1. The Board of Supervisors may by ordinance require adjoining and adjacent property owners to connect with and use the sanitary sewer system, whether constructed by the Municipality or a municipal authority or a joint sanitary sewer board. In the case of a sanitary sewer system constructed by the Municipality pursuant to either section 2001 or 2016, the Board of Supervisors may impose and charge to property owners who desire to or are required to connect to the Municipality's sewer system a connection fee, a customer facilities fee, a tapping fee and other similar fees, as enumerated and defined by clause (t) of subsection 2 of section 4 of the act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipality Authorities Act of 1945," as a condition of connection to a Municipal-owned sewer collection, treatment or disposal facility. If any owner of property adjoining or adjacent to or whose principal building is within one hundred and fifty feet from the sanitary sewer fails to connect with and use the sanitary sewer for a period of sixty days after notice to do so has been served by the Board of Supervisors, either by personal service or by registered mail, the Board of Supervisors or their agents may enter the property and construct the connection. The Board of Supervisors shall send an itemized bill of the cost of construction to the owner of the property to which connection has been made, which bill is payable immediately. If the owner fails to pay the bill, the Board of Supervisors shall file a municipal lien for the cost of the construction within six months of the date of completion of the connection.
2. When an existing sanitary sewer system owned by or leased to a Municipality is extended or altered at the expense of a developer or other private person or corporation under the supervision of the Municipality or a municipal authority of the Municipality, the Board of Supervisors may by ordinance or resolution take over the extension or alteration and compel all owners of property which is not already connected to an existing public sanitary sewer system and which is accessible to and whose principal building is within one hundred and fifty feet from the sanitary sewer extension to make connection therewith and use the sanitary sewer system as the Board of Supervisors may order.
3. Whenever a sewer system or any part or extension thereof owned by a Municipality has been constructed by the Municipality at the expense of a private person or corporation or has been constructed by a private person or corporation under the supervision of the Municipality at the expense of the private person or corporation, the Board of Supervisors shall have the right to charge a tapping fee, including a reimbursement component, and refund said reimbursement component to the person or corporation who has paid for the construction of said sewer system or any part or extension thereof.
4. The Board of Supervisors shall not require any commercial or industrial business to connect to the municipal sanitary sewer system when the commercial or industrial business is operating a private sanitary sewage treatment plant under mandate of any agency of the Federal or State Government. This exemption shall last as long as the private sanitary sewage treatment plant continues to meet the specifications and standards mandated by the Federal or State agency and for forty-five days after that. If, during the days immediately after the day a business' private sanitary sewage treatment plant is determined to be below Federal or State mandates, repairs cannot be made to bring the private sewage treatment system back up to satisfactory condition, the Board of Supervisors may require the business to connect to the Municipal sanitary sewer system. The full costs of connection to and any necessary refurbishing of the Municipal sanitary sewer system shall be paid by the business.



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5. The exemption in subsection (4) is not available in any situation where the business seeking to use it had notice, either actual or constructive, before construction of its sewage treatment plant, of the Municipality's intention to construct a sanitary sewer system and to require that business to connect with its system.
6. The Department of Environmental Protection shall not issue any permit to allow a commercial or industrial business to construct its own private sewage treatment plant without the written consent of the Board of Supervisors of the Municipal.

Section 2003. Notice of Contemplated Construction. No sanitary sewer system shall be constructed under this article unless a resolution of the Board of Supervisors authorizing the construction is published in a newspaper of general circulation in the Municipality once a week for three successive weeks.

Section 2004. Entering Lands to Mark Sanitary Sewer Routes; Damages. In the absence of an agreement with the owners of land required for sanitary sewer systems or for the marking of the route of the systems, the Board of Supervisors or its agents have the right to enter the lands for that purpose. For all damage done by entering the land under this section, the general fund of the Municipality shall be pledged as security. Damages shall be determined by viewers under this act for eminent domain proceedings.

Section 2005. Sanitary Sewer Systems; Acquisition of Land and Facilities; Damages. The Board of Supervisors may acquire by eminent domain or make contracts with other municipal corporations, corporations or persons for the acquisition of lands or facilities for the location, construction, maintenance, reconstruction and enlargement of sanitary sewer systems and treatment facilities. Acquisitions may be made for the purpose of future construction or additions to existing systems. The acquired land may be located either inside or outside the boundaries of the Municipality. For all damage done to owners of land by reason of the taking of the land, the general fund of the Municipal shall be pledged as security. Damages shall be determined by viewers under this act for eminent domain proceedings.

Section 2006. Cost of Construction; How Paid. All or part of the cost of construction of a sanitary sewer system constructed under this article may be charged upon the properties accommodated or benefited by the construction.

Section 2007. Sanitary Sewer Districts.

1. When a sanitary sewer system is constructed for the accommodation of a certain portion of the Municipality, the Board of Supervisors may before or after the construction designate the territory accommodated as one sanitary sewer district or divide it into several sanitary sewer districts. The Board of Supervisors shall estimate the proportion of the cost of the sanitary sewer system to be charged on each of the districts and declare and establish the apportionment by resolution.
2. When a sanitary sewer system is constructed for the benefit only of a certain portion of the Municipality and the cost of main sanitary sewers, pumping stations, pressure lines, et cetera, is charged against the sanitary sewer district or sanitary sewer districts, all or part of the amount charged to each district may be assessed to the district by an assessment upon each lot or piece of land in the district, in proportion to its frontage abutting on the sanitary sewer, or by an assessment upon the several properties abutting on the sanitary sewer, in proportion to benefits, or upon the properties connected with and using the sanitary sewers as rental fees, or each lot or piece of ground abutting upon the sanitary sewer may be assessed, in proportion to its frontage or according to benefits, the cost of a local sanitary sewer, and the balance of the amount charged against the district may be assessed upon the properties connected with and using the sanitary sewer, as rental fees. No district shall be charged with more than its due proportion of the cost of the main sanitary sewers, pumping stations, et cetera, used jointly by more than one district. If the whole of the Municipality is accommodated by the sanitary sewer system, it may be treated as a single district.

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## Section 2008. Manner of Assessment.

1. If the Municipality is divided into sanitary sewer districts, the assessment in each district may be by different methods. The assessment, if any, for sanitary sewer system construction shall be charged upon the properties accommodated or benefited by one of the following methods:
  - a. By an assessment, under an ordinance of the Board of Supervisors, of each lot or piece of land in proportion to its frontage abutting on the sanitary sewer system, allowing an equitable reduction in the case of corner properties and unusually shaped properties or those properties abutting on more than one collector line of the sanitary sewer as the resolution or ordinance may specify. When the lot or piece of land is on a corner, it shall be assessed for its entire frontage abutting on any sanitary sewer system.
  - b. By an equal assessment on all properties abutting on the sanitary sewer system in proportion to the total cost of construction of the sanitary sewer system. The amount of the charge on each property shall be determined by the Board of Supervisors.

Section 2009. Procedure for Assessments. If taxpayers of the district whose property valuation as assessed for taxable purposes within the district amounts to fifty percent of the total property valuation so assessed or if taxpayers representing fifty percent of the parcels within the district present a petition within three months of the adoption of an ordinance levying an assessment under section 2008 to the court of common pleas that the assessment insufficiently represents the benefits accruing to abutting properties, they may include in the petition a request for the appointment of viewers to assess benefits. The court shall appoint and charge three disinterested viewers, none of whom shall be a resident of that portion of the Municipality which is accommodated by the sanitary sewer system in question, with the duties to assess damages and benefits. Upon the filing of a petition by taxpayers for appointment of viewers, any assessment made by the Board of Supervisors and any proceedings shall be stayed pending the disposition of the petition by the court.

Section 2010. Liens for Assessments; Costs of Proceedings. After the amount of the assessment charged upon the several properties has been established by resolution making assessments according to section 2008 or by confirmation of any report of viewers, in whole or in part, the amounts of all assessments are payable to the Municipal treasurer for the use of the sanitary sewer district or districts or the Municipality in which they are assessed. The Board of Supervisors shall make out bills for the amounts charged against each property, which shall be sent to all property owners whose property will be served by the sanitary sewer system. If the assessment is not paid within ninety days after the mailing of a bill therefore, the Board of Supervisors shall collect it by action of assumpsit or under law for the filing and recovery of municipal claims.

## Section 2011. Rental Fees.

1. All persons whose property is connected to a sanitary sewer system shall pay to the Municipal treasurer, in addition to the cost of making the connection, a monthly, quarterly, semi-annual or annual charge adopted by a resolution of the Board of Supervisors. The charges constitute a lien until paid against the property connected to the sanitary sewer system, and the amount thereof may be recovered by due process of law. All water utilities supplying water to users within the boundaries of the Municipality shall at the request of the Board of Supervisors furnish to the Municipality, on or before the fifteenth day of the month following the month during which bills are issued, a list of all water meter readings and flat-rate water bills and the basis for each flat-rate water charge so that the data may be used in calculating rental fees. The Municipality may pay to the utilities clerical and other expenses incurred in the preparation of the lists.
2. All sewer rentals received shall be deposited in a special fund to be used only for the payment of the cost of construction, reconstruction, repair, operation and maintenance of the sanitary sewer system.

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Section 2012. State and County Highways; Consents Necessary. Sanitary sewers may be constructed in or under any State or county highway. If the construction of sanitary sewers is in or under county highways, the consent of the county Commissioners shall first be obtained and, if the construction of sanitary sewers is in or under any State highway, the consent of the Department of Transportation shall first be obtained.

Section 2013. Municipal Corporation; Municipality Authority; Agreements for Connections; Appointment of Viewers.

1. The Municipality may by agreement connect with an existing sanitary sewer owned by any municipal corporation or municipality authority for either sewage collection or treatment purposes.
2. If the Municipality desires to connect with the existing sewer of any municipal corporation or municipality authority, a petition shall be presented by the Board of Supervisors to the court of common pleas setting forth the facts. The court shall fix a day for hearing upon the petition and direct public notice be given to all interested parties. If the court is of the opinion that the connection can be made without impairing the usefulness of the existing sanitary sewer system, it shall appoint three viewers to view the premises, investigate the facts of the case, assess the necessary costs and expenses of making the connection and the proportionate part of the expense of building the original sanitary sewer system upon the Municipality, determine the proportion of the expense for repairs which the municipal corporation or municipality authority and the Municipality shall bear and determine all other questions liable to arise in connection therewith.

Section 2014. Report of Viewers.-The viewers shall report the results of their investigation to the court, and the court shall confirm the report within thirty days of its submission unless exceptions are filed. Any interested party may appeal the disposition of filed exceptions.

Section 2015. Acquisition of Existing Sanitary Sewer Systems.

1. The Board of Supervisors of the Municipality in which the facilities are located may acquire all or part of an existing sanitary sewer system or community subsurface sewage collection and treatment system.
2. Acquisition may be by either purchase, when the Board of Supervisors and the owner can agree on a price not exceeding the actual value of the sanitary sewer system or part thereof to be transferred, or by deed of dedication to the Municipality by the owners of the sanitary sewer system or part thereof or by the exercise of eminent domain.
3. If any sanitary sewer system or community subsurface disposal collection and treatment system is acquired by purchase or taking under this section, the cost of acquisition may be distributed or assessed under this act as when a sanitary sewer system is constructed by the Municipality.
4. The rights, powers and duties of the Board of Supervisors with respect to acquired systems are the same as exist with respect to sanitary sewer systems constructed by the Municipality.

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## Section 2016. Joint Sanitary Sewer Systems.

1. The municipality may contract with other municipal corporations and municipal authorities providing for the joint construction or maintenance of sanitary sewer systems and for the connection onto existing sanitary sewer systems. The agreements shall provide for the apportionment of costs among the municipal corporations. The board of supervisors may assess the municipality's respective portions of the costs, as may be legally assessable, upon property benefited by the facilities. Any portion of the cost not assessed or assessable shall be paid by the respective municipal corporations under the agreement.
2. The municipal corporations joining or contemplating joining in the project in order to facilitate the building of the sanitary sewer system and in securing preliminary surveys and estimates may by ordinance provide for the appointment of a joint sanitary sewer board composed of one representative from each of the municipal corporations joining which shall act generally as the advisory and administrative agency in the construction of the improvement and its subsequent operation and maintenance. Members of the joint sanitary sewer board shall serve for terms of six years each from the dates of their respective appointments and until their successors are appointed. The joint sanitary sewer board shall organize by the election of a chairman, vice-chairman, secretary and treasurer. The municipal corporations may in the ordinances creating the joint sanitary sewer board authorize it to appoint an engineer, a solicitor and other necessary assistants and agree to the share of the compensation of those persons each municipal corporation is to pay. The members of the joint sanitary sewer board shall receive compensation for attending board meetings as established in the budget that is prepared by the joint sanitary sewer board and submitted to and adopted by the municipal corporations. The budget item providing for the compensation to members for attending meetings shall not exceed a total of two hundred and fifty dollars (\$250) for each member in each year, but the members shall be entitled to actual expenses to be paid by the respective municipal corporations the members represent.
3. The joint sanitary sewer board may adopt rules and regulations to govern its proceedings and prepare and suggest measures and plans under which the joint improvement may be completed and for the future development of the system. It may prepare a joint agreement or agreements for submission to and adoption by the municipal corporations defining the advisory and administrative powers of the joint sanitary sewer board and setting forth: the consents of the municipal corporations to the proposed improvement; the manner in which preliminary and final plans, specifications and estimates for the proposed improvement shall be prepared and adopted and in which proposals for bids shall be advertised and contracts let; the manner in which the costs of the improvement and other incidental and preliminary expenses in connection therewith, and the future cost of operation and maintenance, shall be equitably shared, apportioned and paid; and all other matters, including the preparation and submission of annual and other budgets, that are necessary or required by law to complete the proposed improvement and to assure future maintenance and operation thereof. The board may not make any improvement or spend any public moneys which have not first been authorized by all of the municipal corporations proceeding with the improvement.
4. When it is necessary to acquire, appropriate, damage or destroy private property to build any joint sanitary sewer system or improvement and the property cannot be acquired by purchase or gift, the right of eminent domain shall vest in the municipal corporation where the property is located. When it is necessary to acquire, damage or destroy property in any territory not within the limits of any of the municipal corporations joining in the improvement, the right of eminent domain shall be vested in the municipal corporation adjacent to the territory where the property is located. Damages for any property that is taken, damaged or destroyed shall be assessed under laws relating to the municipal corporations exercising the right of eminent domain and shall be paid by the municipal corporations joining in the same proportion as other costs of the improvements. (53 P.S. §67516)

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Section 2017. State Permit. -No sanitary sewer or plant may be constructed until plans and specifications are submitted to the Department of Environmental Protection and approved.  
(53 P.S. §67517)

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## ARTICLE XXI WATER SUPPLY

### Section 2101. Contracts With Water Companies and Municipal Corporations and Acquisition of Water Systems.

1. The board of supervisors may by contract with any private corporation or any adjacent municipal corporation owning a waterworks system provide water for public and private uses, to be delivered through lines owned by that company or Municipal Corporation within the municipality. The contract shall provide the manner by which the cost of the water service shall be paid by the consumers.
2. The board of supervisors may purchase or acquire a privately owned water system to provide water for public and private uses. If a privately owned water company fails to render service as required by the Pennsylvania Public Utility Commission, the board of supervisors may with the approval of the Pennsylvania Public Utility Commission exercise the right of eminent domain to acquire the water system of the water company to provide water for public and private uses.
3. Any municipality may by agreement connect with an existing water system owned by any adjacent municipal corporation. When any municipality desires to connect with the existing water system of any adjacent municipal corporation and no agreement has been reached between the municipality and the adjacent municipal corporation, a petition seeking approval of the connection shall be presented by the board of supervisors to the court of common pleas. The court shall set a day for hearing upon the petition and shall direct public notice be given to all interested parties. If the court is of the opinion that the connection can be made without impairing the usefulness of the existing water system, it shall appoint three viewers to view the premises, investigate the facts of the case, assess the necessary costs and expenses of making the connection and the proportionate part of the expense of building the original water system upon the municipality, determine the proportion of the expense for repairs which the municipal corporation and the municipality shall bear and determine all other questions likely to arise in connection therewith. (53 P.S. §67601)

Section 2102. Water Lines and Connections. The Board of Supervisors may contract with any private corporation or any adjacent municipal corporation owning a water system to provide water for public and private uses to be delivered into the lines of the Municipality at or near the boundary thereof. The Board of Supervisors may by contract lay water lines and extensions and regulate the making of connections therewith.

### Section 2103. Connection to Water System.

1. The Board of Supervisors may by ordinance require that a property owner connect with and use a water system of the Municipality or municipal authority or a joint water board in either of the following cases:
  - a. If, except as provided in subsection (b), the property owner's principal building is located within one hundred fifty feet of a water system or any part or extension of the system.
  - b. If the property owner's principal building has no supply of water which is safe for human consumption.
2. A property owner who, after the effective date of this subsection, is subject to mandatory connection pursuant to subsection (1)(a), shall not be required to connect to the water system pursuant to that subsection if all of the following conditions exist:
  - a. The water system of part or extension of the system that is within one hundred fifty feet of the principal building was in existence on the effective date of this subsection;
  - b. The principal building has its own supply of water which is safe for human consumption;
  - c. Prior to the effective date of this subsection, the property owner was not required to connect to the existing system.



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3. Those industries and farms which have their own supply of water for uses other than human consumption may continue to use their own for that purpose but are required to use the Municipal water system to provide water for human consumption.
4. In the case of a water system provided by the Municipality or municipal authority or a joint water board, the Board of Supervisors may impose and charge to property owners who desire to or are required to connect to the water system a connection fee, a customer facilities fee, a tapping fee and other similar fees as may be allowed under applicable law.
5. Whenever a water system or any part or extension thereof owned by a Municipality has been constructed by the Municipality at the expense of a private person or corporation or has been constructed by a private person or corporation under the supervision of the Municipality at the expense of the private person or corporation, the Board of Supervisors shall have the right to charge a tapping fee, including a reimbursement component, and refund said reimbursement component to the person or corporation who has paid for the construction of said water system or any part or extension thereof.
6. If any property owner required under subsection (1) to connect with and use the system fails to do so within ninety days after notice to do so have been served by the Board of Supervisors, the Board of Supervisors or their agents may enter the property and construct the connection.
  - a. The Board of Supervisors shall send an itemized bill of the cost of construction of connection to the owner of the property to which connection has been made, which bill is payable immediately, or the Board of Supervisors may authorize the payment of the cost of construction of connections in equal installments.

Section 2104. Water Rents. The Board of Supervisors may provide for the collection of water rents from users of water supplied by the Municipality.

Section 2105. Distribution System; State Permit. The Board of Supervisors may by ordinance provide, acquire, establish, regulate and protect any system of distribution of water for private and public use after a certified copy of the plans and surveys for the system, with a description of the sources from which it is proposed to derive the supply, are filed with the Department of Environmental Protection and a written permit for the construction of the system is obtained from the Department of Environmental Protection.

Section 2106. Occupation of Highways. In regulating, protecting and extending its system of distribution of water, the Municipality may occupy public highways, but no highway under the jurisdiction of the Department of Transportation shall be occupied until a permit therefor has been obtained from the department nor any highway under the jurisdiction of the county until a permit therefor has been obtained from the county commissioners.

Section 2107. Joint Construction, Acquisition or Maintenance of Water Systems. The Municipality may join with any other municipal corporation in the construction or acquisition and maintenance of water systems. The construction of water systems shall be commenced only after plans for the systems have been filed with the Department of Environmental Protection and permits have been issued.

Section 2108. Public Utility Law Saved. Nothing contained in this article shall be construed to repeal or to supersede any of the provisions of 66 Pa. C.S.

Section 2109. Cost of Construction; How Paid. All or part of the cost of construction of any water system constructed by the authority of this article may be charged upon the properties accommodated or benefited thereby.

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Section 2110. Water Districts. The Board of Supervisors may designate, define and create one or more water districts within the Municipality, and the Board of Supervisors shall determine the proportion of the cost of the water system which shall be equitably charged on each district and declare and establish the apportionment by resolution. No district shall be charged with more than its due proportion of the cost of the main pipe lines, pumping stations, et cetera, used jointly by more than one district.

Section 2111. Assessment.

1. The Board of Supervisors may provide for the payment of the cost of water lines or water systems in the Municipality or in districts thereof by an assessment upon the properties accommodated or benefited by one of the following methods:
  - a. By an assessment under a resolution or ordinance of the Board of Supervisors of each lot or piece of land in proportion to its frontage abutting on the water mains, allowing an equitable reduction in the case of corner properties and unusually shaped properties or in the case of properties abutting on more than one main as the resolution or ordinance may specify
  - b. By an equal assessment on all properties abutting on the mains in proportion to the total cost of construction. The amount of the charge on each property shall be determined by the Board of Supervisors.

Section 2112. Procedure for Assessment. If taxpayers of the district whose property valuation as assessed for taxable purposes within the district amounts to fifty percent of the total property valuation so assessed or if taxpayers representing fifty percent of the parcels within the district present a petition within three months of the adoption of a resolution or ordinance levying an assessment under section 2112, to the court of common pleas stating that the assessment insufficiently represents the benefits accruing to abutting properties, they may include in the petition a request for the appointment of viewers to assess benefits. The court shall appoint and charge three disinterested viewers, none of whom shall be a resident of that portion of the Municipality which is accommodated by the sanitary sewer system in question, with the duties to assess damages and benefits. Upon the filing of the petition by taxpayers for appointment of viewers, any assessment made by the Board of Supervisors and any proceedings shall be stayed pending the disposition of the petition by the court.

Section 2113. Liens for Assessments; Costs of Proceedings. After the amount of the assessment charged upon the several properties has been established by resolution making assessments according to Section 2112 or by confirmation of any report of viewers, in whole or in part, the Board of Supervisors shall make out bills for the amounts charged against each property, which shall be sent to all property owners whose property will served by the water system. If the assessment is not paid within sixty days after the mailing of a bill therefor, the Board of Supervisors shall collect it by action of assumpsit or under law for the filing and recovery of municipal claims.



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## ARTICLE XXII STORM WATER MANAGEMENT PLANS AND FACILITIES

Section 2201. Storm Water Management Systems Authorized. The Board of Supervisors may plan, design, construct, assemble, install and alter facilities, including, but not limited to, inlets, outlets, systems of piping, diversion terraces, grass waterways, energy dissipaters, storm water retention devices and natural or artificial infiltration areas, to manage surface water runoff.

Section 2202. Construction of Storm Water Management Facilities.

1. The Board of Supervisors may acquire by purchase, deed of dedication or eminent domain proceedings all or part of any existing system or facility for the management of surface water runoff which may have been established or constructed by any property owner in the Municipality or establish, construct and maintain systems or facilities in the best interest of the Municipality.
2. If the Board of Supervisors and the owners of systems can agree upon a price to be paid by the Municipality, the purchase may be consummated if the amount to be paid does not exceed the actual value of the facilities to be transferred.
3. If the Board of Supervisors acquires the system by the exercise of eminent domain, the damages shall be determined by viewers for eminent domain proceedings.

Section 2203. System Management.

1. When exercising the powers under this article, the Board of Supervisors shall manage storm water originating in or passing through the Municipality in a manner which is consistent with the requirements of the act known as the "Storm Water Management Act," and the storm water management guidelines and any regulations which may be adopted by the Department of Environmental Protection.
2. All storm water management activities undertaken must be consistent with any watershed storm water management plan when the plan has been approved by the Department of Environmental Protection.
3. When storm water management activities are undertaken in watersheds for which there is no approved storm water management plan, all drawings, documents, profiles and designs and descriptions of the proposed activities to be undertaken by the Municipality shall be submitted to the county conservation district for review and comment before the initiation of earthmoving activities. The conservation district shall have thirty days to review and respond with comments to the Board of Supervisors. Failure to respond within that time constitutes favorable comment by the conservation district.

Section 2204. Ordinances. The Board of Supervisors may enact storm water management ordinances and require persons conducting earthmoving activities to obtain approval from the Board of Supervisors for those activities. Ordinances must be consistent with watershed storm water management plans where they exist and in all cases must be consistent with the act known as the "Storm Water Management Act."

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## ARTICLE XXIII SOLID WASTE COLLECTION AND DISPOSITION

Section 2301. Accumulation of Ashes, Garbage, Solid Waste and Refuse Materials. -The board of supervisors in the manner authorized by the act of July 7, 1980 (P.L. 380, No. 97), known as the "Solid Waste Management Act," and the act of July 28, 1988 (P.L. 556, No. 101), known as the "Municipal Waste Planning, Recycling and Waste Reduction Act," may prohibit accumulations of ashes, garbage, solid waste and other refuse materials upon private property, including the imposition and collection of reasonable fees and charges for the collection, removal and disposal thereof. (53 P.S. §67101)

Section 2302. Collection. -The board of supervisors may collect and remove, by contract or otherwise, ashes, garbage, solid waste and other refuse materials and recyclables and prescribe penalties for the enforcement thereof. Any contract with refuse haulers may be made for a period not exceeding five years. This limitation does not apply to contracts with any other county or municipal corporation. (53 P.S. §67102)

Section 2303. Disposal. -The board of supervisors may dispose of, by contract or otherwise, ashes, garbage, solid waste and other refuse materials. Any contract with the owner of a private facility for the disposal or incineration of ashes, garbage, solid waste and other refuse materials may be made for a period not exceeding twenty years. This limitation does not apply to contracts with any county or municipal corporation. (53 P.S. §67103)

Section 2304. Acquisition of Land. -The board of supervisors may acquire any real property and erect, maintain, improve, operate and lease, either as lessor or lessee, facilities for incineration, landfill or other methods of disposal, either inside or outside the limits of the municipality, including equipment, either separately or jointly, with any county or municipal corporation in order to provide for the destruction, collection, removal and disposal of ashes, garbage, solid waste or other refuse materials, for the collection and storage of recyclable materials or for the composting of leaf and yard waste. The board of supervisors may provide for the payment of the cost thereof out of the funds of the municipality. The board of supervisors may acquire land for landfill purposes, either amicably or by exercising the power of eminent domain, and maintain lands and places for the dumping of ashes, garbage, solid waste and other refuse materials. (53 P.S. §67104)

Section 2305. Charge for Services. -The board of supervisors may establish, alter, charge and collect rates and other charges for the collection, removal and disposal of ashes, garbage, solid waste, other refuse materials and recyclable materials, and the costs of including the payment of any indebtedness incurred for the construction, purchase, improvement, repair, maintenance and operation of any facilities therefore, and the amount due under any contract with any county or municipal corporation furnishing the services or facilities. (53 P.S. §67105)

Section 2306. Appropriations. - The board of supervisors may make appropriations to any county or municipal corporation for the construction, purchase, improvement, repair, maintenance and operation of any facilities for the collection, removal, disposal or marketing of ashes, garbage, solid waste, other refuse materials, recyclable materials or composted leaf and yard waste. (53 P.S. §67106)

Section 2307. Refuse Collection District. -On petition of a majority of the owners, occupants or tenants of any territory inside the municipality which is definitely defined, set apart and limited by the board of supervisors as a refuse collection district, either with municipal employees and facilities or with independent contractors, the board of supervisors may provide for the removal from the refuse collection district of ashes, garbage, solid waste or other refuse materials and for the disposal thereof, including the collection and marketing of recyclable materials. The board of supervisors may levy an assessment upon all owners, occupants or tenants of the district sufficient to defray the cost of the removal, disposal or marketing under section 3301(b). (53 P.S. §67107)

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Section 2308. Exclusion from Bidding Requirements. -The municipality shall not be subject to requirements otherwise imposed by law for the sale of personal property owned by the municipality when selling recyclable materials or materials separated, collected, recovered or created by recycling, as provided in the act of April 9, 1992 (P.L. 70, No. 21), entitled "An act excluding the sale of recyclable material from political subdivision personal property sale restrictions relating to advertising and bidding." (53 P.S. §67108)

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## ARTICLE XXIV MANUFACTURE AND SALE OF ELECTRICITY

Section 2401. Manufacture and Sale of Electricity. - The municipality may manufacture electricity by means of a hydroelectric generating facility owned or operated by the municipality for the use of the inhabitants of the municipality. Any municipality owning or operating a hydroelectric generating facility may make contracts for the sale of electricity to persons engaged in the business of the manufacture or sale of electricity. (53 P.S. §67801)

Section 2402. Regulation of Use and Prices. - Any municipality furnishing electricity under this article may regulate the use of electricity in dwellings, business places and other places in the municipality and the rate to be charged for the electricity. (53 P.S. §67802)

Section 2403. Sale of Hydroelectric Generating Facilities. - The municipality may by ordinance sell all or part of its hydroelectric generating facilities to a purchaser for that sale price as the parties may agree upon. (53 P.S. §67803)

Section 2404. Construction or Purchase of Hydroelectric Generating Facilities. - Any municipality may construct or purchase facilities to manufacture electricity by hydroelectric generation. Any municipality may purchase a hydroelectric generating facility at that price as may be agreed upon by the municipality and the person, partnership or a majority of the stockholders of a corporation that owns the facilities. (53 P.S. §67804)

Section 2405. Submission to Electors. - Before any municipality constructs or purchases a hydroelectric generating facility, the question of the increase of the debt of the municipality shall first be submitted to the qualified voters of the municipality in the manner provided by law for the increase in indebtedness of municipal corporations. (53 P.S. §67805)

Section 2406. Limitation on Indebtedness. - No municipality which constructs or purchases a hydroelectric generating facility shall incur any indebtedness for the construction or enlargement of a new or existing dam or impoundment structure but may incur indebtedness for repairs or reconstruction of an existing dam or impoundment in connection with the hydroelectric project. (53 P.S. §67806)

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## ARTICLE XXV SHADE TREE COMMISSION

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Section 2501. Right of Establishment. -The board of supervisors may regulate the planting, maintenance and removal of shade trees in the municipality, or it may appoint a shade tree commission to administer regulations for shade trees. (53 P.S. §67901)

Section 2502. Commission Members; Appointment; Terms; Vacancies.

1. Except as provided in subsection (2), a shade tree commission shall be composed of three members who shall be residents of the municipality.
2. The board of supervisors may, by ordinance, provide that the commission be composed of five members who shall be residents of the municipality.
3. Whenever a shade tree commission of three members is established, the initial terms of members shall be for periods of three years, four years and five years respectively. On the expiration of the term of any shade tree commissioner, a successor shall be appointed by the board to serve for a term of five years.
4. Whenever a shade tree commission of five members is established by any municipality, the board of supervisors shall appoint members to stagger terms so that one term expires every year. On the expiration of the term of any shade tree commissioner, a successor shall be appointed by the board to serve for a term of five years.
5. Members of the commission shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.
6. Vacancies in the office of shade tree commissioner shall be filled by the board of supervisors for the unexpired term.(2902 amended Mar. 24, 2004, P.L.155, No.18) (53 P.S. §67902)

Section 2503. Powers May be Vested in Recreation Board. -When there exists a board for the care of public parks, the board of supervisors may by ordinance confer on the recreation board all the powers and duties under this article for a shade tree commission. (53 P.S. §67903)

Section 2504. General Powers of Commission. -The shade tree commission have exclusive control of the shade trees in the municipality and is authorized to plant, remove, maintain and protect shade trees on the public streets and highways in the municipality, excluding State highways. (53 P.S. §67904)

Section 2505. Hiring of Employees. -The shade tree commission may with the approval of the board of supervisors employ persons to perform the duties and directions of the commission and make, publish and enforce regulations for the care and protection of the shade trees of the municipality. No regulations shall be in force until approved by the board of supervisors and until published at least once in a newspaper of general circulation in the municipality. (53 P.S. §67905)

Section 2506. Report of Commission. -The shade tree commission shall annually report to the board of supervisors its transactions and expenses for the preceding fiscal year of the municipality. (53 P.S. §67906)

Section 2507. Removal of Diseased or Dangerous Trees.

1. The shade tree commission or, if no commission exists, the board of supervisors may by ordinance require owners of property to cut and remove trees located on the property if the condition of the trees, through disease or otherwise, unreasonably affects or interferes with the health, safety or welfare of the public or the right of the public to the unobstructed use of public roads or property.
2. If within thirty days after the date of notice by certified mail, return receipt requested, to remove the trees, the property owner has not complied with that order, the commission or the board of supervisors may enter the premises and remove the trees.
3. The cost of cutting and removal of trees by the municipality shall be charged to the property owner. The charge shall be a lien against the real estate of the property owner and shall be collected in the same manner as other municipal liens. (53 P.S. §67907)

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Section 2508. Maintenance by municipal Funds.-The shade tree commission shall annually certify the costs incurred under this article to the board of supervisors. The costs shall be paid from the general fund. (53 P.S. §67908)

Section 2509. Penalties.-The shade tree commission, to the extent provided by ordinance of the municipality, may assess penalties for the violation of its regulations and of this article as 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. (53 P.S. §67909)

Section 2510. Disposition of Penalties.-All penalties or assessments imposed under this article shall be paid to the municipality. (53 P.S. §67910)

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## ARTICLE XXVI BOARD OF HEALTH

Section 2601. Establishment of Board of Health.-The board of supervisors may appoint a municipal board of health and municipal health officer to administer and enforce the health and sanitation laws of the municipality. If a board of health is appointed, the board of health may appoint a health officer or inspector whose duties shall be to implement and enforce the health and sanitation laws of the municipality and actions of the board of health. The health officer or inspector, whether appointed by the board of supervisors or by the board of health, shall not assume the performance of the duties of office until certified as a qualified health officer or inspector by the Department of Environmental Protection, the Department of Agriculture and the Department of Health. (53 P.S. §68001)

Section 2602. Members of Board of Health.-A board of health appointed under this article shall be composed of five members, at least one of whom shall be a licensed physician with not less than two years experience in the practice of his profession. The members of the board of health shall be appointed by the board of supervisors. Upon the creation of a board of health, one member shall be appointed to serve for one year, one for two years, one for three years, one for four years and one for five years, and after that one member shall be appointed each year to serve for five years. Upon the creation of a board of health in a municipality which has an existing sanitary board, the board of supervisors may continue the incumbent members of the sanitary board as members of the board of health. The members of the board of health shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. (53 P.S. §68002)

Section 2603. Organization, Secretary, Health Officer and Inspectors.- The members of the board of health shall annually organize by electing a chairman from among the members of the board of health, a secretary who may be a member of the board of health and a health officer and inspectors who shall not be members of the board of health. The secretary, health officer and inspectors shall each receive a salary as determined by the board of supervisors and shall serve for a period of one year or until their successors may be appointed and qualified. (53 P.S. §68003)

Section 2604. Duties of Secretary.-The secretary of the board of health shall keep the minutes of the proceedings of the board of health, keep accurate accounts of the expenses of the board of health, draw all requisitions for the payment of moneys on account of the board of health from appropriations made by the board of supervisors to the board of health and present them to the board of health for approval, render statements of the expenses to the board of health at each stated meeting or as frequently as the board of health may require, prepare under the direction of the board of health the annual report to the board of supervisors, together with the estimate of appropriation needed for the ensuing year, and make other reports and perform other duties as the board of health may require. (53 P.S. §68004)

Section 2605. Powers and Duties of Health Officer and Inspectors.-The health officer and inspectors shall attend all stated and special meetings of the board of health and at all times are ready and available for the prompt performance of their official duties. They shall make inspections and execute the orders of the board of health. (53 P.S. §68005)

Section 2606. Powers of Board of Health.

1. The board of health shall enforce the health and sanitation laws of this Commonwealth and any regulations adopted under those laws and the health and sanitation laws and regulations of the municipality.
2. Regulations, when authorized by ordinance of the municipality, shall have the force of ordinances of the municipality. All penalties prescribed for violation of the regulations, as well as the expenses actually and necessarily incurred in enforcing ordinances and regulations, are recoverable in enforcement proceedings and shall be paid into the general fund. The municipality may establish and revise fees for licenses or permits issued by the municipality as necessary. (53 P.S. §68006)

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Section 2607. Entering Premises. -The board of health, health officer or inspectors may enter at any time any premises within the municipality where there is reasonably suspected to exist any health hazard or violation of health or sanitation laws or regulations or which are of a type that may give rise to a health hazard. (53 P.S. §68007)

Section 2608. Written Order for Violation. -When the board of health, health officer or inspectors determine that a health or sanitation hazard or violation exists, a written order shall be directed to the owner or occupant of the premises involved, ordering an abatement of the hazard or violation and the taking of corrective action as the board of health, health officer or inspectors may deem necessary under the circumstances. The order shall set forth a specific time in which the abatement and corrective action shall be accomplished. If the order is not complied with within the time provided, the board of health, health officer or inspectors may enter the premises and issue orders for the immediate termination of activities creating the violation, the potential violation and all acts of commerce conducted in, on or at the premises in question. In addition, the board of health, health officer or inspectors may proceed to enforce the law or regulation being violated the same as ordinances of the municipality. (53 P.S. §68008)

Section 2609. Appropriations and Annual Report. -The board of supervisors shall make an annual appropriation to the board of health as the board of supervisors determines. The board of health or health officer shall before the preparation of the annual budget of the municipality submit to the board of supervisors the estimated expenses of the board of health or health officer for the ensuing year. The board of health or health officer shall by the first day of February of each year prepare and submit to the board of supervisors and the regional office of the Department of Environmental Protection, the Department of Agriculture and the Department of Health an annual report in writing, setting forth the activities and expenditures of the board of health or health officer during the prior calendar year. (53 P.S. §68009)

Section 2610. Cooperation With Other Municipal Corporations.

- 1 Any municipality may cooperate and contract with any other municipal corporation in the administration and enforcement of health and sanitation laws.
- 2 If the board of supervisors abolishes the board of health or positions of health officers or inspectors and discontinues services under this article, the Department of Environmental Protection, the Department of Agriculture and the Department of Health shall be notified. An official copy of the action of the board of supervisors shall be transmitted to the regional office of the Department of Environmental Protection, the Department of Agriculture and the regional office of the Department of Health.
- 3 The board of supervisors, the board of health or the health officer may request assistance from the Department of Environmental Protection, the Department of Agriculture or the Department of Health if the assistance is deemed necessary for the health and safety of municipal citizens. (53 P.S. §68010)



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## ARTICLE XXVII CONTRACTS

Section 2701. Power to Make Contracts. The Board of Supervisors may make contracts for purchases under this Charter and the laws of this Commonwealth.

Section 2702. Letting Contracts.

1. All contracts or purchases in excess of the required advertising base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under subsection (b.1), except those specifically excluded, shall not be made except with and from the lowest responsible bidder after due notice in one newspaper of general circulation in the municipality. The notice for bids shall be published at least two times at intervals of not less than three days in daily newspapers or once a week for two successive weeks in weekly newspapers. The first advertisement shall be published not more than forty-five days, and the second advertisement not less than ten days, before the date set for the opening of bids. Notice of proposed contracts or purchases shall also be posted where the board of supervisors normally meets or in a conspicuous place within the municipality. Any published notice for bids shall contain full plans and specifications, or refer to the places where copies thereof can be obtained, state the amount of the performance bond determined under subsection (7) and give the date, time and place of a meeting at which an individual or committee appointed by the board of supervisors or the board of supervisors will open and read the bids. ((a) amended by Act 84 of 2011, and December 19, 1996, P.L.1412, No. 181) (Bid limit for 2014 is \$19,100 per December 14, 2013 issue of the Pennsylvania Bulletin)
2. Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts in excess of the base amount of ten thousand dollars (\$10,000), subject to adjustment under section (b.1), but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years. (amended by Act 84 of 2011) (Telephone price quotation limit for 2014 is \$10,300 as per December 14, 2013 issue of the Pennsylvania Bulletin) Adjustments to the base amounts specified under subsections (1) and (2) shall be made as follows:
  - a. The Department of Labor and Industry shall determine the percentage change in all items Consumer Price Index for all Urban Consumers (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics for the twelve-month period ending September 30, 2012, and for each successive twelve-month period thereafter;
  - b. If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection;
  - c. If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (a), the positive percentage change shall be multiplied by each base amount and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts;
  - d. The preliminary adjusted amounts shall be rounded to the nearest one hundred dollars (\$100), to determine the final adjusted base amounts for the purposes of subsections (1) and (2);

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- e. In each successive year in which there is a positive percentage change in the CPI-U for the United States City average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums there of shall be rounded to the nearest one hundred dollars (\$100) to determine the new final adjusted base amounts for purposes of subsections (1) and (2);
  - f. The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection, and annually between October 1 and November 15 of each year thereafter;
  - g. The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (c) and (d) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (a) is made;
  - h. The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of calendar year of the annual percentage change determined under paragraph (a) and the unadjusted or final adjusted base amounts determined under paragraphs (c) and (d) at which competitive bidding is required under subsection (a) and written or telephonic price quotations are required under subsection (2), respectively, for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year;
  - i. The annual increase in the preliminary adjusted base amounts obtained under paragraphs (c) and (d) shall not exceed three percent. (added by Act 84 of 2011)
3. The board of supervisors may purchase or make contracts under the act of October 27, 1979 (P.L. 241, No. 78), entitled "An act authorizing political subdivisions, municipal authorities and transportation authorities to enter into contracts for the purchase of goods where no bids are received," if no bids are received on an item after proper notices.
  4. The amount of the contract, whether of straight sale price, conditional sale, lease, lease purchase or otherwise, is the entire amount the municipality pays to the successful bidder in order to obtain the services or property, or both, and does not mean only the amount which is paid to acquire title or to receive any other particular benefit or benefits.
  5. The award of contracts shall only be made by public announcement at the meeting at which bids are opened by the board of supervisors, or received from the individual or committee appointed by the board of supervisors to open and read bids, or at a subsequent meeting of the board of supervisors, the time and place of which shall be publicly announced when bids are received. If for any reason one or both of the meetings are not held, the same business may be transacted at a subsequent meeting if at least five days' notice of the meeting is published in the same newspaper as the notice of bids. Bidders shall be notified and other interested parties, upon request, shall be notified of the date, time and location of the opening of bids and may be present when the bids are opened.
  6. The board of supervisors may reject all bids received if it is believed to be in the best interest of the municipality, and at a public meeting the reasons for the rejection of all bids shall be announced and be noted in the minutes.
  7. Unless covered under the bonding requirements of the act of December 20, 1967 (P.L. 869, No. 385), known as the "Public Works Contractors' Bond Law of 1967," the successful bidder shall furnish a bond guaranteeing performance of the contract, in an amount as determined by the supervisors at the time of advertising for bids which shall be not less than ten percent nor more than one hundred percent of the amount of the contract, within twenty days after the contract is awarded. If the bidder fails to furnish the bond within twenty days, unless delivery is made or the entire contract is fulfilled during that time, the contract is void. Delivery, accomplishment and guarantees may be required in all cases, including the exceptions contained in this section. (amended Dec. 19, 1996, P.L.1412 , No. 181)

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8. The contracts or purchases made by the board of supervisors involving payments in excess of the required advertising amount, which do not require advertising, bidding or price quotations are as follows:
  - a. Those made for emergency or routine maintenance, repairs or replacements for water, electric light and other public works of the municipality if they do not constitute new additions, extensions or enlargements of existing facilities and equipment;
  - b. Those made for improvements, repairs or maintenance of any kind made or provided by any municipality through its own employees. All contracts or purchases of materials used for improvement, maintenance or construction are subject to the provisions contained in subsection (1) and (2); (amended by Act 84 of 2011)
  - c. Those involving any policies of insurance or surety company bonds, those made for public utility service, those made for electricity, natural gas or telecommunications service either directly or with an association authorized under article XIV in which the municipality is a member and those made with another municipal corporation, county, school district or municipal authority, a council of government, consortium, cooperative or other similar entity created pursuant to 53 Pa.C.S. Ch. 23 Sub ch. A (relating to intergovernmental cooperation) or Federal or State Government, including the sale, leasing or loan of any supplies or materials by the Federal or State Government or their agencies. ((3) amended Act 30 of 2012 and October 11, 2000 and amended by Act 30 of 2012 P.L.535, No. 70);
  - d. Those involving personal or professional services;
  - e. Those made for materials and supplies or equipment rental under emergency conditions under 35 Pa. C.S. Pt. V (relating to emergency management services);
  - f. Those contracts involving equipment rental with operators if more than fifty percent of the total labor personnel hours required for the completion of the contract is supplied by the municipality through its own employees;
  - g. Those contracts for the purchase of repair parts or materials for use in existing municipal equipment or facilities if the item or material to be purchased is the sole item of its kind on the market or is manufactured as a replacement for the original item or equipment being repaired;
  - h. Those for used equipment, articles, apparatus, appliances, vehicles or parts thereof being purchased from a public utility, municipal corporation, county, school district, municipal authority council of government or Federal or State Government;
  - i. Those where particular types, models or pieces of equipment, articles, apparatus, appliances, vehicles or parts thereof which are patented and manufactured products. (amended Dec. 18, 1996, P.L.1412, No. 172) [amended by Act 95 of 2013, effective January 26, 2014.]
9. No municipal official, either elected or appointed, or municipal employee who knows, or who by the exercise of reasonable diligence could know, shall be interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any supplies or materials for the use of the municipality or for any work to be done for the municipality involving the payment by the municipality of more than five hundred dollars (\$500) in any year unless the contract is awarded through the public bid process. This limitation does not apply if the officer or appointee of the municipality is an employee of the person, firm or corporation to which the money is to be paid in a capacity with no possible influence on the transaction and the officer cannot possibly be benefited thereby, either financially or otherwise. If a supervisor is within this exception, the supervisor shall so inform the board of supervisors and refrain from voting on the payments and shall in no manner participate in the contract. Any official or appointee who knowingly violates this provision is subject to surcharge to the extent of the damage shown to be sustained by the municipality, is ousted from office or employment and commits a misdemeanor of the third degree.
10. Contracts for the purchase of materials or rental of equipment for the construction, reconstruction, maintenance and improvement of roads and bridges shall be in writing and let only on standard specifications of the Department of Transportation.

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11. Contracts for the purchase of materials or supplies may be bid on a per-unit basis.
  - a. Every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the act of March 3, 1978 (P.L. 6, No. 3), known as the "Steel Products Procurement Act."
12. No person, consultant, firm or corporation contracting with a municipality for purposes of rendering personal or professional services to the municipality shall share with any municipal officer or employee, and no municipal officer or employee shall accept, any portion of the compensation or fees paid by the municipality for the contracted services provided to the municipality except under the following terms or conditions:

Full disclosure of all relevant information regarding the sharing of the compensation or fees shall be made to the board of supervisors;

  - b. The board of supervisors must approve the sharing of any fee or compensation for personal professional services before the performance of the services;
  - c. No fee or compensation for personal or professional services may be shared except for work actually performed;
  - d. No shared fee or compensation for personal or professional services may be paid at a rate in excess of the commensurate for similar personal or professional services. (53 P.S. §68102)

Section 2703. Road Contracts. The Board of Supervisors may make a contract for the improvement and keeping in repair of Municipal roads. No contract shall extend over a period of more than four years. Every contractor for road work shall give bond for the amount of the contract and sign specifications furnished by the Board of Supervisors for the building and care of the contract roads.

Section 2704. Evasion of Advertising Requirements.

1. No supervisor shall evade the provisions of section 2301 as to advertising for bids by purchasing or contracting for services and personal properties piecemeal to obtain prices under the required advertising price. This provision is intended to make unlawful the evading of advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price, or by making several simultaneous purchases or contracts each below the required advertising price, when the transactions involved should have been made as one transaction for one price. Any supervisors who vote in violation of this provision and who know that the transaction upon which they vote is or ought to be part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids are jointly and severally subject to surcharge for ten percent of the full amount of the contract or purchase.
2. Any supervisor who votes to unlawfully evade the provisions of this article and who knows that the transaction upon which he so votes is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote. This penalty shall be in addition to any surcharge which may be assessed pursuant to subsection (1).

Section 2705. Bonds for Protection of Labor and Material Suppliers. Before any contract exceeding five thousand dollars (\$5,000) is awarded to any prime contractor or construction manager for the construction, reconstruction, alteration or repair of any building or other public work or public improvement of the Municipal, the contractor shall furnish to the Municipality a payment bond for the protection of claimants supplying labor or materials to the prime contractor to whom the contract is awarded, at one hundred percent of the contract amount, conditioned for the prompt payment of all materials furnished or labor supplied or performed in the prosecution of the contract under the act of December 20, 1967 (P.L. 869, No. 385), known as the "Public Works Contractors' Bond Law of 1967."

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Section 2706. Purchase Contracts for Supplies and Equipment; Fire Company, Et Cetera; Participation. The Board of Supervisors may permit any paid or volunteer fire company, paid or volunteer rescue company and paid or volunteer ambulance company in the Municipality to participate in purchase contracts for supplies and equipment of the Municipality and agreeing that it will be bound by any terms and conditions the Municipality prescribes.

Section 2707. Separate Specifications for Branches of Work. In the preparation of specifications for the erection or alteration of any public building, when the entire cost of the work exceeds the advertising requirement price, the architect, engineer or person preparing the specifications shall prepare separate specifications for the plumbing, heating, ventilating and electrical work, and the Municipality shall receive separate bids upon each of those branches of work and award the contract to the lowest bidder.

Section 2708. Workers' Compensation Insurance.

1. All contracts executed by any Municipality which involve the construction or performance of any work involving the employment of labor shall contain a provision that the contractor shall accept, and file with the Municipality proof of compliance with or exemption from, insofar as the work covered by the contract is concerned, the act of June 2, 1915 (P.L. 736, No. 338), known as the "Workers' Compensation Act."
2. Any contract executed in violation of this section is void.

Section 2709. Engineers and Architects not to be Interested in Contracts.

1. No architect or engineer in the employ of the Municipality and engaged in the preparation of plans, specifications or estimates may bid on any public work at any letting of the work in the Municipality.
2. An officer of a Municipality who is charged with letting any public work may not award a contract to any architect or engineer in the employ of the Municipality.
3. An architect or engineer in the employ of a Municipality may not be interested in any contract for public work in the Municipality or receive any remuneration or gratuity from any person interested in any contract except under section 2302(1).
4. Any person who violates this section commits a misdemeanor of the third degree.

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## ARTICLE XXVIII TAXATION, FINANCE AND BUDGETING

Section 2801. Fiscal Year. The fiscal year of The Municipality of Antietam Valley shall begin on January 1 and end on December 31.

Section 2802. Municipal Budgets.

1. On or before October 25 of each year the Municipal Manager shall present to the Board of Supervisors the proposed Municipal budgets for the ensuing fiscal year. The budgets shall provide a complete and balanced financial plan for all Municipal funds and activities. Each budget shall be in the form of a separate ordinance and include all proposed expenditures and other uses and all anticipated revenues and other sources of income, and any unreserved fund balance expected to be used should be specifically identified. The total of all budgeted expenditures and other uses in each budget shall not exceed the total of all budgeted revenues and other sources of income, plus any unreserved fund balance that is expected to be used. The budgets shall clearly define all rates of taxation, and these rates of taxation shall become law upon the effective date of the budgets.
2. Upon the preparation of the proposed budget, the Board of Supervisors shall give public notice by advertisement once in one newspaper of general circulation in the Municipality that the proposed budget is available for public inspection at a designated place in the Municipality. After the proposed budget has been available for public inspection for ten days, the Board of Supervisors shall hold at least one public hearing on the proposed budget. The Board of Supervisors shall adopt the final budget not later than the 31st day of December and the necessary appropriation measures required to put it into effect.
3. During the month of January next following any municipal election, the Board of Supervisors may amend the adopted current budget, levy and tax rate. A period of ten days' public inspection at the office of the Municipal secretary of the proposed amended budget, after notice by the Municipal secretary to that effect is published once in a newspaper of general circulation in the Municipality, shall intervene between the adoption of the proposed amended budget and the final adoption of the amended budget. Any amended budget must be adopted by the Board of Supervisors on or before the fifteenth day of February.
4. The Board of Supervisors may by resolution make supplemental appropriations for any purpose from any funds on hand or estimated to be received within the fiscal year and not otherwise appropriated, including the proceeds of any borrowing authorized by law. Supplemental appropriations may be made whether or not an appropriation for that purpose was included in the original budget as adopted.
5. The Board of Supervisors may by resolution transfer unencumbered moneys from one Municipal account to another. Any transfer up to ten percent of the unencumbered account shall be by resolution and any transfer greater than ten percent of the unencumbered account shall be by ordinance; but no moneys may be transferred from a fund allocated for the payment of debts or from any fund raised by a special tax levy or assessment for a particular purpose.

Section 2803. Budget Format.

1. The format of the proposed budgets shall be as provided for in the Administrative Code. Unless changed by the Administrative Code, the budgets shall, at a minimum:
  - a. Be line item budgets structured by department, office, agency, board, commission, other administrative unit, and budgetary function, and meet current recognized best practices;
  - b. Provide comparative figures on actual year-to-date and estimated remaining revenues and other sources and expenditures and other uses for the current fiscal year and actual figures for at least the preceding fiscal year;



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- c. Enumerate proposed capital expenditures by project and, where practical, by department, division, office, agency, board, commission, other administrative unit, or budgetary function, and identify the method of financing each capital expenditure.

Section 2804. Budget Message. The proposed budgets submitted by the Municipal Manager shall include a budget message that shall serve as a simple and clear general summary of the various budgets and describe their important features; explain the Municipality's programs, goals, and objectives for the ensuing fiscal year and their financial implications; indicate any major changes from the current year in financial policies, expenditures, revenues, and personnel complement together with the reasons for such changes; summarize the Municipality's debt position; and include such other information as the Manager deems appropriate.

Section 2805. Failure to Adopt Budget. If the Board of Supervisors fails to adopt an annual budget by December 31 of the year in which it is submitted, the authority to expend Municipal funds for any purpose except payment on debt and for budgeted special purpose expenses shall end as of December 31 of the current fiscal year. No expenditures of Municipal funds for general fund purposes may be expended in the absence of an adopted budget after January 1 of the new fiscal year.

Section 2806. Long-range Operational, Fiscal, and Capital Plan. On or before June 1 of each year, the Municipal Manager shall submit to Board of Supervisors a long-range plan for public operations and services, fiscal policy, and capital improvements covering at least the five (5) subsequent fiscal years. The format of this long-range plan and the information contained in it shall be as provided for in the Administrative Code, and the requirements for public inspection, public hearing, and the number of votes required for approval shall be consistent with the procedures established in this Charter for the adoption of the annual Municipal budget.

Section 2807. Accounting System. The Municipality's accounting system shall be as provided for in the Administrative Code. However, unless changed by the Administrative Code, it shall be a fund-based system and must adhere to Generally Accepted Accounting Principles.

Section 2808. Investment of Municipal Funds.

1. The Board of Supervisors may:
  - a. Make investment of Municipal sinking funds as authorized by the act of July 12, 1972 (P.L. 78 1, No. 185), known as the "Local Government Unit Debt Act;"
  - b. Make investment of moneys in the general fund and in special funds of the Municipality;
  - c. (3) Liquidate any investment, in whole or in part, by disposing of securities or withdrawing funds on deposit. Any action taken to make or to liquidate any investment shall be made by the officers designated by action of the Board of Supervisors.
2. The Board of Supervisors shall invest Municipal funds consistent with sound business practice.
3. The Board of Supervisors shall provide for an investment program subject to restrictions contained in this act and in any other applicable statute and any rules and regulations adopted by the Board of Supervisors.
4. Authorized types of investments of Municipal funds are:
  - a. United States Treasury bills;
  - b. Short-term obligations of the Federal Government or its agencies or instrumentalities;
  - c. Deposits in savings accounts or time deposits, other than certificates of deposit, or share accounts of institutions insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Pennsylvania Deposit Insurance Corporation or the Pennsylvania Savings Association Insurance Corporation, or their successor agencies, to the extent that the accounts are so insured and, for any amounts above the insured maximum, if approved collateral therefore is pledged by the depository;

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- d. Obligations of the United States of America or any of its agencies or instrumentalities backed by the full faith and credit of the United States of America, of the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the Commonwealth or of any political subdivision of the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the political subdivision;
  - e. Shares of an investment company registered under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.), whose shares are registered under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.), if the only investments of that company are in the authorized investments for Municipal funds listed in paragraphs (a) through (d);
  - f. Certificates of deposit purchased from institutions insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Pennsylvania Deposit Insurance Corporation or the Pennsylvania Savings Association Insurance Corporation, or their successor agencies, to the extent that the accounts are so insured. However, for any amounts above the insured maximum, the certificates of deposit shall be secured by a pledge or assignment of assets of the institution, and the collateral may include loans, including interest in pools of loans, secured by first mortgage liens on real property. Certificates of deposit purchased from commercial banks shall be limited to an amount equal to twenty percent of a bank's total capital and surplus. Certificates of deposit purchased from savings and loan associations or savings banks shall be limited to an amount equal to twenty percent of an institution's assets minus liabilities;
  - g. Any investment authorized by 20 Pa.C.S. Ch. 73 (relating to fiduciaries investments). This paragraph is limited to investments for any pension or retirement fund.
5. In making investments of Municipal funds, the Board of Supervisors may:
- a. Permit assets pledged as collateral under subsection (4)(c) to be pooled under the act of August 6, 1971 (P.L. 281, No. 72), entitled "An act standardizing the procedures for pledges of assets to secure deposits of public funds with banking institutions pursuant to other laws; establishing a standard rule for the types, amounts and valuations of assets eligible to be used as collateral for deposits of public funds; permitting assets to be pledged against deposits on a pooled basis; and authorizing the appointment of custodians to act as pledgees of assets;"
  - b. Combine moneys from more than one fund under Municipal control for the purchase of a single investment if each of the funds combined for the purpose is accounted for separately in all respects and the earnings from the investment are separately and individually computed and recorded and credited to the accounts from which the investment was purchased;
  - c. Join with one or more other municipal corporations, municipality authorities or school districts under the act of July 12, 1972 (P.L. 762, No. 180), referred to as the Intergovernmental Cooperation Law, in the purchase of a single investment if the requirements of paragraph (b) on separate accounting of individual funds and separate computation, recording and crediting of the earnings there from are adhered to.

Section 2809. Tax Levies. The Board of Supervisors may by ordinance levy taxes upon all real property within the Municipality made taxable for Municipal purposes as ascertained by the last adjusted valuation for the purposes of financing the operations of Municipality under this Charter.

Section 2810. Tax Rate to be Expressed in Dollars and Cents. When the Board of Supervisors by resolution establishes the rate of taxation for any year at a mill rate, the resolution shall also include a statement expressing the rate of taxation in dollars and cents on each one hundred dollars (\$100) of assessed valuation of taxable property.



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## Section 2811. Limit on Annual Increases in Total Tax Revenues.

1. In no year shall the sum of budgeted general and special purpose total tax revenues exceed 108 percent of the preceding year's budgeted total tax revenues for general and special purposes, and, if necessary, the Municipality shall take appropriate action to reduce budgeted total tax revenues to accomplish this. The calculation of this limitation shall exclude real estate tax revenues dedicated to debt service.
2. Notwithstanding the limitation set forth in this section, total budgeted tax revenues may be raised to an amount greater than 108 percent of the preceding year's budgeted total tax revenues upon adoption by the Board of Supervisors of a resolution showing due cause for such an increase and approval by the Court of Common Pleas of Berks County upon petition.
3. The 108 percent limit set forth in this section, and the process for exceeding this limit, shall apply to any year in which assessment figures resulting from a Countywide revision of assessment of real property or a change in the predetermined assessment ratio are used for the first time for Municipal tax purposes. For the purpose of determining the amount of taxes to be levied in the first year after a Countywide revision of assessment of real property or a change in the predetermined assessment ratio, any increase from the preceding year in the amount of real estate taxes to be levied on newly-constructed structures, on increased valuations based on new improvements made to existing structures or properties, and on properties not previously on the tax rolls shall be excluded.

Section 2812 Earned Income Tax – The board of supervisors may by resolution levy taxes upon all earned income of residents of the municipality, without limit as to such levy. “*Earned Income*” shall mean compensation as determined under section 303 of the Act of March 4, 1971 (P.L. No2), known as the “Tax Reform Code of 1971” and regulations in 61 Pa Code Pt. 1 subpt. B Art. V (relating to personal income tax), not including, however, wages or compensation paid to individuals on active military service.

Section 2813 Mercantile and Business Privilege Tax - The board of supervisors may by resolution levy mercantile and business privilege taxes authorized under the Pennsylvania Local Tax Enabling Act, subject to the limitations thereof. Such taxes shall be limited to the types of Local Tax Enabling Act mercantile and Business privilege taxes as had been levied by the Township of Lower Alsace and the Borough of Mt. Penn in the year immediately preceding the effective date of this charter.

## Section 2814. Municipal and Special Tax Levies.

1. The board of supervisors may by resolution levy taxes upon all real property within the municipality made taxable for municipal purposes, as ascertained by the last adjusted valuation for county purposes, for the purposes and at the rates specified in this section. All taxes shall be collected in cash.
  - a. An annual tax not limited as to amount for general purposes;
  - b. An annual tax not limited as to amount to light the highways, roads and other public places in the municipality;
  - c. An annual tax not limited as to amount to procure land and erect public buildings thereon and for the payment of indebtedness incurred in connection therewith;
  - d. An annual tax not limited as to amount to purchase and maintain fire apparatus and a suitable place to house fire apparatus, to make appropriations to fire companies located inside and outside the municipality, to make appropriations for the training of fire company personnel and for fire training schools or centers and to contract with adjacent municipal corporations or volunteer fire companies therein for fire protection;
  - e. A tax not limited as to amount to establish and maintain fire hydrants and fire hydrant water service;
  - f. A tax not limited as to amount to acquire, maintain and operate parks, playgrounds, playfields, gymnasiums, swimming pools and recreation centers;

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- g. An annual tax sufficient to pay interest and principal on any indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing);
- h. An annual tax not limited as to amount to support ambulance, rescue and other emergency services serving the municipality;
- i. An annual tax not limited as to amount to create and maintain a revolving fund to be used in making permanent street, sidewalk, water supply or sewer improvements before the collection of all or part of the cost from the property owners. A revolving fund may also be used for the deposit of funds raised through the issuance of general obligation bonds of the municipality for the making of permanent street, sidewalk, water supply or sewer improvements. When all or part of the cost of the construction of any permanent street, sidewalk, water supply or sewer improvement is paid from the revolving fund and is later assessed and collected from the owners of the property adjoining or abutting upon the improvement, the collections shall be applied to the credit of the revolving fund to the extent of the withdrawal there from for that purpose;
- j. An annual special tax not limited as to amount to create and accumulate moneys in a road equipment fund to be used exclusively for purchasing road equipment.

Section 2815. Tax Duplicates.-The board of supervisors shall require a duplicate to be made designating the amount of municipal tax levied against each taxpayer of the municipality, and also duplicates for all other taxes levied and assessed under this act, and deliver the duplicate within thirty days after the adoption of the budget or within thirty days after receipt of the assessment roll from the county, whichever is later, to the municipal tax collector. (53 P.S. §67209)

### Section 2816 Additions and Revisions to Duplicates.

1. When there is any construction of a building or buildings not otherwise exempt as a dwelling after the first day of January of any year and the building is not included in the tax duplicate of the municipality, the authority responsible for assessments in the municipality shall upon the request of the board of supervisors inspect and reassess, subject to the right of appeal and adjustment by the State law under which assessments are made, all taxable property in the municipality to which major improvements have been made after the first day of January of any year and to give notice of the reassessments within ten days to the authority responsible for assessments, the municipality and the property owner. The property shall be added to the duplicate and is taxable for municipal purposes at the reassessed valuation for that proportionate part of the fiscal year of the municipality remaining after the property was improved. Any improvement made during the month shall be computed as having been made on the first day of the month. A certified copy of the additions or revisions to the duplicate shall be furnished by the board of supervisors to the municipal tax collector, together with its warrant for collection of the taxes, and within ten days the municipality tax collector shall notify the owner of the property of the taxes due in the municipality.
2. When an assessment is made for a portion of a year, the assessment shall be added to the duplicate of the following or succeeding year unless the value of the improvements has already been included in that duplicate. (3210 Amended by Act 166 of 2006) (53 P.S. §68210)

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## ARTICLE XXIX COLLECTION OF ASSESSMENTS

### Section 2901. Assessments Collected by Tax Collector.

1. When any assessment for streetlights, fire hydrant service, police protection or other service is implemented by the Board of Supervisors and charged to the tax collector for collection, assessments for the service shall be filed with the Municipal tax collector. The tax collector shall give thirty days' notice that the assessments are due and payable. The notice shall state the due date to each party assessed and be served by mailing notice to the owner of the property. The tax collector is entitled to the same commission for the collection of these assessments as for the collection of the general Municipal tax. If any assessment remains unpaid ninety days after the due date, it shall be turned over to the Municipal solicitor for collection by means of an action in assumpsit for recovery or a municipal lien filed against the property of the delinquent owner for the amount of the unpaid assessment, plus interest established by the Board of Supervisors from the date the assessment was due. If an owner has two or more lots against which there is an assessment for the same year, the lots shall be embraced in one claim. Assessments, when collected, shall be paid over to the Municipal treasurer, who shall deposit and keep them in a separate account, to be paid out only for expenses incurred in providing the service. Each special assessment account shall be included in the annual independent audit of the Municipality.
2. When any assessment for refuse collection in special districts or other service is charged against the owners, occupants or tenants of property within the Municipality, the collection of which is charged to the tax collector, the assessments for the service shall be filed with the tax collector. The tax collector shall give thirty days' notice that the assessments are due and payable. The notice shall state the due date to each party assessed and be served by mailing to the owner, occupant or tenant of the property. If any assessment remains unpaid ninety days after the due date, it shall be turned over to the Municipal solicitor for collection by action in assumpsit for the amount of the unpaid assessment, plus interest established by the Board of Supervisors from the date the assessment was due and all costs incurred in the collection of the assessment. Assessments, when collected, shall be paid over to the Municipal treasurer, who shall deposit and keep them in a separate account, to be paid out only for expenses incurred in providing the service.

### Section 2902. Assessments Collected by Municipal Treasurer.

1. When any assessment for construction, maintenance and repair of street, sewer, water, sidewalks, curbs or other service is implemented by the Board of Supervisors, the collection of which is not charged to the tax collector, the assessments for the service shall be filed with the Municipal treasurer. The Municipal treasurer shall give thirty days' notice that the assessments are due and payable. The notice shall state the due date to each party assessed and shall be served by mailing it to the owner of the property. If any assessment remains unpaid ninety days after the due date, it shall be turned over to the Municipal solicitor for collection by means of an action in assumpsit for recovery or a municipal lien filed against the property of the delinquent owner for the amount of the unpaid assessment, plus interest established by the Board of Supervisors from the date the assessment was due. If an owner has two or more lots against which there is an assessment for the same year, the lots shall be embraced in one claim. Upon receipt of payment of assessments, the Municipal treasurer shall deposit the assessments in a separate account, to be paid out only for expenses incurred in providing the service.

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2. When any assessment for refuse collection or other service is charged against the owners, occupants or tenants of property within the Municipality, the collection of which is not charged to the tax collector, the assessments shall be filed with the Municipal treasurer. The Municipal treasurer shall give thirty days' notice that the assessments are due and payable. The notice shall state the due date to each party assessed and be served by mailing it to the owner, occupant or tenant of the property. If any assessment remains unpaid ninety days after the due date, it shall be turned over to the Municipal solicitor for collection by action in assumpsit for the amount of the unpaid assessment, plus interest established by the Board of Supervisors from the date the assessment was due and all costs incurred in the collection of the assessment. Upon receipt of the assessments, the Municipal treasurer shall deposit and keep them in a separate account, to be paid out only for expenses incurred in providing the service.

### Section 2903. Installment Payments.

1. When the Municipality authorizes the construction or acquisition of any sanitary sewer or system of sanitary sewers, or the improvement of any street or portion thereof, or the installation of curbing or sidewalks, or a water supply or water systems, and all or part of the cost is assessed against the properties benefited, improved or accommodated by the sewer or system of sewers, or curbing or sidewalks, or water supply, or abutting upon the street or portion thereof, the Board of Supervisors may authorize the payment of the assessment in equal annual or more frequent installments. The ordinance shall specify the length of time over which the installments may be extended and whether payments are to be made by annual or more frequent installments. Installments shall bear interest at a rate not to exceed six percent or a higher amount equal to the amount of interest on the indebtedness, if any, commencing at the time established by ordinance. If bonds have been issued and sold to provide for the payment of any street improvement, the assessments shall not be payable beyond the term for which the bonds are issued, and the expenses for the improvements and interest thereon to the first day when interest is payable on the bonds shall be taken as the cost of the improvement to be assessed on the property benefited.
2. Claims to secure the assessments shall be entered in the prothonotary's office of the county at the same time and in the same form and shall be collected in the same manner as municipal claims are filed and collected.
3. Assessments are payable to the Municipal treasurer in quarterly, semi-annual or annual installments, with interest from the date from which interest is computed on the amount of the assessments.
4. If there is a default in the payment of any installment and interest for a period of sixty days after it becomes due, the entire assessment and accrued interest shall become due, and the Municipal solicitor shall proceed to collect the assessment under the general laws relating to the collection of municipal claims.
5. Any owner of property against whom any assessment is made may pay the assessment in full, at any time, with interest and costs thereon to the due date of the next installment, and that payment shall discharge the lien.

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## **ARTICLE XXX EMINENT DOMAIN; ASSESSMENT OF DAMAGES and BENEFITS**

Section 3001. Scope of Article. All eminent domain proceedings shall conform to the act of June 22, 1964 (Sp.Sess., P.L. 84, No. 6), known as the "Eminent Domain Code."

Section 3002. Value of Land or Property not to be Assessed as Benefits. In the appropriation of land or property for public use, other than for roads, it is not lawful to assess any portion of the damage done to or value of the land or property so appropriated against the other property adjoining or in the vicinity of the land or property so appropriated.

Section 3003. Title Acquired. When land or property is taken under eminent domain proceedings, other than for road purposes, or is acquired by gift, purchase or otherwise, the title obtained by the Municipality is in fee simple. In particular instances, a different title may by agreement be acquired.

Section 3004. Assessment of Damages and Benefits. The damages may be paid in whole or in part by the Municipality or may be assessed in whole or in part upon the property benefited. In the latter case, the viewers, having first determined the damages apart from the benefits, shall assess the total cost of the improvement, or so much thereof as may be just and reasonable, upon the properties peculiarly benefited, including in the assessment all parties for which damages have been allowed, and shall report the findings to the court. The total assessment for benefits shall not exceed the total damages awarded or agreed upon.

Section 3005. Assessment Awards. In proceedings to assess damages and benefits, if the land or property is both benefited and damaged by the improvements, the excess of damages over benefits or the excess of benefits over damages, or nothing if the benefits and damages are equal, shall be awarded to or assessed against the owner of land or property affected thereby.

Section 3006. Assessments to Bear Interest. All assessments for benefits and costs shall bear interest at six percent annually from the expiration of thirty days after they have been finally ascertained and shall be payable to the Municipal treasurer.

Section 3007. Restrictions as to Certain Property.

1. In addition to the restrictions made by other provisions of this act in particular cases, no municipality shall, except as provided in subsection (2), exercise the right of eminent domain against land now occupied by any building which was used during the Colonial or Revolutionary period as a place of Assembly by the Council of the Colony of Pennsylvania, the Supreme Executive Council of the Commonwealth of Pennsylvania or the Congress of the United States; or against the land occupied by any fort, redoubt or blockhouse erected during the Colonial or Revolutionary period or any building used as headquarters by the Commander-in-Chief of the Continental Army; or against the site of any building, fort, redoubt, blockhouse or headquarters, which are preserved for their historic associations and not for private profit. The Colonial and Revolutionary period is taken as ended on September 3, 1783.
2. The restriction on eminent domain provided in subsection (1) shall not apply:
  - a. If a municipality in a county of the second class A obtains a statement from the Pennsylvania Historical and Museum Commission or the historical society of the county where the land is situate certifying that the building or other structure, the existence of which would otherwise restrict the municipality from exercising the right of eminent domain, is not being maintained in a manner appropriate to an historical structure; and

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- b. If the purpose of the acquisition of the land and structures by a municipality in a county of the second class A is to ensure the preservation and maintenance of the historical site and structure sought to be protected by subsection (1). (53 P.S. §68402)

Section 3008. Value of Land or Property Not to be Assessed as Benefits.-In the appropriation of land or property for public use, other than for roads, it is not lawful to assess any portion of the damage done to or value of the land or property so appropriated against the other property adjoining or in the vicinity of the land or property so appropriated. (53 P.S. §68403)

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## ARTICLE XXXI ACTIONS BY THE MUNICIPALITY OF ANTIETAM VALLEY

### Section 3101. Recovery of Municipal Claims.

1. In addition to the remedies under law for the filing of liens for the collection of municipal claims, the Municipality may proceed for the recovery and collection of any municipal claim by action of assumpsit against the person who was the owner of the property when the improvement was completed, even if there was a failure on the part of the Municipality or its agents to enter the municipal claim as a lien against the property assessed for the improvement, and for the recovery of which the action of assumpsit was brought.
2. Any action in assumpsit shall be commenced within three years after the completion of the improvement from which the claim arises.

# The Municipality of Antietam Valley

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## ARTICLE XXXII—INITIATIVE AND REFERENDUM

Section 3201. General Powers. In accordance with the procedures hereinafter provided, the voters of The Municipality of Antietam Valley shall have the power to propose ordinances to the Board of Supervisors for its consideration and to repeal ordinances adopted by the Board of Supervisors.

Section 3202. Procedures for Agenda Initiative. A petition signed by at least ten (10) percent of the total votes cast for governor in the most recent gubernatorial election in the Municipality and filed with the Municipal Secretary shall require the Board of Supervisors to consider a proposed ordinance at a public meeting. The petition shall state the full text of the proposed ordinance, which shall be limited to one subject related to Municipal government clearly expressed in its title. The petition shall contain the enacting clause: “Be it enacted by The Municipality of Antietam Valley under petition of its people....” The petition shall designate five of the individuals signing the petition as the Petitioners Committee, state the names and mailing addresses of these individuals, indicate they are registered voters, and identify the mailing address to which any notices to the Petitioners Committee shall be sent. If the Board of Supervisors fails to adopt the proposed ordinance within 60 days after it is determined the petition is sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other Municipal ordinance, and applicable law no further action need be taken. A given ordinance may be brought to the Board of Supervisors through agenda initiative only once in a 12-month period.

Section 3203. Limitations on the Power of Agenda Initiative. Agenda initiative powers shall not extend to the adoption or amendment of the Municipal General Fund budget, capital budget, or other budgets and the tax levies contained therein; the long range operational, fiscal, and capital plan; the Administrative Code and Personnel Code; any ordinance fixing the salaries of elected Municipal officials or Municipal employees, or relating to zoning regulations; or any ordinance for which the specific procedures for adoption or amendment may be established by applicable law.

Section 3204. Procedures for Referendum.

1. Petitioners Committee. An application for a referendum petition stating the full text of the ordinance proposed for repeal, signed by at least ten (10) registered voters, and filed with the Municipal Secretary shall be necessary to commence the procedure for referendum. Those signing this application shall be known as the Petitioners Committee and shall be responsible for coordinating the circulation of the referendum petition and for filing it in the proper form. The application shall state the names and mailing addresses of these individuals indicate they are registered voters, and identify the mailing address to which any notices to the Petitioners Committee shall be sent. Upon the filing of a sufficient application, the Municipal Secretary shall issue petition forms to the Petitioners Committee.



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2. Petitions. A referendum petition seeking to repeal any other ordinance subject to referendum stating the full text of the ordinance proposed for repeal, signed by registered voters equal in number to at least five (5) percent of the total number of votes cast in The Municipality of Antietam Valley for the office of Governor of Pennsylvania in the most recent general election for that office, and filed with the Municipal Secretary within 14 days after the adoption of the ordinance shall serve to postpone its effective date to the 60th day after adoption, unless it is determined the petition is not sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other Municipal ordinance, and applicable law. Within this 60 day period a petition proposing a referendum signed by a sufficient number of other registered voters so the total number of signatures is equal to at least twenty (20) percent of the total number of votes cast in The Municipality of Antietam Valley for the office of Governor of Pennsylvania in the most recent general election for that office and filed with the Municipal Secretary shall cause the effective date of the ordinance to be further postponed pending the actions outlined in this Article, and the ordinance shall be referred to the Board of Supervisors for its reconsideration as provided for in Section 2804 C. of this Charter, unless it is determined the petition is not sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other Municipal ordinance, and applicable law.
3. Reconsideration by Board of Supervisors. Within 30 days after the referendum petition is finally determined to be sufficient, the Board of Supervisors shall reconsider the referred ordinance. If the Board of Supervisors fails to repeal the referred ordinance during this period, the Board of Elections and Registration shall cause the referred ordinance to be submitted to voters of the Municipality. Any ordinance referred to the voters in this manner shall take effect only if the vote of a majority of those voting on the referred ordinance is against its repeal.
4. Submission to Voters. The vote on a referred ordinance shall be held at the next primary, municipal, or general election, whichever comes first, occurring not less than 13 Tuesdays after the Board of Supervisors takes action not to repeal the referred ordinance or after the expiration of the Board of Supervisors' 30 day opportunity to repeal the ordinance, whichever occurs first. The Board of Elections and Registration shall frame the question to be placed on the ballot and, if it deems appropriate, an interpretive statement to accompany the question.
5. Public Notice. At least 30 days, but no more than 60 days, prior to the scheduled election, the Municipal Secretary shall publish a summary of the referred ordinance in at least one daily newspaper of general circulation in the Municipality and indicate where a full copy of the referred ordinance is available for public inspection. The Municipal Secretary shall make full copies of the referred ordinance available for public inspection at its office during normal Municipal business hours and at public libraries within the Municipality. Further, the Municipal Secretary may post a copy on the Municipal website and/or other electronic medium for at least 30 days prior to the election.
6. Approval and Effective Date. If the vote of the majority of those voting on the referred ordinance is in favor of repeal, the ordinance shall be void and of no effect. If the vote of the majority of those voting on the referred ordinance is against its repeal, it shall become effective immediately upon the certification of the election results unless a later effective date is provided in the ordinance.
7. Limitation on Municipal Board of Supervisors' Power to Reenact. Any ordinance rescinded by the Board of Supervisors as a result of this process or repealed by the voters at a referendum provided for in this Article shall not be reenacted by the Board of Supervisors within two years after such action.

Section 3205. Limitations on the Power of Referendum. Referendum powers shall not extend to the adoption or amendment of the Municipal General Fund budget, capital budget, or other budgets and the tax levies contained therein; the long range operational, fiscal, and capital plan; the Administrative Code and Personnel Code; any ordinance fixing the salaries of elective Municipal officials or Municipal employees, authorizing emergency loans, or relating to zoning regulations; any emergency or temporary ordinance; or any ordinance for which the procedures for adoption or amendment may be established by applicable law.

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## Section 3206. General Procedures, Form, and Sufficiency.

1. Petitions for agenda initiative and referendum petitions shall be governed by the procedures and rules for form and sufficiency set forth in this Charter and as may be provided in the Administrative Code, other Municipal ordinance, and applicable law. Petitions for agenda initiative and applications referendum petitions shall be filed with the Municipal Secretary, who shall be the sole judge of their sufficiency.
  - a. Determination by the Municipal Secretary. Within 20 days after the filing of any petition for agenda initiative or referendum petition, the Municipal Secretary shall examine the application or petition and determine whether it is sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other Municipal ordinance, and applicable law. If the Municipal Secretary determines the application or petition is sufficient, it shall issue petition forms to the Petitioners Committee or submit the petition to the Board of Supervisors for further action. If the Municipal Secretary determines the application or petition is not sufficient, he/she shall certify the application or petition as not sufficient and return it by registered mail to the Petitioners Committee with a statement of the findings of fact to support its determination;
  - b. Review by the Board of Elections and Registration. Any determination by the Municipal Secretary on any agenda initiative or referendum petition or any failure by the Municipal Secretary to make such a determination within 20 days after the date of the filing shall be subject to review by the Board of Elections and Registration, but only if such review is requested in writing by any Municipal resident within ten days after the determination or within ten days after the expiration of the Municipal Secretary's 20 day opportunity to make a determination, whichever occurs first;
  - c. Determination by the Board of Elections and Registration. If the Board of Elections and Registration determines the agenda initiative or referendum petition is sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other Municipal ordinance, and applicable law, it shall certify the petition and return it to the Municipal Secretary for he/she to submit the petition to the Board of Supervisors for further action consistent with such determination. If the Board of Elections and Registration determines the petition is not sufficient, it shall certify the petition as not sufficient and return it by registered mail to the appropriate parties, with a statement of the findings of fact to support the Board's determination;
  - d. Judicial Review. Any determination by the Board of Elections and Registration on any agenda initiative or referendum petition or any failure by the Board of Elections and Registration to make such a determination within 20 days after being requested to do so shall be subject to review by the Court of Common Pleas of Berks County, but only if such review is requested in writing by any Municipal resident within ten days after such determination or within ten days after the expiration of the Board of Elections and Registration's 20 day opportunity to make a determination, whichever occurs first. In such cases any Municipal resident shall have standing to apply for judicial review, and the Court shall have jurisdiction;
  - e. Determination by the Court. If the Court of Common Pleas of Berks County determines the agenda initiative or referendum petition is sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other Municipal ordinance, and applicable law, it shall certify the petition as sufficient and shall return it to the Municipal Secretary for submission of the petition to the Board of Supervisors for further action consistent with such determination. If the Court of Common Pleas determines the petition is not sufficient, it shall certify the petition as not sufficient and return it by registered mail to the appropriate parties, with a statement of the findings of fact to support the Court's determination, and the petition shall become void and of no effect.

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Section 3207. Other Authority for Initiative and Referendum. Nothing in this Article shall limit the use of agenda initiative or referendum as may be provided for under applicable law including the procedure for amending home rule charters as provided for in the Home Rule Charter and Optional Plans Law, or successor law.

Section 3208. Amendment of the Charter. This Charter may only be amended as provided for in the Home Rule Charter and Optional Plans Law, or successor law.

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## **ARTICLE XXXIII—ADMINISTRATIVE CODE**

Section 3301. Administrative Code. There shall be an Administrative Code that shall set forth Municipal policy regarding budget, finance, and accounting systems, personnel system, code of ethics, purchasing policy, and other policies and procedures deemed necessary by the Board of Supervisors in the organization, administrative structure, procedures, or operations of the Municipal government.

Section 3302. Procedure for Adoption. Within one year after the effective date of this Charter, the Municipal Manager shall propose and submit to the Board of Supervisors an Administrative Code for the Municipal government. The Board of Supervisors shall adopt an Administrative Code by ordinance with or without amendments within two months after submission by the Municipal Manager

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## ARTICLE XXXIV—TRANSITION

Section 3401. Effective Date. The effective date of the Charter will be January 1, 2016, except for the Transition Provisions of this Article which will become effective with the adoption of the Charter.

Section 3402. Effect on Current Elected Officials. All elected municipal officials in office at the date this Charter becomes effective shall cease to serve in office for the remainder of the term for which they were elected.

Section 3403. Rights and Privileges. Nothing in this Charter, except as otherwise specifically provided, shall effect or impair the rights and privileges of persons who are officers, independent agents, or employees at the time of the adoption of this Charter.

Section 3404. Transition Committee.

1. In order to accomplish an orderly transition from the old to the new form of government provided by this Charter, and to insure that all necessary action is taken in order that the Charter will be fully operational on its effective date, the Board of Supervisors of Lower Alsace Township and the Borough Council of Mt. Penn Borough shall form a Transition Committee. The committee shall consist of one Borough Council Person and the Secretary from Mt. Penn and One Supervisor and the Township Manager from Lower Alsace, and each municipality shall appoint one citizen currently residing in the Municipality. Finally, one additional member shall be appointed to act as Coordinator for the Transition Committee. Any citizen appointee to the Transition Committee shall have been a resident of the Municipality appointing such citizen continuously since January 1, 2014. In addition the Transition Committee may approve the hiring of legal and other consultative professionals to assist the Transition Committee in the timely performance of its duties. Borough Council and The Board of Supervisors shall provide appropriations for the reasonable expenses of the Transition Committee. The Transition Committee shall:
  - a. Educate the public and members of the Township and Borough government as to the changes required by this Charter;
  - b. Prepare for the initial citizen educational course for residents and officials to be conducted in the beginning of year 2015; and
  - c. Draft the implementing ordinances required by the transition to this Charter.

Section 3405. Review of Charter.

At least every ten (10) years, except for the initial charter review which shall take place under this provision no sooner than five (5) years but no later than ten (10) years after the effective date of this Charter, the Board of Supervisors shall appoint a Charter Review Commission composed of nine (9) members, the majority of whom shall not be Municipal Officials or employees. Five (5) members of this Commission shall be appointed by the individual members of the Board of Supervisors and four (4) members shall be appointed by the Board of Supervisors as a whole. All appointees shall be current residents and registered voters of the Municipality. The Charter Review Commission shall review the current Charter, submit a report to Board of Supervisors and the citizens of the municipality, within six months of its appointment, and recommend any proposed amendments to the Charter. All proposed amendments shall be placed on the ballot no later than the next municipal election. The Board of Supervisors is required to adopt appropriate legislation to place all recommended amendments on the ballot for the next primary or general election. The Board of Supervisors shall provide appropriations for the reasonable expenses incurred by the Charter Review Commission. In addition the Charter Review Commission may approve the hiring of legal and other consultative professionals to assist the Charter Review Commission in the timely performance of its duties.

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### Section 3406, Code Enforcement, Planning and Zoning

The Board of Supervisors shall authorize the appointment of personnel or professional contracted services necessary to provide professional Code Enforcement, Planning and Zoning services to establish minimum maintenance standards for basic equipment, light, ventilation, heating, sanitation and fire safety. Responsibility is fixed among owners, operators and occupants for code compliance. Provide for the regulation and safe use of existing structures in the interest of the social and economic welfare of the community.

And establish provisions consistent with the scope of a property maintenance code that adequately protects public health, safety and welfare; provisions that do not unnecessarily increase construction costs; provisions that do not restrict the use of new materials, products or methods of construction; and provisions that do not give preferential treatment to particular types or classes of materials, products or methods of construction.