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Part 1**Preliminary Provisions****§1-101. Short Title.**

The short title of this Code of Ordinances prepared and published for the Borough of Carnegie shall be the "Borough of Carnegie Code of Ordinances."

(*Ord. 2384, 12/10/2012*)

§1-102. Citation of Code of Ordinances.

The Borough of Carnegie Code of Ordinances may be cited by Section number. The approved short form is "Code." Thus, "Code, §27-101" refers to §101 of Chapter 27 of this Code of Ordinances.

(*Ord. 2384, 12/10/2012*)

§1-103. Arrangement of Code.

1. This Code is divided into Chapters which are subdivided as follows:
 - A. Subchapters, identified by capital letters, beginning with a Chapter title and number.
 - B. Parts, identified by Arabic numerals, beginning with a Part title and number.
 - C. Subparts, identified by Arabic numerals, beginning with a title.
2. The Sections of the Code are subdivided as follows:
 - A. Subsections, identified by Arabic numerals.
 - B. Paragraphs, identified by capital letters.
 - C. Subparagraphs, identified by Arabic numerals enclosed within parentheses.
 - D. Clauses, identified by lower case letters enclosed within parentheses.
 - E. Subclauses, identified by Arabic numerals followed by a parenthesis.
 - F. Items, identified by lower case letters followed by a parenthesis.
 - G. Subitems, identified by small Roman numerals.

(*Ord. 2384, 12/10/2012*)

§1-104. Headings.

Chapter, Subchapter, Part, Subpart, Section, Subsection, Paragraph, Subparagraph, Clause, and Subclause headings contained in the Code may not be deemed to govern, limit, modify or affect the scope, meaning or intent of the Code. The headings of Sections, Subsections or other divisions of this Code are intended as mere captions to indicate the contents of the Section, Subsection or other division and shall not be deemed to be taken as titles of such Section, Subsection or other division, nor as any part of said Section, Subsection or other division unless expressly so provided.

(*Ord. 2384, 12/10/2012*)

§1-105. Tenses, Gender and Number.

Except as may be otherwise stated in any provision of this Code, the present tense includes the past and future tenses, and the future the present; the masculine gender includes the feminine and neuter, the feminine includes the masculine and neuter, and the neuter includes the masculine and feminine; and the singular includes the plural, and the plural the singular.

(Ord. 2384, 12/10/2012)

§1-106. Construction.

1. Except as may be otherwise specifically provided by any provision of this Code, the Statutory Construction Act of 1972, 1 Pa.C.S.A. §1501 *et seq.*, shall be applied in construing this Code.

2. *Effect of Repeal or Expiration of Code Section.*

A. The repeal of a Code Section or ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued or any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.

B. When any ordinance repealing a former Code Section, ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former Code Section, ordinance, clause or provision, unless it shall be expressly so provided.

3. *Saving Clause.* The provisions of this Code, so far as they are the same as those ordinances and regulations in force immediately prior to the adoption of this Code, are intended as a continuation of such ordinances, resolutions and regulations and not as a new enactment. The provisions of this Code shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations. Except as specifically stated in this Code or in the ordinance adopting this consolidation, codification and revision of the ordinances and regulations, it is the intention of the Borough Council that no ordinance or regulation of the Borough be amended, revised or repealed by implication.

4. *Resolutions.* The provisions of this Code of Ordinances may contain resolutions, that is, actions of the Borough Council (in written form and designated "resolution") which did not require prior public notice in accordance with the provisions of the Borough Code, 53 P.S. §45101 *et seq.*, at the time of their passage by the Borough Council. Such "resolutions" are included herein for ease of reference and the Borough Council does not intend by their inclusion herein to require prior public notice before amending, revising or repealing such resolution or resolutions as may have been included herein in the future. It is the intention of the Borough Council that such actions of the Borough Council that may be included in this Code and specifically cited and designated as a resolution shall not become an ordinance (requiring prior public notice before amendment, revision or repeal) by the simple fact of inclusion in this Code.

(Ord. 2384, 12/10/2012)

§1-107. Normal Numbering.

1. *Chapters.* Chapters are numbered sequentially in Arabic throughout this Code.
2. *Parts.* Parts are numbered sequentially in Arabic throughout this Code.
3. Whenever other divisions are necessary, Chapters shall be divided into Subchapters, Parts into Subparts and designated with the Chapter or Part number followed by a capital letter. For instance, Chapter 1 may be divided into Subchapters 1A and 1B.
4. *Sections.* Sections are numbered sequentially throughout a Chapter and a Part such that the first number or numbers is the Chapter number, followed by a hyphen, followed by the Part number, followed by the Section number within the Part. For example, "§1-101" designates Chapter 1, Part 1, Section 1. Similarly, "§27-305" designates Chapter 27, Part 3, Section 5.
5. *Internal Divisions of Sections.* Whenever internal divisions are necessary, Sections shall be divided into Subsections, Subsections into Paragraphs, Paragraphs into Subparagraphs, Subparagraphs into Clauses, and Clauses into Subclauses, and Subclauses into Items, designated as follows:

1. Subsection.
 - A. Paragraph.
 - (1) Subparagraph.
 - (a) Clause.
 - 1) Subclause.
 - a) Item.
 - I. Subitem.

(Ord. 2384, 12/10/2012)

§1-108. Special Numbering Problems.

1. *Addition of New Units Between Existing Units.* If it becomes necessary to introduce a new Chapter, Part or Section between existing Chapters, Parts or Sections, the new Chapter, Part or Section shall be designated by the addition of a capital letter suffix to the preceding Chapter, Part or Section number. Thus, a Chapter introduced between Chapters 5 and 6 would be Chapter 5A and Sections in that Chapter would be numbered, for instance, "§5A-101." If it becomes necessary to introduce a Part between existing Parts 5 and 6 the new Part would be Part 5A and Sections in that Part would be numbered, for instance, "§5-5A01." A new Section introduced between existing Sections 5 and 6 would be "§5-105A." When a number of new Parts or Sections have been introduced the Chapter or Part shall be renumbered.
2. If it becomes necessary to introduce a Subsection between Subsections, for instance, Subsections .5 and .6, the new Subsection would be numbered Subsection .5-A.
3. If it becomes necessary to introduce a unit smaller than a Subsection between existing units, the entire Subsection shall be revised and renumbered.
4. *Vacated Numbers.* Whenever a number is vacated by a revocation or repeal, the remaining elements in the overall unit shall retain their old numbers until the overall unit is completely revised. Prior to revision, the vacated number may be marked: "[Reserved]."

(Ord. 2384, 12/10/2012)

§1-109. Amending Code.

1. All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code shall be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed Chapters, Parts, Sections, Paragraphs, Clauses or other part or provision hereof, by subsequent ordinance, such repealed portions may be excluded from this Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code and subsequent ordinances omitted are readopted as a new Code by the Borough Council.

2. Amendment to any provision of this Code shall be made by specific reference to the Chapter, Part, Section and/or Subsection number of this Code in the following language:

A. *Amendment or Revision.* "Chapter ___, Part ___, Section ___, Subsection ___, is hereby amended (revised) to read as follows" The amended or revised provisions may then be set out in full as desired.

B. *Addition.* "Chapter ___, Part ___, Section ___, Subsection ___, is hereby amended by the addition of the following" The new provision shall then be set out in full as desired.

C. *Repeal.* "Chapter ___, Part ___, Section ___, Subsection ___, is hereby repealed in its entirety."

3. It is the intention of the Borough Council that the numbering scheme of this Code be adhered to in enacting future ordinances. In the event that any ordinance or other enactment be adopted which does not conform to the numbering system of this Code, it is the intention of the Borough Council that such enactment be renumbered in the process of supplementing, revising or updating this Code to conform to the numbering scheme of this Code. The Borough Council hereby acknowledges and confirms that the numbering scheme herein is for ease of reference and that the renumbering of any enactment when added to this Code shall not in any manner affect the validity of said enactment.

(Ord. 2384, 12/10/2012)

§1-110. Altering Code.

It shall be unlawful for any person to change or amend by addition or deletion any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever, except by ordinance or resolution or other official act of the Borough Council.

(Ord. 2384, 12/10/2012)

§1-111. Penalties.

1. *Penalty Where No Penalty Provided.* Whenever in this Code or in any ordinance of the Borough any act is prohibited or is declared to be unlawful, or whenever in this Code or other ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefor:

A. *Violations of Health, Safety and Welfare Provisions.* For violations of

ordinances adopting building, housing, property maintenance, health, fire or public safety codes; and for ordinances regulating water services, water pollution, air pollution and noise, the following penalty shall be provided:

(1) Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

B. *Other Violations.* All other penalties, except for penalties in Chapter 15, "Motor Vehicles and Traffic" (based on the Vehicle Code, 75 Pa.C.S.A. §101 *et seq.*), penalties and ordinances adopted under the authority of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, earned income tax ordinances adopted under the Local Tax Enabling Act, 53 P.S. §6913, and ordinances adopted under authority of the Sewage Facilities Act, 35 P.S. §750.1 *et seq.*, should provide, generally:

(1) Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Part, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, shall pay a judgment of not more than \$600 plus all court costs and reasonable attorney fees. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by a magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues or each Section of this Part which shall be found to have been violated shall constitute a separate violation.

2. The imposition of a penalty under the provisions of this Code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the laws of the Commonwealth of Pennsylvania and the United States of America. In addition, the Borough may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Code. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

(*Ord. 2384, 12/10/2012*)

Part 2**Borough Council****A. Meeting Dates and Times****§1-201. Council Meeting; Time and Location.**

Council will meet in the Council Chambers, Municipal Building, One Veterans Way, at 7 p.m., on the second Monday of each month and that the Council Caucus meetings will be held on the first and second Monday of each month at 6 p.m. at the Municipal Building.

(*Ord. 436*, 11/22/1923, §1; as amended by *Ord. 973*, 4/14/1981; by *Ord. 1085*, 1/13/1992, §1; and by *Ord. 2384*, 12/10/2012)

Part 3**Elected Officials****A. Mayor and Council Compensation****§1-301. Compensation; Mayor; Council.**

1. Mayor—\$2,160 per annum.
2. Council member—\$1,620 per annum.
3. Effective January 1, 2009.

(Ord. 2303, 12/8/2008, §1)

B. Tax Collector**§1-311. Tax Collector; Allowance for Expenditures.**

The Borough of Carnegie and the Carlynton School District shall pay the duly elected Tax Collector of the Borough of Carnegie a total combined annual compensation of \$9,000. It shall be payable in equal monthly installments, plus an allowance for actual and needful expenditures for printing, postage, books, blanks, and forms, telephone charges, and prothonotary fees, pursuant to an agreement between the Borough of Carnegie and the Carlynton School District.

(*Ord. 881, 1/23/1973, §1*)

§1-312. Computation of Compensation Due.

The Borough of Carnegie's share of the salary compensation due the Tax Collector shall not exceed \$4,500 and be considerably less than that. The Borough's actual share shall be arrived at, based on the following formula: that proportion of the \$9,000 which the real estate millage rate imposed by the Borough bears to the combined millage rate imposed by the Borough and the Carlynton School District as of January 1 of each year. The Tax Collector shall bill the Borough and the School District accordingly.

(*Ord. 881, 1/23/1973, §2*)

§1-313. Powers and Duties of Tax Collector.

The powers and duties of the elected Tax Collector are those as set forth in the Borough Code, 53 P.S. §45101 *et seq.*, and the School Code, 24 P.S. §1-101 *et seq.*, although the collection of real estate taxes is the primary duty.

(*Ord. 881, 1/23/1973, §3*)

§1-314. Municipal Officers.

The locally elected Tax Collector is hereby appointed as the municipal officer authorized to provide tax certifications and duplicate tax statements upon request by the public.

(*Ord. 2053, 11/13/1995, §1*)

§1-315. Fee.

A fee in an amount as established, from time to time, by resolution of Borough Council, per tax certification and per duplicate tax statement shall be charged to the party requesting the service.

(*Ord. 2053, 11/13/1995, §2; as amended by Ord. 2200, 7/8/2003, §2; and by Ord. 2384, 12/10/2012*)

§1-316. Compensation.

The locally elected tax collector is hereby authorized to assess, collect and retain as compensation the above fees charged for providing tax certifications and duplicate tax statements.

(*Ord. 2053, 11/13/1995, §3*)

Part 4**Appointed Officials****A. Independent Auditor****§1-401. Appointment.**

The Council of the Borough of Carnegie shall appoint an independent auditor, annually, by resolution, before the close of a fiscal year, who shall be a certified public accountant, registered in Pennsylvania, or a firm of certified public accountants registered in Pennsylvania, and shall fix his compensation at that time.

(Ord. 882, 2/13/1973, §2)

§1-402. Powers and Duties.

The independent auditor shall have the power and duty to make an independent examination of the accounting records of the Borough for the fiscal year for which he is appointed, and he shall have the general powers and duties conferred upon him by §1196 of the Borough Code, 53 P.S. §46196.

(Ord. 882, 2/13/1973, §3)

B. Borough Manager**§1-411. Creation of Office.**

The office of Borough Manager is hereby created by the Borough of Carnegie.
(*Ord. 940, 4/11/1978, §1*)

§1-412. Appointment and Removal.

The Manager shall be appointed for a definite term, not to exceed 2 years for any Manager after the first Manager hired by the Borough of Carnegie, by a majority of all members of Council. The Manager shall be required to enter into a binding contractual agreement with the Borough of Carnegie for the performance of duties as Borough Manager. Such agreement shall be called the Manager's Contract. Provisions for the Manager's term in office and for the removal of the Manager shall be specifically outlined in the Manager's Contract.

(*Ord. 940, 4/11/1978, §2*)

§1-413. Qualification.

The Manager shall be chosen solely on the basis of executive and administrative abilities. He/she must be a graduate of an accredited university.

(*Ord. 940, 4/11/1978, §3; as amended by Ord. 1074, 9/10/1991, §1*)

§1-414. Residency.

The Manager need not be a resident of the Borough of Carnegie at the time of his/her appointment. However, if the appointed Manager is a nonresident of the Borough of Carnegie, the Council of the Borough of Carnegie shall direct the Manager to become, and during his tenure remain, a resident of the Borough within a specific time interval. Any such directive of Council be included as a provision in the Manager's contract and failure to become a resident of the Borough within the specified time interval shall be considered as a breach of contract and just cause for the removal of the Manager.

(*Ord. 940, 4/11/1978, §4; as amended by Ord. 1074, 9/10/1991, §2*)

§1-415. Bond.

Before entering upon his duties, the Manager shall give a bond to the Borough with a bonding company as surety, in the amount of 25 percent of the Borough's annual operating budget, the premium for said bond to be paid by the Borough. The Manager shall provide such bond for each year during his tenure.

(*Ord. 940, 4/11/1978, §5*)

§1-416. Manager's Compensation.

The salary of the Borough Manager, once agreed upon by both the Council of the Borough of Carnegie and the Manager, shall be fixed and specifically defined in the Manager's Contract.

(*Ord. 940, 4/11/1978, §6*)

§1-417. Powers and Duties.

1. The Manager shall be the chief administrative officer of the Borough and shall be responsible to the Council as a whole for the proper and efficient administration of the affairs of the Borough placed in his charge. The powers and duties of administration of all Borough business shall be vested in the Manager, unless expressly imposed or conferred by statute or ordinance upon other Borough officers.

2. Subject to recall by ordinance of Council, the powers and duties of the Borough Manager shall include the following:

A. To supervise and to be responsible for the activities of all municipal departments with the exception of the Police Department unless such responsibility is specifically delegated to the Manager by the Mayor as prescribed by the Borough Code, and to conduct weekly staff meetings with all department heads.

B. To supervise and to be responsible for all municipal offices including the office of the Borough Secretary.

C. To supervise, work actively with and to be responsible for all appointed municipal employees including, but not limited to, the Engineer, Solicitor, Building Inspector and Ordinance Officer.

D. To recommend to the Council of the Borough of Carnegie at regular monthly meetings, when necessary for the good of the service, the hiring, suspension and discharge of any employee under his supervision, provided that persons covered by the Civil Service provisions of the Borough Code, 53 P.S. §45101 *et seq.*, shall be hired, suspended or discharged in accordance with such provisions. The Manager may hire or discharge any employee of the Borough only after receiving the express approval of a majority of Council at a regular monthly meeting of Borough Council.

E. To negotiate the contracts of all Borough employees, including employees covered under Civil Service, within a range previously determined by Council.

F. To prepare and submit to Council, before the close of each fiscal year, a budget for the next fiscal year and an explanatory budget message. In preparing the budget, the Manager shall meet with and obtain from the head of each department, agency or board, or any qualified officer thereof, estimates of revenues and expenditures and such other supporting data as is required. The Manager shall review such estimates and may revise them before submitting the budget to the Council.

G. To develop, in conjunction with the preparation of the yearly budget, long-range fiscal plans for the Borough, such plans to be presented annually to the Council for its review and adoption.

H. To be responsible for the administration of the budget after its adoption by the Council.

I. To hold such other municipal office and to head such municipal department as the Council may from time to time direct.

J. To attend all meetings of Council and its committees with the right to take part in the discussions. The Manager shall receive notice of all special meetings of Council and its committees.

K. To prepare the agenda for each meeting of Council and supply facts

pertinent thereto.

L. To keep the Council informed as to the conduct of Borough affairs; to submit periodic reports on the condition of the Borough finances and such other reports as the Council requests; and to make such recommendations to the Council as he deems advisable.

M. To submit to Council, as soon as possible after the close of the fiscal year, a complete report of the finances and the administrative activities of the Borough for the preceding year.

N. To see that the provisions of all franchises, leases, permits and privileges granted by the Borough are observed.

O. To employ, by and with the approval of Council, experts and consultants to perform work and to advise in connection with any of the functions of the Borough.

P. To attend to the letting of contracts in due form of law. The Manager shall supervise the performance and faithful execution of the same except insofar as such duties are expressly imposed by statute upon some other Borough officer.

Q. To see that all money owed the Borough is promptly paid, and that proper proceedings are taken for the security and collection of all the Borough's claim.

R. To serve as purchasing officer of the Borough and to purchase in accordance with the provisions of the Borough Code, 53 P.S. §45101 *et seq.*, all supplies and equipment for the agencies, boards, departments, and other offices of the Borough. The Manager shall keep an account of all purchases and shall, from time to time, make a full written report thereof. He shall also issue rules and regulations, subject to the approval of Council, governing the procurement of all municipal supplies and equipment.

S. To enforce the ordinances and regulations of the Borough, only if such responsibility is delegated to the Manager by the Mayor as prescribed by the Borough Code, 53 P.S. §45101 *et seq.*

T. To oversee insurance and risk management.

U. To actively seek out and solicit funding sources for the Borough including, but not limited to, County, State and Federal government programs.

V. To conduct field work as is necessitated by Borough projects.

(*Ord. 940, 4/11/1978, §7; as amended by Ord. 1074, 9/10/1991, §3*)

§1-418. Mayor's Powers and Duties.

The Mayor is hereby authorized to delegate to the Borough Manager, subject to revocation by written notification at any time, any of his non-legislative and non-judicial powers and duties.

(*Ord. 940, 4/11/1978, §8*)

§1-419. Disability or Absence of the Manager.

If the Manager becomes ill or needs to be absent from the Borough, the President of Council shall perform the duties of the Manager during his absence or disability. The President of Council shall not perform these duties for a period longer than 2 weeks

without approval of the Council.
(*Ord. 940*, 4/11/1978, §10)

Part 5**Boards, Commissions and Committees****A. Planning Commission****§1-501. Planning Commission Established.**

In order to avail itself of the powers conferred by the Act of Assembly, the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, the Borough of Carnegie hereby creates the Department of Borough Planning and establishes a Borough Planning Commission, consisting of seven citizens of the Borough of Carnegie. (*Ord. 666, 2/3/1955, §1; as amended by Ord. 2269, 7/23/2007, §2*)

§1-502. Powers and Duties.

The Borough Planning Commission shall have all the powers and be subject to all of the duties provided by the Acts of Assembly applicable thereto. (*Ord. 666, 2/3/1955, §3*)

B. Shade Tree Commission**§1-511. Commission Created.**

There is hereby created a commission to be known and designated the “Shade Tree Commission of the Borough of Carnegie, Pennsylvania.”

(*Ord. 2376, 7/9/2012, §101*)

§1-512. Membership.

1. Said Commission shall consist of seven members.
2. The constituency of the Commission shall be as follows: three Commissioners shall be owners of businesses within the Borough; three Commissioners shall be Borough residents; one Commissioner shall be a member of Borough Council.
3. Borough Council shall appoint one Borough business owner and one Borough resident to a term of 3 years, one Borough business owner and one Borough resident to a term of 4 years and one Borough business owner and one Borough resident to a term of 5 years commencing July 1, 2011. Upon expiration of any term, a successor shall be appointed, or the member whose term has expired shall be re-appointed, to serve for a term of 5 years. In the event of a vacancy occurring during any term, such vacancy shall be filled by Council for the then remaining portion of the unexpired term.
4. With regard to the Commission seat occupied by a member of Borough Council, the Council member appointed by Council shall be appointed to serve commencing July 1, 2011, with a term to expire December 31, 2011. Council may appoint a Council liaison from its members to a 1-year term at its next annual reorganization meeting and will make subsequent appointments/reappointments at its annual reorganization meeting. In the event the Council member is unable to fulfill his term as Commissioner, Council shall appoint another Council member to fill the vacancy at the first meeting after being informed that the incumbent cannot complete the appointed term. The Council liaison’s responsibilities will include attending meetings to share any Council activities that may be relevant to the Commission and to provide monthly/as needed reports from Commission back to Council at regular workshop or Council meetings.
5. Shade Tree Commission members shall serve without compensation.
6. Three members of the Commission shall constitute a quorum.
7. The commission may reorganize, selecting a chairman or other officers deemed necessary.

(*Ord. 2376, 7/9/2012, §102*)

§1-513. Powers of Commission.

1. The Shade Tree Commission of the Borough of Carnegie shall have custody and control of the shade trees on the public streets and highways, public areas and public parks of the Borough of Carnegie (hereinafter referred to as “shade trees”), and shall have authority, subject to final approval of Borough Council, to plant, remove, maintain and protect such trees.
2. No regulations enacted by the Commission shall be enforced until such a time as the regulation has been approved as an ordinance by Borough Council.
3. The Shade Tree Commission of the Borough of Carnegie shall be responsible

for reviewing plans submitted to the Borough Planning Commission for residential, commercial and industrial developments in order to ascertain the number and size of trees proposed to be removed from building sites and to make recommendations to the Planning Commission and Borough Council concerning the retention of existing trees on said sites and the planting of new trees in areas where trees have been removed.

(*Ord. 2376, 7/9/2012, §103*)

§1-514. Employees of Commission.

The Commission may employ and pay such necessary assistants for the proper performance of the duties devolving upon it shall require, and enforce regulations for the care and protection of shade trees of the Borough.

A. Any employee hired by the Commission under this Section shall be an employee of the Commission and not an employee of the Borough of Carnegie.

(*Ord. 2376, 7/9/2012, §104*)

§1-515. Report of Commission.

The Shade Tree Commission shall annually report in full to the Borough Council its transactions and expenses for the last physical year of the Borough of Carnegie.

(*Ord. 2376, 7/9/2012, §105*)

§1-516. Notices by Commission.

Whenever said Commission purposes to plant, transplant or remove shade trees on any street or highway, notice of the time and place of the meeting at which such work is to be considered shall be given in one newspaper of general circulation in Carnegie once a week for 2 weeks immediately proceeding the time of the meeting. The notice shall specify, in detail, the streets or portions upon which trees are proposed to be so planted, replanted or removed.

(*Ord. 2376, 7/9/2012, §106*)

C. Civil Service Commission**§1-521. Rules and Regulations.**

The Carnegie Borough Civil Service Rules and Regulations,¹ incorporated by reference as if set forth at length, are hereby adopted as recommended by the Carnegie Borough Civil Service Commission.

(*Ord. 2387, 9/8/2013, Art. I*)

¹The Carnegie Borough Civil Service Rules and Regulations are on file in the Borough office.

Part 6**Authorities****A. Chartiers Valley District Flood Control Authority****§1-601. Chartiers Valley District Flood Control Authority.**

It is hereby determined and declared as a matter of public policy that flood control in the Chartiers Valley District is necessary to protect the health, safety and welfare of the Borough of Carnegie and its people and that flood control can best be accomplished by joining with other municipalities in the watershed of Chartiers Creek and its tributaries, and particularly with the City of Pittsburgh and the Boroughs of Bridgeville, Heidelberg, and Rosslyn Farms, and the Townships of Collier, Robinson, Scott, and Upper St. Clair, in the formation of Chartiers Valley District Flood Control Authority under the Municipality Authorities Act of 1945, 53 P.S. §301 *et seq.*, as supplemented and amended.

(*Ord. 752, 10/5/1961, §1*)

§1-602. Purpose.

The Mayor, the President of the Borough Council, and the Borough Secretary are hereby authorized and directed to join with the City of Pittsburgh and the Boroughs and Townships aforesaid in preparing and filing with the Secretary of the Commonwealth of Pennsylvania Articles of Incorporation for the creation of a body politic and corporate in accordance with the Municipality Authorities Act of 1945 as supplemented and amended, said body politic and corporate to be known as “Chartiers Valley District Flood Control Authority” the purpose of which will be to do any or all things necessary to control the flooding of Chartiers Creek and its tributaries, and for this purpose to enjoy and exercise all powers and privileges set forth in the aforesaid Act of the General Assembly known as Municipality Authorities Act of 1945 as supplemented and amended subject however to the limitation as hereinafter provided in §1-603 hereof.

(*Ord. 752, 10/5/1961, §2*)

§1-603. Interpretation.

The enactment of this Part shall in no manner whatsoever commit or be construed by the other participating municipalities or third parties as committing the Borough of Carnegie to finance in whole or in part the proposed Authority or any of the facilities or agreements of the said Authority. Nor shall the participation by officials of the Borough of Carnegie as members of the Board of said Authority in any manner create liability on the part of the Borough of Carnegie for the financing in whole or in part of said Authority, its facilities, agreements, or administrative costs. The Borough of Carnegie reserves the right through its Council to determine at the proper time whether or not it will accept liability for financing in whole or in part of said Authority, its facilities, agreements, or administrative costs.

(*Ord. 752, 10/5/1961, §3*)

§1-604. Articles of Incorporation.

In accordance with the provisions of the Municipality Authorities Act of 1945, as supplemented and amended, the municipal authorities shall cause a notice of this Part to be published, and, together with the municipal authorities of the City of Pittsburgh and the Boroughs and Townships aforesaid, file with the Secretary of the Commonwealth of Pennsylvania Articles of Incorporation in substantially the following form:

Articles of Incorporation

To the Secretary of the
Commonwealth of Pennsylvania:

In compliance with the requirements of the Municipality Authorities Act of 1945, as supplemented and amended, the following municipalities, by their respective ordinances as set forth below, providing for the organization of Chartiers Valley District Flood Control Authority, do hereby apply for Articles of Incorporation for Chartiers Valley District Flood Control Authority:

* * * *

The undersigned officers, being authorized to do so, do hereby certify:

1. The name of the Authority is "Chartiers Valley District Flood Control Authority."
2. The Authority is formed under the provisions of the Municipality Authorities Act of 1945, as supplemented and amended.
3. No Authority has been organized or exists under the Act of the 28th day of June, 1935, P.L. 463 within the City of Pittsburgh, Boroughs of Bridgeville, Carnegie, Heidelberg or Rosslyn Farms nor within the Townships of Collier, Scott or Upper St. Clair. Robinson Township Authority was organized and exists under the aforesaid Act.

The following are Authorities organized under the Municipality Authorities Act of 1945:

- The Municipal Water Authority of Pittsburgh
- The Allegheny County Sanitary Authority (jointly organized by the City of Pittsburgh and the County of Allegheny)
- Collier Township Municipal Authority
- Municipal Authority of the Township of Upper St. Clair

and are in existence in or for one or more of the incorporating municipalities.

4. The names of the incorporating municipalities, all of which are located entirely within the County of Allegheny and Commonwealth of Pennsylvania, together with the names and addresses of their municipal officers, are as follows: . . .
5. The names, addresses and terms of office of the first members of the Board of said Authority are: . . .

IN WITNESS WHEREOF, each of the municipalities set forth below has caused

these Articles of Incorporation to be duly executed in its behalf by its proper officers and its respective seal to be hereunto affixed and attested this ___ day of _____, 1961.
(*Ord. 752, 10/5/1961, §4*)

Part 7**Police Department****A. Established****§1-701. Police Department Established.**

A Police Department is hereby established in and for the Borough of Carnegie. The Chief of Police shall be the chief executive of the Police Department. Under the direction of the Mayor, the Chief of Police shall be in charge of the police force and shall have supervision over its members, in the exercise of their powers, duties and authority. (*Ord. 747, 12/1/1960, §1; as amended by Ord. 904, 8/13/1974, §1*)

§1-702. Classifications.

Subordinate to the Chief of Police, in the Police Department, the following classifications are hereby established: Captain, Sergeant, Patrolman, and Probationary Patrolman. The priority of authority among such subordinate classifications shall be in the order above listed. The number of persons to serve in each of such subordinate classifications, on a full-time and/or part-time basis, and the compensation of each shall be determined by the Council from time to time. (The salary of the position of Sergeant shall be the same as the salary previously established for the position of Lieutenant.) (*Ord. 747, 12/1/1960, §1; as amended by Ord. 904, 8/13/1974, §§1 and 4*)

§1-703. Special Police.

Nothing herein contained shall affect the authority of the Mayor to appoint special policemen. (*Ord. 747, 12/1/1960, §1; as amended by Ord. 904, 8/13/1974, §1*)

Part 8**Fire Protection****A. Fire Bureau****§1-801. Fire Company Recognized.**

The Carnegie Volunteer Fire and Rescue Bureau, hereinafter referred to as the "Bureau," organized and existing under the Laws of the Commonwealth of Pennsylvania and the Borough of Carnegie and its Relief Association, are both hereby designated as the officially recognized "Fire Company" for the Borough of Carnegie, Allegheny County, Pennsylvania.

(Ord. 2385, 3/10/2014, §601)

§1-802. Paid Fire Company.

The paid Fire Company is hereby disestablished. Nothing in this Subpart is intended to alter, change, impact, or affect in any manner any pension earned by any individual in the service of the paid Fire Company of the Borough of Carnegie.

(Ord. 2385, 3/10/2014, §602)

§1-803. Carnegie Volunteer Fire and Rescue Bureau.

1. The Carnegie Volunteer Fire and Rescue Bureau shall govern itself by election of such officers at such times as provided by their own constitution and by-laws.

2. *The Fire Chief.*

A. The Fire Chief shall be the on-scene commander at an emergency situation, which, for the purpose of this Section shall be defined as any fire, flood, hazardous, or emergency incident, event, or condition that occurs within the limits of Carnegie Borough that requires the response of the Carnegie Volunteer Fire and Rescue Bureau. When serving as on-scene commander at an emergency situation, the Fire Chief shall have sole command and control over all officers, firefighters, and persons who may be present at the scene of a fire and/or alarm except that in the event of a disaster or disaster emergency, as defined by 35 Pa.C.S.A. §7102, a declaration of local disaster emergency made pursuant to 35 Pa.C.S.A. §7501, the Fire Chief shall be part of the Incident Command System established following the National Incident Management System.

B. The Fire Chief shall be elected by a vote of the Bureau membership that serves in active firefighting roles in the Carnegie Volunteer Fire and Rescue Bureau.

C. The Fire Chief shall be a resident of Carnegie Borough and an active member in good standing of the Bureau.

D. The Fire Chief shall: (1) have 10 years of active firefighting service with a military, municipal, private, or volunteer fire unit; (2) have at least 5 years of as an active member of the Bureau; (3) be certified as a Firefighter II (under a nationally accredited certification system which is based on NFPA Standard No.

1001); (4) completed not less than 300 hours of documented fire service training approved by the Pennsylvania State Fire Academy or National Fire Protection Agency; and (5) submit to a criminal history background review with results to be in accord with standards established by Act 33/34 of 1985, as amended.

3. *Assistant Fire Chief.*

A. The Bureau shall designate assistant Fire Chiefs to serve in the place of the Fire Chief in the event the Fire Chief is unable or unavailable to perform the duties of Fire Chief provided that any assistant Fire Chief that serves in the stead of the Fire Chief must meet the Chief qualifications and training to serve as Fire Chief.

4. *Fire Department Liaison.*

A. The CVFRB shall appoint from its membership a Fire Department Liaison.

B. The Fire Department Liaison, as a member of the Fire Bureau and appointed by the CVFRB, shall attend meetings of Borough Council and shall be responsible for providing Borough Council with the reports and other information set forth in §1-809.

5. *Borough Emergency Manager.*

A. The Borough Council shall appoint a Borough Emergency Manager as defined and required by Pennsylvania State Law.

B. The Emergency Manager shall be responsible for coordinating the emergency and disaster mitigation, preparedness, response, and recovery efforts of the Borough in the event of a disaster or disaster emergency, as defined by 35 Pa.C.S.A. §7102, a declaration of local disaster emergency made pursuant to 35 Pa.C.S.A. §7501.

C. The Borough Emergency Manager shall be responsible for implementing, reviewing, and updating the Borough's Emergency Operations Plan (EOP), which delineates responsibilities in the event of an emergency or disaster.

D. The Emergency Operations Plan shall be reviewed by the Borough Emergency Manager and the Fire Chief, and approved every 2 years by FEMA, PEMA, Allegheny County Emergency Management, and Borough Council.

E. The Emergency Manager may appoint a deputy to work in conjunction with Allegheny County and Pennsylvania's Emergency Management Agencies. The deputy shall be approved by Borough Council.

F. Both the Emergency Manager and its deputy shall annually file their Pennsylvania State Ethics forms to the State and copy to the Borough.

G. The Emergency Manager shall be a resident of the Borough, having secured training as an Emergency Manager, together with having been certified in NIMS, ICS 100-200-300-700-800, and receives 20 hours of annual Emergency Manager training by the Pennsylvania State Fire Academy or National Fire Academy.

(Ord. 2385, 3/10/2014, §603)

§1-804. Authorized Activities of the Fire Company.

1. The Fire Company, as recognized by Council in §1-801, is hereby authorized

to:

A. Provide such service to the Borough as may be necessary for the protection of persons and property from risks, hazards, incidents, and/or events, which include, but are not limited to, the extinguishment of fires, the prevention of loss of life and property from an emergency, event, or incident (includes fire, automobile accidents, medical emergencies, hazardous material incidents, and other dangerous situations, etc.).

B. Provide non-emergency and public service events or functions, such as, by way of example and not limitation, removing water from property(ies) after storms; assisting in the removal, abatement, and prevention of dangers of damage or injury to persons or property, due to any cause, etc.

C. Conduct and participate in such training activities and drills, either within or outside the Borough, as may be deemed necessary by the Fire Company officers to maintain proficiency in meeting its mission.

D. Respond to calls and provide services to municipalities outside of the Borough upon a mutual aid request or dispatch.

E. Pursue community fundraisers for Fire Company or community purposes.

(*Ord. 2385, 3/10/2014, §604*)

§1-805. Authorized Activities of Members of the Fire Company.

1. In addition to actually participating in the activities of the Fire Company as authorized above, or in going to or returning from any activity authorized above, the members of the Bureau recognized by the Borough are also authorized to do the following:

A. Engage in any type of drills, trainings, ceremonies, practice, member tests, parades, professional fire service meetings, or when duly called for or authorized by an officer of the Bureau.

B. Engage in fundraising activities for the Fire Company, when authorized by an officer of the Bureau.

C. Engage in the performance of any other duty or activity authorized by an officer of the Bureau.

2. The purpose of this Section is to define the authorized duties of the firefighters for the workers' compensation coverage.

(*Ord. 2385, 3/10/2014, §605*)

§1-806. Members and Officers Recorded.

1. The names of all members and all officers of the Fire Company in the Borough of Carnegie shall be transmitted, in writing, to the Secretary of the Borough of Carnegie, and Secretary of the Borough of Carnegie shall receive the names, addresses, and birth dates of all new members and newly elected officials of the Fire Company when changes are made.

A. This request for annual membership list (to be provided by each January 1) and new member information as each is inducted is required to be presented to the Borough in writing for them as soon as possible to be covered by the Borough

insurances, including workers' compensation.

(Ord. 2385, 3/10/2014, §606)

§1-807. Oath of Officers.

Before assuming office, the Borough Emergency Manager, the Fire Chief, all officers of the Bureau, and all members of the Bureau shall take an oath, administered by the Mayor or magisterial district judge at a regular or special meeting of Council, to faithfully perform the duties of their respective offices.

(Ord. 2385, 3/10/2014, §607)

§1-808. Disciplinary Action.

Failure to carry out the orders of officers shall subject firefighters to discipline as may be prescribed by the constitution and by-laws of the Bureau.

(Ord. 2385, 3/10/2014, §608)

§1-809. Reporting to Borough Council; Budgeting.

1. The Fire Department Liaison shall meet with Borough Council on a monthly basis for the purpose of providing response data and updates of the Fire Company services to the Borough.

2. The Fire Department Liaison shall report on all Fire Company response activities to Council on a monthly basis. Such report shall be either made in person at the monthly Borough Council meeting or submitted in writing.

3. The Fire Department Liaison, Fire Chief and President of the Bureau shall, in October of any calendar year, provide Council a report on the operational status and operational needs of the Carnegie Volunteer Fire and Rescue Bureau for the purpose of Council preparing its budget for the following year. The budget shall include a budget proposal for the next following budget year and a 3- to 5-year projection of anticipated budgets.

4. The Bureau shall keep account of all Borough monies provided by the Borough (including, but not limited to, equipment and vehicle costs or acquisitions, etc.). The Bureau and shall submit a report to Council on a quarterly basis.

5. The Bureau shall submit to an annual comprehensive financial audit of subsection .4 items performed by an independent auditor selected by mutual agreement with Council, the cost of which shall be paid by the Borough. The auditor shall provide a copy of the annual audit report to the Bureau and Council.

6. The Bureau shall provide the Borough Manager with Certificates of Insurance for any and all policies of insurance under which the Fire Company shall be covered. The Fire Company shall immediately notify the Borough Manager of any cancellation or change to any policy of insurance under which the Bureau is covered.

(Ord. 2385, 3/10/2014, §609)

§1-810. Funding.

1. Carnegie Borough Council shall establish a funding amount that the Borough will provide to the Bureau in the Borough's annual budget.

2. Funds provided to the Bureau by the Borough from the Borough's annual budget shall be documented and shall be used for the following:

A. Response for the extinguishment of fires; for the prevention or response to potential or actual risks/hazards of loss of life and property from any cause; response as emergency medical responders; assistance at the scene of automobile accidents, medical emergencies, hazardous materials incidents, natural or man-made phenomena, and other dangerous situations.

B. Any and all public safety activities, emergencies, incidents, or events undertaken by the responding members of the Carnegie Volunteer Fire and Rescue Bureau to render care to the injured, prevent risk of loss of life, provide comfort and security to victims, and limit or prevent damage to or loss of property as circumstances may indicate.

C. Removing water, debris, or trees from any property after storms.

D. Assisting in the abatement, prevention, or mitigation of actual or likely damage(s) or injury(ies) to persons or property due to any cause.

E. Mortgage payments or loan payments for fire service facility or Fire Company vehicles.

F. Recovery of animals.

G. Fire prevention activities, post-fire investigations, bomb searches and evacuation drills.

H. Assisting police or road crews by rendering assistance where such aid is specifically requested or done without request to protect the general Borough public welfare from imminent risks, hazards, or danger.

I. Maintenance and repair work performed on a Carnegie Volunteer Fire and Rescue Bureau vehicle, building, grounds, or equipment.

J. Participation in drills, practices, professional fire service organizations, training sessions, and pre-fire planning activities as may be deemed necessary by the Officers of the Carnegie Volunteer Fire and Rescue Bureau to maintain proficiency in required services.

K. Preparation of the Carnegie Volunteer Fire and Rescue Bureau for use as a temporary shelter, community activities, or other emergency use.

L. The purchase of any reasonable and necessary items or contracted services:

(1) Protective equipment.

(2) General supplies.

(3) Office supplies.

(4) Janitorial supplies.

(5) Fire prevention supplies.

(6) Training materials and fire/rescue classes and certifications (including related reasonable expenses actually incurred).

(7) Publications related to firefighting and emergency services.

(8) Printing and postage.

- (9) Radios, communication systems, and maintenance.
- (10) Uniforms.
- (11) Vehicle repairs, maintenance and/or inspection.
- (12) Equipment repairs, maintenance, and/or inspection.
- (13) Building maintenance and repair (interior).
- (14) Vehicle tires and their repairs/maintenance.
- (15) Fire or rescue service professional.
- (16) Dues and memberships.
- (17) Fire services meetings and conferences.
- (18) Minor equipment purchase.
- (19) Major equipment purchase.
- (20) Various fire and rescue equipment and training needs.
- (21) Fire service related physicals and wellness programs.
- (22) Fire service recruitment and retention programs.
- (23) Grant writing.

Any other activity specifically authorized by Borough Council.

(Ord. 2385, 3/10/2014, §610)

§1-811. Performance Requirements.

1. The Fire Company shall meet, and document compliance with minimum recommended training requirements, including the following requirements that:

A. Fire Suppression Rated Firefighters.

(1) All recruit suppression personnel shall attend the Pennsylvania State Fire Academy, Essentials of Firefighting, Modules 1, 2, 3, and 4 and obtain Firefighter I certification within 2 years of joining the Department.

(2) All suppression personnel shall participate in a minimum of 24 hours of structural fire training annually.

(3) All Fire Officers shall participate in a minimum of 12 hours of Fire Officer training annually.

(4) All drivers of fire apparatus participate in a minimum of 14 hours of driver/operator training annually.

(5) All members shall participate in hazardous materials operations level refresher training annually.

(6) All new drivers of fire apparatus shall attend a state certified Emergency Vehicle Operator Course (EVOC) and receive a minimum of 30 hours of supervised driver/operator training prior to driving fire apparatus in an “emergency mode.”

(7) Basic first aid, CPR, and use of AED training as required.

B. Non-interior Suppression Firefighter Rated.

(1) All new, non-hot zone firefighters shall attend the Pennsylvania State Fire Academy, Essentials of Firefighting, Modules 1, 2, and 3, Courses where

offered.

2. Annually, the Fire Department shall provide for third-party testing and inspection, and maintain documentation of fire apparatus and equipment. They include the following:

A. Fire hose and appliances in accordance with NFPA 1962: *Standard for the Care, Use, Inspection, Service Testing, and Replacement of Fire Hose, Couplings, Nozzles, and Fire Hose Appliances.*

B. Apparatus fire pumps in accordance with NFPA 1911: *Standard for Service Tests of Fire Pump Systems on Fire Apparatus.*

C. Aerial devices in accordance with NFPA 1914: *Standard for Testing Fire Department Aerial Devices.*

D. Ground ladders in accordance with NFPA 1932: *Standard on Use, Maintenance, and service testing of in-service fire department ground ladders.*

E. Motor vehicle safety inspections in accordance with the provisions of §175.91 as amended under the Pennsylvania Vehicle Code, 75 Pa.C.S.

3. Annually the Fire Department shall provide to the Borough a report of Fire Department activities. The report shall include, at a minimum:

A. An incident summary including the number and types of emergencies.

B. A summary of the average number of personnel responding to incidents.

C. Response times including average turnout, average travel, and average total response time.

D. A summary of training hours by member(s).

E. A summary of other fire prevention and public education activities.

F. Copy of annual NFIRS report.

G. Accounting of all expenditures paid for with funds provided by the Borough.

4. Annually provide the Borough with a report of all required Borough fire service deficiencies or needs that require the Borough's specific attention and diligence. The Borough agrees to provide specific details and needed actions or funding to attend to each such item as per Title 53 P.S. §46202(56).

(Ord. 2385, 3/10/2014, §611)

B. Firefighters' Relief**§1-821. Association Recognized.**

The Carnegie Firemen's Relief Association of Carnegie, Pennsylvania, be and it is hereby officially recognized by the Borough Council of the Borough of Carnegie as an organization formed for the purpose of maintaining an association for beneficial and protective purposes, to its members and their families in case of death, sickness, temporary or permanent disability or accident, from the funds collected therein.

(Ord. 502, 4/2/1931, §1)

§1-822. Foreign Fire Insurance Tax Funds.

The aforesaid Carnegie Firemen's Relief Association of Carnegie be and it is hereby designated by the Borough Council of the Borough of Carnegie as the proper association to receive such funds as are due and payable to the Borough Treasury by the Treasurer of the state of Pennsylvania, from the 2 percent tax on premiums from foreign fire insurance companies.

(Ord. 502, 4/2/1931, §2)

§1-823. Annual Appropriations.

There is hereby annually appropriated from the Borough Treasury all such sum or sums of money that may hereafter be paid into the aforesaid Borough Treasury by the Treasurer of the state of Pennsylvania, on account of taxes paid on premiums by foreign fire insurance companies in pursuance to an Act of Assembly in such case made and provided.

(Ord. 502, 4/2/1931, §3)

Part 9**Employee Residency Requirement****§1-901. Residency Required.**

All employees, as a condition precedent of employment in the Borough of Carnegie, including policemen and firemen, hired subsequent to the passing of this Part, must be a resident of the Borough of Carnegie unless specifically exempted, according to this Part.

(*Ord. 922, 12/14/1976, §1*)

§1-902. Proof Required.

No new employee, including any probationary policemen or firemen or appointed policemen or firemen, may begin work for the Borough of Carnegie until he or she shall become a resident of the Borough of Carnegie, and shall execute a statement under oath, on a form supplied by the Borough Secretary, certifying as to such residency, and that he or she will remain a resident as long as gainfully employed within the Borough.

(*Ord. 922, 12/14/1976, §2; as amended by Ord. 973, 4/14/1981*)

§1-903. Police and Firemen.

The requirements for Borough new police and fire employees, as set forth in this Part are in addition to any and all requirements as set forth by any Act of Assembly of the Commonwealth of Pennsylvania. This Part is authorized by the Borough Code, 53 P.S. §46185, as amended, in regard to policemen and firemen.

(*Ord. 922, 12/14/1976, §3*)

§1-904. Civil Service Commission to Require Compliance.

The Carnegie Civil Service Commission is authorized and directed to require new policemen, firemen or any employee under the Commission's jurisdiction to meet the residency requirement prior to employment in such positions as defined in this Part, and the Commission shall notify each applicant of that requirement at the time such applicant makes an application for employment.

(*Ord. 922, 12/14/1976, §4*)

§1-905. Exemptions.

Exempted from this Part shall be any person or persons hired to operate and maintain the communications system for the Borough of Carnegie and its surrounding municipalities. Any such employee hired shall be jointly employed by all said municipalities and his employment requirements shall be determined by the communities participating in the communications system.

(*Ord. 922, 12/14/1976, §5*)

Part 10**Fire Insurance Proceeds Escrow****§1-1001. Use of Fire Insurance Proceeds.**

1. No insurance company, association or exchange (hereinafter “insurer”) doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Borough Treasurer with a certificate pursuant to 508(b) of the Insurance Company Law of 1921, as amended by Act 98 of 1992 and Act 93 of 1994 (collectively, the “Act”) and unless there is compliance with the procedures set forth in 508(c) and (d) of the Act.

2. Where there are delinquent taxes, assessments, penalties or user charges against the property (“municipal claims”), or there are expenses which the Borough has incurred as a cost for the removal, repair or securing of a building or other structure on the property (collectively “municipal expenses”), the Borough Secretary of the Borough shall immediately render a bill for such work, if he has not already done so. Upon written request of the named insured specifying the tax description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Treasurer shall furnish a certificate within 14 working days after the request, to the insurer, a certificate (or at his discretion an oral notice confirmed in writing) either:

A. Stating that there are no unpaid municipal claims or municipal expenses against the property.

B. Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

C. Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed for such claims under applicable law. Upon receipt of a certificate and bill pursuant to subsection .1 of this Section, the insurer shall transfer to the Treasurer an amount from the insurance proceeds sufficient to pay such sums prior to making payment to the named insured, subject to the provisions of subsection .3 hereof.

3. When all municipal claims and municipal expenses have been paid pursuant to subsection .2 of this Section, or where the Treasurer has issued a certificate described in subsection .2.A indicating that there are no municipal claims or municipal expenses against the property, the insurer shall pay the claim of the named insured; provided, however, that if the loss agreed upon by the named insured and the insurer equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:

A. The insurer shall transfer from the insurance proceeds to the Treasurer, in the aggregate, \$2,000 for each \$15,000 of such claim or fraction thereof.

B. If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Borough, a contractor’s signed estimate of the cost of removing, repairing or securing the building or other structure in an

amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer to the Treasurer from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro rata basis by all insurers insuring the building or other structure.

C. Upon receipt of the above described portion of the insurance proceeds, the Treasurer shall do the following:

(1) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Borough to be required in removing, repairing or securing the building or structure as required by this Part. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair or securing or any proceedings related thereto.

(2) Mail to the named insured, at the address received from the insurer, a notice the proceeds have been received by the Borough and that the procedures under this subsection shall be followed.

(3) After the transfer, the named insured may submit to the Borough a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Treasurer shall, if such estimate is deemed by the Treasurer to be reasonable, return to the insured the amount of the funds transferred to the Borough in excess of that required to pay the municipal expenses; provided, the Borough has not commenced to remove, repair or secure the building or other structure, in which case the Borough will complete the work.

(4) Pay to the Borough Secretary, for reimbursement to the Borough general fund, the amount of the municipal expenses paid by the Borough.

(5) Pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the Borough Secretary that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable codes and regulations of the Borough.

(6) Nothing in this Section shall be construed to limit the ability of the Borough to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this Part, or to insurance proceeds, by an action at law or in equity to enforce the codes of the Borough or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Borough may deem responsible.

(Ord. 2384, 12/10/2012)

§1-1002. Limits of Liability.

Nothing in this Part shall be construed to make an insurance company, association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this Part or to make this Borough, any Borough official, a municipality or public official an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this Part.

(*Ord. 2384, 12/10/2012*)

§1-1003. Insurance Company Rights Reserved.

An insurance company, association or exchange making payment of policy proceeds under this Part for delinquent taxes or structure removal liens or removal expenses incurred by the Borough shall have a full benefit of such payment including all rights of subrogation and of assignment.

(*Ord. 2384, 12/10/2012*)

§1-1004. Construction.

This Part shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.

(*Ord. 2384, 12/10/2012*)

§1-1005. Notification of Pennsylvania Department of Community and Economic Development.

The Secretary of the Borough shall transmit a certified copy of this Part promptly to the Pennsylvania Department of Community and Economic Development.

(*Ord. 2384, 12/10/2012*)

§1-1006. Penalty.

Any person, firm or corporation, any owner of property, any named insured or insurer who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 2384, 12/10/2012*)

Part 11**Imposition and Collection of Attorney's Fees****§1-1101. Short Title.**

This Part shall be known as the "Tax, Tax Claim, Tax Lien, Municipal Claim and Municipal Lien Attorney Fees and Servicing Charges, Expenses and Fees Ordinance." (Ord. 2226, 2/14/2005, Art. I)

§1-1102. Expenses Approved.

1. *Title Search.* In any enforcement proceeding, the actual cost of a title search in an amount not to exceed \$250 shall constitute a reasonable expense for each title search necessary for the initiation of each proceeding and compliance with Pa. R.C.P. 3129. The sum not to exceed \$50 shall constitute a reasonable expense for each bringdown or update of the title search in connection with entry of judgment, issuance of execution, listing for sale, or other action.

2. Actual out-of-pocket expenses in connection with any enforcement action, such as for postage, non-Sheriffs service of process, investigation of the whereabouts of interested parties and other necessary expenses shall constitute reimbursable expenses as part of each Claim recovered.

(Ord. 2226, 2/14/2005, Art. II)

§1-1103. Attorney Fees Approved.

1. *Flat Fee Matters.* The following schedule of attorney fees is hereby adopted and approved as reasonable attorney fees pursuant to Act 1 and Act 20 for all matters described, which fees shall be awarded to the Borough, its agents, counsel or assigns in each action initiated pursuant to the Act for the collection of unpaid claims. The property owner's obligation to pay the full amount of the flat fee for each phase of each action shall accrue upon the initiation of any aspect of each phase. The full amount of each flat fee for each prior phase of the proceeding shall carry over and be due on a cumulative basis together with the flat fee for each subsequent phase.

A. *Filing or Municipal Claim.* The sum of \$150 shall constitute reasonable attorney fees for the preparation and filing of a municipal claim as defined under the Act.

B. *Title Search.* The actual cost of a title search in an amount not to exceed \$250 shall constitute a reasonable expense for the title search necessary for the initiation of each proceeding and compliance with Pa.R.C.P. 3129. The sum not to exceed \$40 shall constitute a reasonable expense for each bringdown or update of the title search.

C. *Preparation and Service of Writ of Scire Facias or Complaint in Assumpsit as Provided in the Act.* The sum of \$450 shall constitute reasonable attorney fees for the initiation of each proceeding and shall include preparation and filing of the Praeipe for Writ of Scire Facias or Complaint in Civil Action, Sheriff's direction for service, Notice pursuant to Pa. R.C.P. §237.1 and the preparation and filing of the

Praeipce to Settle and Discontinue the proceeding. The above does not include:

(1) *Federal Tax Liens, Judgments and Mortgages*. Where there are Federal tax liens, Federal judgments, Federal mortgages or other record Federal interests, the sum of \$200 shall constitute reasonable attorney fees for all matters necessary to properly notify and serve the United States with all required additional notice and the presentation of related motions to Court.

(2) *Alternative Service of Legal Pleadings*. In the event that a Special Order of Court is necessary to serve original process or any other pleading, notice, court order or other document, the following amounts shall constitute reasonable attorney fees as follows:

(a) Investigation of defendant(s) whereabouts and preparation of Affidavit of Diligent Search—\$100.

(b) Preparation and Presentation of Motion for Alternative Service, and delivery of the Order of Court, along with appropriate directions to the Sheriff for service—\$200.

D. *Entry of Judgment*. The sum of \$225 shall constitute reasonable attorney fees in connection with entry of judgment which shall include preparation and filing of the Praeipce to Enter Judgment, Notices of Judgment, Affidavit of Non-Military Status, and the Praeipce to Satisfy Judgment.

E. *Writ of Execution; Sheriff's Sale of Property or Execution upon Assumpsit Judgment*. The sum of \$700 shall constitute reasonable attorney fees for preparation of all documents necessary for each execution upon any judgment pursuant to the Act. This sum shall include the preparation and filing of the Praeipce for Writ of Execution, all Sheriff's documents, preparation and service of Notices of Sheriffs Sale, staying the writ of execution, and attendance at one Sheriff's Sale.

(1) *Postponements*. The sum of \$100 shall constitute reasonable attorney fees for each continuance of Sheriff Sale at the request of the defendant.

F. *Sale Pursuant to §31 of the Act, 53 P.S. §7281*. The sum of \$700 shall constitute reasonable attorney fees for the sale of property pursuant to §31 of the Act, 53 P.S. §7281, including preparation and service of necessary documents, court appearances, attendance at sale and preparation of proposed schedule of distribution of the proceeds realized from such sale.

G. *Sale Pursuant to §31.1 of the Act, 53 P.S. §7282*. The sum of \$500 shall constitute reasonable attorney fees for a sale of property pursuant to §31.1 of the Act, 53 P.S. §7282, including the preparation of necessary documents, service, court appearances, and the preparation of proposed Sheriffs Schedule of Distribution.

H. *Installment Payment Agreement*. The sum of \$150 shall constitute reasonable attorney fees for the preparation of each written installment payment agreement.

I. *Motions*. The sum of \$200 shall constitute reasonable attorney fees for the preparation, filing, and presentation of motions, other than for alternative service, which shall include, but are not limited to, motions to reassess damages, motions to amend caption, motions to continue the Sheriffs Sale.

2. *Hourly Rate Matters*. The following schedule of attorney fees is hereby adopted

and approved as reasonable attorney fees pursuant to Act 1 and Act 20, which fees shall be awarded to the Borough, its agents, counsel or assigns as compensation in all contested matters, and in all other matters not specifically referenced in subsection .1, above, undertaken in connection with the collection of claims:

A. Senior Attorneys (practicing law for 10 years or more)–\$185 per hour.

B. Junior Attorneys (practicing law for less than 10 years)–\$160 per hour.

C. Paralegals–\$100 per hour.

D. Law Clerks–\$65 per hour each as recorded and charged in units of $\frac{1}{10}$ th of an hour for all time devoted to enforcement and collection of the Borough's claims. Counsel, whether duly employed or duly appointed by the Borough, its agents or assigns, shall not deviate from this fee schedule absent a subsequent ordinance amending the same. Hourly rate matters include, but are not limited to, any matters where any defense, objection, motion, petition or appearance is entered in any phase of any proceeding by or on behalf of any defendant or other interested party.

(Ord. 2226, 2/14/2005, Art. III)

§1-1104. Procedure.

1. *Required Notice.* The Notice required by the Act, as amended, 53 P.S. §7106, shall be provided in accordance therewith and shall be incorporated into an appropriate delinquency notice or notices sent by the Borough, its agent, counsel or assigns.

2. *Fees to Be Accrued and Claims to Be Filed.* Fees shall accrue for all efforts in collection after the 30th day after the Notice, or after the 10th day of any required second notice under the Act, as amended, 53 P.S. §7106, on all accounts referred to counsel for enforcement. Fees accumulated as a result of enforced collection shall be certified by duly appointed counsel for the Borough authorized to pursue collection of claims pursuant to the Act, or by counsel for the Borough's agents or assigns and, if not collected in due course with the debt as by voluntary payment, shall be included in any claims filed on behalf of the Borough or by its agents or assigns in the course of enforcement including any claims originally filed with the Prothonotary, any claims filed with the Sheriff or in any other claims filed or statements provided where attorney fees are due.

3. The amount of fees determined as set forth above shall be added to and become part of the claim or claims in each proceeding as provided by the Act and as provided herein.

(Ord. 2226, 2/14/2005, Art. IV)

§1-1105. Servicing Charges, Expenses and Fees Approved.

1. The following schedule of charges, expenses and fees (hereinafter collectively referred to as "servicing fees") is hereby approved and adopted by the Borough pursuant to §1, §2, and §3 of the Act of May 16, 1923, as amended, 53 P.S. §§7101, 7103 and 7106, which amounts are the direct result of each person's or property's failure to pay claims promptly. The servicing fees established, assessed, and collected hereunder shall be in addition to the record costs, §1-1203, Attorney fees and §1-1202. Expenses associated with legal proceedings initiated by or on behalf of the Borough to collect its claims.

2. Servicing of a claim or claims may result in voluntary payment without the initiation of enforcement proceedings. It is the intent of this Section to pass the cost of servicing on to the delinquent person or property as part of each claim. The recovery of servicing fees established herein shall not be contingent upon the initiation of enforcement proceedings. However, such servicing fees are due even where enforcement proceedings are initiated. The purpose of this Section is to pass the cost and expense associated with delinquent collection on to the delinquent person or property and to make the Borough whole on all Claims collected.

3. *Schedule.* The following schedule of fees shall constitute reasonable and appropriate servicing fees for each indicated service. The servicing fees shall be added to and become part of the Borough's claims, together with the face, penalties, interest, costs and attorney fees and shall be payable in full before the discharge or satisfaction of any claim. The schedule of fees is separate and distinct from any amounts imposed by the Sheriff, Prothonotary, Court or any other public office in connection with the collection of the Borough's claims.

- A. Assignments—\$5 per claim.
- B. Filing tax liens—\$5 per item.
- C. Satisfactions—\$5 per claim.
- D. Tax claim revivals (i.e., S&A)—\$10 per claim.
- E. Municipal claim revivals—\$15 per claim.
- F. Municipal claim/short title examination—\$35 per claim.
- G. Docket service fees—\$1.75 per item.
- H. Sheriff sale claim certificates—\$50 per case.
- I. Claim certifications—\$10 per year.
- J. Postage—actual cost.
- K. Servicing including staffing, computers, office space, telephones, equipment, and materials—5 percent of gross collections \$100.01 and over 10 percent of gross collections \$100 and under.

(Ord. 2226, 2/14/2005, Art. V)

§1-1106. Effective Date and Retroactivity.

1. This Part shall take effect on the date of enactment set forth below and with respect to attorney fees pursuant to §§1-1203 and 1-1204 shall apply to all taxes, tax claims, tax liens, municipal claims, municipal liens, writs of scire facias, judgments, or executions filed on or after December 19, 1990, or as otherwise provided by law.

2. In no event shall the Borough's right to charge and collect reasonable attorney fees pursuant to §1-1203 of this Part be impaired by the fact that any claim may also include an attorney commission of 5 percent for claims filed prior to December 19, 1990. Any attorney fees assessed and collected under this or any prior ordinances pursuant to Act 1 shall be in addition to any 5 percent commission previously included in any claim or judgment thereon.

3. Attorney fees and expenses incurred in pending enforcement proceedings prior to the effective date of this Part, pursuant to a prior ordinances adopted under Act 1, but not collected, shall remain due and owing in accordance therewith, and shall be

incorporated in any future statement, claim, pleading, judgment, or execution. Attorney fees and expenses in any pending or new action incurred after the effective date of this Part shall be incurred, charged, and collected in accordance with the schedules and procedures set forth in this Part.

4. The charges, expenses and fees set forth in §1-1205 of this Part relate to all unpaid claims in favor of the Borough, its agents and assigns, and shall be retroactive to the date of each claim.

(Ord. 2226, 2/14/2005, Art. VI)

§1-1107. Assignment.

The Borough assigns the provisions of this Part to any assignee of its claims unless the assignment limits the assignee's ability to collect such amounts. The Borough and its duly authorized agents and their counsel shall retain all rights to charge reasonable attorney fees, charges, expenses, and fees in accordance with the provisions of this Part in actions commenced under the Act and for servicing any claims retained by the Borough.

(Ord. 2226, 2/14/2005, Art. VII)

