

CHAPTER 1

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PART 1

BOROUGH ADMINISTRATION

A. Administration

§1-101. Definitions.

As used in this Part 1A, the following terms shall have the meanings indicated:

OFFICIAL or EMPLOYEE - any person elected or appointed to, or employed or retained by, any public office or public body of the Borough, whether paid or unpaid and whether part-time or full-time.

(Ord. 806, 6/11/1986, §301; as amended by Ord. 995, 12/10/2003)

§1-102. Duties of Borough Agencies.

The responsibilities of the Borough departments, agencies and offices shall be as set out and provided for by this Code, other applicable law and the ordinances of the Borough of Aspinwall creating and controlling them.

(Ord. 806, 6/11/1986, §302)

§1-103. Compensation of Officials and Employees.

The compensation for the Mayor and members of Council shall be fixed by ordinance in accordance with the provisions of the Pennsylvania Borough Code. All appointed offices and employees of the Borough shall receive compensation for their services as prescribed by Council.

(Ord. 806, 6/11/1986, §303)

§1-104. Indemnification of Officials and Employees.

The Borough of Aspinwall shall indemnify the Mayor, any member of Council, the Manager, building inspection employees, members of boards, commissions appointed by Council, the Solicitor and the Engineer in the event that such individuals are a party to or are threatened to be made a party to any threatening, pending, or pleaded action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Borough), by reason of the fact that such person is or was an elected or appointed official of the Borough, an employee of the Borough or an appointed member of the Board or Commission of the Borough, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred in connection with such action, suit or proceeding if the individual acted in good faith and

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in a manner he reasonably believed to be in or not opposed to the best interest of the Borough of Aspinwall and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The Borough may provide insurance for the benefit of such individual insuring such individual from any liability asserted against that individual or incurred by that individual in any capacity, in such amounts and with such limitations as Council shall deem appropriate.

(Ord. 806, 6/11/1986, §305)

§1-105. Reading of Ordinances at Meeting for Consideration.

Ordinances, except as set out below, shall be read in full at the meeting at which their passage is considered. Those ordinances which require prior public notice and those ordinances which have otherwise been placed on file in the Borough offices for review prior to passage need not be read. In those cases where the full text of an ordinance need not be read, a summary setting forth the substance of the ordinance shall be read at the meeting at which passage is considered.

(Ord. 806, 6/11/1986, §306)

§1-106. Authority and Organization of Boards and Commissions.

The purpose, organization and authority of boards and commissions created by the Council of the Borough of Aspinwall shall be set out in the ordinances creating them and the applicable Acts of the Pennsylvania General Assembly and the Congress of the United States under which they are created. Each board or commission shall have a chairperson, whose duties and responsibilities shall be to regulate the operation and performance of the board or commission. The chairperson and the members shall be responsible to Council for the faithful and timely performance of the duties assigned them.

(Ord. 806, 6/11/1986, §307)

§1-107. Fair and Equal Treatment.

No official or employee shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.

(Ord. 806, 6/11/1986, §308)

§1-108. Penalties.

1. Subject to due process of law, any official or employee who violates any provision of this Part 1A may be disqualified from being an appointed official or employee in the Borough for 2 years after the date of the transaction in which the violation

- occurs. If the violation occurs while serving as an appointed official or employee, he may be removed from his position as an appointed official or employee by a majority vote of the Borough Council.
2. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
 3. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.
 4. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(Ord. 806, 6/11/1986, §312; as amended by Ord. 995, 12/10/2003)

B. Enforcement of Ordinances; Penalties

§1-115. Designation of Violations; Proceedings.

Unless otherwise prescribed by a general law of the Commonwealth of Pennsylvania, any violation or failure to comply with any provision of this Code or any other ordinance of the Borough of Aspinwall shall constitute a summary offense and prosecution of every such offense shall be in the manner provided for the enforcement of summary offenses under the laws of the Commonwealth and the Pennsylvania Rules of Criminal Procedure and the Rules of the Minor Judiciary, both as adopted by the Pennsylvania Supreme Court.

(Ord. 995, 12/10/2003)

§1-116. Penalties.

Except where specific penalties are otherwise provided in this Code, in a law of the Commonwealth or in another ordinance of the Borough for a particular violation, any person who violates any provision of this Code, or fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$600, plus all court costs and costs of prosecution incurred by the Borough, and in default of payment of said fines and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.

(Ord. 995, 12/10/2003)

§1-117. Continuing Violations.

A separate offense shall arise for each day or portion thereof in which a violation of this Code or other Borough ordinance is found to exist or for each section of this Code or other Borough ordinance found to have been violated.

(Ord. 995, 12/10/2003)

§1-118. Additional Remedies.

In addition to any other remedy available under law, the Borough may enforce this Code or other Borough ordinance by any appropriate action in equity or at law to prevent, restrain, correct, enjoin or abate violations of this Code or other Borough ordinance.

(Ord. 995, 12/10/2003)

§1-119. Disposition of Fines and Penalties.

Unless otherwise provided in this Code or in the laws of the Commonwealth, all fines and penalties collected for violations of this Code or of other ordinances of the Borough shall

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be paid to the Borough Treasurer.

(Ord. 995, 12/10/2003)

§1-120. Determination of Violation.

The initial determination of a violation of this Code or other Borough ordinance and the service of a notice of violation, where required, are hereby delegated to the Borough Manager, the Police Chief, the Code Official/Building Inspector, the Zoning Officer, the Code Enforcement Officer and their designees and to any other officer or agent that the Borough Manager or the Borough Council deems appropriate.

(Ord. 995, 12/10/2003)

§1-121. Ticketing in Lieu of Citation.

The Aspinwall Borough Police are authorized to issue tickets for the violation of any provision of this Code, except for violations of Chapter 5 [Code Enforcement], Chapter 6 [Conduct], Chapter 13 [Licenses, Permits and General Business Regulations], Chapter 9 [Grading and Excavating], Chapter 10 [Health and Safety], Chapter 18 [Sewers and Sewage Disposal], Chapter 22 [Subdivision and Land Development], Chapter 24 [Taxation, Special], Chapter 26 [Water], Chapter 27 [Zoning], any provision of this Code requiring notice of violation and unless otherwise provided in this Code. This ticket shall be in the form approved from time to time by resolution of the Borough Council and shall, unless otherwise provided in this Code, provide the violator with the option of pleading guilty to the violation prior to the issuance of a citation by paying a minimum fine of \$25 in discharge of the particular violation in question for the particular date in question. In the violator fails to plead guilty and pay the minimum fine of \$25 within 48 hours of the date and time of the ticket, then the appropriate Borough officials may proceed as otherwise authorized by this Part 1B. When, in the discretion of the police officer, the issuance of a ticket pursuant to this Section is not appropriate, the police officer may proceed to issue a citation as otherwise authorized by this Part 1B.

(Ord. 995, 12/10/2003)

PART 2

ELECTED AND APPOINTED OFFICIALS

A. Borough Manager

§1-201. Creation.

The office of the Borough Manager is hereby created for the Borough of Aspinwall.

(*Ord. 354, 2/18/1925, §601*)

§1-202. Appointment; Term; Compensation; Removal; Qualifications.

1. Council shall appoint a Borough Manager for an indefinite term and shall fix the compensation for such position. The Manager shall serve at the pleasure of the Council and may be removed from the position at any time by a majority vote of all Council members.
2. The Manager shall be chosen solely on the basis of executive and administrative abilities and qualifications. The Manager need not be a resident of the Borough at the time of appointment but may reside outside the Borough while in office only with the approval of Council. The offices of Borough Manager and Borough Secretary may be held by the same person. [*Ord. 995*]

(*Ord. 354, 2/18/1925, §602; as amended by Ord. 806, 6/11/1986; and by Ord. 995, 12/10/2003*)

§1-203. Power and Duties.

1. The Manager shall be the chief administrative officer of the Borough and shall be responsible to the Council for the proper and efficient administration of the affairs of the Borough.
2. The Manager shall have the following powers and duties:
 - A. Shall supervise and be responsible for the activities of all municipal departments, except as otherwise provided by law or this Code.
 - B. Shall hire, suspend or remove all Borough employees, upon approval by Council; provided, that persons covered by civil service provisions of the Borough Code shall be hired, suspended or removed in accordance with such provisions.
 - C. Shall perform the duties of the Borough Secretary, as prescribed by law and this Code where appointed by Borough Council to such positions. [*Ord. 995*]

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- D. Shall attend all Borough Council meetings and shall have the right to take part in discussions, but shall not vote.
- E. Shall prepare the agenda for each meeting of Council and supply pertinent facts for each agenda item.
- F. Shall prepare and submit the annual budget and capital expenditure program to the Borough Council.
- G. Shall submit to the Borough Council and make available to the public a complete report on the finances and administrative activities of the Borough as of the end of each fiscal year.
- H. Shall keep Borough Council informed as to the conduct of Borough affairs and shall make periodic reports as Council may require on the financial affairs of the Borough and operation of all departments, offices and agencies subject to the Manager's direction and supervision.
- I. Shall see that the provisions of all franchises, leases, permits and privileges granted by the Borough are observed.
- J. May employ, by and with the approval of Council, experts and consultants to perform work and to advise in connection with any of the functions of the Borough.
- K. Shall attend to the letting of contracts in due form of law and shall supervise the performance and faithful execution of the same except insofar as such duties are expressly imposed by statute upon some other Borough officer.
- L. Shall see that all money owed the Borough is promptly paid and that proper proceedings are taken for the security and collection of all the Borough's claims.
- M. Shall be the purchasing officer of the Borough and shall purchase in accordance with the provisions of the Pennsylvania Borough Code, all supplies and equipment for the agencies, boards, departments and other offices of the Borough. Shall keep an account of all purchases and shall, from time to time or when directed by Council, make a full written report thereof. Shall also make rules and regulations subject to the approval of Council, governing the procurement of all municipal supplies and equipment.
- N. Shall handle all complaints regarding Borough services under the Manager's supervision. The Manager shall investigate and dispose of such complaints and shall report thereon to Council.
- O. Shall cooperate with the Borough Council at all times and in all matters so that the best interest of the Borough and of the general public may be

maintained.

(*Ord. 354*, 2/18/1925, §603; as amended by *Ord. 806*, 6/11/1986; as amended by *Ord. 995*, 12/10/2003)

§1-204. Bond Required.

Before taking office, and each year thereafter, the Borough Manager shall furnish a fidelity bond in an amount as set from time to time by resolution of the Borough Council, conditioned upon the faithful performance of his/her duties. This fidelity bond shall be in a form acceptable to the Borough Solicitor and shall be issued by a corporation licensed to do business as a surety in the Commonwealth of Pennsylvania. The cost of such bond shall be paid from the general revenue of the Borough.

(*Ord. 354*, 2/18/1925, §604; as amended by *Ord. 995*, 12/10/2003)

B. Borough Secretary

§1-211. Creation of Office.

The office of Secretary is hereby created for the Borough of Aspinwall.

(Ord. 355, 2/18/1925, §1001)

§1-212. Duties.

The duties of the Secretary shall be as follows:

- A. Attend all meetings of the Borough Council and keep full minutes of their proceedings.
- B. Transcribe the bylaws, rules, regulations and ordinances adopted into a book kept for that purpose, and when signed by the presiding officer attest the same.
- C. Preserve the records and documents of the Borough and have custody of the corporate seal.
- D. Certify copies of any book, paper, record, bylaw, rule, regulation, ordinance or proceeding of the Borough under the seal thereof, which copies so certified shall be admitted in evidence in any court of the Commonwealth.
- E. Attest the execution of all instruments, record the publication of all enactments, and attest the same by his signature.
- F. File or record the proof of service of all notices required by law, and the certificate thereof shall be good evidence of such notice.
- G. Deliver to a successor the seal and all books, papers and other things belonging to the Borough.

(Ord. 355, 2/18/1925, §1002)

C. Solicitor; Treasurer

§1-215. Appointment; Terms of Office; Qualifications for Solicitor, Treasurer.

1. **Appointment, Term of Office.** A Borough Treasurer and a Borough Solicitor shall be appointed by Borough Council at its regular organizational meeting on the first Monday of January of each even-numbered year, or as provided by the Pennsylvania Borough Code. The Treasurer and Solicitor shall serve at the pleasure of Council and may be removed from office at any time by a majority vote of all Council members. [*Ord. 995*]
2. **Qualifications of Treasurer.** Council may appoint as Treasurer either an individual, bank or bank and trust company.
3. **Qualifications of Solicitor.** The Borough Solicitor shall be a person in active legal practice in the Commonwealth and licensed to practice law in the Commonwealth. In the absence of the Solicitor, a law firm of which the Solicitor is a member or associated may perform any of the duties of the Solicitor.

(*Ord. 1, 6/12/1893*, §801; as amended by *Ord. 75, 2/13/1901*, §801; and by *Ord. 806, 6/11/1986*; and by *Ord. 995, 12/10/2003*)

§1-216. Dereliction of Duty by Borough Officers; Penalty.

If any officer appointed by Council shall neglect or refuse the duties of the office, the officer shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of \$100. Collection of the fines and penalties for default of the payment shall be as provided by Chapter 1 of this Code.

(*Ord. 1, 6/12/1893*, §802; as amended by *Ord. 75, 2/13/1901*, §802; and by *Ord. 806, 6/11/1986*)

§1-217. Powers and Duties of the Solicitor.

The Borough Solicitor shall be the chief legal officer of the Borough and shall have the following powers and restrictions:

- A. The Solicitor shall furnish legal advice, upon request, to Council, the Mayor, the Manager and to all boards and commissions concerning any matter or thing arising in connection with the exercise of their official powers or performance of their official duties and, except as otherwise expressly provided by this Code, shall supervise, direct and control all of the law work of the Borough.
- B. At the direction of Council, the Solicitor shall appear for and represent the Borough or, if appropriate, the residents of the Borough as a class on

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matters before the various regulatory agencies of other governmental bodies and in the courts of the commonwealth.

- C. No member of Borough Council or of any department or agency shall serve as Borough Solicitor nor as attorney for any commission, committee or agency in the Borough government while serving as a member of Borough Council, and for 1 year thereafter.
- D. The Borough Solicitor or his/her firm shall not be permitted to serve in any matter in which the Borough is a party or has an interest for at least 1 year subsequent to retirement, resignation or removal as Borough Solicitor.
- E. The Solicitor shall have right of access at all times to the official records of any officer, department, board or commission of the Borough.
- F. The Solicitor, unless otherwise provided herein, may employ additional counsel without the assent or ratification of Council.
- G. The Solicitor shall submit an annual report to Council of all legal activities performed for the Borough during the year.

(Ord. 1, 6/12/1893, §803; as amended by Ord. 806, 6/11/1986)

§1-218. Powers and Duties of Treasurer.

The powers and duties of the Treasurer shall be as follows:

- A. Shall keep a just account of all receipts and disbursements, and shall annually submit such account to the Borough auditors.
- B. Shall receive all monies received by any Borough officer or other person for use of the Borough. All such monies shall be paid promptly upon receipt to the Treasurer.
- C. Shall deposit monies in a bank or banking institution in the name of the Borough.
- D. Shall authorize expenditures to be paid out of the Borough Treasury upon an order signed by the President of Council and Borough Secretary; provided, there is sufficient money in the Treasury for such expenditure.
- E. Shall, upon leaving office, pay over all monies remaining in his/her hands and deliver all books, papers, accounts and other things belonging to the Borough, to the succeeding Treasurer.

(Ord. 1, 6/12/1893, §804; as amended by Ord. 75, 2/13/1901, §804; and by Ord. 806, 6/11/1986)

§1-219. Treasurer's Bond.

Before taking office, and each year thereafter, the Borough Treasurer shall furnish a fidelity bond in an amount as set from time to time by resolution of the Borough Council, conditioned upon the faithful performance of his/her duties. This fidelity bond shall be in a form acceptable to the Borough Solicitor and shall be issued by a corporation licensed to do business as a surety in the Commonwealth of Pennsylvania. The cost of such bond shall be paid from the general revenue of the Borough.

(Ord. 1, 6/12/1893, §805; as amended by Ord. 806, 6/11/1986; and by Ord. 995, 12/10/2003)

D. Compensation of Borough Officers and Employees

§1-221. Remuneration.

A listing of current salaries/compensations for all Borough officers and employees (by personnel classification) shall be kept on file in the Borough Manager's office and shall be available for inspection during regular business hours.

(Ord. 806, 6/11/1986, §3706)

E. Independent Auditor.

§1-231. Creation of the Office of Independent Auditor.

The office of the Borough Independent Auditor is hereby created for the Borough of Aspinwall.

(Ord. 997, 12/29/2003, §1)

§1-232. Appointment of Independent Auditor; Qualifications.

1. The Council of the Borough shall, by resolution adopted annually before the close of a fiscal year, appoint an Independent Auditor to make an independent examination of the accounting records of the Borough, for such fiscal year, and perform such other duties as set forth in §1-233 of this Part 2E, and who shall have one of the qualifications referenced in subsection .2 below.
2. The Independent Auditor so appointed shall be:
 - A. A certified public accountant registered in the Commonwealth of Pennsylvania; or
 - B. A firm of certified public accountants registered in the Commonwealth of Pennsylvania; or
 - C. A competent public accountant; or
 - D. A competent firm of public accountants.

(Ord. 997, 12/29/2003, §1)

§1-233. Powers and Duties of Independent Auditor.

The Independent Auditor appointed pursuant to §1-232 shall have those powers and duties as set forth in §1196 through 1199 of the Borough Code, 53 P.S. §§46196 through 46199, as amended, and such other powers and duties as required or conferred upon the Independent Auditor by law.

(Ord. 997, 12/29/2003, §1)

§1-234. Compensation of Independent Auditor.

The compensation to be paid to the Independent Auditor appointed pursuant to §1-232 of this Part 2E shall be fixed and established by the Council of the Borough.

(Ord. 997, 12/29/2003, §1-234)

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§1-235. Office of Elected Auditor Abolished.

Upon appointment of an Independent Auditor as provided in §1-232 above, the office of elected auditor is abolished; however, the elected auditors then in office shall continue to hold such office for the term for which elected, and shall perform the duties of their office, except that they shall not audit, settle, or adjust accounts audited by such Independent Auditor.

(Ord. 997, 12/29/2003, §1)

§1-236. Applicability.

The regulations in this Part 2E shall become operative for the fiscal year 2003, and for all subsequent years thereafter, unless repealed by the Borough Council.

(Ord. 997, 12/29/2003, §1-236)

PART 3

POLICE DEPARTMENT

A. Establishment of Police Department

§1-301. Establishment.

The Police Department of Aspinwall Borough is hereby established.

(Ord. 806, 6/11/1986, §3101)

§1-302. Duties and Powers of the Mayor and Chief of Police.

The Mayor of Aspinwall shall be the official head of the Police Department. The Chief of Police shall supervise the day-to-day activities of the Police Department and all police officers and department employees, subject to the direction of the Mayor. The Chief shall exercise all the powers and authorities granted by the laws of the Commonwealth and the ordinances of the Borough.

(Ord. 806, 6/11/1986, §3102)

§1-303. Appointment; Qualifications of the Chief of Police.

1. **Appointment.** The Chief of Police shall be appointed by the Borough Council and shall serve unless suspended or removed by Council. Before appointing, suspending or removing the Chief, Council shall seek the recommendations of the Mayor.
2. **Qualifications.** Any person appointed to the office of Chief of Police need not be a resident of the Borough at the time of appointment but must become one within 1 year of the date of appointment.

(Ord. 806, 6/11/1986, §3103)

§1-304. Police Department Organization.

The Police Department shall consist of the number of sworn police officers and employees, who are not sworn police officers, as may be authorized by Council from time to time. Council may establish a personnel classification system for officers and employees, but all personnel shall be subordinate to the Chief of Police. Council shall fix the total weekly hours of employment that shall apply to police officers and employees.

(Ord. 806, 6/11/1986, §3104)

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§1-305. Appointment; Qualifications; Compensation of Police Officers and Departmental Employees.

1. **Appointment.** Police officers shall be appointed by Borough Council, subject to the civil service provisions of the Pennsylvania Borough Code.
2. **Qualifications.** Qualifications for all ranks and positions in the Police Department shall be determined by the Chief of Police and Mayor and shall be stated in the Department's Manual of Rules and Regulations. All Borough police officers hired on or after December 7, 2000, shall reside within an 8-mile air radius of Aspinwall Municipal Building within 6 months of the date of their successful completion of the requisite probationary period. Police Officers hired prior to December 7, 2000, must reside in one of the following boroughs or townships: Aspinwall, Fox Chapel, Sharpsburg, Blawnox, O'Hara or Indiana. [*Ord. 970*]
3. **Compensation.** Council shall fix the compensation for all police officers and employees.

(*Ord. 806, 6/11/1986, §3105; as amended by Ord. 835, 1/13/1988, §3105; by Ord. 873, 7/10/1991, §3105; and by Ord. 935, 2/11/1998, §3105; and by Ord. 970, 12/6/2000*)

§1-306. Suspension; Reduction in Rank; Discharge of Police Officers.

1. Borough Council, subject to civil service requirements, may suspend, reduce in rank or discharge any member of the Police Department.
2. In addition to Council's powers, the Mayor may, for cause and without pay, suspend a police officer until the next regular meeting of Borough Council. At that time Council may, subject to civil service requirements, suspend, discharge, reduce in rank or reinstate with pay the police officer.
3. Any police officer suspended by the Mayor may not be reinstated by Council at a date earlier than 10 working days from the date fixed by the Mayor for the suspension to commence. In any case where the Council has reinstated a police officer, after having been suspended by the Mayor, the Mayor shall not thereafter suspend such police officer for reasons arising from the same act for which the first suspension was made, or for reasons that the Council, in reinstating such police officer, shall have determined not to be grounds for suspension.

(*Ord. 806, 6/11/1986, §3106*)

§1-307. Operations of Police Department; Conduct of Officers and Employees.

The operation of the Police Department and the conduct of all police officers and employees shall be in accordance with the current "Police Department Manual of Rules and Procedures." The Chief of Police shall be responsible for promulgating, revising, modifying

and maintaining the Police Department Manual of Rules and Procedures, subject to approval by the Borough Council.

(*Ord. 806*, 6/11/1986, §3107; as amended by *Ord. 995*, 12/10/2003)

§1-308. Duties of Police During Fire Alarms.

Upon an alarm of fire, the Chief of the Aspinwall Fire Department shall become the supreme police officer of the Borough for the subject scene of a fire and/or alarm, and shall continue in such capacity until the fire is extinguished and/or the alarm cancelled. It shall be the duty of the police officer(s) of the Borough on duty to report immediately to the Fire Chief or other officer or member of the Fire Department in charge at the scene of a fire and/or alarm and to act under his/her direction. The said police officers shall not absent themselves temporarily or permanently from the scene of a fire and/or alarm without permission from the Fire Chief or other officer or member of the Fire Department acting in the Chief's absence.

(*Ord. 806*, 6/11/1986, §3108; as amended by *Ord. 995*, 12/10/2003)

§1-309. Appointment of Special Police by Mayor.

The Mayor may, in accordance with the provisions of the Pennsylvania Borough Code, appoint special police who shall serve temporarily during an emergency in which the safety and welfare of the Borough and public are endangered. Compensation for special police officers shall be determined by Council.

(*Ord. 806*, 6/11/1986, §3109)

§1-310. Appointment of Special School Police.

Borough Council may appoint special school police who shall have the duty of controlling and directing traffic at or near schools. The appointment, duties, compensation of such officers shall be as provided by the Pennsylvania Borough Code, 53 P.S. §65101 *et seq.*, as amended. Special school police shall be under the direction and supervision of the Mayor and Chief of Police.

(*Ord. 806*, 6/11/1986, §3110)

PART 4

AGENCIES, BOARDS, COMMISSIONS AND COMMITTEES

A. Planning Commission

§1-401. Composition; Terms; Vacancy; Qualification; Compensation.

There is hereby created a Borough Planning Commission consisting of seven persons to be appointed by Council. Each member of the Commission shall be appointed for a term of 4 years. An appointment to fill a vacancy shall be only for the unexpired portion of the term. All members of the Commission shall reside within the Borough, and no more than two members may be officers or employees of the Borough. All members shall serve without compensation.

(Ord. 637, 12/14/1966, §2901; as amended by Ord. 765, 3/10/1982, §2901; and by Ord. 806, 6/11/1986)

§1-402. Conduct of Business; Annual Report.

The Commission shall elect a chair and vice-chair and such other officers as it determines necessary. Officers shall serve annual terms and may succeed themselves. The Commission may make and alter rules and regulations for its own organization and procedure, consistent with the ordinances of the Borough and the laws of the Commonwealth. The Commission shall make a report by March 1 of each year to the Council of its activities and transactions.

(Ord. 637, 12/14/1966, §2902; as amended by Ord. 806, 6/11/1986)

§1-403. Powers to Employ and Contract.

The Commission may employ persons, whose salaries and wages and other necessary expenses of the Commission, are approved by Council. They may contract for professional services, the costs and expenses of which, when approved by Council, shall be provided for through proper appropriation by Council.

(Ord. 637, 12/14/1966, §2903; as amended by Ord. 806, 6/11/1986)

§1-404. Jurisdiction and Powers.

The Borough Planning Commission shall have the powers and duties as provided by the current Pennsylvania Municipalities Planning Code (53 P.S. §10101 *et seq.*), as if fully set forth herein, this Code, or other ordinances adopted by the Borough.

(Ord. 637, 12/14/1966, §2904; as amended by Ord. 806, 6/11/1986)

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§1-405. Assignment of Additional Duties and Responsibilities.

The Borough Planning Commission shall have such other duties and responsibilities as may be assigned to it from time to time by appropriate action of the General Assembly of the Commonwealth of Pennsylvania and/or Council of the Borough of Aspinwall.

(Ord. 637, 12/14/1966, §2905; as amended by Ord. 806, 6/11/1986)

B. Recreation Boards

§1-411. Board of Recreation and Recreation Advisory Board Established.

In accordance with the provisions of the Borough Code of 1966, as if fully set forth herein, and any amendments thereto, there is hereby constituted for the Borough of Aspinwall a body known as the "Board of Recreation," and a body known as the "Recreation Advisory Board."

(Ord. 646, 12/13/1967, §3401)

§1-412. Board of Recreation; Membership, Appointments, Terms of Office, Compensation, Vacancies.

The said Board of Recreation shall consist of a minimum of five and a maximum of nine members. The members of the Board shall be appointed by the Borough Council and shall serve no longer than 5 years, and the terms of the members shall be staggered in such a manner that at least one expires annually. Members of such Board shall serve without pay. Vacancies in such Board, occurring otherwise than by expiration of term, shall be filled for the unexpired term in the same manner as original appointments.

(Ord. 646, 12/13/1967, §3402)

§1-413. Officers; Recreation Board.

The members of the Recreation Board shall elect their own Chairman and Secretary and other necessary officers to serve for a period of 1 year.

(Ord. 646, 12/13/1967, §3403)

§1-414. Duties and Powers; Recreation Board.

The Board of Recreation shall, with the approval of the Council, equip, operate and maintain the playgrounds, play fields and other recreation centers which have been or hereafter may be established by the Borough of Aspinwall, and for this purpose may employ such play leaders, supervisors, other officers or employees as they may deem proper; shall recommend from time to time to the Council the amounts deemed advisable to be appropriated for the supervision and maintenance of such playgrounds, play fields and other recreation centers. However, the Board shall have no power or authority to enter into any contracts, engagements or create any indebtedness for or on behalf of the Borough of Aspinwall.

(Ord. 646, 12/13/1967, §3404; as amended by Ord. 806, 6/11/1986)

§1-415. Recreation Advisory Board; Duties, Membership.

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The Recreation Advisory Board shall have such duties as may be assigned thereto by the Board of Recreation and shall consist of the following persons:

- A. President of Borough Council.
- B. Three members of Borough Council.
- C. One other Borough official.
- D. Mayor of the Borough.

(Ord. 646, 12/13/1967, §3405)

§1-416. Financial Report of Board of Recreation.

The said Board of Recreation shall annually report to the Council with an account of all expenditures.

(Ord. 646, 12/13/1967, §3406)

C. Advisory Shade Tree and Shrub Committee

§1-421. Creation of Committee.

1. A Committee to be known as the Borough of Aspinwall Advisory Shade Tree and Shrub Committee hereby is authorized and created. It shall consist of eight citizen members, all of whom shall be residents of the Borough of Aspinwall to be appointed by Council and to serve for terms as follows:
 - A. Two members to serve for 1 year.
 - B. Three members to serve for 2 years.
 - C. Three members to serve for 3 years.
2. All terms shall start effective January 1, 1998. All appointments to successive terms, whether of the original appointees or of replacements, shall be for terms of 3 years each. Vacancies during a term shall be filled for the unexpired term. Committee members shall serve at the pleasure of Council.

(Res. 98-03, 3/11/1998, §1)

§1-422. Responsibility of Committee.

The Committee shall have the responsibility to advise Borough Council with respect to the supervision and administration of the entire shade tree and decorative shrubbery program of the Borough of Aspinwall, on the public streets and municipal property, including all parks, playgrounds, waiting stops, municipal building and other municipally-owned property.

(Res. 98-03, 3/11/1998, §2)

§1-423. Report to Manager; Election of President and Secretary.

The Committee shall report to the Borough Manager and to the Chair of the Community Relations and Personnel Committee of Borough Council. The Committee shall elect a President and Secretary from its membership.

(Res. 98-03, 3/11/1998, §3)

§1-424. Election of Officers.

The Committee shall elect its officers annually from among its members. No person shall serve more than two successive annual terms in any office.

(Res. 98-03, 3/11/1998, §4)

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§1-425. Rules and Regulations.

The Committee may make reasonable rules and regulations for the administration of its business, which rules and regulations shall become effective upon approval thereof by resolution of Council.

(Res. 98-03, 3/11/1998, §5)

§1-426. Reports.

The Committee shall make a report to Council during the month of November, annually, summarizing its activities for the preceding year, accounting for the expenditures of Borough funds, if any, made by it during each year and setting forth a recommended program of proposed budget for the Borough's shade tree program for the upcoming year.

(Res. 98-03, 3/11/1998, §6)

D. Civil Service Commission

§1-431. Civil Service Commission Created; Appointments; Vacancies; Oath; Compensation.

There is hereby created a Civil Service Commission, hereinafter referred to as the Commission. The Commission shall consist of three Commissioners who shall be qualified electors of the Borough and shall be appointed by the Borough Council initially to serve for the term of 2, 4 and 6 years, and as terms thereafter expire shall be appointed for terms of 6 years. Any vacancy occurring in any Commission for any reason whatsoever shall be filled by the Borough Council for the unexpired term within the period of 30 days after such vacancy occurs. Each member of the Commission before entering upon the discharge of the duties of his office, shall take an oath or affirmation to support the Constitution of the United States and of the Commonwealth of Pennsylvania and to perform his official duties with fidelity, together with such loyalty oath as is prescribed and required by law. The Civil Service Commissioners shall receive no compensation.

(Ord. 677, 12/8/1971, §1; as amended by Ord. 995, 12/10/2003)

§1-432. Offices Incompatible with Civil Service Commissioner.

No Commissioner shall at the same time hold an elective or appointed office under the United States Government, the Commonwealth of Pennsylvania or any political subdivision of the Commonwealth, except that one member of the Commission may be a member of the Council of the Borough and one may be a member of the teaching profession.

(Ord. 677, 12/8/1971, §2)

§1-433. Organization of Commission; Quorum.

The Commission first appointed shall organize within 10 days of its appointment and shall elect one of its members as the Chairman and one as the Secretary. The Commission shall thereafter meet and organize on the first Monday of February of each even-numbered year. The Secretary of the Commission shall give each commissioner 24 hours notice in writing of each and every meeting of the Commission. Two members of the Commission shall constitute a quorum and no action of the Commission shall be valid unless it shall have the concurrence of at least two members.

(Ord. 677, 12/8/1971, §3)

§1-434. Clerks and Supplies, Etc.

The Borough shall furnish to the Commission, on its requisition, such clerical assistance as may be necessary for the work of the Commission. The Borough shall provide a suitable and convenient room for the use of the Commission. The Commission shall order from the Borough the necessary stationery, postage, printing and supplies, and the elected and

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appointed officials of every such Borough shall aid the commission in all proper ways in carrying out the provisions of this Part 4D.

(Ord. 677, 12/8/1971, §4)

§1-435. Rules and Regulations.

The Commission shall have the power to prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this Part 4D and shall be governed thereby. Before any such rules and regulations are in force the same shall be first approved by the Council of the Borough. When such rules and regulations have been so approved, they shall not be annulled, amended or added to, without the approval of the said Council. All rules and regulations and modifications thereof shall be made available by the Borough for public distribution or inspection.

(Ord. 677, 12/8/1971, §5)

§1-436. Minutes.

The Commission shall keep minutes of its proceedings and the records of its examinations and shall have the power to make investigations and to issue subpoenas as provided in the Borough Code, 53 P.S. §65101 *et seq.*, as amended.

(Ord. 677, 12/8/1971, §6)

PART 5
PENSION PLANS

A. Police Pension Plan

§1-501. Police Pension Plan Established.

The appropriate officials of the Borough are authorized and directed to establish and maintain a pension plan for the police employees of the Borough which shall comply with the laws of the Commonwealth of Pennsylvania and the United States of America.

(Ord. 995, 12/10/2003)

B. Non-Uniformed Employee Pension Plan

§1-521. Non-Uniformed Employee Pension Plan Established.

The appropriate officials of the Borough are authorized and directed to establish and maintain a pension plan for the non-uniformed employees of the Borough which shall comply with the laws of the Commonwealth of Pennsylvania and the United States of America.

(Ord. 995, 12/10/2003)

C. Probationary Employees

§1-541. Probationary or Elimination Periods Established.

The following probationary or elimination periods shall be established for the Borough employees prior to their being able to participate in the various plans as hereinbelow set forth:

Plan	Regular Employees	Police Officers
Health and Accident	1 month	Effective immediately
Hospitalization	1 month	Effective immediately
Pension	1 year	Effective immediately
Death Benefit	1 month	Effective immediately

(Ord. 666, 3/11/1970, §2716; as amended by Ord. 806, 6/11/1986)

§1-542. Eligibility.

All regular full-time Borough employees and police officers must be full-time employees for said elimination or probationary period in order to be eligible to enroll for the benefits provided in the various plans as set forth in §1-541, hereof.

(Ord. 666, 3/11/1970, §2717)

§1-543. Plans and Policies of Insurance Amended.

The various plans and the policy or policies of insurance shall be amended by the insurance carrier to include the provisions of this Part.

(Ord. 666, 3/11/1970, §2718)

§1-544. Insurance Premiums to be Billed Monthly.

The insurance carrier shall bill the Borough for the premiums of insurance on a monthly basis.

(Ord. 666, 3/11/1970, §2719; as amended by Ord. 806, 6/11/1986)

PART 6

ATTORNEY FEES

A. Delinquent Tax and Municipal Claim and Lien Attorney Fees and Recordkeeping Charges, Expenses and Fees

§1-601. Short Title; Definition.

1. This Part shall be known as the “Delinquent Tax and Municipal Claim and Lien Attorney Fees and Recordkeeping Charges, Expenses and Fees Ordinance.”
2. For the purpose of this Part, the Municipal Claims and Tax Lien Act, 53 P.S. §7101 *et seq.*, as amended, shall be referred to as the “Act.”

(Ord. 995, 12/10/2003)

§1-602. Attorney Fees Approved.

1. **Flat Fee.** The following schedule of attorney fees is hereby adopted and approved as reasonable attorney fees pursuant to the Act for all matters which fees shall be awarded to the Borough, its agents, counsel or assigns in each action initiated pursuant to the Act for the collection of unpaid municipal claims as defined under the Act. The property owner’s obligation to pay the full amount of the flat fee for each phase of each action shall accrue upon the initiation of any aspect of each phase. The full amount of each flat fee for each prior phase of any proceeding shall carry over and be due on a cumulative basis together with the flat fee for each subsequent phase.
 - A. **Filing of Municipal Claim.** The sum of \$150.00 shall constitute reasonable attorney fees for a short title examination, preparation and filing of municipal claims as defined under the Act.
 - B. **Title Search.** The sum of \$250.00 shall constitute reasonable attorney fees and expenses for the title search necessary for the initiation of each proceeding and compliance with Pa. R.C.P. §3129.
 - C. **Preparation and Service of Write of Scire Facias or Complaint in Assumpsit as Provided in the Act.** The sum of \$450.00 shall constitute reasonable attorney fees for the initiation of each proceeding,, including service of process and notice pursuant to Pa. R.C.P. §237 plus case close-out and the settlement and discontinuance of each proceeding.
 - (1) **Federal Tax Liens, Judgments and Mortgages.** The sum of \$200.00 shall constitute reasonable attorney fees for all matters necessary to properly notify and serve the United States with all required additional notice and the presentation of related motions to

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Court where there are Federal tax liens, Federal judgments, Federal mortgages or other record Federal interests.

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

- (a) Investigation of defendant whereabouts and preparation of affidavit of diligent search - \$100.00
- (b) Preparation and presentation of motion for alternative service through filing of proofs of publication - \$200.00

D. **Entry of Judgment.** The sum of \$250.00 shall constitute reasonable attorney fees for the entry of judgment, whether by default, upon motion for judgment, upon award or verdict or by consent.

E. **Writ of Execution; Sheriff's Sale of Property or Other Form of Execution on Any Entered Judgment Upon Complaint in Assumpsit.** The sum of \$700.00 shall constitute reasonable attorney fees for preparation of all documents necessary for execution upon any judgment pursuant to the Act.

F. **Second Sale Free and Clear.** The sum of \$700.00 shall constitute reasonable attorney fees for a second sale, free and clear of all liens, claims, mortgages, charges and estates pursuant to §7281 and/or §7282 of the Act, including preparation of necessary documents, service, court appearances, attendance at second sale and preparation of proposed Sheriff's distribution.

G. **Installment Payment Agreement.** The sum of \$150.00 shall constitute reasonable attorney fees for preparation of any written installment payment agreement.

2. **Hourly Rate Matters.** The following schedule of attorney fees is hereby adopted and approved as reasonable attorney fees pursuant to the Act which fees shall be awarded to the Borough, its agents, counsel or assigns as compensation in all contested matters, actions in assumpsit and in all other actions, not specifically referenced in subsection (1), above undertaken in connection with the collection of a delinquent account under the Act:

- A. Attorneys \$135.00 per hour
- B. Paralegals \$75 per hour
- C. Law Clerks \$75 per hour

Each as recorded and charged in units of 1/10th of an hour for all time devoted to enforcement and collection of the Borough's claims. Counsel, whether duly

employed or duly appointed by the Borough, its agents or assigns, shall not deviate from this fee schedule plus any authorized escalation provided below absent an ordinance amending the same. Hourly rate matters are any matters where any defense, objection, motion, petition or appearance is entered in any phase of any proceeding by or on behalf of any defendant or other interested party.

(Ord. 995, 12/10/2003)

§1-603. Procedure.

1. **Required Notice.** The notice required by the Act shall be provided in accordance therewith and shall be incorporated into an appropriate delinquency notice or notices sent by the Borough, its agent, counsel or assigns.
2. **Fees to be Accrued and Claims to be Filed.** Fees shall accrue for all efforts in collection after the thirtieth day following the notice provided under subsection (1) of this Section and the Act or after the tenth day of any required second notice on all accounts referred to counsel for enforcement. Fees accumulated as a result of enforced collection shall be certified by duly appointed counsel for the Borough authorized to pursue collection of municipal claims pursuant to the Act, or by counsel for the Borough's agents or assigns and, if not collected in due course with the debt as by voluntary agreement, shall be included in all municipal claims filed on behalf of the Borough or by its agents or assigns in the course of enforcement, including any municipal claim originally filed with the Prothonotary, any municipal claim filed with the Sheriff or any other municipal claim filed or statement provided where attorney fees are due.
3. There shall be added to the above amounts, the reasonable out-of-pocket expenses of counsel in connection with each of these services, including costs, fees, and expenses associated with the Court, Prothonotary, Sheriff or other relevant office.
4. The amount of fees determined as set forth above shall be added to the municipal claim in each proceeding.

(Ord. 995, 12/10/2003)

§1-604. Recordkeeping Service Charges, Expenses and Fees Approved.

The following schedule of charges, expenses and fees is hereby approved and adopted by the Borough pursuant to the Act, 53 P.S. §§7101, 7103 and 7106, as amended, which recordkeeping services are necessary and are the direct result of each person's failure to pay municipal claims in a timely manner.

- A. **Schedule.** The following schedule of charges, expenses and fees shall constitute reasonable and appropriate charges, expenses and fees for each indicated record keeping service. The charges, expenses and fees shall be added to each municipal claim and become part of the municipal claim in

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addition to the principal, together with all penalties, interest, costs and attorney fees and shall be payable in full for each municipal claim before the discharge or satisfaction of any municipal claim. The below schedule of charges, expenses, and fees is separate and distinct from any costs or fees imposed by the Sheriff, Prothonotary, Court or any other public office in connection with the collection of Borough's municipal claims.

(1)	Assignments	\$5.00 per lien
(2)	Lien Satisfactions	\$5.00 per lien
(3)	Tax Lien Revivals (i.e. S & A)	\$10.00 per lien
(4)	Municipal Claim Revivals	\$15.00 per claim
(5)	No Lien Letter (Claims)	\$25.00 per letter
(6)	Tax Certifications (for liened delinquent real estate taxes only)	\$10.00 per year
(7)	Servicing including staffing, computers, office space, telephones, equipment, materials and postage	5% of Gross Collections \$100.01 and over; 10% of Gross Collections \$100.00 and under
(8)	Postage	Actual cost

(Ord. 995, 12/10/2003)

§1-605. Effective Date and Retroactivity.

This Part shall take effect on the date of enactment and with respect to attorney fees pursuant to §§1-602 and 1-603 shall apply to municipal claims filed in 1990 and thereafter, or as otherwise required by law. In no event shall the Borough or its assigns' right to charge and assess reasonable attorney fees under the Act or charges, fees and expenses pursuant to §7103 and §7106 of the Act be impaired by the fact that any municipal claim may also include any amounts for claims filed prior to 1990. The charges, expenses and fees set forth in §1-604 of this Part relate to all unpaid municipal claims in favor of the Borough, its agents and assigns, and shall be retroactive to the date of each municipal claim.

(Ord. 995, 12/10/2003)

§1-606. Assignment.

The Borough assigns the provisions of this Part to any assignee of its municipal claims. Assignee shall have and hold all rights of the Borough to recover reasonable attorney fees as well as expenses, charges and fees in the amounts set forth in this Part incurred in the collection of each municipal claim assigned and in all future assignments and transfers of

municipal claims by the Borough. The Borough and the duly authorized agents shall retain all rights to charge reasonable attorney fees, expenses, charges and fees in accordance with the provisions of this Part in actions commenced under the Act and for record keeping services for municipal claims retained by the Borough.

(Ord. 995, 12/10/2003)

B. Delinquent Tax Collector Costs of Collection

§1-611. Delinquent Tax Collection Schedule of Costs.

1. The Borough approves and adopts the Delinquent Tax Collection Schedule of Costs attached hereto and made a part of this Part 6A to be imposed by Berkheimer and any other collector of Borough delinquent taxes levied under Act 511, upon any taxpayer whose taxes are or become delinquent and/or remain due and unpaid.
2. Berkheimer, and any other collector of Borough delinquent taxes levied under Act 511, is authorized to retain said costs of collection set forth in the attached schedule incurred in recovering delinquent taxes and assessed to the delinquent taxpayer as allowed by law.

(Ord. 1009, 5/11/2005)

DELINQUENT TAX COLLECTION
SCHEDULE OF COSTS
TO BE PAID BY THE TAXPAYER

The costs assessed the delinquent taxpayer are added to school and municipal tax, penalty and interest as follows:

Known place of employment:

Notice before Wage Attachment (sent certified mail)	
*If paid within 30 days	\$16.25
Wage Attachment	\$16.25

Place of employment unknown:

Pre-Collection Letter	\$12.50
Delinquent Tax Notice	\$10.50
Final Notice	\$9.50
Pre-Legal Sample Complaint with Letter	\$16.00

Real Estate Taxes:

Real Estate Pre-Collection Letter	\$39.50
Real Estate Delinquent Tax Notice	\$36.50
Real Estate Final Notice	\$25.25

Miscellaneous Delinquent Notices:

State List Discrepancy Courtesy Letter	\$6.00
Paid Before Service*	\$4.00
Establishment of Payment Plan	\$15.00
Bad Check Letter Fee	\$20.00

*Paid Before Service - cost assessed to accounts paid during the interim period in which taxes are transitioning between the current and delinquent collector.

Earned Income Tax Collection Notices:

Failure to File Earned Income Tax Return	\$20.00
Delinquent Declaration of Quarterly Estimated Earned Income Tax Form	\$20.00
Delinquent Emergency Municipal Services Tax Form (formerly known as Occupational Privilege Tax)	\$30.00
Delinquent Employer Quarterly Return	\$30.00

PART 7

FINANCIAL SECURITY

§1-701. Applicability.

All financial security required by this Code including, but not limited to, surety bonds, corporate bonds and letters of credit shall comply with the regulations of this Part.

(Ord. 995, 12/10/2003)

§1-702. Surety Bonds.

The following requirements shall apply to any surety bond provided to the Borough under the requirements of this Code:

- A. The bond shall be obtained from a surety incorporated in the United States and authorized to do business in the Commonwealth of Pennsylvania.
- B. The surety shall have a current A.M. Best's rating of no less than "A" and an underwriting capacity as stated in Best's equal to or greater than the amount of the bond written by that surety or, in the alternative, be listed on the current United States Department of the Treasury's annual list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in the Federal Register and have an underwriting capacity in said list equal to or greater than the amount of the bond written by that surety.

(Ord. 995, 12/10/2003)

§1-703. Letters of Credit.

The following requirements shall apply to any letter of credit provided to the Borough under the requirements of this Code:

- A. The letter of credit shall be issued by a Federal or Commonwealth chartered lending institution having an office located within 30 miles of the boundaries of Aspinwall Borough at which a draft on site can be presented during regular business hours.
- B. The letter of credit shall have an expiration date of no earlier than 90 days after the required completion date of any improvements or other secured work, function, permit or matter. The Borough, at its discretion, may accept a letter of credit having an earlier expiration date, provided the letter of credit states that it will automatically be renewed for a period of at least one year from any present or future expiration date unless the Borough receives

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notice in writing from the issuer at least 60 days prior to the expiration date that the issuer elects to not further extend the letter of credit, and that if such notices are given the Borough may draw on the letter of credit up to the amount of its unused balance on or before the relevant expiration date.

- C. Multiple draws on the letter of credit shall be permitted.
- D. Draws shall be permitted at sight at the issuer's office in a location as set forth in subsection (A), or by overnight mail.

(Ord. 995, 12/10/2003)

§1-704. Review and Approval by Borough Solicitor.

All financial security provided to the Borough by an applicant or other person pursuant to the requirements of this Code shall be subject to review and approval by the Borough Solicitor with respect to the form, source and sufficiency of the same.

(Ord. 995, 12/10/2003)

PART 8

FEES FOR BOROUGH SERVICES

§1-801. Establishment.

The Borough Council may, by resolution adopted from time to time, establish a schedule of fees as shall be necessary to cover the costs associated with Borough services and the collection of Borough accounts and expenditures.

(Ord. 995, 12/10/2003)

