

# TOWNSHIP SUPERVISOR'S HANDBOOK

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Harrisburg, PA

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# I. About Township Government

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Townships governed by elected boards of supervisors are the most common form of municipal government in Pennsylvania. The 1,454 townships of the second class represent a combined population of 5.5 million, 44 percent of the state total.

While many second class townships are located in urban or suburban areas and have seen a significant increase in growth and development over the last 40 years, the majority of townships are rural with smaller populations.

## SECOND CLASS TOWNSHIPS BY POPULATION SIZE 2010 CENSUS

<u>Population</u>	<u>Number</u>
20,000 and over . . . . .	.31
15,000-19,999 . . . . .	.35
10,000-14,999 . . . . .	.58
5,000-9,999 . . . . .	.181
2,500-4,999 . . . . .	.280
1,000-2,499 . . . . .	.509
under 1,000 . . . . .	.360

The largest second class townships by population are Bensalem (*Bucks County*) 60,427, Millcreek (*Erie*) 53,515, Lower Paxton (*Dauphin*) 47,360, Middletown (*Bucks*) 45,436, and Hempfield (*Westmoreland*) 43,241. Fourteen townships have populations under 100. The smallest are East Keating (*Clinton*) 11, West Keating (*Clinton*) 29, Elk (*Tioga*) 49, Grugan (*Clinton*) 51, and Cold Spring (*Lebanon*) 52.

## History of Township Government

Townships are among the oldest local governments in Pennsylvania. William Penn's 1681 Charter authorized him to divide counties into towns and hundreds. As soon as the first counties were created in 1682, they were subdivided into districts for various governmental purposes. At least two dozen townships formed in the late 1600s still survive in southeastern Pennsylvania, the oldest being Chester, Haverford, and Lower Chichester in Delaware County, formed in 1682. As settlement moved westward, townships were often formed in frontier areas before there was sufficient population to justify a separate county and in most areas the oldest subdivisions are townships, predating even the county government.

Townships were laid out by action of the county court of quarter sessions, subdividing the county for purposes of road maintenance, administering poor relief, conducting elections, and collecting taxes. In 1803, the General Assembly formalized this process by authorizing local courts to create townships within each county. Townships were also created by special act of the General Assembly until this practice was prohibited by the Constitution of 1874. New townships were created by dividing existing townships until 1931. Today, the only methods of forming a new township are through the annulment of a borough charter, consolidation of two or more townships, or reestablishment of a township of the first class.

Originally, most township officers were appointed by county officials or the county court. The first general township law was enacted in 1834. Township officers in the nineteenth century included assessors, three supervisors, a treasurer, a town clerk, three auditors and a constable. The assessment function gradually migrated to the county level, while real estate tax collection became fixed at the township level. Until 1912, property owners could fulfill their township tax liability by performing work on the roads.

The first law classifying townships was enacted in 1899. All townships became townships of the second class, except those certified to have a population density of 300 persons or more per square mile. About 10 townships around Philadelphia and Pittsburgh were certified as first class townships in 1900 and began to operate under the new form in 1901. The 1917 Township Law provided for both first and second class townships. Separate codes for first class townships were enacted in 1931 and for second class townships in 1933. The Second Class Township Code was reenacted in 1947 and again in 1995, and is amended during nearly every session of the General Assembly.

In 1937, first class townships received important protection against annexation by neighboring municipalities through a requirement that any annexation be approved by a referendum of the township. Similar protection was sought by second class townships, but was not achieved until after the 1968 amendments to the Pennsylvania Constitution.

In 1961, the state legislature authorized the boards of supervisors to expand from 3 to 5 members in townships with a population of more than 10,000 upon petition to the county court. The population requirement was reduced to 3,000 in 1974 and removed entirely in 1977. In 1975, the procedure was changed to require voter approval by referendum.

## **Role of Municipal Government**

Local government has two primary roles. It provides services for its residents that the private sector cannot or will not provide and it enacts and enforces rules for the good of the community as a whole.

The General Assembly, Pennsylvania's state legislature, created different types of local governments and gave each specific responsibilities and the authority to carry out these responsibilities. Under the Pennsylvania Constitution, the General Assembly may create and abolish local governments. The legislature may also expand the responsibilities or powers of any type of local government or take away a responsibility or power of a local government through the passage of new state law. As a rule, a local government only possesses those powers expressly granted, or fairly implied, by state law.

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

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

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

The General Assembly has given municipalities the ability to plan for the future of their communities through land use tools. With these tools, a community can plan how and where it wants to grow and develop into the future through a comprehensive plan and administer and enforce this plan through its subdivision and land development and zoning ordinances.

Municipalities can improve the attractiveness of their community through property maintenance regulations and control of nuisances, and provide for the quality of life for their citizens through recreational opportunities, such as parks and playgrounds, and educational and cultural activities, such as libraries, fairs and festivals, and concerts.

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

## Structure of Township Government

The Second Class Township Code is the state law that creates townships of the second class, sets out this form of government, and delegates certain mandatory responsibilities to townships, as well as the authority to provide optional services and enact certain regulations. Township supervisors need to become familiar with this law, as it provides the rules that they must follow to govern townships. Copies of this law are provided to townships by the Local Government Commission and can be obtained from your state senator. The Second Class Township Code is also available online at [dced.pa.gov](http://dced.pa.gov), by choosing “Local Government” and then “Local Government Law and Resource Library.”

Townships of the second class are governed by 3- or 5-member boards of township supervisors. In 2014, 82 percent of townships had 3-member boards while 18 percent operated under 5-member boards. In addition, 5 townships operate under optional plans and 16 function under home rule charters.

While 3-member boards are the default board size, Section 402 of the Second Class Township Code authorizes townships to expand the board from 3 to 5 members by a referendum approved by the township residents. In addition, 5-member boards may be reduced to 3 members by referendum.

Other elected township officials established in the Second Class Township Code include three auditors and the tax collector. Although elected from a township, the constable is an independent county officer and is not part of township government.

The elected auditors conduct the annual audit of township finances. However, the board of supervisors may appoint an independent certified public accountant to perform the annual audit in place of the elected auditors, following procedures in Section 917 of the Code. The elected auditors set the compensation, including paid time off, of any township supervisors that are employed by the township.

The elected tax collector collects school, county, and township real estate taxes. Tax collectors also collect certain special township assessments. In addition, they can be appointed to collect certain taxes levied under the Local Tax Enabling Act, such as the per capita and local services taxes.

## Role of the Board of Supervisors

Section 607 of the Second Class Township Code charges the board of supervisors with the general governance of the township and gives the board both legislative and executive powers. As such, the board of supervisors combines many of the roles found in separate branches of the state and federal governments. The board exercises its legislative functions by setting policy, enacting ordinances, adopting budgets, and levying taxes. The board also performs all executive functions such as formulating the budget, providing for ordinance enforcement, approving expenses, and hiring and overseeing employees.

It is important to note that the Township Code vests all authority and responsibility for the township in the board of supervisors, not the individual elected township supervisors. Election to the office of township supervisor authorizes that individual to participate as a voting member at meetings of the board of supervisors. The board of supervisors exercises its authority through affirmative action of a majority of the entire board at legally advertised meetings that are open to the public. It is the board of supervisors, through majority action, that is the decision-maker in all township matters. As such, any township supervisor must first receive authorization from the board of supervisors before proceeding to act on behalf of the township.

The Township Code gives the board of supervisors' flexibility to determine how a particular township will operate on a day-to-day basis. Small townships may not have a formal department structure or may only have a road or public works department. In addition to public works, large townships will often have separate departments for parks and recreation, police, code enforcement, finance, and water and/or sewer service, usually overseen by an appointed township manager. The organization of each township is based on local needs and is determined by the board of supervisors.

## II. Office of Township Supervisor

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Township supervisors are elected to serve their residents and taxpayers. Depending on the size of and level of activity in a particular township, as well as the expectations of residents, this service could range from a meeting or two a month, to dozens of monthly meetings, to employment as a part-time or full-time township employee.

Township supervisors fulfill their elected official duties by regularly attending, and actively participating in, meetings of the board of supervisors. Township supervisors should actively seek input from their residents and taxpayers, ask thoughtful questions of staff and advisory boards, be open-minded to new ideas, and work with their fellow board members for the good of their township. This may mean setting aside preconceived notions and sometimes taking an unpopular position that is in the best interests of the township as a whole.

### Qualifications

To serve as a township supervisor, an individual must be a registered voter of the township and must have resided in the township for at least one year before their election.<sup>1</sup> To qualify as a voter, a person must be 18 years of age and a resident of the township. To continue serving as a supervisor, an individual must retain residence within the township.

**Term of Office.** The term of office for a township supervisor is 6 years. Ordinarily, one or two of a township's supervisor positions will be on the ballot at each municipal election. However, shorter terms may occur, usually due to vacancies, but also after a referendum to expand or reduce the size of the board.

When a vacancy occurs in the office of township supervisor, the office will appear on the ballot as a shorter term if there are at least two years remaining of the original term and the vacancy occurs more than 60 days before a municipal election.<sup>2</sup>

**Incompatible Offices.** A supervisor may not hold any other elected township office,<sup>3</sup> serve as a school board member,<sup>4</sup> or hold any elective county office.<sup>5</sup> A supervisor may not serve as township manager,<sup>6</sup> township police officer<sup>7</sup> or zoning officer.<sup>8</sup> A limited number of supervisors can serve as members of the township planning commission,<sup>9</sup> but are prohibited from becoming members of the zoning hearing board.<sup>10</sup>

An elected township supervisor may be hired by the board of supervisors as a township employee, such as roadmaster, laborer, secretary, treasurer, assistant secretary, assistant treasurer, or in any other position not prohibited by law.<sup>11</sup> Employee positions are an annual appointment, usually made at the board of supervisors' organizational meeting. However, supervisors cannot give themselves additional compensation for performing general administrative duties.<sup>12</sup>

A supervisor may hold an appointed position within the township as long as the appointed position is not prohibited by law.

In 1993, the Pennsylvania Supreme Court ruled that a township supervisor could serve on the board of a municipal authority created by the township because authorities are independent entities and not part of the township government.<sup>13</sup> Also, the Commonwealth Court ruled that an elected official violated the state Ethics Act when he voted to appoint himself to an authority board where he received compensation.<sup>14</sup>

**Oath of Office.** Before performing the duties of office, each township supervisor must take an oath of office and file it with the township secretary.<sup>15</sup> The oath may be administered by a judge, district magistrate, or notary public and must contain the standard language established by Act 76 of 2008 for such oaths.

### Vacancies

Vacancies can occur due to resignation or death. When this happens, the remaining members of the board of supervisors have 45 days from the date the vacancy occurs to fill the position.<sup>16</sup> While not required, it is a recommended practice to make it known that the position is open and to encourage applicants through classified ads, legal notices, or newspaper articles. Any interviews of the candidates or discussion of the qualifications of the applicants must take place in a public meeting.<sup>17</sup>



If the board of supervisors fails to fill the position within this time, the vacancy board has 15 additional days to fill the position. The vacancy board consists of the remaining supervisors and one township resident who is appointed by the board of supervisors at its annual organization meeting as the chairman of the vacancy board.

If the vacancy board fails to fill the vacancy within the prescribed time, the chairman of the vacancy board petitions the court of common pleas to fill the vacancy. If the office of vacancy board chair is vacant, the remaining supervisors petition the court. When 2 or more vacancies occur on a 3-member board of supervisors, or 3 or more vacancies on a 5-member board, the positions must be filled by the court of common pleas.

In all cases, the appointed supervisor serves until the first Monday in January after the next municipal election, provided that the election is held more than 60 days after the vacancy occurs.

## Compensation

Township supervisors may receive compensation as an elected official and may also be hired and receive compensation as an employee of the township.

As elected officials, township supervisors receive a salary that is fixed by ordinance and is paid monthly or quarterly.<sup>18</sup> This salary cannot exceed the maximums set by law for the following population groups, as determined by the latest official census. However, a township is not required to reduce the salaries of supervisors if the population decreases.

<u>Township Population</u>	<u>Maximum Compensation</u>
Under 4,999	\$.1,875
5,000-9,999	\$.2,500
10,000-14,999	\$.3,250
15,000-24,999	\$.4,125
25,000-34,999	\$.4,375
35,000 and over	\$.5,000

Any change in salary for supervisors as elected officials becomes effective at the beginning of the next term of office. This restriction does not apply to supervisors receiving compensation or benefits as township employees.

When a supervisor is hired as an employee by the board of supervisors, his compensation as an employee is set by the board of auditors at their annual organization meeting. The auditors are required to set the rate comparable to wages in the locality for similar services.<sup>19</sup> Before compensation is set, the board of supervisors should create a descriptive job title, or better yet, a written job description. Generic titles such as “working supervisor” are not recommended. The job title or description should be provided to the auditors, along with any wage rate recommendations made by the board of supervisors. Paid leave for supervisors serving as employees, such as vacation or sick leave, also must be set by the auditors.

Supervisors are prohibited from receiving compensation as an employee for attending a meeting of the board of supervisors<sup>20</sup> or for performing their elected official duties.<sup>21</sup> Township supervisors that are employees of the township must be careful to differentiate between their elected official duties and their duties as a township employee when submitting time sheets.

Supervisors may attend county conventions of township associations and are entitled to \$50 compensation for each day’s attendance. If the meeting is held during normal working hours and the township supervisor is also a township employee, they may receive their regular hourly wage instead of the \$50 or, if not a township employee, they may receive total or partial lost wages for attending the convention, provided sufficient documentation is presented to justify the reimbursement.<sup>22</sup>

In addition, supervisors attending the Pennsylvania State Association of Township Supervisors annual conference may receive their regular hourly wage if a township employee or may receive total or partial lost wages for attending the annual conference, not to exceed four days per year, if sufficient documentation is provided to justify the reimbursement.<sup>23</sup>

**Benefits.** Townships are authorized to provide group insurance benefits for employees.<sup>24</sup> Township supervisors may participate in group life, health, hospitalization, medical and accident insurance at the township's expense whether or not they are township employees.<sup>25</sup> However, in order for a township supervisor who is not an employee to participate in an insurance plan paid for in whole or in part by the township, a policy must have been set by the board of supervisors, before that township supervisor's current term began, to authorize the township to pay for this benefit for those township supervisors not employed by the township. Any change to such a policy cannot be implemented until the beginning of the next term of each supervisor.

In contrast, township supervisors who are also township employees may participate in township-paid insurances as a township employee. However, they must meet the same qualifications, such as hours worked, as other employees in order to participate at township expense.

Township supervisors who are employees of the township are covered by unemployment compensation for their employee duties.<sup>26</sup> Township supervisors who are employees of the township may receive township-paid pensions after auditor approval.<sup>27</sup>

**Expenses.** When travel on official business is authorized by the board, supervisors may receive mileage for use of their personal vehicle. The mileage allowance is set by the board of supervisors for all township personnel<sup>28</sup> and cannot exceed the current Internal Revenue Service mileage rate. In addition, a supervisor may be reimbursed for registration fees and other actual expenses when attending meetings, conferences, and training.<sup>29</sup>

The board should have a policy for reporting expenses and should require an itemized account of expenses and documentation before authorizing reimbursement. Allowable expenses should be limited to such items as lodging, meals, parking, tolls, and public transportation expenses.

Township supervisors attending county conventions of township officials are entitled to payment of the registration fee, mileage or actual transportation expense, and all other actual expenses the board agrees to pay. Each delegate attending must submit an itemized account of expenses before reimbursement is made.<sup>30</sup>

Similarly, township supervisors that are authorized by the board to attend the annual conference of the Pennsylvania State Association of Township Supervisors are entitled to payment of the registration fee, mileage or actual transportation expense and all other actual expenses the board agreed to pay. Each supervisor must submit an itemized account of expenses to the board.<sup>31</sup>

## Conflicts of Interest

Township supervisors must carefully avoid conflicts between their personal and private interests and their role as township supervisors. The Public Officials and Employees Ethics Act prohibits public officials and employees from committing a conflict of interest.<sup>32</sup> A conflict of interest is the use by a public official or public employee of the authority of their position, or any confidential information received through their position, for the private pecuniary benefit of himself, a member of their immediate family or a business with which they, or a member of their immediate family, is associated.<sup>33</sup> In other words, township officials are prohibited from using their office to financially benefit themselves. The Ethics Act defines "immediate family" as a "parent, spouse, child, brother, or sister." Alleged violations of the act should be referred to the State Ethics Commission for investigation.

The Ethics Act requires township supervisors to file annual financial interest statements with the township secretary on forms provided by the State Ethics Commission by May 1 of each year in office and for one year after leaving office. The statements are open to public inspection on demand.<sup>34</sup>

Any supervisor facing the possibility of a conflict of interest under the Ethics Act may request an advisory opinion from the State Ethics Commission<sup>35</sup> or a written opinion from the township solicitor.<sup>36</sup> If the township supervisor provides all facts truthfully and in good faith and follows the advice given, the opinion will provide protection from penalties under the act.

Township supervisors are personally responsible for following the Ethics Law. If an issue is brought before the board where a township supervisor has a conflict of interest, that supervisor must refrain from voting on the issue. As such, if a supervisor has conflict of interest on an issue before the board of supervisors, they need to prepare a brief written statement before the meeting that discloses and describes their conflict. When the item is brought up at the meeting, the township supervisor must read the statement and provide it to the township secretary or manager for the meeting file. The supervisor must abstain from the vote and afterwards should ensure that the minutes accurately include the statement and the abstention.<sup>37</sup>

Township supervisors have a duty to participate and vote at meetings of the board of supervisor. However, in those situations where there is a strong appearance of a conflict, but not an actual legal conflict of interest, the affected township supervisor should carefully weigh the impact of the appearance of a conflict when determining whether to vote or abstain. The appearance of honesty and impartiality is just as important as fulfilling legal requirements.

In addition, both the Ethics Act and the Second Class Township Code prohibit township officials from having any personal interest in contracts and purchases. Under the Ethics Act, township supervisor are prohibited from entering into any contract valued at \$500 or more with their township unless the contract is awarded through a sealed bid process, including public notice, and the township supervisor abstained from the vote. This prohibition also applies to any subcontract valued at \$500 or more with any person who has been awarded a contract with the township, unless the contract is awarded through a sealed bid process. In such case, the township supervisor cannot have any oversight responsibilities for administration of the contract.<sup>38</sup>

The Township Code also prohibits township supervisors from having any personal interest in contracts over \$500.<sup>39</sup> If a contract is made with a firm that employs a township supervisor in a nonmanagement position, that supervisor must inform the board of his employment and abstain from voting on the contract. The Code states that a person who violates this prohibition commits a misdemeanor of the third degree and may be removed from office by the courts.

For more information regarding the State Ethics Act, contact the State Ethics Commission at:

Pennsylvania State Ethics Commission Room 309 Finance Building  
P.O. Box 11470  
Harrisburg, PA 17 108-1470

Toll Free: 800-932-0936  
Fax: 717-787-0806  
[www.ethics.state.pa.us](http://www.ethics.state.pa.us)

## Surcharges

Township officers whose actions have exceeded their legal authority or who fail to take action required by law are subject to a financial penalty if the action or inaction results in a financial loss to the township.<sup>40</sup> When the township auditors perform the annual audit, they are required to determine if any such financial loss occurred. If they find such a case, they enter a balance against the official responsible on the audit that is called a surcharge. The Code contains procedures for the filing and appeal of surcharges, which is designed to reimburse the township for losses resulting from misconduct by its officials.<sup>41</sup>

There is a specific provision for surcharge in cases of evasion of advertising requirements in making purchases. Any supervisor who contracts for purchases piecemeal to avoid advertising for a purchase of more than the current advertising amount may be subject to a surcharge of 10 percent of the full amount of the contract or purchase.<sup>42</sup>

In the case of fraud or collusion, surcharges are not limited to the amount of actual loss. In such cases, supervisors would also be subject to the criminal laws of the commonwealth.

## Removal from Office

In 1995, the Pennsylvania Supreme Court struck down all legislative provisions for removal of an elected official for failure to perform the duties of office and clarified that the only constitutional method for removal of an elected official is contained in Article VI, Section 7 of the Pennsylvania Constitution.<sup>43</sup> In 2002, the Pennsylvania Supreme Court reaffirmed this decision in *South Newton Township Electors v. South Newton Township Supervisor, Ronald Bouch*. In South Newton, the Court upheld a lower court decision that found Section 503 of the Second Class Township Code to be in violation of Article VI, § 7 of the Pennsylvania Constitution.<sup>44</sup>

Article VI, Section 7, of the Pennsylvania Constitution provides for the removal of elected officials from office if they are convicted of misbehavior in office or of any infamous crime. The courts weigh the severity of the conviction to determine if removal is warranted. The Pennsylvania Courts have consistently ruled that conviction of a felony is grounds for removal.

## Official Liability

State law defines a strictly limited set of conditions where the township can be held liable for damages because of injury to a person or property.<sup>45</sup> Township supervisors are exempt from official liability if the acts or omissions in question are held to be within the policymaking discretion of the board of supervisors. If an action is brought against a supervisor for an act or omission claimed to be within the scope of official duties, the township must defend the action when requested by the supervisor. However, surcharges due to an official's willful or fraudulent misconduct are considered to be outside the scope of the official's official duties.<sup>46</sup>

The board of supervisors may purchase liability insurance for itself, its officers, and employees and may initiate a risk management program.

## References

1. 53 P.S. 65401; Second Class Township Code, Section 401.
2. 53 P.S. 65407; Second Class Township Code, Section 407.
3. 53 P.S. 65403; Second Class Township Code, Section 403.
4. 24 P.S. 3-322; Public School Code, Section 322.
5. 16 P.S. 402(a); County Code, Section 402(a).
6. 53 P.S. 66301(c); Second Class Township Code, Section 1301(c).
7. 53 P.S. 66902; Second Class Township Code, Section 1902.
8. 53 P.S. 10614; Pennsylvania Municipalities Planning Code, Section 614.
9. 53 P.S. 10205; Pennsylvania Municipalities Planning Code, Section 205.
10. 53 P.S. 10903; Pennsylvania Municipalities Planning Code, Section 903.
11. 53 P.S. 65602(c); Second Class Township Code, Section 602(c).
12. *Cotlar v. Warminster Township*, 302 A.2d 859, 8 Pa.Cmwlth. 163, at 166, 1973.
13. *Commonwealth v. Lucas*, 632 A.2d 868, Pa., 1993.
14. *Koslow v. Commonwealth, State Ethics Commission*, 540A.2d 1374, 116 Pa.Cmwlth. 19, appeal denied 533 A.2d 971, 520 Pa. 609.
15. 53 P.S. 65501; Second Class Township Code, Section 501.
16. 53 P.S. 65407; Second Class Township Code, Section 407; *Commonwealth ex rel. Zimmerman v. Kleiman*, 402A.2d 1343, 485 Pa. 421, at 428, 1979.
17. 65 Pa.C.S.A 708; Sunshine Law, Section 708.
18. 53 P.S. 65606(a); Second Class Township Code, Section 606(a).
19. 53 P.S. 65606; Second Class Township Code, Section 606; *Yacabet v. State Ethics Commission*, 531 A.2d 536, 109 Pa.Cmwlth. 432, 1987.
20. 53 P.S. 65606; Second Class Township Code, Section 606.
21. *R.H. v. State Ethics Commission*, 673 A.2d 1004, Pa. Cmwlth, 1996.
22. 53 P.S. 66401; Second Class Township Code, Section 1401.
23. 53 P.S. 66402; Second Class Township Code, Section 1402.
24. 53 P.S. 66512; Second Class Township Code, Section 1512.
25. 53 P.S. 65606(a) and (c); Second Class Township Code, Section 606(a) and (c).
26. *Lescallet v. Unemployment Compensation Board of Review*, 505 A. 2d 1086, 95 Pa. Cmwlth. 429, 1986.
27. 53 P.S. 65606(b)(1); Second Class Township Code, Section 606(b)(1).

28. 65 P.S. 371; 1979 P.L. 156, No. 51, as amended.
29. 53 P.S. 65607; Second Class Township Code, Section 607.
30. 53 P.S. 66401; Second Class Township Code, Section 1401.
31. 53 P.S. 66402; Second Class Township Code, Section 1402.
32. 65 Pa.C.S.A. 1103; Ethics Standards and Financial Disclosure, Section 1103.
33. 65 Pa.C.S.A. 1102; Ethics Standards and Financial Disclosure, Section 1102.
34. 65 Pa.C.S.A. 1104; Ethics Standards and Financial Disclosure, Section 1104.
35. 65 Pa.C.S.A. 1107(10); Ethics Standards and Financial Disclosure, Section 1107(10).
36. 65 Pa.C.S.A. 1109(g); Ethics Standards and Financial Disclosure, Section 1109(g).
37. 65 Pa.C.S.A. 1103(j); Ethics Standards and Financial Disclosure, Section 1103(j).
38. 65 Pa.C.S.A. 1103; Ethics Standards and Financial Disclosure, Section 1103.
39. 53 P.S. 68102(i); Second Class Township Code, Section 3102(i).
40. 53 P.S. 65907; Second Class Township Code, Section 907.
41. *In re: Appeal from Report of Audit of South Union Township for 1975*, 407 A.2d 906, 47 Pa.Cmwlth. 1, at 8, 1979.
42. 53 P.S. 68104; Second Class Township Code, Section 3104.
43. *In re Petition to Recall Reese*, 665 A.2d 1162, 542 Pa. 114, Sup. 1995.
44. *South Newton Township Electors v. South Newton Township Supervisor Ronald Bouch*, 838 A.2d 643, 575 Pa. 670, Sup. 2003.
45. 42 Pa.C.S.A. 8541; Judicial Code, Section 8541.
46. *Lewis Township v. Employers Mutual Casualty Company*, 523 A.2d 719, 514 Pa. 242, 1987.

## III. Meetings and the Legislative Role

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### General Powers

The Second Class Township Code charges the board of supervisors with the general governance of the township and gives the board both legislative and executive powers.<sup>1</sup> In addition, Section 1505 of the Township Code gives the board of supervisors the corporate powers of the township. These corporate powers make it clear that the board of supervisors has authority to act on behalf of the township and include the right to sue and be sued and the right to purchase and sell real estate and personal property on behalf of the township.

The Township Code, and other state laws, empowers the board of supervisors to act in the best interest of the township by granting specific authority to the board. This includes the authority to adopt ordinances, or local laws, that are necessary to exercise general or specific powers of the township.<sup>2</sup> While many specific powers can be found in Article 15 of the Township Code, they are also found throughout the Township Code and in other state laws. Before considering the enactment of an ordinance, it is important to find and cite the specific authority for taking that action and to make sure that the proposed regulation is authorized by state law and is not in conflict with, or preempted by, the Pennsylvania Constitution or an existing state law. As a general rule, a local government only possesses those powers that are expressly granted to it, or fairly implied, by state law.

The board of supervisors should also make sure that any proposed ordinance is reasonable and not unduly oppressive. The ordinance should directly relate to its proposed objective and be the least restrictive means to obtain this objective. Even legitimate legislative goals cannot be pursued by means which stifle fundamental personal liberty when the goals can be more reasonably achieved in other ways.<sup>3</sup>

### Meetings

The Second Class Township Code requires the board of supervisors to meet at least once a month at a time and place designated by the board.<sup>4</sup> The Sunshine Law requires that all actions taken by the board must be at legally advertised public meetings.

Except for the annual organization meeting, the board may meet at any time during the month. The annual organizational meeting must be held the first Monday in January of each year. When the first Monday is a legal holiday, the organizational meeting is held the following day. The board's first official business at this meeting is to elect one of its members as chairman and one as vice chairman.<sup>5</sup> The responsibilities of the chairman are to conduct the meetings of the board of supervisors and to sign any required paperwork on behalf of the board. The vice chairman conducts the meetings of the board of supervisors in the absence of the chair.

The Township Code establishes a quorum as two members of a three-member board and three members of a five-member board and requires a quorum to be present for a meeting to be held.<sup>6</sup> The Township Code requires that an affirmative vote of a majority of the entire board is required to transact any business. This means that five-member boards must have an affirmative vote of at least three in order for a motion to be successful.

### Sunshine Law

The Sunshine Law requires all public agencies to take all official actions and conduct all deliberations leading up to official actions at public meetings.<sup>7</sup> This includes all actions by the board of supervisors and its committees and by all boards and commissions of the township. Official action includes making recommendations, establishing policy, and any vote taken on a motion, resolution, ordinance, or policy.

At each public meeting, the board of supervisors must provide an opportunity for citizens and taxpayers to comment on matters of concern, official action, or deliberation which are or may be before the board of supervisors. Townships may hold the public comment period before each official action or at the beginning of the meeting.<sup>8</sup> A board may impose reasonable time limits on individual speakers or the entirety of the comment period.

Public notice must be given prior to all public meetings, which includes both placement of a legal notice in a newspaper of general circulation and posting a notice at the township office or meeting place.<sup>9</sup> Public notice of regularly scheduled meetings may be given once a year. The annual organizational meeting must be advertised at least 3 days in advance. For rescheduled or special meetings, public notice must be given at least 24 hours in advance.<sup>10</sup>

Executive sessions, or meetings from which the public is excluded, may be held only for the following strictly limited purposes: to discuss personnel matters, conduct strategy sessions and negotiations for collective bargaining agreements, discuss the purchase or lease of real estate, consult with the solicitor in connection with ongoing or pending litigation, or to discuss any issue that would violate a legal privilege or protected confidentiality if conducted in public. These meetings are for discussion purposes only. Any decision or official action based on discussions held in executive session must be made during a public meeting.<sup>11</sup>

Executive sessions may be held during a public meeting or announced for some other time. The reason for holding the executive session must be announced at the open meeting occurring immediately prior or subsequent to the executive session.

Public notice is not required for emergency meetings, but these must be open to the public. Emergency meetings are those called for the purpose of dealing with a real or potential emergency involving a clear and present danger to life or property.<sup>12</sup> Township supervisors may attend conferences, training programs, or seminars to gather information on their responsibilities and these seminars are not required to be open to the public.<sup>13</sup>

Although official action and deliberations of the board of supervisors must be conducted in open meetings, the Sunshine Act does not require township supervisors to ask questions and learn about township issues only at an open meeting. For example, the Commonwealth Court held that township supervisors' did not violate the Sunshine Act by setting up and attending a meeting with the water association and county redevelopment authority because the meeting concerned business of the water association and not the township and the supervisors did not enact any law, policy, or regulation, create any liability under contract, or adjudicate any rights, duties, or responsibilities at the meeting.<sup>14</sup> Specific questions about whether a meeting must be held in public should be addressed to the township solicitor.

For more information on the Sunshine Act, please see the DCED publication entitled *Open Meetings* found at [dced.pa.gov](http://dced.pa.gov).

## Conduct of Meetings

The Second Class Township Code does not set rules of conduct or procedure for municipal meetings, other than those discussed earlier for establishing a quorum and that votes must be approved by a majority of the whole board. Instead, each township is free to establish its own rules for conduct and procedure, provided they do not conflict with the Sunshine Law or Township Code.<sup>15</sup> Townships follow procedures for their meetings, most of which have been established by tradition or by resolution.

The chairperson is responsible for the proper conduct of meetings. An agenda should be prepared in advance for each meeting to serve as a guide for the chair and to help keep the meeting on the track; to make sure that all required business is discussed and acted on; and to inform meeting attendees so that taxpayers and residents have an informed opportunity to participate during the public comment portion of the meeting. The agenda can also be used to inform the news media in advance of topics that will be discussed at upcoming meetings.

The following is an example of a township meeting agenda.

### MEETING AGENDA

1. **Call to Order** – The chairman of the board calls the meeting to order. A roll call is conducted to determine if a quorum is present.
2. **Pledge of Allegiance** – Many townships recite the pledge at the beginning of every meeting.
3. **Public Participation** – Public participation must take place before any official action. This may take place at the beginning of the meeting or before each agenda item.
4. **Minutes of the Previous Meeting** – Approval of minutes from the previous meeting or meetings. Draft minutes should be prepared and distributed to the supervisors prior to the meeting. Minutes should be reviewed for corrections, deletions, or additions. Reading the minutes aloud is not necessary.
5. **Treasurer's Report** – The treasurer provides a report of expenditures and revenues since the prior board meeting. This report should be provided to the supervisors prior to the meeting.
6. **Correspondence** – Letters, email, or other communications received since the last meeting should be noted and acted upon as appropriate.
7. **Township Reports** – Committees, the township manager, township officers, and consultants are usually required to provide reports on current projects.
8. **Old Business** – Items before the board that have not been resolved are discussed until the board takes action to remove the item from the table.
9. **New Business** – This may include such items as bid openings, consideration of proposed ordinances, or discussion of proposed public works projects.
10. **Adjournment** – Meetings are adjourned once business is completed.

## Parliamentary Procedure

Rules of parliamentary procedure can expedite business and should be followed to the extent needed to help transact business in a fair and efficient manner.

The most commonly used standard code on parliamentary procedure is *Robert's Rules of Order* by Henry M. Robert. Some townships use a simplified version of Robert's, such as *Robert's Rules of Order for Small Assemblies*, which is included in most current versions of *Robert's Rules*. *Jefferson's Manual* and *Cushing's Manual* also contain legislative procedures.

Business is conducted through motions and votes on the motions. A main motion is simply what the name implies, a motion to accomplish some concrete or specific item of business on the agenda. There can be only one main motion at a time. A subsidiary motion is a motion that is secondary to the main motion. If a secondary motion is made, then it must be dealt with before the main motion can be voted on. Commonly used subsidiary motions are to amend the main motion, to limit or extend debate, postpone indefinitely, or to table the main motion.



## Minutes and Records

The board of supervisors is required to keep minutes of its proceedings and official actions and other record books the board finds necessary in the performance of its duties.<sup>16</sup> The written minutes of township meetings must include the date, time, and place of the meeting; the names of the members present; the substance of all official actions; a record of any roll call votes taken by individual board members; and the names of all citizens who appeared officially and the subject of their comments.<sup>17</sup>

It is very important that all actions and votes of the board of supervisors be carefully and accurately recorded in the minutes. Supervisors who vote against a majority action should make certain their vote is properly recorded.

Under the Right-to-Know Law, Act 3 of 2008, township records are presumed to be public unless they are protected by a state law, court decision, or the record is listed as one of the exceptions in Section 708 of the RTKL. The board of supervisors is required to appoint an open records officer, who must respond to open records requests.

The board of supervisors is responsible for ensuring that the township records are properly maintained. Certain township documents are permanent and a record retention system should be implemented to make sure that records which must be retained are safely kept, while those that may be destroyed are dealt with regularly. For more information on this issue, see the *Pennsylvania Historical and Museum Commission's Retention and Disposition Schedule for Records of Pennsylvania Municipal Governments*, which is available at [www.phmc.state.pa.us](http://www.phmc.state.pa.us). Choose "State Archives" and then "Records Management."

## The Legislative Role

The legislative role of the board of supervisors is to take action to adopt and amend policies, rules, and local laws for the township, as well as the adoption of the annual budget. The development of legislative policy should include full and free discussion of issues at the public meetings of the board of supervisors. In some cases, one supervisor will vigorously argue for a particular approach, while another will support a different option. Debate is a necessary part of the legislative process and should be conducted in a fair and respectful manner.

Legislative action is taken by the board of supervisors through a motion and vote. A motion is a formal method for taking action on any measure under consideration by the board of supervisors, including a vote to approve an ordinance or resolution. The adoption of a motion by the majority of the entire board enacts the will of the group.

An ordinance is a local law. Generally, the Second Class Township Code, as well as other state laws, specify when a particular action must be adopted by ordinance. Ordinances must be legally advertised prior to adoption, recorded in the township ordinance book, and may only be changed by another ordinance.<sup>18</sup> Certain types of ordinances, including land use ordinances, have additional requirements prior to adoption, including public hearings and reviews by the planning commission. Proposed ordinance should be reviewed by the township solicitor prior to adoption to ensure compliance with state law.

A resolution is less formal than an ordinance and does not require advertisement. Resolutions are formal motions that are prepared prior to a meeting and should be used when required by the Second Class Township Code or other state law. One required use of a resolution is to establish the real estate tax levy for the township.<sup>19</sup>

Township supervisors are elected to represent their constituents and make decisions for the community as a whole. Supervisors should not refuse to vote simply because a matter is contentious. Supervisors who refuse to vote are violating their duty to represent the voters by participating in decisions before the board of supervisors.

## Quasi-Judicial Role

In certain instances, state law gives the board of supervisors powers to act as a quasi-judicial board to hear and interpret township ordinances and decide certain issues. These include hearings on personnel actions as a local agency and conditional use applications under the Pennsylvania Municipalities Planning Code.

When the board of supervisors is acting in a quasi-judicial role, different behavior is required from when they are taking legislation actions. In a case appealing denial of conditional use and site plan applications, the Commonwealth Court found the applicant's right to due process was denied because one of the municipal officials who had actively opposed the proposal before it was brought before the governing body participated in the vote.<sup>20</sup> His actions included speaking in opposition at public hearings on the proposal, writing to constituents on official stationery, encouraging the public to attend meetings to pressure council to defeat the proposal, and alleged 'vote trading' with another municipal official. The court held that due to the municipal official's clear bias and actions against the proposal, allowing him to vote was a denial of the applicant's right to a fair hearing. This case underscores the need for supervisors to avoid any appearance of bias in when acting as a tribunal, which is a very different role from formulating public policy.

## References

1. 53 P.S. 65601 & 65607; Second Class Township Code, Sections 601 & 607.
2. 53 P.S. 66501; Second Class Township Code, Section 1601.
3. *Simco Sales Service v. Lower Merion Township*, 394 A.2d 642, 38 Pa.Cmwth. 434, at 438, 1978; *Commonwealth v. Sterlace*, 354 A.2d 27, 24 Pa. Cmwth. 62, at 66, 1976.
4. 53 P.S. 65603; Second Class Township Code, Section 603.
5. 53 P.S. 65602; Second Class Township Code, Section 602.
6. 53 P.S. 65603; Second Class Township Code, Section 603.
7. 65 Pa.C.S.A. 704; 1998 P.L. 729, No. 93, Section 704.
8. 65 Pa.C.S.A. 710.1; 1998 P.L. 729, No. 93, Section 710.1.
9. 65 Pa.C.S.A. 703; 1998 P.L. 729, No. 93, Section 703.
10. 65 Pa.C.S.A. 709; 1998 P.L. 729, No. 93, Section 709.
11. 65 Pa.C.S.A. 708; 1998 P.L. 729, No. 93, Section 708.
12. 65 Pa.C.S.A. 703 & 709; 1998 P.L. 729, No. 93, Section 703 & 709.
13. 65 Pa.C.S.A. 703 & 707; 1998 P.L. 729, No. 93, Section 703 & 707.
14. *Belitskus v. Hamlin Township*, 764 A.2d 669 Pa. Cmwth., 2000.
15. 65 Pa.C.S.A. 710; 1998 P.L. 729, No. 93, Section 710.
16. 53 P.S. 65605; Second Class Township Code, Section 605.
17. 65 Pa.C.S.A. 706; 1998 P.L. 729, No. 93, Section 706.
18. 53 P.S. 66601; Second Class Township Code, Section 1601.
19. 53 P.S. 68205; Second Class Township Code, Section 3205.
20. *Prin v. Council of the Municipality of Monroeville*, No. 203, C.D., Pa.Cmwth., 1993.

## IV. Executive Role: Personnel, Boards, and Commissions

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One of the primary responsibilities of the board of supervisors is the oversight of the day-to-day operations of the township. In this capacity, the board acts as an executive concerned with managing township employees, preparing an annual budget, appointing boards and commissions, and contracting for purchases.

Local government is becoming more complex every day. Residents are demanding additional services and federal and state governments have placed more responsibility at the local level. Today it is difficult for a board of supervisors to handle the day-to-day administrative tasks without help from appointed officials and employees. As such, most townships delegate the administrative role to employees. While some townships have appointed a manager to oversee both administrative and management functions, many townships continue to use the secretary and/or treasurer to perform administrative tasks.

### Administration and Management

Township supervisors should develop a good working relationship with their administrative and management employees. Boards of supervisors should hire highly qualified individuals for these critical positions and let them perform their jobs, while requiring accountability to the board.

**Secretary and treasurer.** Every township has an appointed secretary and treasurer, whose basic duties are spelled out in the Second Class Township Code.<sup>1</sup> These two offices may be combined if the board chooses. The secretary and treasurer may be a township employee, a township supervisor, or, in the case of treasurer, a financial institution. The secretary and treasurer are delegated the responsibility for taking care of the day-to-day business of the township. The secretary and treasurer work directly for the board of supervisors and are responsible for carrying out the decisions of the board. The board is responsible for ensuring that the secretary and treasurer perform their duties efficiently and effectively.

**Township manager.** As townships grow, the need for services and employees increases. This increases the demands on the board of supervisors and their management responsibilities. More than 260 townships have created the office of township manager by ordinance. This appointed employee works directly for the board of supervisors and is responsible for oversight of the day-to-day business of the township, coordination with various committees and boards, and management of township employees. Many township managers also serve as the appointed secretary and/or treasurer.

**Police chief.** In those townships that provide for local police services, a police chief is appointed to oversee the township's police department, as well as to carry out administrative and management responsibilities. Generally, the police chief reports to the board of supervisors.

**Roadmaster/public works director.** Particularly in townships without a township manager, it is important to have an employee charged with oversight of township roads and other public infrastructure due to the townships' responsibility and liability for roads and other infrastructure. This person may be responsible for the management of road or other public works employees or, in the smallest townships, may perform these road maintenance responsibilities themselves or with one or two employees. While this position may report directly to the board of supervisors, it is common for this position to report to the township manager.

**Township supervisors as employees.** Because township supervisors may be hired as township employees, in some townships the township supervisors are appointed to administrative and/or management roles, such as secretary-treasurer or roadmaster. It is important to have a descriptive job title and job description for these employee positions and to remember that supervisor-employees answer to the entire board of supervisors.

## Personnel Management

The board of supervisors is responsible for management of township personnel. This area can cause significant problems, and increase township liability and costs, if handled poorly. While some townships delegate day-to-day personnel management responsibilities to a township manager, the board of supervisors is ultimately responsible for this function. Personnel management includes hiring qualified township employees while complying with federal and state laws; ensuring that employees are properly trained on their duties and proper safety procedures; setting appropriate wages and providing benefits to attract and retain quality employees; accurate record-keeping to properly pay employees; and evaluating employee performance. Even the smallest township needs to understand personnel rules, since the costs of being charged with discrimination or violation of a statute could bankrupt a community.

**Hiring employees.** Hiring employees involves recruiting and selecting the most qualified person for the position. Job descriptions are effective tools that should include a general definition of the position's required tasks, examples of work experience and required knowledge, skills, and abilities. Essential functions are a critical component of a job description, which are the minimum mandatory skills or abilities needed to perform the job and should be used as a baseline when evaluating applicants. The establishment of training and experience requirements will help provide the township with qualified applicants and give prospective applicants details of the position's responsibilities. A well-crafted job description will prove helpful in the hiring process and, if used properly, can demonstrate the board's reasoning should a rejected applicant take issue with the decision either in court or at a public meeting.

Well-designed application forms can provide the township with important background information on the applicant's education, experience, and relevant personal information without asking questions which may be improper under state or federal law. Interviews, tests to demonstrate essential skills, and reference checks can also aid in selecting the most qualified candidate.

**Employee training.** Once hired, townships need to ensure that employee training takes place to help new and existing employees learn how to perform their jobs effectively, efficiently, and safely. The rules that townships must follow and the programs that townships are responsible for are always changing and it is important that continuing education programs are available to employees so they can stay safe and up-to-date with the latest rules and develop new skills.

**Job classifications and wage scales.** Wage scales are commonly based on job classifications of duties and qualifications. A classification plan groups similar positions into classes by nature of work, level of difficulty, degree of responsibility, and training and experience requirements and ensures fair pay and benefits within the classes. Having a quality job classification system can help maintain management-employee relations.

For townships without such systems, consider developing an employee wage schedule based on what competing public and private employers in your area currently pay for similar positions, including the value of benefits such as health care and retirement plans. A useful source for statewide township wage information is the biennial *Wage and Benefits Survey* by the Pennsylvania State Association of Township Supervisors.

Most township employees are covered under the federal Fair Labor Standards Act (FLSA).<sup>2</sup> This act classifies positions by responsibility, requires that all positions receive a minimum wage, and requires covered employees (*non-exempt employees*) to be paid overtime if they work more than 40 hours a week. It is important to ensure that your township is in compliance with the FLSA through accurate job classification and record-keeping to avoid substantial penalties for noncompliance. Elected officials, including township supervisors employed by the township, are not covered under FLSA. Overtime pay for township supervisors who are also employees of the township should be approved by the board of auditors.

**Labor Relations Laws.** The Public Employee Relations Act grants public employees the right to organize, requires employers to negotiate and bargain with employee organizations, and enter into written agreements with the bargaining unit.<sup>3</sup> The Act establishes procedures to protect the rights of the public employee, the public employer, and the public.

The Act lists unfair labor practices for both employers and unions. It is unlawful for employers to interfere, restrain, or coerce employees who are forming and administering a union. A union may not interfere with an employer who is complying with the Act, nor may it restrain or coerce employees to join or not join a union.

Act 111 is a separate act that authorizes police and paid firefighters to collectively bargain with their municipal employers over the terms and conditions of employment, including compensation, hours, working conditions, retirement, pensions and other benefits.<sup>4</sup> Act 111 provides for arbitration to settle disputes and requires compliance with collective bargaining agreements and findings of arbitrators. In addition, townships must comply with the Police Tenure Act when suspending, removing, furloughing, and reinstating police officers. This act gives police officers rights for hearings or appeals in cases of dismissal.<sup>5</sup>

**State and Federal Labor Laws.** A number of state and federal laws govern the treatment of employees and job applicants and many court cases interpret these laws. These laws prohibit discrimination in employment based on race, religion, national origin, sex, age, and disability. They require that certain benefits be paid to employees injured on the job and they determine the procedure for employees who request a hearing after being terminated.

Townships can be subject to serious penalties for failure to adhere to state and federal labor laws. As such, it is strongly recommended that the board of supervisors use legal counsel with labor law experience for reviewing job descriptions and personnel manuals and to provide guidance when making hiring, discipline, and firing decisions. It is particularly critical to have the assistance of experienced legal counsel when bargaining with unions and complying with union contracts.

**Other employment considerations.** Keep in mind that the board of supervisors may change job titles, job descriptions, employee responsibilities, and the organization of township departments. However, any changes should be made thoughtfully and take into consideration the current responsibilities and qualifications of existing employees. Consider what costs the change will have, as well as the impact on township services. For example, switching from a number of part-time employees that are hired and laid off seasonally to a smaller group of permanent full-time employees may reduce unemployment costs, while holding total wages steady.

## Appointed Positions

The board of supervisors appoints individuals to provide special expertise to the township, such as the solicitor and engineer. Other appointed positions, such as the zoning officer and sewage enforcement officer, administer and enforce township ordinances.

**Solicitor.** One of the most critical appointments for a township is that of township solicitor. The solicitor has control of the legal matters of the township including bonds, real estate transactions, review of ordinances, and actions in court. As in many professions, attorneys have specialties and not every attorney has a working knowledge of municipal law. In addition to the township solicitor, townships may appoint attorneys with specialties in land use law and labor law as special counsel.

The complexity of laws which have an impact on townships operations make it important to identify an attorney with demonstrated expertise and interest in municipal law. This can be done by sending a letter of interest to a number of attorneys or law firms, asking other municipalities for recommendations, or using a formal request for proposals. The board of supervisors should communicate their expectations for meeting attendance, if a retainer will be provided, and what the retainer covers. Once the best candidate is identified, the supervisors should have a written agreement describing the services to be provided and rates for these services.

**Engineer.** The township engineer can be a valuable source of advice during road and bridge construction, site plan and subdivision reviews, and complex environmental issues. The engineer also prepares plans, specifications, and estimates for proposed contracts and reviews bids to make sure they meet specifications.

The process of appointing an engineer is very similar to that of a solicitor. A township needs an individual who has a broad knowledge of engineering and is available to assist with immediate problems and perform plan reviews. It is important to have a written understanding with the engineer regarding attendance at meetings and hearings, hourly rates for engineers and assistants at the firm, and any restrictions on engineering work done for other clients within the township.

**Certified public accountant (CPA).** The board of supervisors may appoint a certified public accountant to perform the annual audit in place of the elected auditors.<sup>6</sup> The board must first place a legal advertisement indicating the board's intent to appoint a CPA and then wait 30 days before the appointment can be made. The board should look for a CPA with local government audit experience and have a written contract with the board's expectations for the services that the CPA will provide.

**Emergency management coordinator (EMC).** This position is one of the most important positions in a township. State law requires that each municipality have an emergency management coordinator and an emergency plan. The emergency management coordinator is appointed by the Governor upon the recommendation of the board of supervisors.<sup>7</sup> The EMC can be a township employee and may be the fire chief or a volunteer firefighter. Since emergencies come in all forms, from toxic material spills to blizzards, the EMC must be able and willing to function in a variety of situations. In addition, the township must have a plan spelling out how and when an emergency is declared and the powers given to the emergency coordinator.

**Sewage enforcement officer (SEO).** Townships are responsible for sewage management for their community. Every township is required to appoint a sewage enforcement officer and alternate to issue permits for septic systems and inspect these systems. SEOs and alternates must be licensed by the state Department of Environmental Protection and be up-to-date with continuing education requirements.

**Zoning officer.** Every township that has a zoning ordinance must appoint a zoning officer to administer and enforce the zoning ordinance. The zoning officer is usually a township employee but cannot be an elected official.

**UCC officials.** All townships that have opted to administer and enforce the Uniform Construction Code must have a certified building code official to oversee the program and certified plan reviewers and inspectors to review permits and ensure that construction is made to code. The board of supervisors must also appoint or participate in a UCC Board of Appeals. In many cases, this is set up on a regional or countywide basis.

## **Boards and Commissions**

The successful operation of a municipality is a complex task requiring the time and effort of many people. Many times the elected officials and appointed employees have insufficient time or expertise to become involved in every aspect of township government. The Township Code and other state laws allow the board of supervisors to enlist the help of capable citizens through the creation of boards and commissions. Although some of these entities are mandatory, such as a zoning hearing board if a township has enacted a zoning ordinance, many others are optional. Boards and commissions allow the governing body to draw on citizens with particular expertise and provide a channel for citizens to become more directly involved in their government.

Appointments to boards and commissions should reflect the township's diversity, including individuals from different neighborhoods that have varied interests and backgrounds. It is important that the persons appointed have qualities such as patience, understanding, courteousness, and reasonableness and who can make fair and unbiased judgments on township issues.

**Planning Commission.** The board of supervisors may create a planning commission and give the commission the responsibility to create a comprehensive plan for the township, to make recommendations for an official map, and to prepare zoning and subdivision and land development ordinances.<sup>8</sup> Most planning commissions have an important role in reviewing proposed subdivision and land development plans and making recommendations to the board of supervisors for final approval.

**Zoning Hearing Board.** Townships that have enacted a zoning ordinance are required to create a zoning hearing board to hear appeals on the validity of the zoning ordinance or map or any decision of the zoning officer.<sup>9</sup> In addition, the board has the power to grant variances and special exceptions to the zoning ordinance. The zoning hearing board is a three-member or five-member quasi-judicial board consisting of residents of the township who may not hold any other elected or appointed township position.

The zoning hearing board must appoint its own solicitor to assist it in deliberations, written decisions, and appeals.<sup>10</sup> The township solicitor cannot also be the zoning hearing board solicitor since the opinions and decisions of the zoning hearing board may differ from the views of the supervisors. In addition, the board of supervisors may, just as any affected citizen, appeal a decision of the zoning hearing board to the courts.

**Park and Recreation Board.** Townships have broad power to provide park and recreational opportunities for its residents. Many townships form a park and recreation board to provide advice on the types of recreation most needed and desired by the citizens. The park and recreation board may also be given responsibility for the operation and maintenance of township park and recreation facilities.<sup>11</sup> The duties of a park and recreation board should be clearly spelled out by ordinance.

**Shade Tree Commission.** A township may appoint a shade tree commission and give it oversight of the shade trees in the township.<sup>12</sup> Shade tree commissions have the authority to plant, remove, maintain, and protect shade trees on township streets.

**Board of Health.** While townships may appoint a board of health and a health officer to administer and enforce the health and sanitation laws of the township, very few have done so.<sup>13</sup> The board of health consists of five members who serve without compensation and may appoint a health officer. The health officer and inspectors must be certified by the state Department of Environmental Protection and the state Department of Health. The health officer has the power to enter property where there are suspected health hazards or violations of health or sanitation laws and may issue orders to stop or correct any hazards or violations found during inspections.

## References

1. 53 P.S. 65704 & 65802; Second Class Township Code, Section 704 & 802.
2. 29U.S.C. 201*et seq.*
3. 43 P.S. 1101.101; Public Employe Relations Act.
4. 43 P.S. 217.1; 1968 P.L. 237, No. 111.
5. 53 P.S. 811; 1951 P.L. 586.
6. 53 P.S. 65917(b); Second Class Township Code, Section 917(b).
7. 35 Pa.C.S.A. 7502; Emergency Management Services Code, Section 7502
8. 53 P.S. 10201; Pennsylvania Municipalities Planning Code, Section 201.
9. 53 P.S. 10901; Pennsylvania Municipalities Planning Code, Section 901.
10. 53 P.S. 10017.3; Pennsylvania Municipalities Planning Code, Section 617.3.
11. 53 P.S. 67204; Second Class Township Code, Section 2204.
12. 53 P.S. 67901; Second Class Township Code, Section 2901.
13. 53 P.S. 68001; Second Class Township Code, Section 3001.

## V. Financial Responsibility

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A significant portion of the management of a township involves raising and spending money to provide services and infrastructure. The board of supervisors is responsible for the fiscal management of the township, which includes raising needed funds by levying taxes, setting service charges and fees, and applying for grants, as well as seeing that township funds are spent in accordance with the adopted budget and follow required procedures.

### Taxes

Local taxes are the primary source of revenue for townships. Other significant sources of revenue are intergovernmental revenues, including liquid fuels funds, and water and sewer charges. The real estate and earned income tax provide the majority of township tax revenues.

Real estate taxes are authorized by the Second Class Township Code. The township may levy up to fourteen mills for general township purposes.<sup>1</sup> An additional five mills may be levied for general purposes if approved by the court of common pleas. A mill is equal to \$1 of tax per \$1,000 of assessed value.

In addition to the general purpose levy, the township may levy special purpose real estate millage. Some of the allowable purposes are fire protection, debt service, road machinery, fire hydrants, and street lights. While some special levies have a maximum millage rate, others are unlimited. In any case, all revenue from a special levy must be maintained in a separate fund and used only for its specified purpose.

Real estate taxes are levied annually and collected by the elected township tax collector, who is also responsible for collecting assessments for street lighting and fire hydrants levied by the township. The tax collector must turn over tax receipts monthly, unless the township requires more frequent payments, and must provide a detailed monthly report. The board of supervisors should assure that timely payment is made by the tax collector. The township treasurer should reconcile the tax collector's reports monthly and must settle with the tax collector at the end of the year. More information about the elected tax collector can be found in the *Tax Collectors Manual* available from the Governor's Center for Local Government Services at [dced.pa.gov](http://dced.pa.gov).

In addition, townships may levy several taxes under the Local Tax Enabling Act.<sup>2</sup> These include the earned income, per capita, realty transfer, amusement, and local services taxes. While the earned income tax is often the largest source of tax revenue for a township, the rest of these taxes make up a smaller portion of township tax revenues. However, each can be important depending on a township's individual tax base.

The earned income tax is levied on an individuals' earned income, withheld by the employer, and paid to the township in which the individual lives. Although townships may levy this tax at up to 1 percent under the Local Tax Enabling Act, they must share half of this with the school district if it also levies the tax under the Act. The earned income tax is collected by a tax collection committee located in each county. Each municipality and school district levying the earned income tax has a seat on this committee.

The local services tax is levied on individuals who work within the township based on their primary place of employment. The tax may be set at \$10 to \$52 annually, with a required low-income exemption of \$12,000. The township levying this tax must share up to \$5 of this tax with the school district.

Other than the earned income tax, taxes levied under the Local Tax Enabling Act, often called Act 511 taxes, may be collected as determined by the board of supervisors and some communities use the elected tax collector while others use a business or township employee. The realty transfer tax is collected by the county recorder of deeds.

More information on local taxes can be found in the *Taxation Manual* available from the Governor's Center for Local Government Services at [dced.pa.gov](http://dced.pa.gov).



## The Budget

The budget is a plan for raising and spending township funds. Its preparation requires the board of supervisors to make informed decisions to identify the purpose for spending funds, the amount to be spent, and the revenues needed to support expenditures. Careful planning by township staff and the board helps to assure fiscal soundness for the following year.

Townships need to budget for the General Fund, as well as plan for anticipated revenues and expenditures for any other township funds, such as the Liquid Fuels or Highway Aid Fund, Capital Improvement Fund, and proprietary funds such as the Sewer Fund. Budgets need to show any planned transfers between funds.

Townships may budget by program, where money is allocated to programs or activities such as police, streets and highways, recreation and parks, or similar categories and then each program area is separated into line items. This allows for comparisons of expenditures for each function.

A balanced budget must be officially adopted by the township before December 31 of each year.<sup>3</sup> The Second Class Township Code contains procedures for reopening a budget after a municipal election, for making supplemental appropriations at any time, and for making budget transfers during the last 9 months of the year. While this authority should not be used lightly, even a carefully prepared budget will need to be changed under certain circumstances. An emergency situation can create unanticipated needs; actual revenues may come in higher or lower than expected; or an opportunity to obtain a grant or loan can force a shift in project priorities.

**Projecting Revenues and Expenditures.** When preparing a budget for the upcoming year, it is common to examine the expenditures and revenues of past years to project estimates for the next year. This can provide accurate estimates if items are broken down and compared by function or activity and if the board believes that past trends are likely to continue. Simple graphs can help show past trends for revenues and expenditures, as well as what might be expected in the future.

Each source of revenue should be considered separately for an accurate estimate and should include such items as taxes, liquid fuels, fees, and other regularly occurring revenues but not one-time revenue sources such as grants or proceeds from the sale of property. Total expenditures should reflect the township's ordinary expenses over the past several years, including administration, road maintenance, police service, and fire protection.

**Budget Calendar.** A budget calendar is a plan for developing and adopting a timely budget. The preparation and use of a budget calendar will help to organize participation by all township officials and employees who are part of the budgeting process. The budget calendar can be adopted as an ordinance or resolution.

The calendar should indicate when the following tasks will be completed and who is responsible for each task.

- Budget forms, instructions and guidelines distributed to departments.
- Revenue estimates prepared.
- Budget requests submitted by departments and compiled by the treasurer or manager.
- Preliminary budget reviewed and approved for public inspection.
- Final adoption of the budget and tax resolution by the board of supervisors.

For more information on budgets, see the Governor's Center for Local Government Services' *Fiscal Management Handbook* available at [dced.pa.gov](http://dced.pa.gov) and then choosing "Local Government" and then "Publications and Documents."

## Planning and Budgeting for Capital Improvements

Townships are responsible for public infrastructure, which is capital intensive and requires heavy equipment to maintain. Roads, bridges, sidewalks, and sewer and water systems all require substantial investments and regular maintenance to maximize life expectancy. Long-term planning is needed to target investments and ensure the township has the funds necessary to perform projects in a timely manner.

Establishing a capital improvements program and a capital budget require sound long-range financial planning. Townships may create capital reserve funds to accumulate funds for capital improvements.<sup>4</sup> Townships also may establish revolving funds for capital improvements or road machinery funded by special real estate tax levies.<sup>5</sup>

A capital improvement is a major investment in infrastructure or equipment that creates a large, nonrecurring expense that provides a benefit over a long period of time. Capital improvement programming is deciding what investments a community will need over several years and devising a realistic schedule to pay for needed investments. This may include nonrecurring, noncapital expenses such as engineering studies or design. Generally, a 5- to 6-year timeframe is used for a capital improvements program and expenditures (*such as construction projects and major purchases*) are scheduled for each plan year based on available funding.

Creating a capital improvements program can spread the cost of projects and purchases over several years, while allowing the township to prioritize, save on borrowing costs, and increase the opportunity for state and federal grants. Financing a capital improvements program can be done through a special fund or capital reserve fund, an annual appropriation, loans or other debt, grants, or a combination.

Developing a capital improvements program involves estimating capital costs, dividing these estimates into annual costs, comparing the costs with available resources, setting priorities, and developing a schedule to pay for the program. Estimates should be made by an engineer or architect. Capital costs should be divided into annual debt service or borrowing costs (*principal and interest*) and the costs of operating the facility.

The capital budget implements the capital improvements program by detailing those capital expenditures that the township will make in the coming year. The capital improvements program should be updated annually by omitting the first year and adding a new ending year. Normally, the first year is used as a basis for the annual capital budget.

## Purchases and Contracts

The board of supervisors is authorized to make purchases and enter into contracts for the township<sup>6</sup> but must follow very specific procedures designed to protect township funds. Some types of contracts are exempt from these requirements.<sup>7</sup>

Contracts or purchases that exceed the current bid threshold must be awarded through a competitive sealed bid process and awarded to the lowest responsible bidder, or the board may reject all bids.<sup>8</sup> This threshold applied to purchases in excess of \$19,100 for 2014. All bid thresholds are set annually by the state Department of Labor and Industry and advertised in the *Pennsylvania Bulletin* in December for the following year. The threshold applies to the total purchase price of the contract, which may be a lump sum contract or a unit price contract.

The lump sum contract obligates the contractor or vendor to provide the goods or services according to the plans and specifications in the bid documents for the amount of the bid. The purchase of municipal road equipment is an example of a lump sum contract.

The unit price contract requires the vendor or contractor to provide the type and quantity of materials specified in the bid documents at a per unit price. Bids are compared by per unit cost. Road aggregate contracts are an example of a unit price contract.

For contracts that exceed the written or phone quotation threshold, which was \$10,300 in 2014, but are less than the threshold for competitive sealed bid contracts, the township must obtain at least 3 written or telephone price before entering into a contract.<sup>9</sup> For those contracts less than the written or phone quotation threshold, price quotes are recommended but are not required.

Professional service contracts, such as those for legal, engineering, auditing, and other similar consulting services, are exempt from the above requirements.<sup>10</sup> It is recommended that a township obtain proposals for professional services and interview several candidates before entering into a contract for professional services.

More information on purchasing requirements and procedures can be found in the *Purchasing Handbook for Local Governments* available from the Governor's Center for Local Government Services at [dced.pa.gov](http://dced.pa.gov).

## Officers' Bonds

The Second Class Township Code requires the treasurer<sup>11</sup> and tax collector<sup>12</sup> to be bonded. In addition, all township officials and employees who handle township funds need to be bonded. The amount of the bond should correspond to the amount of money the individual handles. Bonds should be reviewed and renewed each year. The form of the bond should be reviewed by the solicitor to determine if the bond's provisions are in the township's best interests and sufficient coverage is provided.

The board of supervisors is responsible for determining which elected and appointed officials and employees of the township should to be covered by a fidelity bond, which protects the township from loss due to dishonesty or willful neglect.<sup>13</sup> The township solicitor prepares or approves the form of the bond after the persons and the amounts are determined.

The township pays the premiums on all bonds for township officers and employees. The premium of the tax collector's bond is shared by the township, county, and school district.

## Municipal Borrowing

All township borrowing, including tax anticipation notes and equipment loans, must comply with the Local Government Unit Debt Act.<sup>14</sup> In order to make sure that the township is in compliance with this law, as well as federal borrowing requirements, it is critical that the legal and financial details be worked out with the municipal solicitor, a bond counsel, or other financial consultant before the township enters into any borrowing arrangement.

In addition, debt that is more than \$100,000, or 30 percent of a township's borrowing base, must first be approved by DCED's Office of Chief Counsel. A township's borrowing base is the average of total revenues for the three fiscal years immediately preceding the year of borrowing. The non-electoral debt limit, or amount of debt a township can issue without a referendum, is 250 percent of the borrowing base.

The Act does permit municipalities to issue small amount of electoral debt for capital purposes without the need to pass an ordinance or obtain approval from DCED.<sup>15</sup> However, the total amount of such debt that a township may have at one time is limited to \$125,000 or 30 percent of the township's nonelectoral debt limit, whichever is less. In addition, small borrowing cannot exceed a term of five years and may not cause the township to exceed its non-electoral debt limit.

For additional information on local government borrowing, please consult the *Debt Management Handbook* available from the Governor's Center for Local Government Services at [dced.pa.gov](http://dced.pa.gov).

## **Pension Funding**

Townships are authorized to create pension funds for their employees or to join the Pennsylvania Municipal Employees Retirement System.<sup>16</sup> Townships with three or more full-time police officers must establish a police pension fund.<sup>17</sup>

The Municipal Pension Plan Funding Standard and Recovery Act requires townships to meet the actuarial funding requirements of their pension plans and to include the minimum municipal pension obligation in their annual budgets.<sup>18</sup> If a township fails to make timely payment into the pension fund, it is subject to interest penalties. This Act also provides state aid for municipal employees' pensions that meet the requirements of the act.

## **References**

1. 53 P.S. 68205; Second Class Township Code, Section 3205.
2. 53 P.S. 6901; Local Tax Enabling Act.
3. 53 P.S. 68202; Second Class Township Code, Section 3202.
4. 53 P.S. 66508; Second Class Township Code, Section 1508.
5. 53 P.S. 68205; Second Class Township Code, Section 3205.
6. 53 P.S. 68101; Second Class Township Code, Section 3101.
7. 53 P.S. 68102(h); Second Class Township Code, Section 3102(h).
8. 53 P.S. 68102(a); Second Class Township Code, Section 3102(a).
9. 53 P.S. 68102(b); Second Class Township Code, Section 3102(b).
10. 53 P.S. 68102(h)(4); Second Class Township Code, Section 3102(h)(4).
11. 53 P.S. 65702; Second Class Township Code, Section 702.
12. 72 P.S. 5511.4; Local Tax Collection Law, Section 4(b).
13. 53 P.S. 65502; Second Class Township Code, Section 502.
14. 53 P.S. 6780-1; Local Government Unit Debt Act.
15. 53 Pa. C.S.A. 8109; Local Government Unit Debt Act, Section 8109.
16. 53 P.S. 66512(e); Second Class Township Code, Section 1512(e).
17. 53 P.S. 767; 1955 P.L. 1804, No. 600.
18. 53 P.S. 895.101; Municipal Pension Plan Funding Standard and Recovery Act.

## **VI. Township Responsibilities**

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At one time, townships were only responsible for the maintenance of roads. Today, the mandated responsibilities of townships have expanded to include many additional areas, such as emergency management and response and the administration and enforcement of some environmental protection laws. Township responsibilities are directly impacted by state and federal legislation which may require townships to take on additional functions in the future.

### **Roads and Bridges**

Maintenance and construction of township roads and bridges remains a primary township responsibility. Townships maintain more than 50,000 miles of roads in Pennsylvania. The Second Class Township Code contains extensive provisions for laying out, opening, and repairing roads and requires the board of supervisors to keep township roads open, in good repair, and free of obstructions.<sup>1</sup>

Due to the township's responsibility and liability for its roads, an employee should be charged with the day-to-day oversight of township roads. In some townships this may be a roadmaster or roadmasters, a public works director, the township manager, or another employee. The roadmaster provides required reports to the board of supervisors and PennDOT; inspects the township roads and bridges as required by the board of supervisors; and oversees road maintenance, repair, and construction as assigned by the board of supervisors. This employee should be made responsible for the elimination of road hazards, such as management of winter maintenance, and responding to other emergency situations, such as storms or major traffic incidents.

Pennsylvania has adopted the federal Manual on Uniform Traffic Control Devices (MUTCD), which is the national standard for traffic control devices used on all public roads. Township roads must comply with these rules for the design, application, and placement of signs, pavement markings, and other traffic control devices. The MUTCD requires townships to have a sign management system in place.

The board of supervisors should establish policies for performance of routine and winter maintenance. The board of supervisors decides how much money will be allocated for road maintenance and construction, which roads will see major maintenance or construction, and how extensive the improvements will be. A well-designed program that includes best practices can help maintain township roads in optimal condition and reduce liability.

The state provides funding through highway user fees that are allocated to all municipalities annually and must be used for road maintenance and construction. These funds are called liquid fuels and are an important source of road funding. Keep in mind that liquid fuels funds may only be spent on a very specific set of expenses and are audited by the Auditor General. Most townships also rely on their general fund for road maintenance expenses. Some townships have turnback roads, which are former state roads that were turned back to the township by mutual agreement and which the state funds through an annual per-mile maintenance payment, separate from liquid fuels.

Townships have tools to manage the development of future roads. The board of supervisors can adopt an access management ordinance which helps plan for the future by limiting direct access onto major roadways in order to reduce conflicts and preserve the function of intersections. The board can also establish standards for new driveways and private streets that connect to township roads. Each township must determine whether or not it will accept the dedication of newly constructed streets as township roads. If so, design standards should be established by ordinance. A township that has adopted design standards will accept new streets if they meet the established criteria. Such rules may be in stand-alone ordinances or incorporated into a township's subdivision and land development ordinance. These ordinances can be enforced through the issuance of highway occupancy permits. Model ordinances are available from PennDOT in its *Access Management Model Ordinances for Pennsylvania Municipalities*. Log onto [www.dot.state.pa.us](http://www.dot.state.pa.us), choose "Special Interest Areas," then "Land Use and Transportation Planning."

The board of supervisors may adopt ordinances that require heavy haulers to pay for the road damage that they cause. These are called weight limit or posting and bonding ordinances. Townships must follow state rules and regulations when establishing such ordinances or they will not be enforceable. Weight limit ordinances, and most other ordinances regulating traffic, require engineering studies to be performed to establish the weight limit for a particular road, which is then implemented by ordinance. In accordance with PennDOT regulations, townships use bonds and excess maintenance agreements to enforce weight limits.

Townships maintain thousands of bridges statewide. Township-owned bridges that are 20 feet or greater in length must be inspected every two years and townships may work with PennDOT or their county to participate in the bridge inspection program to reduce costs. Bridges less than 20 feet should be inspected on a regular basis.

The Pennsylvania Local Technical Assistance Program (LTAP) is administered by PennDOT and provides resources to municipalities, including training on road safety and maintenance that address many of the topics above, telephone and on-site technical assistance on road issues, and newsletters and technical information sheets. LTAP can be reached toll-free at 1-800-FOR-LTAP and [www.ltap.pa.us](http://www.ltap.pa.us).

In addition, townships may construct and maintain sidewalks and footpaths. These may be installed by the township and paid for out of the General Fund or paid for by assessments against the abutting property owners.<sup>2</sup>

## **Emergency Management**

Both man-made and natural events in recent years have served to focus everyone's attention on the importance of effective emergency management planning at all levels of government. In addition to being important, it is a mandated function of townships and requires the serious attention of and action by the board of supervisors.

The commonwealth's Emergency Management Services Code directs every municipality to have an emergency management program that includes a trained Emergency Management Coordinator (EMC) to coordinate emergency response, an Emergency Operations Plan (EOP) to provide reasonable guidelines and a plan in the event of an emergency, and a functioning Emergency Operations Center (EOC).<sup>3</sup> Emergencies can range from severe storms, including blizzards and flooding, to car crashes or toxic spills along highways or railroads.

Every township must adopt an emergency management plan and keep it updated. The board of supervisors nominates an EMC who is appointed by the governor.<sup>4</sup> The EMC must take required training courses through the county emergency management agency in order to qualify for this position.

During emergency events, municipalities are required to operate under the National Incident Management System (NIMS) which standardized incident management operations across the United States. Township supervisors are required to take at least two courses on NIMS, IS-100.b Introduction to Incident Command System and IS-700.a National Incident Management System, which are available online at <http://training.fema.gov/IS/NIMS.asp>, for their township to remain eligible for emergency preparedness funding and federal disaster assistance.

*The Emergency Management Handbook for Elected Officials*, available from the Pennsylvania Emergency Management Agency, is a good resource for township supervisors and can be found at [www.pema.pa.gov](http://www.pema.pa.gov), under "Forms and Documents" and then "Plans, Guides and Presentations."

## **Fire Protection**

In 2008, the Second Class Township Code was amended to clarify that the board of supervisors is responsible to ensure that fire protection is provided within the township.<sup>5</sup> Section 1553 of the Township Code requires the board to consult with volunteer emergency service responders in order to determine and provide appropriate levels of financial and administrative assistance.

In nearly all townships, fire protection is provided by one or more volunteer fire companies. Insufficient manpower and insufficient funds are frequently cited as the top two challenges for volunteer fire companies.

Due to a significant decrease in the levels of volunteers over the last decade, townships need to consider providing greater levels of support to volunteer fire companies and allow volunteers to focus on providing emergency services. Without volunteers, the responsibility for providing fire protection would rest solely on the township.

Support comes in many forms. Some townships purchase equipment and vehicles for use by fire companies, others provide buildings and pay for insurance, while offering training opportunities. The Second Class Township Code requires volunteer fire companies to account for the use of township funds before the board of supervisors may appropriate additional funds.<sup>6</sup>

Townships are responsible for providing workers' compensation coverage for volunteer firefighters.<sup>7</sup> When a township is served by one or more fire companies outside its boundaries, it must contribute to the cost of workers' compensation premiums paid by the host municipality.<sup>8</sup>

The township may contract with nearby municipalities or fire companies for fire protection services.<sup>9</sup> Many volunteer fire companies prefer to have a contract that clarifies the funding commitment from the township and the services that the volunteer fire company will provide.

There are several options for funding volunteer fire departments. Townships may levy a special property tax of up to 3 mills for fire protection purposes<sup>10</sup> or may contribute from the general fund.<sup>11</sup> Natural gas impact fee revenues may be used for emergency response, including fire protection.<sup>12</sup> At least 25 percent of revenues from the local services tax must be used for emergency service purposes, including fire, police, ambulance, and emergency response.<sup>13</sup> In addition, townships receive fire relief funds from the state each year, which must be appropriated to the fire relief organization(s) for volunteer fire companies serving your township.<sup>14</sup>

One aspect of fire protection is the development of a system of fire hydrants for the benefit of residents. Even residents with a private water supply can benefit if tanker trucks can access a nearby hydrant more quickly than a pond. The cost of fire hydrants may be paid for out of the General Fund, financed through a separate assessment levied by the township and collected by the elected tax collector,<sup>15</sup> or paid for by a special real estate tax of up to 2 mills.<sup>16</sup> The assessment may be based on each property's front footage or assessed valuation and is levied on both taxable and exempt properties because it is a fee for services received.

## **Ambulance/Rescue Services**

Ambulance and rescue services have traditionally been allied with fire protection. In the past, the volunteers who provided firefighting services would provide ambulance and rescue services as well. Today, the training required for emergency medical technician certification makes it difficult for a volunteer firefighter to be cross-trained as an EMT or paramedic. Most ambulance services are staffed by several paid professionals so that at least one trained crew member is available at all times. The number of non-profit and for-profit ambulance service providers is growing as the number of emergency calls increase and fewer volunteers are available.

In 2008, the Second Class Township Code was amended to clarify that the board of supervisors is responsible to ensure that emergency medical services are provided within the township.<sup>17</sup> Section 1553 of the Township Code requires the board to consult with volunteer emergency service responders, such as ambulance companies, in order to determine and provide appropriate levels of financial and administrative assistance.

Townships may provide ambulance and rescue services, donate funds to non-profit ambulance companies, and contract with emergency medical service providers.<sup>18</sup> Townships may levy a special real estate tax levy for ambulance, rescue, or other emergency services of up to one-half of a mill.<sup>19</sup>

## Floodplain Regulations

Federal and state laws require flood-prone municipalities to adopt floodplain regulations that address minimum standards for the 100-year flood plain established both by the National Flood Insurance Program Act and the Pennsylvania Floodplain Management Act.<sup>20</sup> The National Flood Insurance Program provides coverage for structures within municipalities that participate in the National Flood Insurance Program. Municipalities not participating in the program will be denied federal financial assistance, including disaster assistance for acquisition and construction activities within identified flood hazard areas. Lending institutions must notify borrowers of flood hazards and whether or not federal disaster relief will be available in the event of a flood.

The Department of Community and Economic Development oversees the coordination and enforcement of local floodplain management regulations and provides technical assistance on preparation, adoption, and administration of regulations necessary under both laws, as well as information on the National Flood Insurance Program.

Floodplain regulations manage floodplains and minimize damage caused by flooding and may be found in zoning ordinances, building codes, subdivision regulations, and stand-alone floodplain management ordinances. Townships may adopt regulations that exceed state and federal standards.

Floodplain management can be made easier in undeveloped areas by incorporating floodplains into the land development and subdivision ordinance and requiring special treatment for floodplains. If no additional development occurs in the floodplain, problems related to flooding will not worsen. Allowing the floodplain to flood will lessen downstream damage. Many communities plan areas along rivers, creeks, and stormwater drainage to become greenways that connect neighborhoods, parks, and open space areas, create conservation areas, and may be used to develop hiking or biking trails.

## Stormwater Management

The Storm Water Management Act requires township administration and management of stormwater runoff resulting from land development.<sup>21</sup> Under the Act, counties must develop stormwater management plans for specific watersheds, which are subject to approval by the Department of Environmental Protection. Once approved by the Department, townships must adopt or amend their stormwater ordinances, including land use regulations, to implement the county plan.

A stormwater management plan will often result in the construction of stormwater retention areas. Strict regulations are needed to assure these do not become a liability to the township. The stormwater management plan should permit and encourage joint facilities for nearby developments, provide construction standards for basins, require a maintenance plan that clearly spells out who is responsible, and coordinate with other ordinances that manage water flow. Some townships will assume the responsibility for maintenance of such facilities if properly constructed and payment is made into a stormwater maintenance fund.

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

For more information about township's stormwater responsibilities, go to [www.depweb.state.pa.us](http://www.depweb.state.pa.us), choose "Water," then "Bureau of Point and Non-point Source Management," and then choose "Stormwater Management."



## Sewage Management

Malfunctioning sewage disposal systems, regardless of type, can pose a serious threat to health and the environment. The Pennsylvania Sewage Facilities Act requires townships to develop and implement sewage management planning and regulation of both community and individual sewage disposal systems.<sup>22</sup> The Act requires municipalities to submit plans for sewage management and appoint a sewage enforcement officer and an alternate sewage enforcement officer to issue permits for the installation of sewage systems and inspect malfunctioning systems. The act is administered by the Department of Environmental Protection.

Townships are required to develop and implement official plans that resolve existing sewage disposal problems and provide for the future sewage disposal needs of the municipality, including new land development. This plan is often called the "Act 537 plan." When a new land development project is proposed, municipalities are required to revise their Act 537 plan.

In situations where there is a major problem due to failure of multiple on-lot sewage systems in an area, the state Department of Environmental Protection may mandate that a township provide sewer service to the affected properties.

For more information about township's sewage management responsibilities, go to [www.depweb.state.pa.us](http://www.depweb.state.pa.us), choose "Water," then "Bureau of Point and Non-point Source Management," and then choose "Wastewater Management."

## Recycling

The Municipal Waste Planning, Recycling and Waste Reduction Act requires municipalities with populations over 10,000 and those municipalities with populations of 5,000 or more that have a population density of 300 persons per square mile to implement a local recycling program by ordinance.<sup>23</sup> The ordinance must designate at least three materials from a list of eight that residents must separate for curbside collection. Leaf waste must also be separated from the waste stream. In addition, the Act requires each municipality to develop and implement a comprehensive public information program on recycling and waste reduction.

For more information about township's recycling responsibilities, go to [www.depweb.state.pa.us](http://www.depweb.state.pa.us), choose "Waste," then "Recycling."

## References

1. 53 P.S. 67308; Second Class Township Code, Section 2308.
2. 53 P.S. 67401; Second Class Township Code, Section 2401
3. 35 Pa.C.S. 7501 etseq.; Emergency Management Services Code, Section 7501.
4. 35 Pa.C.S.A. 7502. Emergency Management Services Code, Section 7502.
5. 53 P.S. 66553; Second Class Township Code, Section 1553.
6. 53 P.S. 66553 and 66803; Second Class Township Code, Sections 1553 and 1803.
7. 53 P.S. 66512; Second Class Township Code, Section 1512.
8. 77 P.S. 1032; Workers Compensation Act, Section 602
9. 53 P.S. 66803; Second Class Township Code, Section 1803.
10. 53 P.S. 68205(a)(4); Second Class Township Code, Section 3205(a)(4).
11. 53 P.S. 66803; Second Class Township Code, Section 1803.
12. 58 Pa. C.S.A. 2314(g)(3).
13. 53 PS 6924.330; Local Tax Enabling Act, Section 330
14. 53 P.S. 895.701 et seq.
15. 53 P.S. 66802; Second Class Township Code, Section 1802.
16. 53 P.S. 68205(a)(5); Second Class Township Code, Section 3205(a)(5).
17. 53 P.S. 66553; Second Class Township Code, Section 1553.
18. 53 P.S. 67528; Second Class Township Code, Section 1528.
19. 53 P.S. 68205(a)(8); Second Class Township Code, Section 3205(a)(8).
20. 32 P.S. 679.101; Flood Plain Management Act.
21. 32 P. S. 680.1; Storm Water Management Act.
22. 35 P.S. 750.1; Pennsylvania Sewage Facilities Act.
23. 53 P.S. 4000. 1501; Municipal Waste Planning, Recycling and Waste Reduction Act; 1988 P.L. 566, No. 101.

## VII. Township Authority

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In addition to those mandated responsibilities discussed in Chapter VI, townships are authorized by state law to provide a number of optional services for their residents, including police protection, solid waste collection, street lights, and parks and recreation. Each township must decide the types and level of services to provide to their residents.

### Police

Townships may provide police services by appointing police officers and establishing a township police department or may disband an existing police department.<sup>1</sup> Townships may also contract for police services from adjoining municipalities<sup>2</sup> or may join a regional police department.<sup>3</sup> Most townships rely on the Pennsylvania State Police for police protection, which provides incident response service in those areas of the commonwealth without local police service.

All police officers must complete minimum training set by the Municipal Police Officers' Educational and Training Commission before they may enforce the Crimes Code and Vehicle Code and carry a firearm.<sup>4</sup> The Commission requires applicants for police officer positions to undergo physical fitness exams, psychological exams, and background investigations prior to employment. Annual in-service training is required for all municipal police officers.

While townships of the second class do not have civil service requirements, there are numerous laws that govern the provision of police services in Pennsylvania that apply to all municipalities. The Police Tenure Act regulates suspensions, removals, or reductions in rank.<sup>5</sup> Townships with three or more full-time police officers must establish a police pension fund.<sup>6</sup>

Act 111 of 1968 authorizes collective bargaining between municipal police officers and their employers over the terms and conditions of employment, including wages, hours, working conditions, pensions, and other benefits.<sup>7</sup> Act 111 also allows police to bargain for a process for settling grievances and disputes and provides for binding arbitration if an agreement cannot be reached between the police and the board of supervisors. Act 111 has a direct influence on the cost of a police department as the majority of these costs will be for personnel.

If your township provides local police service, be sure to understand your role and its limits as it relates to the existing police contract. Review the contract and become familiar with the discipline process and employment rights. In addition, there are many resources available from DCED about police services, including *Administering Police Services in Small Communities*, *Model Hiring Manual for Pennsylvania Municipalities*, and *Regional Police Services in Pennsylvania*, which are available at [dced.pa.gov](http://dced.pa.gov), by choosing "Local Government" and then "Publications and Documents."

### Sewer and Water Service

Townships may construct and operate sewer systems, create sewer districts, and require adjoining and adjacent property owners to connect to the system.<sup>8</sup> Townships may assess tapping fees for connecting to a sewer system, assess the costs of construction on properties benefited by the system, and charge rental fees for the system's operation. Sewer systems must obtain permits from the Department of Environmental Protection and be in compliance with permit provisions.

Townships may form authorities to construct and operate sewer systems. An authority is an independent entity governed under the Municipality Authorities Act.<sup>9</sup> For additional information on authorities, please see page 44 of this document or the DCED manual *Municipal Authorities in Pennsylvania*, available at [dced.pa.gov](http://dced.pa.gov) by choosing "Local Government" and then "Publications and Documents."

Townships may operate water supply systems or may contract with private utilities or adjoining municipalities for water supply services.<sup>10</sup> Authorities may also be used to construct and operate water systems. Water supply systems are regulated by state and federal agencies and must meet stringent standards for the purity of a public water supply.

## Building and Property Maintenance Codes

Building codes regulate the construction and alteration of structures. Building, plumbing, electrical, and fire prevention codes ensure that new buildings are safe and structurally sound.

In 1999, the state enacted a Uniform Construction Code that required most new and altered structures to comply with its standards.<sup>11</sup> While administration and enforcement of the UCC is voluntary, most townships have opted into the program. The UCC must be followed in all municipalities, regardless of whether a municipality has chosen to enforce the law.

The UCC requires building inspectors to be certified by the Department of Labor and Industry. The board of supervisors must ensure that its inspectors, whether township employees or contractors with a third party agency, are properly certified and are enforcing the act's provisions. The board must establish reasonable fees for the administration and enforcement of the UCC and should not approve a fee schedule presented by a third party agency until it is reviewed and can be justified.

Townships may establish and enforce property maintenance codes, which are not part of the UCC. Property maintenance codes set minimum safety and sanitary standards for existing structures.

## Historic Districts

The Historic Districts Act permits townships to designate certain areas as historic districts that are subject to special controls<sup>12</sup> and are intended to protect the local architectural and historic heritage of the community. The boundaries of the district are defined by surveys of local architectural and historic resources. The controls regulate the demolition or alteration of existing buildings, as well as new construction within the district. Regulations on building spacing, type of materials, and architectural details are intended to preserve the appearance of the district.

## Solid Waste Management

The Second Class Township Code gives the board of supervisors the power to regulate and control the collection and disposal of solid waste.<sup>13</sup> Environmental concerns, mandated recycling for larger communities, as well as a demand for services, has increased the number of townships that provide solid waste collection and disposal services. Some townships require landowners and business owners to contract with a private hauler for waste collection, others contract with one or more private haulers to provide waste collection for their residents, while a few use township employees and equipment to collect solid waste.

## Parks and Recreation

The Second Class Township Code gives townships broad authority to provide park and recreational opportunities for their residents and authorizes townships to acquire and operate parks and other recreational facilities.<sup>14</sup>

Townships may operate park and recreation facilities directly or assign this duty to a recreation board.<sup>15</sup> Townships may jointly own or operate any park or recreation area with another municipality, county, or school district<sup>16</sup> and may appropriate funds for recreation programs not directly sponsored by the township.<sup>17</sup> The Code authorizes a special tax for park and recreation purposes<sup>18</sup> or these expenses may be paid from the general fund.

The Pennsylvania Municipalities Planning Code authorizes townships to require developers of residential subdivisions to provide land, construction of facilities, or payment of fees in lieu of land donation for park or recreational purposes.<sup>19</sup> The township must have a recreation plan in place and the land or fees must be used for providing, acquiring, operating, or maintaining park or recreational facilities at a site reasonably accessible to the development.<sup>20</sup>

## Agricultural Preservation

The Agricultural Area Security Law authorizes local governing bodies to create agricultural security areas that have at least 250 acres of viable agricultural land.<sup>21</sup> Land within a designated agricultural area is given protection from local ordinances that would restrict normal farming operations and safeguards the land against eminent domain condemnation by state and local agencies and public utilities, including the township.

Creation of an agricultural security area begins with a proposal from one or more landowners that is submitted to the board of supervisors, who then provide the proposal to the county and township planning commissions and the township agricultural security area advisory committee for review. After reports are submitted to the board of supervisors, a public hearing must be held before the board makes a final decision.

Land within an Agricultural Security Area is eligible to participate in the Pennsylvania Agricultural Conservation Easement Purchase program, which allows farmers to sell agricultural conservation easements funded by a state bond issue. Purchase of conservation easements allows the property to continue to be privately owned, but restricts development on the land to protect prime agricultural land.

## Street Lighting

The Second Class Township Code authorizes supervisors to provide street lighting paid from the general township funds or through assessments on abutting property owners or by a combination of these payment methods.<sup>22</sup> Since street lighting may be offered only in certain sections of a township, street lighting districts are often created where property owners that benefit from lighting are assessed a fixed rate on a front foot basis, an assessment levied on a millage basis, or a flat assessment to pay for this service. The board of supervisors may adopt regulations for street lighting districts which clearly describe the assessment method used.

Townships may include provisions in subdivision and land development ordinances to regulate the construction of street lighting systems, including distances between lights, types of lights, and styles of poles.

## Libraries and Celebrations

Townships may provide financial support to libraries or cooperate to fund a library in a nearby community.<sup>23</sup> Public library service is often provided by local nonprofit groups or in conjunction with school districts. The board of supervisors may find that they need to help fund a local public library to ensure citizens have access to its resources.

The Township Code also authorizes townships to provide funding for community observances and celebrations, including holidays, bicentennials, historical pageants, or similar programs.<sup>24</sup>

## References

1. 53 P.S. 66901 & 66902; Second Class Township Code, Sections 1901 & 1902.
2. 53 P.S. 66903; Second Class Township Code, Sections 1903.
3. 53 Pa.C.S.A. 2301; Area Government and Intergovernmental Cooperation.
4. 53 P.S. 748; 1974 P.L. 359, No. 120, Section 9.
5. 53 P.S. 811-815; Police Tenure Act.
6. 53 P.S. 767; 1955 P.L. 1804, No. 600.
7. 43 P.S. 217.1 - 217.10; Act 111 of 1968.
8. 53 P.S. 68501 *et seq.*; Second Class Township Code, Section 2501.
9. 53 Pa. C.S.A. 5601 *et seq.*; Municipality Authorities Act.
10. 53 P.S. 67601; Second Class Township Code, Section 2601.
11. 35 P.S. 7210.101 *et seq.*; Uniform Construction Code.
12. 53 P.S. 8001 *et seq.*; Municipal Historic Districts Law.
13. 53 P.S. 67101 and 67102; Second Class Township Code, Section 2101 and 2102.
14. 53 P.S. 67201 & 67202; Second Class Township Code, Section 2201 & 2202.
15. 53 P.S. 67204; Second Class Township Code, Section 2204.
16. 53 P.S. 67205; Second Class Township Code, Section 2205.

17. 53 P.S. 67203(d); Second Class Township Code, Section 2203(d).
18. 53 P.S. 68205(a)(6); Second Class Township Code, Section 3205(a)(6).
19. 53 P.S. 10503; Pennsylvania Municipalities Planning Code, Section 503(11).
20. 53 P.S. 10503; Pennsylvania Municipalities Planning Code, Section 503(11) as amended by Act 135 of 2014.
21. 3 P.S. 901 *et seq.*; Agricultural Area Security Law.
22. 53 P.S. 67003; Second Class Township Code, Section 2003.
23. 53 P.S. 66539; Second Class Township Code, Section 1539 and 24 P.S. 4401; Library Code, Section 401.
24. 53 P.S. 66540; Second Class Township Code, Section 1540.

## VIII. Land Use Planning and Control

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The General Assembly has given the power and responsibility to plan for and control land use and community development to municipal government. If a municipality chooses not to plan for land use, the county may do so.

The Pennsylvania Municipalities Planning Code establishes the rules and regulations for a municipality to plan for community development through preparation of a comprehensive plan and to govern such development through zoning and subdivision and land development ordinances.<sup>1</sup> The MPC provides for the establishment of planning commissions to advise the board of supervisors on planning and zoning ordinances and to review proposed subdivision and land development plans and for zoning hearing boards to hear appeals of zoning officer decisions, special exceptions, and variance requests. If a township misuses its authority, the MPC outlines the procedures an aggrieved person may follow to challenge the township's action.

Land use controls can mitigate the undesirable effects of development. A subdivision with a poorly designed or inadequate street system will lead to traffic problems that will become worse, and more expensive to correct, as development continues. Inadequate drainage can be prevented through a subdivision and land development ordinance. Zoning can establish adequate building setbacks which can reduce conflicts between neighbors, as well as costs of future right-of-way acquisitions. Any denial of a proposed land development or subdivision must be based on, and cite the specific section(s) of, the ordinance that would be violated and cannot be based merely on what a board of supervisors believes to be good planning. Conditions may not be placed on approvals that are not authorized by the MPC and the township ordinance.

Copies of the MPC and numerous other publications about municipal planning and zoning are available from the Governor's Center for Local Government Services at [dced.pa.gov](http://dced.pa.gov).

### Comprehensive Plan

The comprehensive plan is as a picture of how a community wants to look in the future, as determined by the board of supervisors after substantial public input. The comprehensive plan should provide a vision of the future and allow other ordinances, such as the zoning ordinance and the subdivision and land development ordinance, to fill in the gaps and create the mechanisms to reach this desired goal. A township's zoning ordinance must be generally consistent with its comprehensive plan and the county comprehensive plan.

The MPC encourages intergovernmental cooperation through multimunicipal planning by providing incentives, such as the ability to plan for every use within the area of the multimunicipal plan versus the requirement to plan for every use within every municipality. State agencies are directed to consider and rely upon multimunicipal plans and zoning ordinances in their funding and permitting processes. The Governor's Center for Local Government Services provides technical assistance on land use issues, including multimunicipal plans and implementing ordinances.

The preparation of a comprehensive plan is time intensive and requires considerable data collection and analysis, planning, and ample opportunity for public input. The MPC contains specific requirements for comprehensive plans, which must include the township's objectives for future growth and development; plans for the amount and intensity of various uses, housing needs, transportation, and future community facilities and utilities; and how the development plan is compatible with adjoining municipalities.

Once the comprehensive plan is adopted, a township may prepare a draft zoning ordinance and map and a subdivision and land development ordinance. However, a subdivision and land development ordinance can be enacted without waiting for the comprehensive plan to be complete.

The township solicitor or special counsel should review these proposed documents. When the planning commission has completed the ordinances, it must hold a public hearing and make a recommendation to the board of supervisors. The ordinance may be adopted by the board of supervisors after additional public hearings are held and the county planning commission has had an opportunity to comment on the proposed documents.

For more about the comprehensive plan, see publication *No. 3 – The Comprehensive Plan*, which is available from the Governor's Center for Local Government Services at [dced.pa.gov](http://dced.pa.gov).

## The Subdivision and Land Development Ordinance

Subdivision regulations govern the division of land into lots. The board of supervisors may regulate subdivision and land development within the township by enacting a subdivision and land development ordinance. These ordinances require that all plots of land within the township be submitted to the township planning commission for review. The township planning commission provides recommendations to the board of supervisors for final approval, unless the board of supervisors has given the township planning commission the responsibility for granting final approval by ordinance. A plat is the map or plan of a subdivision or land development.

Subdivision regulations require developers to pay for the infrastructure costs of a subdivision or development, including sewer and water service, streets and curbing, storm sewers and drainage, and street lighting. State law restricts the levy of transportation impact fees for off-site development to those municipalities that have adopted a transportation capital improvements plan that is based on a roadway sufficiency study. The levy of, and calculations for, tap-in or other similar fees for connecting to municipal or authority-owned water and sewer systems is regulated by the Municipality Authorities Act.

Subdivision and land development regulations affect how a community looks and functions into the future. By carefully drafting subdivision standards and designs, a community can maintain quality standards for improvements, attempt to coordinate development with the availability of public facilities, and create a pattern of development that will attract and retain residents and business.

For more about the comprehensive plan, see publication *No. 8 – Subdivision and Land Development In Pennsylvania*, which is available from the Governor's Center for Local Government Services at [dced.pa.gov](http://dced.pa.gov).

## The Zoning Ordinance

Zoning is a tool to regulate the use of land and structures. The zoning ordinance specifies the types of activities that are permitted in various areas, or zones, of the township, such as residential, commercial, industrial, and agricultural. The zoning ordinance must be generally consistent with the comprehensive plan, if one has been adopted, and must comply with the provisions of the MPC. Unless the township has adopted a multimunicipal plan, the zoning ordinance must provide for every type of use within the township's borders.

Zoning ordinances, and amendments to zoning ordinances, are prepared or reviewed by the township planning commission. The zoning ordinance and zoning classifications should be based on the most current information about the township and the areas where future development is expected to occur. It is common to hire a professional planner or use the county planning office for assistance with the drafting of the ordinance and preparation of maps.

For more about the comprehensive plan, see publication *No. 4 – Zoning*, which is available from the Governor's Center for Local Government Services at [dced.pa.gov](http://dced.pa.gov).

## References

1. 53 P. S. 10101; Pennsylvania Municipalities Planning Code, Section 101.

## IX. Intergovernmental Cooperation

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### Merger and Consolidation

Township supervisors are sometimes confronted with problems which may lend themselves to regional solutions. Citizens may request additional services, but may demand that the requested services not be matched by increased taxes. State and federal governments insist that local officials solve complex problems, often without regard to the community's ability to pay for the solutions.

Because of modern transportation systems, we now have citizens living in one municipality, working in another, and enjoying their recreation in yet another. These people expect to find (*and in most cases, are willing to support*) adequate services and facilities wherever they are. They are not interested in boundary lines.

Since problems frequently extend beyond municipal boundaries, merging or consolidating municipalities is sometimes suggested as an answer. A procedure enabling municipalities to merge or consolidate is found in the Municipal Merger or Consolidation Act<sup>1</sup> and is accomplished through voter referendum. However, this option has not been popular with voters.

### Intergovernmental Cooperation

Because merger and consolidation has not been popular, municipalities have found other ways to address regional issues. One approach, called intergovernmental cooperation, enables local officials to voluntarily work together to solve regional problems while maintaining their individual identities. The Intergovernmental Cooperation Act<sup>2</sup> permits municipalities to work together to provide any service or facility that they may provide on their own.

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

**Roads.** Every township in the state participates in the care and maintenance of roads. Concern for properly maintained roads and better snow removal has lead more townships to work with their neighbors. Joint purchasing of salt, anti-skid, or road signs is efficient and easy. Joint purchases of large, specialized, and seldom-used pieces of equipment or jointly entering into contracts guaranteeing minimum hours of rent to use such equipment are becoming more common. Street sweepers, graders, pavers, rollers, loaders, and backhoes are types of equipment which townships might find hard to justify if only used for a few hours a year. Road construction and paving projects using joint crews are another option for townships committed to providing the best service at the least cost.

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

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

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



School districts often have recreation facilities which may be underused during the summer months. A community should explore every opportunity to fully utilize existing facilities before acquiring and developing new parks and programs. Parks and recreation plans should include all public facilities when future needs are being determined.

**Building Codes.** Administration and enforcement of the Uniform Construction Code requires experienced and well-trained inspectors, who may not be available on a part-time basis. Smaller townships may find hiring third party agencies to be difficult without combining the resources and activity of two or more communities. Code enforcement is one of the most successful intergovernmental cooperation programs.

**Land Use.** The Pennsylvania Municipalities Planning Code provides opportunities for municipalities to cooperate on land issues, such as multimunicipal planning, where two or more municipalities can work together to create a multimunicipal comprehensive plan. The participating municipalities base their other land use ordinances on the plan. One advantage of multimunicipal planning is that municipalities can pool their resources to develop the plan, which can be a costly. Another major benefit is that the MPC authorizes participating municipalities to provide for every use within the entire area of the multimunicipal plan, while a municipality adopting an individual comprehensive plan must provide for every use within its borders.

## Council of Governments

A council of governments is a voluntary association of local government units joined together under a written compact to improve cooperation, coordination, and planning. The COG provides a more formal entity for performing cooperative activities and is authorized by the Intergovernmental Cooperation Act.<sup>3</sup> Often COGs are formed when communities have had several successful cooperative efforts and would like to build upon these successes.

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

## Municipal Authorities

Townships may form municipal authorities for certain purposes.<sup>4</sup> While local governments play a role in the creation of an authority and appointment of its board members, the authority is an independent agency of the commonwealth. An authority is a separate legal entity that may incur debt, own property, and finance its activities through user charges or lease rentals.

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

The decision to form a new municipal authority should not be taken lightly. If a township creates an authority to operate the sewer system, it surrenders the power to make important public policy decisions, such as the extent and cost of sewer service. An authority does not answer to the voters or to the board of supervisors except through the appointment of new members when terms end. Joint authorities may be a viable intergovernmental cooperation option when two or more municipalities need to operate a project that crosses municipal lines, such as a regional sewer system.

**Types of Authorities.** Authorities may be simply financing authorities, or they may be financing and operating authorities. A financing authority has the responsibility to obtain funds, disburse funds for engineering, legal fees, and construction, and make scheduled principal and interest payments on the debt. A financing authority generally leases the completed project facilities back to the municipality for operation. As an example of this kind of arrangement, a

municipal authority may finance and construct a sewage system and treatment facilities. Upon completion, the system is leased back to the municipality. The municipality collects all sewer rentals from the users and places that revenue in a separate municipal sewer rental fund. Lease payments are made from the sewer rental fund to the authority to cover the debt service, plus additional amounts for reserve funds or major improvements funds, as appropriate. A portion of the revenue is retained by the municipality to pay for treatment plant operations and maintenance.

In this kind of leaseback arrangement, the municipality and the authority should clearly indicate the responsibilities of each party, particularly for capital expenditures. Often the municipality will set aside capital reserves within the sewer revenue fund to provide for capital expenditures such as trucks or other movable equipment. In addition, the authority will usually maintain a capital improvement fund for expansions or major improvements to the system.

A financing and operating authority differs from that described above. An operating authority hires the labor and provides materials and equipment to operate the project after completion. The employees work for the authority rather than the township. Except to enact enabling ordinances, appoint authority board members, and enforce collection of delinquent accounts, the municipality has very little to do with the day-to-day operation of an authority.

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

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

An authority can provide a valuable service by financing and operating projects. However, since the appointed authority board does not answer to the voters, the authority board's roles and responsibilities should be clearly defined in the ordinance creating the authority. For example, if an authority is formed to finance and construct several sanitary landfills for solid waste disposal in a countywide system, the board of supervisors may want to state that the authority is limited to those activities. Otherwise, the authority might choose to engage in activities or services beyond the scope originally intended by the board of supervisors.

In addition to the power to appoint members to the authority board, the board of supervisors can require audits of authority accounts and can fix salaries of the authority members by ordinance.

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

Even before the debt is paid off, the township that created the authority may take over the project by passing an ordinance to do so. However, the township must also assume any outstanding debt that the authority incurred for the project.

## References

1. 53 Pa.C.S.A. 731; Municipal Consolidation or Merger Act.
2. 53 Pa.C.S.A. 2301; Area Government and Intergovernmental Cooperation.
3. 53 Pa.C.S.A. 2301; Area Government and Intergovernmental Cooperation.
4. 53 P.S. 303; Municipality Authorities Act, Section 3.

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