

CHAPTER 1

ADMINISTRATION AND GOVERNMENT

PART 1

ADMINISTRATIVE CODE

A. Short Title and Definitions.

- §101. Short Title
- §102. Definitions

B. Council Organization and Procedure.

- §105. General
- §106. Organization
- §107. Meetings
- §108. Council Meeting Agenda
- §109. Quorum
- §110. Rules of Procedure
- §111. Committees of Council
- §112. Official Actions of Council
- §113. Ordinance Form and Procedure
- §111. Ordinances Requiring Prior Public Notice
- §115. Emergency Ordinances
- §116. Codes of Technical Regulation
- §117. Recording of Ordinances and Resolutions
- §118. Other Powers of Borough Council
- §119. Duties of Borough Council
- §120. Limitations on Power of Council and Members
- §121. Audit

C. Mayor.

- §125. Powers and Duties

D. Borough Manager.

- §131. Appointment, Qualifications and Compensation
- §132. Powers and Duties of the Borough Manager
- §133. Acting Borough Manager
- §134. Departmental Organization

E. Borough Solicitor.

- §135. Appointment, Qualifications and Compensation
- §136. Removal
- §137. Delegation of Authority

§138. Powers and Duties of the Borough Solicitor

§139. Access to Records

F. Borough Engineer.

§141. Appointment, Qualification and Compensation

§142. Removal

G. Authorities.

§145. Continuation of Authorities

H. Personnel.

§151. General Provisions

§152. Discrimination Prohibited

§153. No Partisan Politics

§154. Personnel System Based Upon Merit - Nonuniform

§154.1. Leave Benefits for all Full Time Employees

§154.2. Insurance and Other Fringe Benefits for All Full-time Employees

§154.3. Employment Policies for All Full-time and Part-time Employees

I. Police Department.

§155. Purpose

§156. Appointment, Removal, Promotion, Suspension and Reduction in Rank

§157. Powers and Authority

§158. Other Provisions of the Police Department

§159. Rules and Regulations

§159.1. Leave, Insurance, Other Fringe Benefits and Policies

§159.2. Part-time Patrol Officers

J. Budget and Fiscal Matters.

§161. Fiscal Year

§162. Submission of Budget and Budget Message

§163. Budget

§164. Public Record

§165. Adoption

§166. Modification of Budget

§167. Other Provisions of Budget and Fiscal Matters

K. Taxation and Finance.

§171. Annual Taxes

§172. Special Levies

§173. Tax Enabling Act and Subsequent Legislation

L. Contracts.

- §175. Requirements
- §176. Competitive Bids
- §177. Bidding and Purchasing Procedure

M. Recall.

- §181. Officers Subject to Recall
- §182. Recall Procedure
- §183. Notice to Incumbent, Recall Elections, Disqualification from Office and Limitations

N. Initiative and Referendum.

- §185. Initiative and Referendum Procedures

O. Transition and Continuation.

- §191. Control
- §192. Transition and Continuation

P. General Provisions.

- §195. Ordinances in Conflict
- §196. Severability
- §197. Effective Date

PART 2

PENSION PLANS

A. Nonuniformed Municipal Employee Pension Plan.

- §201. Election to Enroll in the Pennsylvania Municipal Retirement System
- §202. Membership
- §203. Credit for Prior Service
- §204. Payment for Any Obligation Established
- §205. Agreement
- §206. Authorization
- §207. Copy Filed with the Pennsylvania Municipal Retirement System

B. Police Pension Plan.

- §221. Plan Adopted
- §222. Annual Report
- §223. Contributions
- §224. Calculation of the Defined Contribution
- §225. Retirement Benefit
- §226. Retirement Eligibility
- §227. Disabled Retirement
- §228. Vesting

- §229. Range of Retirement Options
- §230. Semiannual Reports
- §231. Ownership of the Fund

PART 3

AUTHORITIES

A. Municipal Authority of Portage Borough.

- §301. Intention to Organize Authority
- §302. Name of Authority
- §303. Articles of Incorporation
- §304. Purpose

B. Portage Area Sewer Authority.

- §311. Intention to Organize Authority
- §312. Articles of Incorporation
- §313. Notice of Intention to File

PART 4

FIRE DEPARTMENT

A. Volunteer Firemen's Relief Association.

- §401. Recognition of Volunteer Firemen's Relief Association
- §402. Certification to Auditor General
- §403. Annual Appropriation

B. Authorization of Services of Portage Volunteer Fire Company.

- §411. Fire Company Recognized
- §412. Authorized Activities of the Fire Company
- §413. Authorized Activities of Members of the Fire Company
- §414. Purpose

C. Establishment and Collection of Reasonable Fees

- §421. Reimbursement for Automobile Accident Services
- §422. Billing
- §423. Nonpayment
- §424. Fee to be Set by Fire Company and Approved by Council
- §425. Borough Reserves Right to Amend, Repeal or Revoke

PART 5

BOARDS, AGENCIES AND COMMISSIONS

A. Planning Commission.

- §501. Creation of Commission
- §502. Membership of Commission
- §503. Rules and Regulations
- §504. Powers and Duties
- §505. Approval of Plans, Plots and Replots
- §506. Recommendations
- §507. Removal of Member
- §508. Appointment of Members

B. [Reserved]

C. Recreation Commission.

- §521. Establishment of the Portage Area Joint Recreation Commission
- §522. Joint Recreation Commission Agreement

PART 6

FIRE INSURANCE PROCEEDS

- §601. Use of Fire Insurance Proceeds
- §602. Limits of Liability
- §603. Insurance Company Rights Reserved
- §604. Construction
- §605. Notification of Pennsylvania Department of Community and Economic Development
- §606. Penalty

PART 1

ADMINISTRATIVE CODE

A. Short Title and Definitions.

§101. SHORT TITLE.

This Part shall be known and cited as the "Administrative Code for the Borough of Portage."

(Ord. 3-1996, 6/3/1996, §101)

§102. DEFINITIONS.

1. The following words, when used in this Part shall, unless the context clearly indicates otherwise, mean or indicate the following:

ADMINISTRATIVE MANUAL - the document that includes the rules and regulations of the Borough government.

ADMINISTRATIVE SERVICE - all personnel employed by the Borough of Portage and who are under the direction of the Borough Manager.

ARTICLE, SECTION, PARAGRAPH - unless the context clearly indicates otherwise, the written format of the Home Rule Charter and shall be contained in parentheses for reference.

BOROUGH - the home rule municipality of the Borough of Portage in Cambria County, Pennsylvania.

BOROUGH MANAGER or MANAGER - the chief executive officer of the Borough of Portage.

BOROUGH SOLICITOR - the chief attorney and legal advisor of the Borough of Portage.

CHARTER - the Home Rule Charter adopted by the voters of the home rule municipality of the Borough of Portage, Pennsylvania.

COUNCIL - the Borough Council of the Borough of Portage, Pennsylvania.

ELECTOR - any person within the Borough of Portage who has legally registered to vote.

GENDER - words are intended to apply to both genders.

ADMINISTRATION AND GOVERNMENT

INITIATIVE - has the same meaning as outlined in the Home Rule Charter of the Borough of Portage, Article XVIII, §1801, ¶1 (adopted, May 10, 1994).

LAW - all applicable laws of the United States of America and of the Commonwealth of Pennsylvania.

OPTIONAL PLANS LAW - the Home Rule Charter and Optional Plans Law of 1972 (Act 62).

ORDINANCE - all laws enacted by the Council of the Borough of Portage.

PERSON - anybody, partnership, association or corporation.

PUBLISH - to have printed in a newspaper of general circulation in the Borough, either in entirety or in part, in which case notice must be given of locations where the full text is available for public inspection.

REFERENDUM - has the same meaning as outlined in the Home Rule Charter of the Borough of Portage, Article XVII, §1801, ¶2 (adopted, May 10, 1994).

RESIDENCE - a domicile in which an officer or employee resides.

UNITS - all governmental entities of the Borough of Portage.

VOTER - any person who votes.

2. In this Part, the singular shall include the plural and the plural shall include the singular.

(Ord. 3-1996, 6/3/1996, §102)

B. Council Organization and Procedure.

§105. GENERAL.

The number of Council members, Mayor, their terms, election, qualifications, salary, prohibitions, vacancies and the filling of vacancies shall be as provided in the Charter (Article III, §§301-305, inclusive, and §308).

(Ord. 3-1996, 6/3/1996, §201)

§106. ORGANIZATION.

The Borough Council of Portage shall organize in accord with and as outlined in the Charter (Article III, §306).

(Ord. 3-1996, 6/3/1996, §202)

§107. MEETINGS.

Provisions governing public notice of meetings shall be provided by the "Sunshine Act," P.L. 388, No. 84 of 1986, as amended, 65 P.S. §271 *et seq.* It is the intent of this Code that all matters affecting the public will be discussed in meetings that are open to the public (Article IV, §403, ¶1). [Ord. 3-1999]

- A. Regular Meetings. The Borough Council meetings will be held on the first Monday of each month at 6:30 p.m. unless it falls upon a holiday, then the meeting will be held the next day of the week at the same time.
- B. Special Meetings. Special meetings of the Borough Council may be called by the President of the Council and must be called upon written request or by special request at a meeting of at least three members. Members shall have at least 24 hours notice of such special meeting. The notice shall state whether the meeting is for general or special purposes, and if it is for special purposes, the notice shall contain a statement of the nature of the business to be considered. Presence at the meeting constitutes waiver of notice. If the meeting is other than an executive session, the public notice requirements of the Sunshine Act must be followed. [Ord. 3-1999]
- C. Executive Sessions. The Council may hold executive sessions as permitted by law. No official action shall be taken by the Council on any matter while in executive session.
- D. Location of Meetings. Unless otherwise advertised, all meetings of the Council shall take place in the Portage Borough Building, 721 Main Street, Portage, Pennsylvania.

(Ord. 3-1996, 6/3/1996, §203; as amended by Ord. 3-1999, 4/5/1999)

§108. COUNCIL MEETING AGENDA.

1. The proposed agenda for any Council meeting shall be prepared by the Manager in consultation with the President of Council. The Council meeting agenda shall be as follows: (Article IV, §404)
 - A. Roll call.
 - B. Borough Manager's report.
 - C. Correspondence.
 - D. Citizens' input on agenda items.
 - E. Minutes.
 - F. Bills and Treasurer's report.
 - G. Reports of officials, committees, special groups and authorities.
 - H. Unfinished business.
 - I. New business.
 - J. Citizens' input on nonagenda items.
 - K. Good of the Borough.
2. Proposed agenda items shall be submitted to the Secretary or Manager not less than 4 business days prior to a Council meeting. The Secretary or Manager shall have the privilege of temporarily rearranging the order of agenda items in order to accommodate special guests, presentations or special appearances so that those persons wishing to address Council are not required to wait until all other business is concluded.
3. The proposed agenda shall be forwarded to all members of Council and the Mayor and be available to the public at least 24 hours prior to the meeting. Council may amend the agenda while in session.

(Ord. 3-1996, 6/3/1996, §204)

§109. QUORUM.

Five members of Council shall constitute a quorum, without which no action may be taken. However, even though a voting meeting may be conducted with as few as five members present, the Charter requires that four members of Council must vote approval for passage of legislation. (Article IV, §407)

(Ord. 3-1996, 6/3/1996, §205)

§110. RULES OF PROCEDURE.

The Council rules of procedure are provided in the Charter (Article IV, §404). *Roberts Rules of Order*, revised, govern meeting protocol.

(Ord. 3-1996, 6/3/1996, §206)

§111. COMMITTEES OF COUNCIL.

The Council may create committees among its own members or create commissions in accordance with the Charter and State law. Those committees and commissions are to conduct their affairs and to report to the Council as the Council specifies.

(Ord. 3-1996, 6/3/1996, §206)

§112. OFFICIAL ACTIONS OF COUNCIL.

Official actions of the Council shall be by ordinance, resolution or motion as provided by Charter (Article IV, §408; Article V, §§501-513).

(Ord. 3-1996, 6/3/1996, §207)

§113. ORDINANCE FORM AND PROCEDURE.

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in the title. As required by Charter, the enacting clause shall be, "The Borough of Portage hereby ordains:" (Article V, §502). Ordinances may be read one time and by title only. Voting, for both ordinances and resolutions, is by roll call with each vote recorded in the minutes. Abstentions are not permitted, except when a conflict of interest arises. The nature of the conflict is to be stated and recorded (Article IV, §408). Ordinances are effective immediately upon passage and publication. Ordinances are to be advertised not more than 60 days nor less than 7 days prior to passage. After passage, adopted ordinances are to be advertised within 30 days (Article V, §509). Advertisement may be by title only, or by brief summary, with notice that the full text is available for public inspection in the office of the Borough Manager, Portage Borough Building, 721 Main Street, Portage, Pennsylvania.

(Ord. 3-1996, 6/3/1996, §208)

§114. ORDINANCES REQUIRING PRIOR PUBLIC NOTICE.

Ordinances dealing with land regulation, taxation, annexation, codes and sewers outside the Borough require public notice and public hearings (Article V, §505).

(Ord. 3-1996, 6/3/1996, §209)

§115. EMERGENCY ORDINANCES.

Temporary local laws necessary to deal with temporary conditions created by an emergency may be adopted without advertising, are effective immediately and automatically lapse after 60 days unless reenacted (Article V, §512).

(Ord. 3-1996, 6/3/1996, §210)

§116. CODES OF TECHNICAL REGULATION.

Following public notice and public hearing, the Council may adopt, by reference, any standard technical code such as a building or plumbing code. A copy of the Code must be available in the office of the appropriate Borough official (Article V, §513).

(Ord. 3-1996, 6/3/1996, §211)

§117. RECORDING OF ORDINANCES AND RESOLUTIONS.

Original full texts of ordinances and resolutions are to be maintained in separate official record books to be maintained in the office of the Borough Manager. The official record books are to be available for public inspection during reasonable hours and citizens may obtain copies upon payment of a reasonable copying fee. When recorded, the titles of ordinances and resolutions are to be indexed alphabetically, by topic.

- A. Enforcement of Ordinances. Unless otherwise prescribed, any violation of an ordinance shall constitute a summary offense, as defined by the laws of the Commonwealth of Pennsylvania and shall be prosecuted in accordance with the laws of the Commonwealth and the Rules of Criminal Procedure relating to the prosecution of summary offenses, as adopted by the Pennsylvania Supreme Court. [Ord. 3-1999]
- B. Penalty. The Charter provides that the Council may change the maximum fine for violation of ordinances (Article 5, §504). Accordingly, the following maximum penalties for ordinance violations are, "Not more than \$600 for each violation or 30 days imprisonment in default of payment." The penalty amount is left to judicial determination. (The Charter established minimum amounts for the first, second, third and subsequent offenses, but the intent appeared to be to establish maximum amounts for first and subsequent offenses. Therefore, these penalties limitations are dropped in favor of judicial determination.)

- C. Continuing Violations. The penalty section of any ordinance may provide that each day of violation constitutes a separate offense (Article V, §504).
- D. Abatement of Nuisances. In addition to the penalties and other remedies herein provided, any condition caused or permitted to exist in violation of any ordinance will be deemed a public nuisance and may be abated by the Borough with the costs of such abatement borne by the person or entity owning the property upon which the condition exists or the operator of the condition causing or contributing to the nuisance; or any other party responsible for creating or contributing to the cause or source of the nuisance. Such costs will be collected for the use of the Borough as debts by law are collected or by a municipal claim or lien filed as provided by law. Each day that such condition continues shall be regarded as a separate offense. [Ord. 3-1999]
- E. Actions at Law or in Equity. In addition to the enforcement provisions herein provided, the Borough may institute an appropriate action or proceeding at law or in equity against a person or entity responsible for violation of any ordinance and request either or both of the following remedies:
- (1) To cease, desist, correct or remove the violation.
 - (2) To enforce the penalty provisions of the ordinance or seek other remedies as are just and reasonable.
- F. Cumulative Penalties. Wherever this Part, or any ordinance, provides for alternative penalties or remedies, said penalties or remedies shall be cumulative and the imposition of any one such penalty or remedy shall not prevent the Borough from invoking any other penalty or remedy provided therefor.
- G. Actions of Council Other than Ordinance Adoption. Other business of Council may be undertaken by adoption of resolutions, enactment of proclamations or the approval of motions which shall require a simple majority vote of Council unless otherwise required by law or the Charter.

(Ord. 3-1996, 6/3/1996, §212; as amended by Ord. 3-1999, 4/5/1999)

§118. OTHER POWERS OF BOROUGH COUNCIL.

1. All legislative powers of the Borough shall be vested in the Council.
2. Council shall have the power to enact, amend or repeal all ordinances and resolutions not inconsistent with the Charter or with the laws of the Commonwealth of Pennsylvania or the United States Constitution.
3. Council shall have the power to create, or abolish, all boards, commissions, committees, departments, offices or agencies and prescribe their functions.

ADMINISTRATION AND GOVERNMENT

4. Council shall have the power to appoint and remove all members of boards, commissions, authorities and committees.
5. Council shall have the power to receive and accept in the name of the Borough all gifts or donations or interest therein of real and personal property.
6. Council, acting as a body, shall have the power to make inquiries and request investigations into the affairs of the Borough government as provided by Charter (Article VI, §§601-604).
7. The Council may hold public hearings as it deems fit.

(Ord. 3-1996, 6/3/1996, §213)

§119. DUTIES OF BOROUGH COUNCIL.

1. Council shall hold regular, advertised, public legislative sessions at which time legislation necessary for the public health, safety and welfare of the Borough and its residents is proposed, considered and enacted.
2. Council shall be a deliberative body, discussing among its members and soliciting public comment from citizens and property owners, opinions on matters important to the well being of the Borough. From these discussions should come consensus on necessary actions.
3. Council shall provide governance for the Borough and shall consider and formulate policies useful and necessary for the well-being of the Borough.
4. Council shall appoint a professional, qualified Borough Manager.
5. Council shall appoint a Borough Solicitor who shall be an attorney at law and may appoint other special legal counsel as needed.
6. Council shall adopt an ordinance, as prepared by the Borough Manager, that provides for competitive bidding of contracts and the purchasing of goods and services. (This Part contains Sections, prepared by the Manager, devoted to contracts and purchasing, and satisfies this Charter requirement.)
7. Council shall adopt an ordinance that adopts a personnel system for the Borough. (This Part contains Sections, prepared by the Manager, devoted to personnel that satisfies this Charter requirement.)

(Ord. 3-1996, 6/3/1996, §214)

§120. LIMITATIONS ON POWER OF COUNCIL AND MEMBERS.

Council shall, in the conduct of its powers, be subject to the following limitations:

- A. Individual Council members shall not exercise any power unless such authority shall be specifically and expressly delegated by the Council acting as a body as provided by the Charter (Article III, §307).
- B. No Council member shall hold any other Borough office or Borough employment, paid or unpaid, or act as a paid consultant during the term of office as provided by Charter (Article III, §303).
- C. Neither Council nor any of its members shall in any manner dictate activities or the appointment or removal of any Borough officer or employee who is supervised by the Borough Manager. Council may express its views and discuss with the Manager anything pertaining to the activities or appointment or removal of any subordinates (Article IV, §404).
- D. Except for the purpose of inquiry, Council and its members and Mayor shall deal with the day-to-day administration of the Borough solely through the Borough Manager, and shall not give orders or direction to any subordinate or the Borough Manager, whether directly, or indirectly, and whether publicly or privately (Article IV, §404).

(Ord. 3-1996, 6/3/1996, §215)

§121. AUDIT.

The Council shall provide for an independent annual audit as required by Charter (Article XIV, §1411).

(Ord. 3-1996, 6/3/1996, §216)

C. Mayor.

§125. POWERS AND DUTIES.

The Mayor shall have the specific powers, duties and authority as outlined and expressly stated in the Charter (Article VII, §708):

- A. The Mayor shall be the ceremonial head and official representative of the Borough of Portage (Article VII, §701).
- B. The Mayor shall have no veto power.
- C. All other powers, qualifications, prohibitions, terms, elections and procedures shall be as stated in the Charter (Article VII, §§702-707).
- D. The salary of the Mayor is provided for in the Charter (Article VII, §709).
- E. In addition to his special powers and duties as Mayor, the Mayor shall be one of the seven Council members and have all powers and duties given to members of the Borough Council.

(Ord. 3-1996, 6/3/1996, §301)

D. Borough Manager.

§131. APPOINTMENT, QUALIFICATIONS AND COMPENSATION.

The Council shall appoint a professional Borough Manager for an indefinite term and shall fix his, or her, compensation. The experience and education qualifications and compensation of the Borough Manager shall be in accord with the Charter (Article VIII, §801).

- A. The Council may remove the Borough Manager at any time with cause. (The Manager's professional reputation is his, or her, major asset and needs to be respected and protected. If the majority of Council no longer value, or wish to continue the Manager's services he, or she, should be so advised confidentially and given an opportunity to resign and seek other employment.)
- B. The appointment or dismissal of the Borough Manager shall be by vote of at least four members of Council.
- C. The Borough Manager shall be the chief administrative officer of the Borough and shall be responsible to Council for the administration of all Borough affairs placed in the Borough Manager's charge or supervision.

(Ord. 3-1996, 6/3/1996, §401)

§132. POWERS AND DUTIES OF THE BOROUGH MANAGER.

The Borough Manager shall not hold any other elected or appointed office within the Borough of Portage. The Manager shall be bonded and shall be responsible for the specific duties as provided in the Charter (Article VIII, §804).

(Ord. 3-1996, 6/3/1996, §402)

§133. ACTING BOROUGH MANAGER.

During the period of vacancy in the office of Borough Manager, or during the period of absence or incapacity, the Council may appoint any of its own members or any other officer or employee of the Borough as acting Borough Manager. The acting Manager shall exercise the powers and duties of the Borough Manager and be compensated at a rate set by the Council. The Council shall immediately begin the search to fill the position and must fill the opening within 60 days (Article VIII, §802). The qualifications for permanent Manager appointment are set forth in the Charter (Article VIII, §801).

(Ord. 3-1996, 6/3/1996, §403)

§134. DEPARTMENTAL ORGANIZATION.

Departments or offices under the direction of the Manager may have a Supervisor, appointed by the Manager, providing hands-on management.

(Ord. 3-1996, 6/3/1996, §404)

E. Borough Solicitor.

§135. APPOINTMENT, QUALIFICATIONS AND COMPENSATION.

The appointment, qualifications and compensation of the Borough Solicitor shall be set by the Council as outlined in the Charter (Article IX, §901).

(Ord. 3-1996, 6/3/1996, §501)

§136. REMOVAL.

The Council may remove the Borough Solicitor at any time with, or without, cause.

(Ord. 3-1996, 6/3/1996, §502)

§137. DELEGATION OF AUTHORITY.

The Borough Solicitor may, from time to time, perform the duties of the office by delegation of authority to lawyers with the same qualifications as the Solicitor to act as designated agents in the performance of duties.

(Ord. 3-1996, 6/3/1996, §503)

§138. POWERS AND DUTIES OF THE BOROUGH SOLICITOR.

The Borough Solicitor shall be the chief legal officer of the Borough. His, or her, powers and duties shall be those as outlined in the Charter (Article IX, §904, ¶1-8, inc.).

(Ord. 3-1996, 6/3/1996, §504)

§139. ACCESS TO RECORDS.

The Borough Solicitor shall have the right of access at all times to all records of Portage Borough, including those in possession of any official, officer, department, board, commission or authority.

(Ord. 3-1996, 6/3/1996, §505)

F. Borough Engineer.

§141. APPOINTMENT, QUALIFICATION AND COMPENSATION.

The Council shall appoint a Borough Engineer in accord with and as outlined in the Charter (Article X, §1001).

(Ord. 3-1996, 6/3/1996, §601)

§142. REMOVAL.

The Council may remove the Borough Engineer at any time with, or without, cause.

(Ord. 3-1996, 6/3/1996, §602)

G. Authorities.

§145. CONTINUATION OF AUTHORITIES.

All active municipal authorities organized or formed prior to the time the Charter takes effect shall continue in full force and effect.

(Ord. 3-1996, 6/3/1996, §701)

H. Personnel.

§151. GENERAL PROVISIONS.

The Council and Borough Manager shall adhere to all general provisions, indemnification and pension plans as expressly stated and provided in the Charter (Article XII, §§1201-1203).

(Ord. 3-1996, 6/3/1996, §801)

§152. DISCRIMINATION PROHIBITED.

No Borough official, employee or member of any Borough board, agency, commission, authority or advisory group shall discriminate, for or against, anyone or any group on the basis of race, sex, nationality, age, religion, political affiliation, sexual preference or disability which does not directly interfere with performing the work reasonably required to be done in the individual's actual or prospective job category, position or rank.

(Ord. 3-1996, 6/3/1996, §802)

§153. NO PARTISAN POLITICS.

All employees of the Borough are prohibited from engaging in partisan political activities during working hours and at all times in the municipal offices and facilities.

(Ord. 3-1996, 6/3/1996, §803)

§154. PERSONNEL SYSTEM BASED UPON MERIT-NON UNIFORM.

The Manager is responsible for establishing, and maintaining, a personnel system based upon merit. The personnel system is to be established by ordinance and by inclusion in this Part and by inclusion in this Part meets that requirements. (Article XII, §1201).

The Manager is to fix salaries and wages within ranges of those set by Council. The Manager is to set entry-level salaries and make recommendations for pay increases, or bonus payments based upon merit or performance. (Article XII, §1201)

- A. Appointments. Appointments will be made by the Borough Manager on the basis of merit. Recruitment efforts will be directed towards the goal of recruiting the best-qualified candidates available on an equal opportunity basis. Appropriate, qualifying examinations will be conducted as necessary. Consideration will be given to experience, education, training, and ability to perform required tasks and compatibility with the job description. Appointments may be as a full-time, permanent employee as a part-time temporary or part-time permanent employee, or as a seasonal employee. Full-time permanent employees receive fringe benefits and normally work a 40-hour

ADMINISTRATION AND GOVERNMENT

week. Part-time employees may not work more than 38 hours per week and receive no benefits beyond legal mandates. Seasonal employees may be full-time or part-time and are paid at an hourly rate. Seasonal employees may not work more than 3 months and receive no benefits beyond legal mandates.

- B. Job Descriptions. Job descriptions will be developed, revised as necessary and maintained by the Borough Manager.
- C. Probationary Employees. All newly appointed employees shall serve a probationary period of employment of 6 months plus 30 days. Probationary employees will not receive any fringe benefits (insurance, uniforms, and leave time or vacation time). During that probationary period the employee may be discharged without cause. Within 30 days following the first 6-month employment period, the supervisor will complete a performance evaluation and will recommend continued employment (at which time the employee becomes a permanent employee), or discharge (at which time the probationary employee is discharged).
- D. Performance Evaluations. All employees are to be evaluated at the end of probation and annually thereafter by their supervisor or manager. The purpose is to neutrally review employee performance so that good performance can be recognized and so that course corrections can be made in unsatisfactory performance. Evaluations are to be conducted and completed during the month of September. Evaluations resulting in an unsatisfactory rating will require reevaluation in 3 months and 3 months hence. Continued unsatisfactory ratings require dismissal.
- E. Compensation Plan. The pay plan consists of the job title, entry-level (base) pay grade, and twelve additional merit pay grades each increased by 2 percent. The entry level base pay grade is that pay in effect as of adoption of this Part. Base pay and merit steps are increased by whatever across-the-board increase is provided by the Borough Council in recognition of the need to increase pay in order to be competitive in the regional job market. The Manager, at the time of budget discussion, will propose whatever across the board cost-of-living adjustment seems appropriate and will also recommend appropriate merit adjustments. In order to be eligible for a merit increase, the employee must have received a performance evaluation of satisfactory or higher. [Ord. 3-2007]
- F. Overtime. Municipal employment necessarily requires overtime work on occasion. Typically, hourly rated employees who are ordered to work overtime receive overtime pay as compensation. Overtime pay is one and one half of the regular hourly pay rate. Administrative and supervisory people who work overtime usually do so because the work situation demands extra hours, (sometimes an excessive number of hours), and they usually work overtime at their own direction. Aside from compensatory leave, administrative and supervisory employees investing significant overtime hours in their job can be recognized by overtime pay, merit pay, or one time bonus awards. Over-time must be approved by the supervisor and/or Borough Manager.

(Ord. 3-1996, 6/3/1996, §804; as amended by Ord. 3-1999, 4/5/1999; by Ord. 1-2002, 1/7/2002;

by Ord 3-2003, 5/5/2003, §154; by Ord. 6-2004, 12/17/2004; by Ord. 1-2005, 12/19/2005; by Ord. 3-2006, 12/15/2006, §154E; and by Ord. 3-2007, 3/5/2007, §154E)

§154.1. LEAVE BENEFITS FOR ALL FULL TIME EMPLOYEES.

- 1. Vacation Leave. Permanent full time employees are entitled to the following: 1 week of leave following 1 year of service, 2 weeks of leave following 2 years of service, 3 weeks of leave following 10 years of service, and 4 weeks of leave following 15 years of service.

1 week	following	1 year of service
2 weeks	following	2 years of service
3 weeks	following	10 years of service
4 weeks	following	15 years of service

Vacation leave is to be scheduled in the best interest of both employees and employer. Vacation leave is to be taken in the following year, but may be carried over if requested by letter and approved by the supervisor or the Borough Manager. A maximum of 2 weeks may be carried over to the next year upon approval of the Borough Manager. Accrued vacation leave is paid at full value at retirement or separation.

- 2. Sick Leave. Sick leave is intended to provide eligible employees with a measure of security by continuance of full salary during a time of temporary illness when the employee is too ill to work. A supervisor may request evidence of illness at any time.

Employees taking sick leave are expected to notify their supervisor immediately and/or within 1 hour of starting time each day they need to be on sick leave. Failure to report to your supervisor will subject the employee to disciplinary action. A supervisor may request evidence of illness at any time.

Sick leave is earned at the rate of 1 day per month (8 hours) and may be accumulated up to a maximum of 60 days or (480 hours). After the maximum is reached sick time will not accumulate. If sick time is used after the maximum is reached, the employee will start to earn sick time again until the maximum is reached. Accrued sick leave up to a maximum of 60 days or (480 hours) is paid at 50 percent of value at retirement or separation.

If an employee is off work due to illness for 3 or more days, he/she must submit documentation from a physician verifying the employee's inability to perform required duties. If an employee is on sick leave after 5 days, he/she must submit a physician's work release stating he/she can return to perform full or light required duties. [Ord. 3-2007]

- 3. Bereavement Leave. Eligible employees are entitled to a maximum of 3 days paid leave in the death within the immediate family (spouse, parent, child, brother, sister, grandparent, parent-in-law, step-parent, step child, brother-in-law, and sister-in-law) and 1 day paid leave for other family members (aunts, uncles, first cousins, nieces, and nephews). The

ADMINISTRATION AND GOVERNMENT

supervisor, as appropriate, may permit employee's nonpaid time off to attend funerals. [Ord. 3-2007]

4. Holiday Leave - Nonuniform. The following are the designated paid holidays 10 days for all full time nonuniform employees: New Years Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus, Veterans Day, Thanksgiving Day, and Christmas Day. Holidays falling on Saturday will be observed on the proceeding Friday. Holidays falling on Sunday will be observed on the following Monday. Employees required to work on Holidays may have either other time off at time and 1½ rate or holiday pay at time and 1½ rate.
5. Personal Leave - Nonuniform Employees. Employees sometimes have pressing personal business to attend that is not met by other kinds of leave. Up to 2 days may be taken as paid personal leave and may be requested on an emergency basis, meaning up to the day previous. Personal leave may not be accumulated and may not be added to vacation leave. Personal leave can not be carried over to the next year. Personal leave will not be paid out at retirement or separation from employment.
6. Personal Leave - Uniform Employees. Employees sometimes have pressing personal business to attend that is not met by other kinds of leave. All full time officers are entitled to 10 paid personal days per year. Personal leave may not be accumulated and may not be added to vacation leave. Personal leave can not be carried over to the next year. Personal leave will not be paid out at retirement or separation from employment.
7. Compensatory Leave. Employees voluntarily working overtime to meet the demands of their job may earn equivalent hours off to be taken at a time when the workload is lighter and less demanding. Compensatory leave may be accumulated without limit but must be taken within the year in which it was earned. Compensatory leave may not be converted to cash at retirement or separation. Employees required to work overtime and opting for compensatory leave, are entitled to compensatory leave at a time and one-half rate. Compensatory leave will not be paid out at retirement or separation from employment.
8. Leave Records. All leave earned, or taken, must be recorded on a leave record card maintained with payroll records in the Secretary's Office. Employees have no claim for compensation other than that shown on official records. Supervisors have a responsibility to see that all leave entries are properly reported and recorded.
9. Family Medical Leave Act. FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least 1 year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles. The Family Medical Leave Act does not apply to Portage Borough unless there are at least 50 employees. A copy of the Family Medical Leave Act is posted for any employee to review.

(Ord. 3-1996, 6/3/1996; as amended by Ord. 3-2003, 5/5/2003; and by Ord. 3-2007, 3/5/2007)

§154.2. INSURANCE AND FRINGE BENEFITS FOR FULL TIME EMPLOYEES.

1. Hospitalization and Life Insurance. After 90 days from date of hire, the Borough will pay the premium for each full time employee of the Borough who elects to enroll in the hospitalization plan offered by the Borough. If an employee elects not to participate in the Borough hospitalization benefit but instead chooses to be covered under their spouses plan, the Borough shall reimburse the employee at the rate of \$300 per month.[Ord. 3-2007]

The Borough will pay the premium of a \$25,000 life insurance policy and a \$25,000 accidental death and dismemberment for each nonuniformed full-time employee of the Borough. The Borough will pay the premium of a \$50,000 life insurance policy and a \$50,000 accidental death and dismemberment for each uniformed full-time employee of the Borough.

2. Supplemental Insurance (\$125 Cafeteria Plan). American Family Life Assurance Company (A.F.L.A.C.) was adopted by Portage Borough Council for all full-time employees who wish to participate in the program. Each employee is required to complete a salary reduction authorization form for the insurance. The insurance is a pre-tax deduction and is withheld from the employee's paycheck on a biweekly basis.
3. Longevity Payments - Nonuniform. Establish longevity payments for nonuniform employees. At the completion of the applicable year of continuous service, a nonuniformed employee shall receive an annual lump sum payment as follows:
 - A. Five through nine years - \$150.
 - B. Ten through fourteen years - \$200.
 - C. Fifteen years or more - \$250.
4. Longevity Payments - Uniform. Establish longevity payments for uniform employees. At the completion of the applicable year of continuous service, a uniformed employee shall receive an annual lump sum payment as follows:
 - A. Five through nine years - \$150.
 - B. Ten through fourteen years - \$200.
 - C. Fifteen years or more - \$250.
5. Deferred Compensation. The Copeland Companies are hereby adopted by Portage Borough Council, for all full time employees who wish to participate in the program. Each employee is required to complete a payroll deduction authorization form. The deferred compensation is a pre-tax deduction and is withheld on a biweekly basis.
6. Uniform Allowance. The Borough of Portage will provide each full time uniform and nonuniform employee a uniform allowance of \$300 per year.

(Ord. 3-1996, 6/3/1996, §902; as amended by Ord. 3-2003, 5/5/2003; and by Ord. 3-2007, 3/5/2007, §156A)

ADMINISTRATION AND GOVERNMENT

§154.3. EMPLOYMENT POLICIES FOR ALL FULL TIME AND PART TIME EMPLOYEES.

1. Working Conditions. The work place is to be as safe as possible. Employees are to be properly trained and equipped to do their job. Public Works employees are to use eye and ear protection when operating dangerous or noisy equipment. Safety shoes, gloves, and protective clothing are to be worn as necessary, including reflective vests at night. Warning signs are to be placed safe distances from road repair work sites. Police officers are to be properly trained in self-defense, firearms, search and arrest procedures, and made familiar with all departmental policies, especially those concerning back up, pursuit, and the use of force. Work places are to be inspected for safety and hazard removal. Smoking is not permitted in Borough offices, buildings, or equipment. Sexual harassment of employees, for any reason, is not permitted. Work related injuries are to be immediately treated as necessary and reported to the Borough Secretary, and to the Workers Compensation Insurance Carrier.
2. Discipline. Aside from offenses requiring immediate action, discipline shall be progressive with warnings, opportunities for corrective action and reappraisals.
3. Drug-Free Workplace. Any employee who is convicted or pleads guilty or nolo-contendere to any violation of the Drug, Device and Cosmetic Act (Act 64) or any violation of the Pennsylvania Vehicle Code relating to the operation of a motor vehicle while under the influence of alcohol and the criminal act was perpetrated while in the course of employment with the Borough shall be cause for immediate dismissal. The possession or use of illegal drugs or alcohol while in the course of employment is absolutely prohibited. Any violation of this policy may be cause for termination. Employees are not to report to work under the influence of drugs or alcohol. If the Borough has reason to believe that an employee has reported to work in violation of this policy, the Borough may require the employee to submit to an unannounced drug test to confirm or disprove the Borough's suspicion. Refusal to submit to the requested drug test may result in either a suspension without pay or termination. If the test is positive, the costs of same will be the responsibility of the employee, if the test is negative, the Borough will bear the costs. An employee who reports to work under the influence of drugs or alcohol and who either tests positive or admits to the violation shall not be reinstated unless or until he or she has successfully completed a drug and alcohol rehabilitation program (at employee's expense) approved by the Borough Manager. The employee will be given a reasonable amount of time in which to enroll in and successfully complete said rehabilitation program. A second violation of the drug and alcohol policy with respect to reporting to work under the influence will be subject to termination.
4. Sexual Harassment. In accordance with State and Federal Law, the Borough of Portage will implement an Equal Employment Opportunity Commission's (EEOC) policy regarding sexual harassment. Portage Borough adopts the principle that employees should not be subject to unwelcome verbal or physical advances which are sexual in nature. Portage Borough does not condone any such sexual advances where submission to such conduct is made, either explicitly or implicitly, a term or condition of employment or a basis for any employment decision, or if such conduct creates an intimidating, hostile or offensive

environment for any employee. Portage Borough will not condone such conduct and will not permit it to effect any employment decisions rendered by Portage Borough. It is the policy of Portage Borough to treat all such complaints or allegations with respect and confidentiality and to the extent possible, consistent with Portage Borough's obligation to investigate, evaluate and adjudicate complaints of sexual harassment policy. Complaints or questions relating to the Borough policy on sexual harassment should be addressed to either the Manager or President of Council. The Manager and President of Council will meet to determine the appropriate action necessary to resolve the complaint based upon the Borough's sexual harassment policy. The Manager and President of Council will document the allegation, findings and actions taken. Such documentation will be retained by the Manager in a separate file from the normal personnel files of the individuals involved. Should either of the parties request it, a copy of the above-cited documentation shall be placed in his or her personnel file. Should either the complainant or alleged offender be dissatisfied with the findings or actions resulting from an allegation of sexual harassment, that individual may further discuss the issues with Council. Should a complainant allege further violations of this policy by the same individual, the Manager will document the statement and allegation of the complaint which will then be filed in the personnel files of the complainant and the party charged. The President of Council will be notified in writing of the allegation, and he/she, or a senior staff member designated by him/her, will interview all of the concerned parties. His/her written findings and recommendations will be included as a confidential executive review to be filed with the allegation. In cases where the allegation is proven to the satisfaction of the Manager and the President of Council will either cause a remedial program to be established or issue a written warning or proceed with the immediate termination of the violator. (adopted 7/12/93)

5. Grievances. A grievance is a dispute or disagreement related to working conditions, disciplinary actions or the interpretation of these personnel rules and regulations or written rules of a department. Any employee who has a grievance should first discuss the matter orally with his/her supervisor within 10 calendar days from the time the employee first learned or should have learned of the matter grieved in an attempt to resolve it. If the matter is not resolved with this initial discussion the employee may appeal the grievance to the Borough Manager within 3 days from the decision of the department manager. The Borough Manager shall conduct a hearing with the employee and involved supervisor/department manager within 10 days of the registered appeal. The Borough Manager will reach a decision and shall be final on all parties.
6. CDL Drug and Alcohol Policy.
 - A. Purpose. The purpose of this subsection is:
 - (1) To comply with the requirements of employers pursuant to the Federal legislation concerning commercial drivers license (CDL) pursuant to the Omnibus Transportation Employee Testing Act of 1991 and the Federal regulations thereto insofar as they apply to Portage Borough.
 - (2) To conform the employment policies of Portage Borough the requirements of said

ADMINISTRATION AND GOVERNMENT

law and regulations.

This policy shall apply only to those employees and applicants for employment who are required to have a CDL license for their employment by Portage Borough and who are assigned to operate Borough-owned, leased or borrowed vehicles or equipment requiring CDL licensure. The regulations of the Federal Highway Management Administration are hereby adopted by reference insofar as they apply to Portage Borough and this policy.

B. Policy Established.

- (1) Employees shall not use, sell, possess or receive alcohol or illegal drugs or distribute or sell prescription drugs while on duty. Violation of these rules will subject the employee to discipline and/or dismissal pursuant to the provisions of this policy, subject to any applicable provisions and procedures of the collective bargaining agreement in effect, if any.
- (2) Prescription drugs must be kept in their original container identifying the drug, dosage, date of prescription and physician. Employees are required to notify the Borough Manager if they are taking a prescription drug and shall file with the Borough a statement on a form provided by the Borough from the doctor who issued such prescription stating whether or not such prescription will impair the employee's ability to operate a CDL vehicle or equipment. The term "illegal drugs" shall include drugs for which the employee does not have a valid prescription and cocaine, phensylidine (PCP), marijuana, opiates (including heroin), amphetamines and such other illegal drugs as may be identified from time to time.

C. The following drug and alcohol test procedures shall be applicable to all employees and applicants for employment to whom this policy applies:

- (1) Pre-employment. All applicants shall be tested for drugs prior to acceptance for employment by the Borough. Any applicant testing positive shall not be considered for employment. The Borough will reimburse the applicant for the cost of this test if they test negative and if employment is offered to the applicant.
- (2) Random. The Borough will implement a random testing procedure which meets the requirement of the Federal regulations. The procedure shall include Borough paid tests of affected employees on a random basis and shall be conducted without any advance notice, but shall be done not less than on a quarterly basis. The number of affected employees selected shall be at least 50 percent of the employees for alcohol testing annually; provided, however, that the requirements of this policy shall be satisfied if the above percentages are selected from a pool of employees which includes the Borough's employees.
- (3) Reasonable Cause. Any employee giving reasonable cause to believe that he or she is in violation of the policy established above shall be subjected to Borough

paid testing immediately upon observation of such reasonable cause by trained supervisory personnel. Reasonable cause shall be limited to behavior or conduct observed at the workplace or en route to a workplace during work hours. Observation shall be by supervisory personnel who have received at least 1 hour of training in drug use detection and 1 hour of training in alcohol use detection. Supervisory personnel making reasonable cause observations shall make and file with the Borough Manager a written report on a form provided by the Borough of the attendant circumstances. Such report shall be confidential.

- (4) Post Accident. Any employee involved in an accident as defined herein shall be tested at the Borough's expense for drugs as soon after an accident occurs as is possible, but not later than 32 hours, and for alcohol as soon after an accident as possible, but not later than 8 hours provided that testing should not take precedence over needed medical treatment or other emergency measures. If for any reason the tests cannot be obtained within the times provided, the tests shall not be administered. However, refusal to submit to a test or interfering with the successful completion of such a test shall be deemed a positive test result in accordance below. No employee shall consume alcohol or illegal drugs between the time of the accident and test administration. An accident shall include any occurrence involving a CDL vehicle where the following conditions occur; there is a fatality regardless of fault or there is issuance of a citation to the Borough CDL employee for a moving violation, and bodily injury of any person involved requiring transportation of the injured person away from the accident scene for treatment or vehicular damage requiring the vehicle to be towed from the scene.

D. Test Standards. Any refusal or failure by the CDL employee or applicant to submit to any test required by this policy or the applicable law shall be deemed to be a positive result. Refusal to submit to a test under this policy shall include any act or omission which prevents, thwarts or frustrates the objectives of this policy including, without limitation, the following: refusal to submit in a timely fashion to testing; refusal or failure by the employee or refusal or failure without good cause to provide any sample or provide an adequate sample for testing; and/or failure or refusal to otherwise cooperate with the testing process in a way which prevents the completion of any required test.

- (1) Alcohol Testing. Shall be conducted using a Federally approved breathalyzer. Any employee receiving a test result of greater than 0.02 percent but less than 0.04 percent breath alcohol level shall be removed from safety sensitive duties, as defined in the Act and the regulations, for 24 hours. Any test result of greater than 0.04 percent breath alcohol level shall be considered a positive test and shall subject the employee to the disciplinary provisions of this policy.
- (2) Drug Testing. Shall be conducted by urine sample which shall be analyzed at a Federally approved testing facility. Any test result showing the presence of illegal drugs shall be considered a positive test and shall subject the employee to the disciplinary provisions of this policy. Any employee testing positive for illegal drugs may request a split sample of the sample specimen to be retested, at the

ADMINISTRATION AND GOVERNMENT

employee's expense. Employees should speak with the Borough Manager about such request.

E. Positive Tests; Return to CDL Duty.

- (1) An employee who tests positive for a drug and/or alcohol test will be allowed to return to CDL duty if this is the employee's first positive test and the employee, prior to returning to CDL duty:
 - (a) Consults such drug and alcohol abuse professionals to whom the employee has been referred at the employee's expense.
 - (b) Completes all recommended treatment at the employee's expense.
 - (c) Completes all necessary drug and/or alcohol tests at the employee's expense and obtains negative results.
- (2) Any subsequent positive result to a drug and/or alcohol test by this same employee will subject that employee to immediate dismissal by the Borough.
- (3) If any employee who tests positive for a drug and/or alcohol test is offered the chance to return to CDL duty, that employee shall be subject to unannounced follow-up drug and/or alcohol tests as directed by the substance abuse professional for a period of 60 months following return to CDL duty. At least 6 unannounced follow-up drug and/or alcohol tests shall be conducted in the first 12 months following return to CDL duty. Such test shall be conducted as directed by the assigned substance abuse professional. A positive result or any test administered during this probationary period automatically subjects the employee to immediate dismissal.

Employees will be notified of their positive results. Test results shall be retained by the Borough Manager for analyzing the employee's test results. Said results shall be held in strictest confidence and shall be accessible only to the employee, the employer and such other personal authorized by law and shall not be released to future employers in accordance with the Federal regulations. All files, documents and records of the Borough related to the application of this policy to individual employees shall be deemed and kept confidential by the Borough.

F. Record Keeping.

- (1) All of the records relating to the administration and results of the Borough's alcohol and drug testing program for its CDL drivers will be maintained for a minimum period of 5 years, except that individual negative test results will be maintained for a minimum of 12 months.
- (2) Tests will be conducted by a licensed facility and will be analyzed by a medical review officer. The medical review officer who is appointed shall be a licensed

doctor of medicine or osteopathy with knowledge of drug and alcohol abuse disorders and who is employed by the Borough or group which the Borough has joined, to conduct alcohol and drug testing in accordance with the Federal regulations. The medical review officer shall be the sole custodian of individual test results. The medical review officer shall retain the reports of individual test results for a minimum of 5 years.

- (3) The Borough shall retain in the employees personnel file information indicating only the employee submitted to a drug and/or alcohol test, the date of the test, the location of the test, the identity of the person or entity performing the test and the test result (i.e., positive or negative).
- (4) The Borough will also maintain an annual calendar year summary of the records related to the administration and results of the testing program for its drivers under Federal regulation.
- (5) No person may obtain the individual test results retained by the medical review officer, and no medical review officer shall release the individual tests results of any employee to any person, without first obtaining written authorization from the tested individual, unless otherwise requested by law.

G. Employee Assistance Program. The Borough shall establish the following:

- (1) A list of consultative and treatment services available in the area for drug and alcohol abuse problems. Said list shall be given to each employee or posted at a place readily accessible to employees.
- (2) A list of educational and training resources available in the area for drug and alcohol abuse problems. Said list shall be given to each employee or posted at a placed readily accessible to employees.
- (3) A place or service for referring employees who test positive for drugs or alcohol for consultation and treatment.
- (4) A 1-hour training and education program for employees.
- (5) One-hour training each in drug and alcohol detection and related matters for supervisory personnel. Said training programs shall include the effects of drug and alcohol abuse on health and safety, manifestations of abuse and abuse detection, documentation of training and implementation of this policy.

H. Miscellaneous Provisions.

- (1) This policy shall be implemented with the constitutional and legal rights of the employee subjected to it.
- (2) This policy shall not be deemed to be a covenant of employment or contract

ADMINISTRATION AND GOVERNMENT

between the Borough and any employee.

- (3) Any agreement for the sharing, leasing, lending or other transfer of CDL employees between the Borough and any other municipality or private enterprise shall address in writing the status of said employees as to whether they are employees of the receiving entity during the period of transfer.
 - (4) Any contract for services involving CDL employees shall expressly state whether the contracting party is an independent contractor or employee/agent of the Borough.
 - (5) The definition of terms shall be contained in the Federal regulations.
 - (6) A copy of this policy shall be delivered to every employee and applicant for employment who is subject to it and to all supervisory personnel. Such employee shall sign an acknowledgment of receipt of this policy.
 - (7) A copy of the controlling law and Federal regulations shall be maintained in the Borough office and shall be accessible to employees, upon request.
 - (8) This policy will be limited by any applicable Federal or State law or Borough ordinance and by any applicable collective bargaining agreements. Any portion of this policy which directly conflicts with such a law, ordinance or agreement will not be implemented in that jurisdiction or bargaining unit, but shall be severable and shall not affect the validity and enforcement of the remainder of the policy.
 - (9) Employees agree to waive any liability against the Borough arising out of the administration of the program established pursuant to the Federal law or regulations regarding the Boroughs responsibility for CDL drivers.
- I. CDL Information Contact. The following entity is designated by the Borough of Portage for the purpose of providing information to employees concerning the Federal laws and regulations governing the testing of CDL employees and for implementation and monitoring the Boroughs compliance with the Federal testing program:

PSAB CDL Drug and Alcohol Testing Program
2941 North Front Street
Harrisburg PA 17110
Phone: 1-800-232-7722

Designation of the PSAB Program is available to provide information to Borough employees and shall continue for as long as the Borough is a member in good standing with the PSAB Program.

7. Mileage Allowance. The Borough of Portage will reimburse employees for the use of their privately owned vehicles when on Borough business at the current rate per mile

authorized by the Internal Revenue Service of the Federal Government.

- 8. Education and Training Seminars. It is the policy of the Borough of Portage to encourage in-service training. The department manager or Borough Manner may require specific training for employees. When an employee has been so designated, the Borough shall pay any tuition or registration fees, and the class time involved shall be considered as time worked.

(Ord. 3-1996, 6/3/1996; as added by Ord. 3-2003, 5/5/2003)

Exhibit A

**Employee Acknowledgment of
the Personnel Rules and Regulations Policy**

I acknowledge that I have received, read, and understand the Portage Borough's Personnel Rules and Regulations and a copy of the acknowledgment will be placed in each employee's personnel folder.

I also understand that this document is **not** an employment contract. It can be modified at the discretion of the Borough Manager with Council approval and does not supercede any collective bargaining agreements.

Dated _____

Employee Signature

Employee Name Printed

I. Police Department.

§155. PURPOSE.

The Police Department of the Borough of Portage shall be for the purpose of keeping peace and order and law enforcement in the Borough.

(Ord. 3-1996, 6/3/1996, §901)

§156. APPOINTMENT, REMOVAL, PROMOTION, SUSPENSION AND REDUCTION IN RANK.

These matters are provided in the Charter (Article XIII, §1302).

(Ord. 3-1996, 6/3/1996, §902)

§157. POWERS AND AUTHORITY.

Police officers employed by the Borough of Portage shall have the powers, authority and protection provided by State law and by the Charter (Article XIII, §1303).

(Ord. 3-1996, 6/3/1996, §903)

§158. OTHER PROVISIONS OF THE POLICE DEPARTMENT.

The Charter contains other provisions pertaining to police. (Article XIII, §§1304-1311)

(Ord. 3-1996, 6/3/1596, §904)

§159. RULES AND REGULATIONS.

1. The Police Department is administered by the Police Chief who reports to the Borough Manager. The Police Chief is responsible for maintaining and updating a current set of rules and regulations which set forth procedures for the operation of the Department. The Police Chief must require all new officers, prior to assuming duties, to read and initial each page of the department rules and regulations and the Chief shall require at least a semiannual review of those rules and regulations.
2. The rules and regulations shall contain provisions that deal with hot pursuit or fresh pursuit to the effect that the officer must have reasonable knowledge that a serious crime was committed, or attempted, and that the pursuit be conducted with due regard for public safety. The use of force shall be limited to the minimum amount of force necessary to enforce the law.

ADMINISTRATION AND GOVERNMENT

3. Each full time police officer shall possess a contractual agreement between said officer and Portage Borough. The contractual agreement will reflect the compensation wages, fringe benefits and personnel policies in effect for the specified period of time.

(Ord. 3-1996, 6/3/1996, §905; as amended by Ord. 3-2003, 5/5/2003)

§159.1. LEAVE, INSURANCE, OTHER FRINGE BENEFITS AND POLICIES.

1. Each full time officer shall be entitled to and adhere to Chapter 1, (Administration and Government); Part 1, (Administrative Code), §H, (Personnel), Sections 154.1 through 154.3.

(Ord. 3-1996, 6/3/1996; added by Ord. 3-2003, 5/5/2003)

§159.2. Part-time Patrol Officers.

1. Officers hired as of February 18, 1999, will be required to pay for items such as uniform, physiological evaluation, and physical. (Uniform reimbursement consists of two pants and two shirts). Prior approval must be obtained by the Borough Manager for any other uniform, gear, or equipment, if reimbursement is desired. These items and services can be purchased by choice of the officer being hired as long as the items and services are within Borough guidelines.
2. The Borough will reimburse 50 percent of the costs on the sixth month anniversary of the hire date. The other 50 percent will be reimbursed on the 1-year anniversary of the hiring.
3. After completion of 1 year service, each part-time officer will be entitled to an annual uniform allowance of \$100 per year. (Subject to change by Borough Council.)
4. Each part-time police officer shall possess a contractual agreement between said officer and Portage Borough. The contractual agreement will reflect the current wage determined from the compensation plan in effect at that time, reimbursement of expenses, and personnel policies.
5. Each part-time officer is not entitled to any fringe benefits or hospitalization plans provided by Portage Borough.
6. Each part-time officer shall acknowledge the policies set forth in Chapter 1, (Administration and Government), Part 1, (Administrative Code), §H, (Personnel), Section 154.3 (Employment Policies).

(Ord. 3-1996, 6/3/1996; as added by Ord. 3-2003, 5/5/2003)

Exhibit B

**Employee Acknowledgment of
the Personnel Rules and Regulations Policy**

I acknowledge that I have received, read, and understand the Portage Borough's Personnel Rules and Regulations and a copy of the acknowledgment will be placed in each employee's personnel folder.

I also understand that this document is **not** an employment contract. It can be modified at the discretion of the Borough Manager with Council approval and does not supercede any collective bargaining agreements.

Dated _____

Employee Signature

Employee Name Printed

J. Budget and Fiscal Matters.

§161. FISCAL YEAR.

The fiscal year of the Borough of Portage shall be the calendar year.

(Ord. 3-1996, 6/3/1996, §1001)

§162. SUBMISSION OF BUDGET AND BUDGET MESSAGE.

The Charter provides that the Manager shall submit an annual budget and budget message (Article XIV, §§1402-1404).

(Ord. 3-1996, 6/3/1996, §1002)

§163. BUDGET.

Budget procedures are provided in the Charter (Article XIV, §1403).

(Ord. 3-1996, 6/3/1996, §1003)

§164. PUBLIC RECORD.

The annual budget of the Borough shall be a public record and shall be available for public inspection after submission and prior to adoption and after adoption.

(Ord. 3-1996, 6/3/1996, §1004)

§165. ADOPTION.

The annual budget of the Borough shall be adopted by ordinance and in accordance with Charter provisions (Article XVI, §1406).

(Ord. 3-1996, 6/3/1996, §1005)

§166. MODIFICATION OF BUDGET.

The Borough Manager may recommend and the Council may consider at any time to amend or revise the annual budget as provided in the Charter (Article XIV, §1407).

(Ord. 3-1996, 6/3/1996, §1006)

§167. OTHER PROVISIONS OF BUDGET AND FISCAL MATTERS.

All other Sections and provisions of budget and fiscal matters contained in the Charter, namely, Article XIV, §§1408-1424, incl., shall be adhered to and enforced by Council and the Borough Manager. The aforementioned Sections of Article XIV shall be followed and implemented as expressly stated and outlined in the Charter. The Council shall be bound by the budget limitations as defined in the Charter.

(Ord. 3-1996, 6/3/1996, §1007)

K. Taxation and Finance.

§171. ANNUAL TAXES.

Council may levy and provide for the collection of taxes as stipulated in the Charter (Article XV, §1501).

(Ord. 3-1996, 6/3/1996, §1101)

§172. SPECIAL LEVIES.

The Council of the Borough of Portage is empowered to enact special levies as allowed by law and the Charter.

(Ord. 3-1996, 6/3/1996, §1102)

§173. TAX ENABLING ACT AND SUBSEQUENT LEGISLATION.

Council may levy such taxes as the Borough of Portage is permitted to levy under the Local Tax Enabling Act of Pennsylvania or under any subsequent tax enabling legislation adopted by the Commonwealth of Pennsylvania.

(Ord. 3-1996, 6/3/1996, §1103)

L. Contracts.

§175. REQUIREMENTS.

The requirements are as set forth in the Charter (Article XVI, §1601).

(Ord. 3-1996, 6/3/1996, §1201)

§176. COMPETITIVE BIDS.

Whenever practicable, goods and services purchased by the Borough shall be on the basis of competitive bids and quotations.

(Ord. 3-1996, 6/3/1996, §1202)

§177. BIDDING AND PURCHASING PROCEDURE.

This Part establishes the system of competitive bidding as required by the Charter (Article XVI, §1603), as follows:

A. Purchases Over \$10,000.

- (1) Authorization to Advertise of Bids. The Manager requests authorization to advertise for bids from the Borough Council.
- (2) Preparation of Specifications, Etc. A bid form, specifications and vendor list are prepared. A date is selected for the receipt and opening of sealed bids. If necessary, a date is selected for a prebid conference.
- (3) Advertisements. The advertisement for public bids is to be placed in a newspaper of general circulation in the Borough. If a weekly paper is used, the ad should be in each issue for 2 weeks and, if a daily paper is used, the ad should run at least twice with at least 3 days between ads. The first ad should not appear any earlier than 45 days prior to the bid opening date and the second ad not later than 10 days prior to the bid opening date.
- (4) Sealed Bids. The sealed bids are to be received by a certain specified time and date. The bids may be opened and read at a special meeting convened by the Borough Manager for that purpose, provided that at least two other Borough officials are present. Other possible officials include the Borough Engineer, the Borough Solicitor, the Street Commissioner, the Police Chief or the Secretary/Administrative Assistant. Bids will be tabulated and analyzed. A recommendation will be prepared by the Manager for Council consideration and bid award or rejection. Bids are typically awarded to the lowest responsible bidder but the Council may also consider factors such as availability, cost and quality of service. Bids

may also be opened and read at a regular meeting of the Borough Council, but the bid award should be deferred until the bids are tabulated and analyzed and a recommendation presented to the Council.

- (5) Bid Deposit and Bid Bonds. Bids are to be accompanied by a bid deposit in the amount of 10% of the bid, or by a bid bond issued by a reliable bonding company. The purpose of the bid deposit or bid bond is to guarantee that the bidder will sign a contract if awarded the bid. Bid deposits and bid bonds are to be returned within 15 days following the bid award, except that the bid deposit or bid bond of the successful vendor is held until a contract is signed and is then promptly returned.
- (6) Performance Bonds. A performance bond in an amount up to 50% of the value of the contract may be requested. The performance bond guarantees faithful performance under the terms of the contract.
- (7) Maintenance Bonds. A maintenance bond in an amount up to 50% of the project costs may be specified. The purpose of the maintenance bond is to guarantee the repair or maintenance of the project for a specific period of time. The vendor or contractor is given an opportunity to make repairs or corrections prior to the Borough seeking satisfaction from the bonding company.
- (8) Review by Solicitor. The Solicitor is to review all contracts with a value over \$10,000 and approve as to form.
- (9) Exceptions. Exceptions to competitive bidding are found in the Borough Code and include the purchase of patented items, professional services and negotiated land purchases.

B. Purchases Under \$10,000.

(1) Purchase Orders.

- (a) Purchases with a total value of under \$10,000 may be purchased by the use of a purchase order signed by the department head, the Borough Manager and the Secretary/Administrative Assistant. The signature of the department head attests to the fact that the item is needed, is budgeted and that funds have been appropriated. (Approval of the budget by the Borough Council is synonymous with appropriating funds.) The department head is responsible for ensuring that the department budget is not exceeded. The Manager's signature attests to the overall necessity of the purchase and indicates that he is aware of the purchase. The Secretary prepares the purchase order, encumbers funds to meet the obligation incurred by issuance of the purchase order and maintains a log of purchase orders with opening and closing entries, recording the details and status of the purchase. (An opening entry is made when the purchase order is cut and funds encumbered. A closing

entry is made when the invoice has been paid.) The Secretary's signature attests to the fact that the purchase order has been logged and an encumbrance made.

- (b) (Purchase orders are also issued for contracts over \$10,000 for the purpose of budget control.) Purchase orders are multi-copy forms equivalent to promissory notes. The department head keeps a copy for file and budget control. The Secretary keeps a copy for matching with the invoice, for budget control and for file. The original is sent to the vendor and authorizes the vendor to provide the service or product to the Borough and to expect payment in due course following invoicing.
 - (c) Purchase orders originate by the department head obtaining and recording at least three competitive quotations and filing a purchase requisition form with the Secretary. The requisition form must contain all of the information needed for preparation of the purchase order. For purchases less than \$1,000, the Manager's signature is not necessary. The Manager may give his proxy approval verbally or by electronic communication.
- (2) Blanket Purchase Orders. Blanket purchase orders are used to provide authority for repeated small purchases at the business of a single vendor, such as a hardware store or office supply store. A single purchase order may be issued periodically to a vendor permitting a number of small purchases, the individual value of which may not exceed \$100. The purchase order bears a not-to-exceed amount which the cumulative value of individual purchases may not exceed. Authorized employees may purchase small items from the vendor on the basis of their signature.
- (3) Emergency Purchases. An emergency may be a declared or undeclared emergency condition that makes it prudent or necessary for the department head to take action to purchase or contract for goods or services. In any instance where the public welfare or convenience is at stake, the department head is to take what purchasing action is necessary. After the emergency has passed, a confirming purchase order, with retroactive approval, is to be prepared documenting the purchase or contract. A confirming purchase order may be used to buy needed but unanticipated parts or supplies required to keep employees and equipment working.

(Ord. 3-1996, 6/3/1996, §1203)

M. Recall.

§181. OFFICERS SUBJECT TO RECALL.

Any person holding an elective office of the Borough of Portage, whether by election or appointment, shall be subject to removal from office at a recall election in the manner provided by the Charter.

(Ord. 3-1996, 6/3/1996, §1301)

§182. RECALL PROCEDURE.

Recall shall follow the procedure outlined in the Charter (Article XVII, §1702).

(Ord. 3-1996, 6/3/1996, §1302)

§183. NOTICE TO INCUMBENT, RECALL ELECTIONS, DISQUALIFICATION FROM OFFICE AND LIMITATIONS.

These matters are provided for in the Charter (Article XVII, §§1703-1706).

(Ord. 3-1996, 6/3/1996, §1303)

N. Initiative and Referendum.

§185. INITIATIVE AND REFERENDUM PROCEDURES.

These procedures are provided in the Charter (Article XVIII, §§1801-1807).

(Ord. 3-1996, 6/3/1996, §1401)

O. Transition and Continuation.

§191. CONTROL.

The Borough of Portage shall own and control all that it owned and controlled and be obligated for all that it was obligated for after the Charter takes effect.

(Ord. 3-1996, 6/3/1996, §1501)

§192. TRANSITION AND CONTINUATION.

All other provisions set forth in the Charter for transition and continuation shall be as provided in the Charter.

(Ord. 3-1996, 6/3/1996, §1502)

P. General Provisions.

§195. ORDINANCES IN CONFLICT.

Any ordinance related to the operations of boards, commissions and authorities of the Borough of Portage in conflict with provisions of the Charter shall be amended to conform to the Charter.

(Ord. 3-1996, 6/3/1996, §1601)

§196. SEVERABILITY.

It is the intention of the electors of the Borough of Portage that if any portions of the Charter or this Part are held to be invalid, that the remainder of the Charter or this Part remain in full force and effect.

(Ord. 3-1996, 6/3/1996, §1602)

§197. EFFECTIVE DATE.

This Part of the Borough of Portage shall become effective on the first Monday of January, 1996.

(Ord. 3-1996, 6/3/1996, §1603)

PART 2

PENSION PLANS

A. Nonuniformed Municipal Employee Pension Plan.

§201. ELECTION TO ENROLL IN THE PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM.

Portage Borough, being a member municipality of the Pennsylvania Municipal Retirement System, hereby elects to change its member benefits in that System as authorized by the Pennsylvania Municipal Retirement Law, Act 15 of 1974, as amended, and does hereby agree to be bound by all the requirements and provisions of said Law, and to assume all obligations, financial and otherwise, placed upon member municipalities. All references hereafter shall be based on benefits negotiated between the Board and the municipality under the provisions of Article IV of the Pennsylvania Municipal Retirement Law.

(Ord. 2-2007, 3/5/2007, §I)

§202. MEMBERSHIP.

Membership in the Pennsylvania Municipal Retirement System shall be mandatory for all full-time municipal employees of the Borough. Membership for part-time employees is optional. The election by part-time employees to join the System must be made within one year after the employee first enters the service of the Borough. Membership for elected officials and employees hired on a temporary or seasonal basis is prohibited, as is membership for individuals paid only a fee basis.

(Ord. 2-2007, 3/5/2007, §II)

§203. CREDIT FOR PRIOR SERVICE.

Credit for prior service for original members is granted for each year or partial year thereof that the member was employed by the Borough from original date of hire or the expiration of the member's probationary period if one so existed. Benefits provided to members in the agreement dated March 5, 2007 shall accrue based on all credited service granted and earned in accordance with this Section.

(Ord. 2-2007, 3/5/2007, §III)

§204. PAYMENT FOR ANY OBLIGATION ESTABLISHED.

Payment for any obligation established by the adoption of this Part 2A and the agreement

ADMINISTRATION AND GOVERNMENT

between the Board and Portage Borough shall be made by the Borough in accordance with the Pennsylvania Municipal Retirement Law and Act 205 of 1984, the Municipal Pension Plan Funding Standard and Recovery Act.

(Ord. 2-2007, 3/5/2007, §IV)

§205. AGREEMENT.

As part of this Part 2A, the Borough agrees that the System shall provide the benefits set forth in the agreement between the Board and Portage Borough, dated March 5, 2007. The passage and adoption of this Part 2A by Portage Borough is an official acceptance of said agreement and the financial obligations resulting from the administration of said benefit package. Portage Borough hereby assumes all liability for any unfundedness created due to the acceptance of the benefit structure outlined in the above-referenced agreement.

(Ord. 2-2007, 3/5/2007, §V)

§206. AUTHORIZATION.

Portage Borough intends this Part 2A to be the complete authorization of the Borough's municipal pension plan and it shall become effective and specifically repeal Ord. 1-1997 either immediately or on January 1, 2007, which is the effective date of the agreement dated March 5, 2007, between the Pennsylvania Municipal Retirement System and Portage Borough, whichever is later.

(Ord. 2-2007, 3/5/2007, §VI)

§207. COPY FILED WITH THE PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM.

A duly certified copy of this Part 2A and the referenced agreement shall be filed with the Pennsylvania Municipal Retirement System of the Commonwealth of Pennsylvania. Membership for the municipal employees of Portage Borough in the Pennsylvania Municipal Retirement System shall be effective the first day of September, 1997, with the revised plan structure reflected in the agreement dated March 5, 2007, effective the first day of January, 2007.

(Ord. 2-2007, 3/5/2007, §VII)

B. Police Pension Plan.

§221. PLAN ADOPTED.

This defined contribution pension plan shall be in the form of a money purchase plan managed by an insurance company under contract with the Borough. The Borough Council hereby designates the broker-of-record as the plan administrator.

(Ord. 3-1998, 7/6/1998, §1)

§222. ANNUAL REPORT.

The plan administrator has the responsibility for oversight management of the contract with the insurance company and any agents or brokers representing the company. The plan administrator shall provide an annual report to the Borough Council setting forth his, or her, assessment as the financial security and quality of management services provided by the company. Periodically, he, or she, will prepare a scope of services detailing expectations of the company and shall survey the insurance industry to ensure that optimum earnings, security and services are being provided. He, or she, may recommend a change in insurance company providers when it is believed a change is warranted. Unwarranted changes, known as "churning" are to be avoided. The plan administrator shall stipulate investment options for the uncommitted portions of the Police Pension Fund to be direct debt instruments of the U.S. Government. The plan administrator shall stipulate investment options for the uncommitted portions of the police pension fund to be direct debt instruments of the U.S. Government. The plan administrator may provide for a variable annuity with a full range of investment options for employee accounts, provided that employees are given an opportunity to make investment choices, are made aware of potential risks and assume responsibility for their investment decisions.

(Ord. 3-1998, 7/6/1998, §2)

§223. CONTRIBUTIONS.

The defined contribution plan, administered as a money purchase plan, shall be continued as an annual, flat rate, fixed sum, contribution to the individual account (or variable annuity), managed by the contract insurance company, for the benefit of each of the permanent, full-time police officers presently employed by the Borough of Portage.

(Ord. 3-1998, 7/6/1998, §3)

§224. CALCULATION OF THE DEFINED CONTRIBUTION.

The defined contribution shall not be reduced by this Part and shall be calculated in the following manner which is designed to produce an equitable parity in retirement benefits for the two officers, at the same time recognizing differences in years of service and seniority, rank, and responsibility. The defined contribution is paid annually, retrospectively, at the

ADMINISTRATION AND GOVERNMENT

end of each calendar year for the prior 12 months and is prorated if service is terminated during the year.

- A. Base Year. The base year of 1995 shall be established for the purposes of calculating the retirement benefit. 1995 is selected as the base year because that is the first year during which the two present officers appear and are listed on the roster of permanent, full-time police officers.
- B. Percentage Multiplicand. A percentage multiplicand is developed which, when the annual salary for the year 1995 for Police Chief Donal Kehn is multiplied by that percentage, produces a number which is the current annual defined contribution paid to the account of Chief Kehn. That percentage is 27.6382%. The use of the percentage is limited to this one time computation of the annual defined contribution. The reason for the use of the percentage, and for this one time calculation, is to establish an equitable retirement benefit for Officer King. The annual defined contribution is to be a flat rate fixed sum annual amount.
- C. Base Year Salaries. 1995 base year salaries were \$23,880 for Donald Kehn, Police Chief, and \$17,160 for Judy King, Patrol Officer.
- D. Computation of the Annual Defined Contribution. The same percentage multiplicand shall be applied to the base year salary for each of the two officers, as follows:

Donald Kehn, Police Chief, $\$23,800 \times 27.6382\% = \$6,660$. (\$6,600 is the present annual defined contribution of Chief Kehn and does not diminish his benefit. The annual contribution for Chief Kehn's account shall be unchanged at \$6,600.)

Judy King, Patrol Officer, $\$17,160 \times 27.6382\% = \$4,743$. (\$4,743 as an annual defined contribution for Patrol Officer King is an increase in her retirement benefit. The annual contribution of \$4,743 shall be retroactively applied to include past years of 1997, 1996 and 1995. Thus, an additional contribution shall be made to Officer King's account in the amount of \$3,743 for 1995; \$2,743 for 1996; \$1,743 for 1997 and \$743 for 1998. In all, \$8,972 shall be added to Officer King's account in order to achieve a position of equitable parity. Thereafter, the annual contribution to her account shall be \$4,743.)

(Ord. 3-1998, 7/6/1998, §4)

§225. RETIREMENT BENEFIT.

The retirement benefit for an officer covered by this plan shall be the sum total of all annual contributions paid into the officer's account, or variable annuity, plus all accumulated dividends and interest earnings at the time of retirement.

(Ord. 3-1998, 7/6/1998, §5)

§226. RETIREMENT ELIGIBILITY.

Retirement eligibility is established by attainment of age 50.

(Ord. 3-1998, 7/6/1998, §6)

§227. DISABLED RETIREMENT.

A disabled retirement is available at any time to an officer who is totally and permanently disabled as defined by the Social Security Administration. The retirement benefit is stated in §225.

(Ord. 3-1998, 7/6/1998, §7)

§228. VESTING.

Present officers are immediately vested and may receive a retirement benefit as described in §225 upon reaching eligibility for retirement.

(Ord. 3-1998, 7/6/1998, §8)

§229. RANGE OF RETIREMENT OPTIONS.

The plan administrator shall ensure that the insurance contract shall provide a range of retirement options which shall include:

- A. Lump sum, including all contributions and earnings.
- B. A life-only annuity.
- C. A refund annuity.
- D. A life with time certain annuity.
- E. A joint and survivor annuity.
- F. An election to receive an interest only option provided by an annuity.

(Ord. 3-1998, 7/6/1998, §9)

§230. SEMIANNUAL REPORTS.

The plan administrator shall require the insurance company to provide semiannual reports of contributions, deposits to investment options and earnings; said reports to be furnished both to the Borough and to participating employees.

(Ord. 3-1998, 7/6/1998, §10)

§231. OWNERSHIP OF THE FUND.

The Borough of Portage shall be the owner of the police pension fund and any annuities purchased on behalf of the police pension fund. Rights to receive benefits, to make investment choices, if any, are available to participating employees under the terms of a variable annuity or similar investment vehicle permitted by the contract, and to name beneficiaries, remain with the participating police officer.

(Ord. 3-1998, 7/6/1998, §11)

PART 3
AUTHORITIES

A. Municipal Authority of Portage Borough.

§301. INTENTION TO ORGANIZE AUTHORITY.

It is the desire and intention of the municipal authorities of this Borough of Portage, Pennsylvania to organize an authority under the "Municipality Authorities Act of 1935," approved June 28, 1935, P.L. 463, and its amendments and supplements, for the purpose of acquiring, owning and operating or leasing any and all structures, facilities or undertakings which an authority is authorized to construct, improve, maintain or operate under the provisions of the said Act.

(Ord. 1-1941, 12/15/1941, §1)

§302. NAME OF AUTHORITY.

The name of the proposed authority is the "Municipal Authority of the Borough of Portage."

(Ord. 1-1941, 12/15/1941, §2)

§303. ARTICLES OF INCORPORATION.

The proposed articles of incorporation of said authority are as follows:

- A. The name of the authority shall be the "Municipal Authority of the Borough of Portage."
- B. The Municipal Authority of the Borough of Portage shall be formed under the "Municipal Authorities Act of 1935," approved June 28, 1935, P.L. 463, and its amendments and supplements.
- C. No other authority organized under the "Municipal Authorities Act of 1935," approved June 28, 1935, P.L. 463, and its supplements and amendments, or under the act approved December 27, 1935 (Special Sessions) of 1933, P.L. 114 is in existence in and for the Borough of Portage.
- D. The name of the incorporating municipality, together with the names and addresses of the municipal authorities, is as follows: [Here followed the name of the incorporating municipality together with the names and addresses of the municipal authorities.]
- E. The names and address and terms of office of the first five members of the board of said municipal authority of the Borough of Portage shall be as follows:

ADMINISTRATION AND GOVERNMENT

[Here followed the names and addresses and terms of office of the first five members of the board of said municipal authority.]

(Ord. 1-1941, 12/15/1941, §3)

§304. PURPOSE.

This Part is deemed necessary for the public peace, health, morals, safety and general welfare of the citizens of Portage, Pennsylvania, and in the exercise of the police powers of the Borough government, and shall take effect immediately upon its final passage.

(Ord. 1-1941, 12/15/1941, §5)

B. Portage Area Sewer Authority.

§311. INTENTION TO ORGANIZE AUTHORITY.

It is the desire of the Borough Council of the Borough of Portage, in the County of Cambria and State of Pennsylvania, and the said Borough Council hereby signifies its intention to organize an authority under the Municipal Authorities Act of May 2, 1945, P.L. 382, as amended.

(Ord. 284, 3/2/1970, §1)

§312. ARTICLES OF INCORPORATION.

In pursuance of said desire and intention and in conformity with the terms and provisions of said Municipal Authorities Act and its amendments, the proposed articles of incorporation are hereby set forth in full, as follows:

ARTICLES OF INCORPORATION
OF
PORTAGE AREA SEWER AUTHORITY

TO THE SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA, HARRISBURG
PENNSYLVANIA

In compliance with the requirements of the Municipal Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended, and pursuant to ordinances adopted by the Municipal Authorities of the Township of Portage and the Borough of Portage, authority be established under the provisions of the aforementioned law, the Township and the Borough of Portage, desire that a joint municipal authority be established and that a certificate of incorporation be issued to said authority, do hereby certify:

- A. The name of the authority shall be the "Portage Area Sewer Authority."
- B. The authority is formed under the Act of May 2, 1945, P.L. 382, as amended, for the purpose of constructing and erecting a sewer system and sewage disposal plant by means of the sale of sewer revenue bonds, and to undertake any and all other functions usually undertaken and performed by a sewer company.
- C. No other authority has been organized under the provisions of this Act, or the Act approved June 28, 1935, P.L. 463, and is in existence within the said Township and Borough, except the following:
 - (1) Portage Municipal Water Authority, organized by the Borough of Portage.
 - (2) The Tri-Township Water Authority, organized by and between the Township of Croyle, Township of Summerhill and the Township of Portage.

ADMINISTRATION AND GOVERNMENT

- D. The names of the incorporating municipalities are: Township of Portage in the County of Cambria and the State of Pennsylvania; the Borough of Portage in the County of Cambria and State of Pennsylvania.
- E. The names and addresses of the Board of Supervisors of the Township of Portage are as follows: [Here followed the names and addresses of the Board of Supervisors of the Township of Portage].
- F. The names and addresses of the Borough Council of the Borough of Portage are as follows: [Here followed the names and address of Borough Council of the Borough of Portage].
- G. The names and addresses and terms of office of the first members of the board of said authority are as follows: [Here followed the names and addresses and terms of office of the first members of the board of said authority].
- H. The term of existence of the Portage Area Sewer Authority shall be hereby increased to a term of 50 years from the date of approval by the Secretary of the Commonwealth of its Articles of Amendment to its Articles of Incorporation unless sooner dissolved according to law. [Res. 1-1997]

All of whom reside in and are citizens of the respective Township of Portage and the Borough of Portage, Cambria County, Pennsylvania.

WITNESS, the hands and seals of the President and Secretary of the following Borough.

(Ord. 284, 3/2/1970, §2; as amended by Res. 1-1997, 1/20/1997)

§313. NOTICE OF INTENTION TO FILE.

The said proposed articles of incorporation of said authority shall be executed by and on behalf of the Borough of Portage by the President of the Borough Council of said Borough and the seal of said Borough shall be thereto affixed, attested by the Secretary of the Borough Council of the said Borough, and filed with the Secretary of the Commonwealth. The Solicitor is hereby authorized and directed to cause to be published the notice of intention to file the articles of incorporation with the Secretary of the Commonwealth as required by the aforementioned Act.

(Ord. 284, 3/2/1970, §3)

PART 4
FIRE DEPARTMENT

A. Volunteer Firemen's Relief Association.

§401. RECOGNITION OF VOLUNTEER FIREMEN'S RELIEF ASSOCIATION.

1. The following association is hereby recognized as actively engaged in providing fire protection and/or emergency services in the Borough of Portage:

Foreign Fire Insurance Tax Allocation

2. The above named association has been formed for the benefit of its members and their families in case of death, sickness, temporary or permanent disability or accident suffered in the line of duty.
3. The above named association of the Borough of Portage is designated the proper association to receive such funds as are due and payable to the Borough Treasurer by the Treasurer of the State of Pennsylvania from the tax on premiums from foreign fire insurance companies.

(Ord. 3-1999, 4/5/1999)

§402. CERTIFICATION TO AUDITOR GENERAL.

The Borough Council shall annually certify to the Auditor General of the Commonwealth, the name of the active association and the percentage of service it contributes to the protection of the Borough of Portage. Such certification shall be on forms prescribed by the Auditor General.

(Ord. 3-1999, 4/5/1999)

§403. ANNUAL APPROPRIATION.

There is annually appropriated from the Borough Treasury all such sums of money that may hereafter be paid into the Borough Treasury by the Treasurer of the State of Pennsylvania on account of taxes paid on premiums of foreign fire insurance companies in pursuance of the Act of December 18, 1984, No. 205, §701 *et seq.* as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. Such monies received by the Borough Treasurer from the State Treasurer shall be distributed to the duly recognized association within 60 days of receipt. The funds shall be distributed on the basis of the percentage of service established in the certification to the Auditor General and with other provisions of the Act.

(Ord. 3-1999, 4/5/1999)

B. Authorization of Services of Portage Volunteer Fire Company.

§411. FIRE COMPANY RECOGNIZED.

The Portage Volunteer Fire Department, organized and existing in the Borough of Portage, Cambria County, Pennsylvania, is hereby designated as the officially recognized fire company for the Borough.

(Ord. 3-1997, 9/8/1997, §1)

§412. AUTHORIZED ACTIVITIES OF THE FIRE COMPANY.

1. The fire company recognized by the Borough is hereby authorized to provide such services to the Borough as may be necessary for the protection of property and persons situate therein, which include, by way of example and not of limitation, the extinguishment of fires and prevention of loss of life and property from fire, automobile accidents, medical emergencies, hazardous materials incidents and other dangerous situations.
2. The fire company may also provide nonemergency and public service functions such as, again by way of example and not limitation, removing water from property after storms and assisting in the removal, abatement and prevention of damage or injury to persons or property, whether through natural causes of manmade situations.
3. The fire company may also conduct and participate in such training activities and drills, either within or outside of the Borough, as may be deemed necessary by the officers of the fire company to maintain proficiency in providing service.
4. The fire company may also respond to calls and provide services to municipalities outside of the Borough pursuant to mutual aid agreements.

(Ord. 3-1997, 9/8/1997, §2)

§413. AUTHORIZED ACTIVITIES OF MEMBERS OF THE FIRE COMPANY.

In addition to actually participating in the activities of the fire company as authorized above, or in going to or returning from any activity, the members of the fire company recognized by the Borough are also authorized to do the following things:

- A. Engage in any type of drill, training, ceremony, practice, test or parade when duly called from or authorized by an officer or officers of the fire company.
- B. Engage in fundraising activities for the fire company, when authorized by an officer or officers of the fire company.
- C. Engage in the performance of any other duty or activity authorized by an officer of the recognized fire company.

ADMINISTRATION AND GOVERNMENT

(Ord. 3-1997, 9/8/1997, §3)

§414. PURPOSE.

The purpose of this Part is to recognize the fire company as the official fire company of the Borough and to state additional authorized activities of firefighters for workmen's compensation purposes.

(Ord. 3-1997, 9/8/1997, §4)

C. Establishment and Collection of Reasonable Fees.

§421. REIMBURSEMENT FOR AUTOMOBILE ACCIDENT SERVICES.

The Borough of Portage hereby authorizes the Portage Volunteer Fire Company to collect from persons who use their services as a result of a call to an automobile accident a sum sufficient to reimburse the said Fire Company in full for the use of any equipment by the said volunteer agency.

(Ord. 1-2003, 1/6/2003, §1)

§422. BILLING.

The Fire Company shall have the obligation to do the billing for any services rendered and the fees shall be set by its Board of Trustees of the said Fire Company and submitted to the Portage Borough Council for approval. (A copy of the initial "fee schedule and emergency automobile accident equipment list" is attached hereto and incorporated herein by reference, as if the same was set forth more fully herein at length).

(Ord. 1-2003, 1/6/2003, §2)

§423. NONPAYMENT.

In the event of nonpayment of services by any party, the Borough authorizes and/or assigns to the Portage Volunteer Fire Company, for the sole purpose of enforcing this Part 4C, the right to pursue legal remedies including, but not limited to, collection actions in a court of law or equity. Any recovery of money shall be paid over to the Fire Company which rendered the services.

(Ord. 1-2003, 1/6/2003, §3)

§424. FEE TO BE SET BY FIRE COMPANY AND APPROVED BY COUNCIL.

All emergency automobile accident equipment of the Fire Company shall be made available to the requesting party and the assessment of fees for use thereof shall be made and established by the Fire Company and submitted to the Borough Council.

(Ord. 1-2003, 1/6/2003, §4)

§425. BOROUGH RESERVES RIGHT TO AMEND, REPEAL OR REVOKE.

The municipality reserves the right to amend, repeal, and/or revoke this Part 4C at any time in the future.

ADMINISTRATION AND GOVERNMENT

(Ord. 3-1996, 6/3/1996; as added by; Ord. 1-2003, 1/6/2003, §5)

FEE SCHEDULE FOR FIRE DEPARTMENT

SUBJECT	FEES
1. VEHICLES	
A. Engine 83-1	\$100 per hour
B. Engine 83-2	\$100 per hour
C. Engine 83-3	\$100 per hour
D. Utility Truck 83-4	\$100 per hour
E. Brush Truck 83-5	\$100 per hour
2. EQUIPMENT	
A. Foam	\$25 per gallon
B. Jaws of Life	\$100 per use
C. Siccors	\$100 per use
D. Rams	\$100 per use
E. Air Bags	\$100 per use
F. Sawzall	\$25 per use
G. Air Chisel	\$25 per use
H. Oil Dry	\$15 per bucket
I. Oil Absorbent Socks	\$10 per sock
J. Oil Absorbent Pad	\$10 per pad
K. Road Flares	\$5 per flare
L. Lighting	\$75 per use

PART 5

BOARDS, AGENCIES AND COMMISSIONS

A. Planning Commission.

§501. CREATION OF COMMISSION.

A department of the Borough of Portage is hereby created to be known as the "Portage Area Regional Planning Commission."

(Ord. 241, 8/7/1962, §1; as amended by Ord. 270, 12/27/1967, §1; and by Ord. 3-1999, 4/5/1999)

§502. MEMBERSHIP OF COMMISSION.

The Borough Council shall appoint a Borough Planning Commission which shall consist of five persons to serve for a term of 5 years. One member of the Commission to be appointed on the first meeting day of each year. In the first instance one member shall be appointed to serve for a term of 1 year, one member for 2 years, one member for 3 years, one member for 4 years and one member for 5 years and, annually thereafter, a member of said Commission shall be appointed for a term of 5 years. An appointment to fill a casual vacancy shall be only for the unexpired portion of the term. All members of the Commission shall reside within the zone of jurisdiction of said Commission. The members of said Commission shall serve without compensation and make semiannual reports to the Mayor and Council of their transactions.

(Ord. 241, 8/7/1962, §2)

§503. RULES AND REGULATIONS.

The said Commission shall make rules and regulations for their own organization and procedure consistent with the ordinances of the Borough of Portage and the laws of the Commonwealth of Pennsylvania.

(Ord. 241, 8/7/1962, §3)

§504. POWERS AND DUTIES.

The Borough Planning Commission shall perform all duties and exercise all powers conferred by law upon Borough planning agencies.

(Ord. 241, 8/7/1962, §4; as amended by Ord. 270, 12/27/1967, §2; and by Ord. 3-1999, 4/5/1999)

§505. APPROVAL OF PLANS, PLOTS AND REPLOTS.

All plans, plots and replots shall be reviewed in accordance with the procedures of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(Ord. 241, 8/7/1962, §5; as amended by Ord. 3-1999, 4/5/1999)

§506. RECOMMENDATIONS.

The Borough Planning Commission may make recommendations to any public authorities or any corporation or individuals in the Borough with reference to the location of any buildings, structures or works to be erected or constructed by them.

(Ord. 241, 8/7/1962, §6)

§507. REMOVAL OF MEMBER.

Any member who shall not attend three regularly scheduled meetings within 1 calendar year, without just cause in the opinion of the majority of members of Borough Council, may be removed from the Commission by majority vote of Borough Council and a successor appointed by the Borough Council for the remainder of the unexpired term of said removed member.

(Ord. 241, 8/7/1962, §7)

§508. APPOINTMENT OF MEMBERS.

Upon enactment of this Part, the present members of the Borough Planning Commission are hereby appointed and automatically members of the Portage Borough Planning Commission.

(Ord. 241, 8/7/1962; as added by Ord. 270, 12/27/1967, §3; and as amended by Ord. 3-1999, 4/5/1999)

B. [Reserved]

C. Recreation Commission.

§521. ESTABLISHMENT OF THE PORTAGE AREA JOINT RECREATION COMMISSION.

1. The Borough of Portage joins in the creation of the Portage Area Joint Recreation Commission with the Township of Portage and the Portage Area School District.
2. Said commission shall be created and operated pursuant to a joint agreement that was entered into by said Borough on April 9, 1991.
3. Said agreement is available for inspection in the office of the Borough Secretary and may be amended, from time to time, pursuant to 53 P.S. §47701 *et seq.*

(Ord. 2-1991, 4/9/1991)

§522. JOINT RECREATION COMMISSION AGREEMENT.

1. There is hereby adopted and ratified an agreement for intergovernmental cooperation known as the "Joint Recreation Commission Agreement," hereinafter referred to as the "agreement."
2. This agreement is entered into pursuant to the provisions of §2711 *et seq.*, of the Borough Code, 53 P.S. §47701 *et seq.*, and the Intergovernmental Cooperation Law.
3. The purposes and objectives of the agreement are as follows:
 - A. To enter into all conduct authorized by §2711 *et seq.* of the Borough Code, 53 P.S. §47701 *et seq.*
 - B. To enter into all conduct identified in the attached joint recreation commission agreement¹.
4. The agreement shall be subject to all conditions and terms identified in the Intergovernmental Cooperation Law and the Borough Code.
5. The duration of the agreement shall be indefinite, subject to termination by either municipality as provided in the agreement.

(Ord. 2-1997, 6/2/1997)

¹Editor's Note: The Joint Recreation Commission Agreement is on file in the Borough office.

PART 6

FIRE INSURANCE PROCEEDS

§601. 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 of Portage 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 of Portage 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; or,
 - B. Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

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 (A) 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% of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:

ADMINISTRATION AND GOVERNMENT

- 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 of Portage, 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 of Portage 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; and,
 - (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 of Portage.
 - (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 of Portage.
 - (6) Nothing in this Section shall be construed to limit the ability of the Borough of Portage to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this ordinance, or to

insurance proceeds, by an action at law or in equity to enforce the codes of the Borough of Portage 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. 5-1996, 9/3/1996; as revised by Ord. 3-1999, 4/5/1999)

§602. 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 of Portage, 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. 5-1996, 9/3/1996; as revised by Ord. 3-1999, 4/5/1999)

§603. 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 of Portage shall have a full benefit of such payment including all rights of subrogation and of assignment.

(Ord. 5-1996, 9/3/1996; as revised by Ord. 3-1999, 4/5/1999)

§604. 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. 5-1996, 9/3/1996; as revised by Ord. 3-1999, 4/5/1999)

§605. NOTIFICATION OF PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

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

(Ord. 5-1996, 9/3/1996; as revised by Ord. 3-1999, 4/5/1999)

§606. PENALTY.

Any owner of property, any named insured or insurer who violates the provisions of this Part or who shall fail to comply with any of the requirements hereof shall be sentenced, upon conviction thereof, to 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 30 days. Each day on which an offense shall continue shall be deemed a separate offense.

(Ord. 5-1996, 9/3/1996; as revised by Ord. 3-1999, 4/5/1999)