

RTK REQUEST NUMBER

DATE RECEIVED

5 DAY RESPONSE DATE



COUNTY OF LUZERNE

RIGHT TO KNOW LAW REQUEST FORM

NAME OF REQUESTER: Yeager Brandon A
(PLEASE PRINT CLEARLY) LAST FIRST MI

MAILING ADDRESS: 1 Courthouse Square
STREET / P.O. BOX
Carlisle PA 17013
CITY STATE ZIP CODE

PHONE # 717-240-5334 FAX#

EMAIL ADDRESS: byeager@ccpa.net

SIGNATURE: Brandon Yeager DATE: 8/22/2018

RECORDS REQUESTED - Requesters MUST specify the document(s) sought. Please use additional pages if necessary.
2018 Elected Officials' Salaries and a copy of the ordinance that sets the salaries.

Electronic is preferred.

PLEASE CHECK ONE OF THE FOLLOWING:

- I AM ONLY REQUESTING ACCESS TO THE DOCUMENT(S)
I AM REQUESTING A HARD COPY OF THE DOCUMENT(S) (PAPER, CD, etc...)
I AM REQUESTING AN E-FILE OF THE DOCUMENT(S) (IF AVAILABLE) (PDF, EXCEL SPRDSHT, etc...)

PLEASE NOTE: LUZERNE COUNTY IS NOT REQUIRED TO CREATE A RECORD WHICH DOES NOT CURRENTLY EXIST OR TO COMPILE, MAINTAIN, FORMAT OR ORGANIZE A RECORD IN A MANNER IN WHICH THE AGENCY DOES NOT CURRENTLY COMPILE, MAINTAIN, FORMAT OR ORGANIZE THE RECORD

LUZERNE COUNTY  
OFFICE OF LAW  
ROMILDA P. CROCAMO, ESQUIRE  
CHIEF COUNTY SOLICITOR



LUZERNE COUNTY  
COUNTY MANAGER  
C. DAVID PEDRI, ESQUIRE

COUNTY of LUZERNE  
PENNSYLVANIA  
ESTABLISHED 1786

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August 27, 2018

Brandon Yeager  
1 Courthouse Square  
Carlisle, PA 17013  
Email: [byeager@ccpa.net](mailto:byeager@ccpa.net)

RE: RTK Request # 18-159

Dear Mr. Yeager:

Thank you for writing to Luzerne County with your request for information pursuant to the Pennsylvania Right-To-Know law. My email is [Jackie.Carroll@luzernecounty.org](mailto:Jackie.Carroll@luzernecounty.org).

On August 23, 2018, the Luzerne County Office of Law received a request for documents from you described in the attached Right to Know request. Your request is granted. The Luzerne County Home Rule Charter is attached. I believe that Article II-Legislative Branch/County Council on page xxix, Article III-Other Elected Officials on page xxix and Section 2.05-Compensation on page 9 have the information you are seeking.

Had your request been denied, you would have a right to appeal this denial of information in writing to Office of Open Records, Commonwealth Keystone building, 400 North Street, 4<sup>th</sup> Floor, Harrisburg, PA 17120.

If you choose to file an appeal for any reason, you must do so within 15 business days of the mailing date of the agency's response. Section 1101. If you have further questions, please contact me. Please be advised this correspondence will serve to close this request with our office as permitted by law.

Very truly yours,

JACQUELINE MUSTO CARROLL, ESQUIRE  
Luzerne County – Open Records Officer  
200 North River Street  
Wilkes-Barre, PA 18711

REPORT  
and  
RECOMMENDED  
HOME RULE CHARTER  
for  
LUZERNE COUNTY  
PENNSYLVANIA

Prepared by  
The Luzerne County  
Government Study Commission

Adopted August 11, 2010

REPORT  
AND  
RECOMMENDED HOME RULE CHARTER  
FOR  
LUZERNE COUNTY, PENNSYLVANIA

Prepared by

The Luzerne County Government Study Commission

Adopted August 11, 2010

LUZERNE COUNTY  
GOVERNMENT STUDY COMMISSION

Mayor James J. Haggerty, Chair  
Veronica Ciaruffoli, First Vice-Chair  
Richard Heffron, Second Vice-Chair  
Richard Morelli, Treasurer  
Charmaine Hersker Maynard, Secretary  
John Adonizio  
Frank E. P. Conyngham  
Christopher Kersey  
Jeffrey Niemiec  
Jack Schumacher  
Robert Wanyo

Luzerne County Government Study Commission  
840 West Market Street  
Kingston, PA 18704

August 11, 2010

To the Citizens of Luzerne County:

The Luzerne County Government Study Commission is honored to present to you its Report and Recommended Home Rule Charter.

The Recommended Home Rule Charter establishes sweeping and necessary reforms to our broken system of county government. The Charter minimizes the role of damaging political influences in day-to-day county decision-making, establishes a professional and modernized government to handle county affairs, limits annual increases in real estate tax revenues, and fixes serious inefficiencies in the organization and operation of county government. The Charter also creates expanded opportunities for citizens to participate in county government, provides for greater representation, and prevents the entrenchment of a political class.

Perhaps most important, the Charter requires that the new county government operate under a strong and enforceable ethics code. It ends nepotism, cronyism, and favoritism while instituting a government based on merit, qualifications, and integrity.

The Government Study Commission has comprehensively studied and reviewed our existing Luzerne County government, along with ways to improve it, for over fourteen months. Our members are confident that the new government set forth in the Charter is vastly superior to the outdated and ineffective system currently in place.

The question of adopting the Recommended Home Rule Charter will be on the November 2, 2010 ballot, and we call for its adoption by the voters of Luzerne County.

The members of the Luzerne County Government Study Commission sincerely thank the citizens of Luzerne County for allowing us the privilege of serving our county.

Respectfully submitted,

Mayor James J. Haggerty  
Chair

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# **REPORT OF FINDINGS AND RECOMMENDATIONS OF THE LUZERNE COUNTY GOVERNMENT STUDY COMMISSION**

## **I. INTRODUCTION**

Luzerne County's present system of government, with three county commissioners and eleven elected row officers, is established by state law in the County Code, implemented by an Act of August 9, 1955 (as amended). Many provisions of the County Code are identical to, or derived from, laws, rules, and procedures which were first adopted by the Pennsylvania legislature in the 1800s.

The provisions of the County Code apply to all similarly-sized counties without regard to a county's unique history, geography, demography, political climate, or economic makeup. Decade after decade, as the roles and responsibilities of county government have expanded in scope, expense, and complexity, the County Code has remained largely unchanged. The citizens of Luzerne County live and compete in a twenty-first century world, but they are governed by nineteenth century rules.

The antiquated, one-size-fits-all nature of the government system perpetuated under the County Code has had serious and deleterious effects on our county and its residents. It has fostered a climate where political ambition and connections trump administrative competence, where politically and socially favored individuals receive jobs, appointments, and contracts, where county officials bicker and litigate against each other to score political points, and where average citizens feel disconnected from their county government and powerless to fix things.

The predictable results of this climate place a burden on every resident of Luzerne County: ineffective, inefficient, and often incompetent government, a stratospheric county debt, crippling deficits, ruinous property tax increases, stagnant economic development, and heartbreaking episodes of government corruption.

Fortunately, a Home Rule Charter gives the citizens of Luzerne County the power to change all this. By scrapping the outdated County Code in favor of a modern, professional, effective, and ethical system of government as set forth in the recommended Home Rule Charter, Luzerne County can begin the process of real, substantial, and meaningful reform which is so desperately needed.

## **II. PROCEDURAL HISTORY AND HISTORICAL BACKGROUND**

### **1. The Public is Made Aware of an Extensive Federal Investigation**

On January 26, 2009, the president judge of the Luzerne County Court of Common Pleas and the prior president judge were charged by federal authorities with honest services fraud and tax evasion for concealing the receipt of more than \$2.6 million in connection with the construction and operation of a new juvenile detention center in Luzerne County. This was to become known as the "Kids for Cash" scandal. In short order, the court administrator pleaded



guilty to federal charges for embezzlement of monies which were to be turned over to the county, a senior juvenile probation official pleaded guilty to a federal charge of obstruction of justice, and the prothonotary agreed to resign her office and cooperate in a federal investigation pursuant to a consent decree with the federal authorities. In April and May of 2009, three local school officials were charged with corruptly receiving awards for official actions.

## **2. Luzerne County's Financial Issues**

Due to its financial difficulties, in 2004 Luzerne County entered into the Commonwealth's Early Intervention Program for local governments. In spite of this, in order to balance its budgets, the county borrowed money every year from 2004 through 2008, including over \$13 million in both 2006 and 2007, and then nearly \$23 million in 2008. The county's overall debt burden has come to exceed \$450 million, nearly four times its total annual revenues.

The 2009 Luzerne County budget contained a 10% increase in property taxes. This was the maximum increase allowed by law because a county-wide reassessment was implemented in 2009. The 2009 budget also called for the elimination of 138 county positions, but still required borrowing nearly \$18 million.

## **3. The Creation of a Government Study Commission is Placed on the May 2009 Ballot and Approved by Luzerne County Voters**

In early 2009, a number of concerned citizens lobbied the county commissioners to place on the May 2009 ballot the question of whether a government study commission ("GSC") should be established. The commissioners agreed, and at the election held on May 19, 2009, over 77% of the voters of Luzerne County favored forming a GSC. At the same election, eleven individuals were elected on a non-partisan basis to serve, without compensation, on the GSC. The GSC members were sworn in by President Judge Chester Muroski and on June 10, 2009, assembled for their first meeting.

## **4. The Duties of the Government Study Commission and its Proceedings**

The law governing the GSC is Pennsylvania's Home Rule Charter and Optional Plans Law, 53 Pa.C.S. Sec. 2901 *et seq.*, which sets forth, as the duties of the GSC, to:

study the form of government of the municipality to compare it with other available forms under the laws of this Commonwealth and *determine whether or not in its judgment the government could be strengthened or made more clearly responsible or accountable to the people or whether its operation could become more economical or efficient under a changed form of government.* 53 Pa.C.S. Sec. 2918 (italics added).

The GSC conducted its study of Luzerne County government and other available forms between June and December of 2009. Weekly meetings were held. The meetings were broadcast over the internet, public input was solicited at each, and a dedicated public hearing was held. During its study, the GSC met with numerous officials of Luzerne and other counties, interviewed individuals knowledgeable about county government, reviewed various county and

model charters, and examined in detail the form of government and operations of Luzerne and other counties.

At its meeting on December 9, 2009, the GSC members announced the findings of the initial portion of their study. Each agreed that Luzerne County government could be strengthened and made more responsible, accountable, economical, and efficient under a changed form of government. Based on these findings, the GSC voted unanimously to prepare and submit a home rule charter to the voters of Luzerne County.

The GSC then began the process of drafting a home rule charter. Hundreds of proposals and ideas were analyzed, debated, and considered for inclusion in a new charter. The charter elements were considered in-depth, and much effort was spent on crafting each and every provision of the recommended charter.

By late April of 2010, a first full draft of the charter had been completed. A series of five public hearings was then held. In light of the public input received, the GSC thereafter began a detailed process of reconsidering each and every article of the recommended charter. The reconsideration process concluded in July of 2010.

Notably, as the GSC proceeded with its work, numerous additional individuals were charged in the ongoing federal corruption probe. By August of 2010, approximately thirty individuals had been charged, including a sitting county commissioner, three Court of Common Pleas judges, the court administrator, the clerk of courts, the county human resources director, two members of the county housing authority (one of whom was an elected jury commissioner), a deputy county clerk, the director of the county redevelopment authority, a senior juvenile probation official, and several individuals with close connections to county officials. The prothonotary had also resigned in connection with the investigation.

In addition, the 2010 budget had not been adopted until February of 2010, more than a month late. That budget contained a property tax increase of 15%, coming closely upon the heels of the 10% property tax hike of 2009.

On August 11, 2010, the GSC issued its Report and Recommended Home Rule Charter to the citizens of Luzerne County. The recommended charter will be submitted to the voters at the election to be held on November 2, 2010. If approved, the first elections called for under the charter will occur in 2011, and the strengthened government system set forth in the charter will take effect in Luzerne County on January 2, 2012.

### **III. THE RECOMMENDED HOME RULE CHARTER MAKES SIGNIFICANT IMPROVEMENTS AND REFORMS TO THE SERIOUS PROBLEMS WHICH RESULT FROM THE PRESENT FORM OF GOVERNMENT**

It is difficult to contend that Luzerne County's present problems do not result, in substantial part, from the outdated government system under which it operates. Indeed, the GSC concluded both that the present governmental system of Luzerne County is a substantial cause of the problems faced by the county and its residents, and that the reforms contained in the

Recommended Home Rule Charter will significantly strengthen and improve the professionalism, accountability, efficiency, and integrity of Luzerne County government.

The problems and weaknesses of Luzerne County government have been generally identified by the GSC as follows:

- That day-to-day decision making, which should be vested in professional, non-political management and staff, is instead vested in the hands of political officials and appointees who often make decisions based on political calculations and not based on best management practices;
- That the existing government structure seriously hampers the ability of most citizens to be elected to serve in their county government, creates limited representation for a county large in both population and area, exacerbates the influence of big-money political contributors, and establishes an entrenched political class;
- That the present system lacks adequate and meaningful checks and balances on the political and operational authority of the majority county commissioners;
- That the existing system contains serious inefficiencies in organization and operations resulting largely from the existence of independent row offices free from the control of any central county authority and not subject to uniform policies and procedures;
- That the ability of citizens to participate in county government is limited by the absence of initiative and referendum, an inability to amend the County Code, inconvenient commissioner meeting times, and insufficient information from county government as to its state of affairs;
- That the existing system is lacking in strong ethics rules and policies, along with a mechanism for ethics enforcement;
- That the existing system encourages hiring based on nepotism, cronyism, and favoritism, where the system for hiring and appointment should be based on public advertisement, merit, qualifications, and fitness; and
- That the existing system lacks any meaningful legal limitation on annual increases in property tax revenues which, combined with the county's financial situation, jeopardizes the financial security of many county property owners.

Each of these problems and weaknesses are corrected by the Recommended Home Rule Charter, as discussed below.

## **1. The Recommended Charter Separates Political Authority from Control of Day-To-Day County Operations, and Vests Day-To-Day Control in a Professional Manager and Staff**

The current government system features the unification of county political authority and day-to-day operational control in the county commissioners. The inevitable results are incentives to hire and fire based on political calculations, to favor campaign contributors and political allies, to seek and obtain political contributions from county vendors (known as “pay to play”), and to otherwise make decisions based on political criteria and not on best practices. The GSC believes it is imperative, to the degree possible, to separate politics from the day-to-day decision making of Luzerne County government.

The Recommended Home Rule Charter vests the executive power and day-to-day decision making authority for Luzerne County in an appointed professional county manager. Political authority is vested in an eleven member, part-time, county council which is the county’s legislative and policymaking body. Council members are prohibited by the charter from interfering in the day-to-day decision making of the professional manager and staff. This structure is designed to insulate county operations from corrosive political concerns.

The Council-Manager form of government, as recommended by the charter, is perhaps best described by the International City/County Management Association (ICMA) in its *Council-Manager Form of Government: Frequently Asked Questions* publication (available at ICMA.org):

Council-manager government combines the strong political leadership of elected officials with the strong managerial experience of an appointed manager or administrator. All power and authority to set policy rests with an elected governing body.... The governing body in turn hires a nonpartisan manager who has very broad authority to run the organization.

Born out of the U.S. progressive reform movement of the turn of the 20<sup>th</sup> century, **the council-manager system was designed to combat corruption and unethical activity in local government by promoting effective management within a transparent, responsive, and accountable structure.**

Since its establishment, the council-manager form has become the most popular structure of local government in the United States... (Emphasis added).

After studying many potential forms of government available to Luzerne County, it was the considered judgment of the GSC that the framework of a council-manager form would provide the best vehicle for the implementation of the reforms so critically needed in Luzerne County government.<sup>1</sup>

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<sup>1</sup> An elected county executive was rejected by a majority of the GSC principally because it would result in the consolidation of strong political power and governmental authority in a single individual. GSC members also expressed concerns regarding the expense, funding, and competitiveness of elections for a single county executive and whether an elected executive would have the professional skills and qualifications to manage a county the size of Luzerne County.

## **2. The Recommended Charter Creates More Opportunities for Citizens to Serve in County Government, Provides for Greater Representation Throughout the County, Limits the Influence of Big-Money Political Contributors, and Prevents the Establishment of an Entrenched Political Class**

Under the present form of government, few citizens of Luzerne County have any reasonable expectation of serving as an elected county-wide official. Commissioner elections are expensive, and only three commissioners from two political parties are elected to serve more than 300,000 Luzerne County residents. Row office elections have historically been controlled by political machines and party slates. Equally significant as a barrier to participation is the compensation paid to Luzerne County elected officials. Many county residents are simply unable to afford to leave their occupations and careers to serve in elected offices which pay approximately \$40,000 per year. The result is often few competitive candidates for many county offices.

Nonetheless, citizens do wish to serve. This was made abundantly clear following the 2009 resignation of Commissioner Gregory Skrepenak. Sixty-nine individuals applied to the Court of Common Pleas to replace Skrepenak. Undoubtedly, few of those applicants would choose to run for county commissioner under the electoral system now in place.

In order to correct these deficiencies, the recommended charter creates a system where a substantial portion of the citizenry, rather than a select few, can productively participate in the county's electoral process and government. The eleven member council, as opposed to a three member board of commissioners, creates opportunities for many more candidates to be elected to office—not just the politically popular, well-funded, or usual incumbents. Frequent elections for council seats held every two years (eleven seats at the initial 2011 election, five seats and then six seats every two years thereafter) will create continuing opportunities for political outsiders and first-time candidates to compete. Equally important, the large number of seats available and the frequency of the elections will dilute the influence of big-money donors who presently can make unlimited contributions to assist the election of two majority commissioners.

The current system of electing commissioners and row officers has led to the entrenchment of a self-interested political class. The recommended charter combats this entrenchment by mandating a limit of three terms for all offices, by requiring the controller and district attorney to resign their offices if they seek election to a different office, and by electing more members, more frequently, to the county's governing body. The charter also prevents outgoing county elected officials from taking a job with a county contractor for a period of one year.

The recommended charter will create significantly greater opportunities for members of the public to be elected to serve in county government, will provide more and broader representation for interests throughout the county, and will reduce the influence of big money donors and entrenched political interests. All of these reforms will provide great benefits to the citizens of Luzerne County.

### **3. The Recommended Charter Establishes Real and Meaningful Checks and Balances in the Operation of Luzerne County Government Which Do Not Currently Exist**

The county commissioners both enact and enforce legislation. They negotiate contracts, and then vote to approve those contracts. They also have the sole power to recruit and hire county division heads. The county commissioners possess both the legislative and executive powers, and, as a result, no meaningful checks or balances exist. This presents a real potential for mismanagement and abuse.

The recommended charter reforms the county's decision-making process for each of these functions. The legislative and executive powers are apportioned in the recommended charter between council and the manager so that enacting and administering the laws are performed by separate governmental branches. Contracts are negotiated by the manager but require council approval.<sup>2</sup> Eight division/office heads are appointed by the manager but require council confirmation. The manager and the council act as a check on each other for all of these, and many other, important functions.

The recommended charter also provides a check on the legislative power of council. This check is the manager's ability to require council to reconsider legislation which the manager believes to be improvidently enacted.<sup>3</sup> If reconsideration is requested, council must revisit the legislation at a subsequent meeting, thus allowing additional opportunities for public notice and input. To become effective, the legislation must be approved a second time by council. No similar provision to reconsider, veto, or revisit legislation exists under the County Code.

A further check and balance on the manager, the council, and the other arms of county government is the controller. The recommended charter strengthens the controller's status as the county watchdog and provides the controller with enhanced tools to carry out this watchdog function.

The controller's watchdog function has been designed to reflect the model guidelines set forth by the Association of Local Government Auditors in its *Model Legislation Guidelines for Local Government Auditors* (3d ed. 2007). These model guidelines supplant the current legal description of the controller's function set forth in the County Code, which is derived largely from the County Controller's Act of June 27, 1895. By using these guidelines, the controller's role in a complex county government has been modernized and enhanced.

Presently, the controller's efforts to access information can be stymied by any uncooperative county official. This requires the controller to rely on the legal process and suffer the expense and delays of litigation and the uncertainty of court outcomes before the controller can perform his/her function.

The recommended charter provides a comprehensive remedy to this exiting situation. Under the charter, the controller is granted "unrestricted access" to all county information,

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<sup>2</sup> For the purposes of governmental efficiency, certain contracts under \$25,000 will not require council approval.

<sup>3</sup> Certain limited classes of legislative action will not be subject to a reconsideration request by the manager.

property, and employees in the conduct of the controller's duties.<sup>4</sup> The controller will have no need to resort to litigation, nor will the controller suffer the expense and delay of litigation in the performance of its functions.

The controller position set forth in the recommended charter, acting under modernized, model guidelines in the performance of its enhanced watchdog function, with a grant of unrestricted access to county records, will be a significant and meaningful check and balance on all county operations.

#### **4. The Recommended Charter Cures Serious Inefficiencies in County Organization and Operations Which Result From the Independence of Row Offices and the Inability to Impose Uniform Policies, Procedures, and Standards on All Offices**

Row offices created under the County Code are truly independent. The authority of the county commissioners over the row offices is limited to setting the row office budgets and assigning office space. Otherwise, row offices have essentially complete independence from any central county authority.

This independence means that the county commissioners are severely limited in their ability to impose uniform policies, procedures, and standards on row offices. Should the county commissioners desire to command that uniform personnel, operational, and administrative standards be implemented across the county for improved efficiency and accountability, it simply cannot be done under the County Code.

This independence severely handicaps the county in performing perhaps its most important current task—reducing the county's annual operating deficit. The county's Early Intervention Plan consultant has generated a voluminous report containing dozens of recommendations to combat the budget gap. Many of these recommendations regarding row offices simply cannot be imposed by the county commissioners; instead, they must be voluntarily implemented by the row offices, which can reject the recommendations. Thus, numerous elected row officers, each with his or her own political agenda, can choose to cooperate or impede the county's efforts to eliminate its deficit.

The recommended charter cures these problems by eliminating the election of row officers (except for the controller and the district attorney). The functions performed by the row officers are transferred to the professional staff under the jurisdiction of the manager. By eliminating the election of row officers and the independence of their individual offices, the manager and council will be able to establish uniform policies, procedures, and standards throughout those offices. Opportunities for organizational efficiencies and consolidations can be explored. Perhaps most important, the budgetary recommendations of the county's consultant can be implemented throughout county government without the concern of rejection by an elected row officer.

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<sup>4</sup> This unrestricted access will require only that the controller provide "reasonable notice" to the examined entity or employee.

Other efficiencies can be realized. Presently, each row office is entitled to its own solicitor, and many county divisions, departments, bureaus, offices, boards, and commissions are provided with solicitors as well. These numerous solicitors represent the office or the officeholder, not the county. The presence of these solicitors makes it easy for county officials to institute litigation against each other with the taxpayer funding both sides. The compensation of the solicitors is often not related to the amount of work performed, and the solicitor appointments are typically related to political connection and not based principally on legal proficiency.

The recommended charter sets forth a substantial reform in the way the county obtains its legal services. The charter requires a unified county law office under the direction of the county solicitor. The attorneys of the law office will owe their legal duties to the county as their client, not to individuals or divisions. The unified law office will eliminate or limit wasteful intra-county litigation. The size of the unified law office can be tailored to the actual workload generated by county legal activities. It also allows the assignment of subject matter expert lawyers to county legal business, rather than the current system of assignments to office solicitors who may have no expertise or experience regarding the issue at hand. Legal accountability for all county law functions will be firmly established in the county solicitor. This is not the case now.

An additional reform contained in the recommended charter involves county banking procedures. Currently, many county offices collect funds, and too many maintain their own bank accounts over which they exercise control. This wide scattering of bank accounts which can be accessed by an unknown number of people is ripe with the potential for misappropriation and abuse.

The recommended charter addresses this problem by requiring that all county funds be deposited in bank accounts under the control of the county's division of budget and finance. No longer will individual officers and employees control their own county accounts with limited (or even non-existent) scrutiny from a central, professional county financial office.

Finally, the recommended charter eliminates the two county jury commissioners. Their functions can and already are performed by the court system. The salaries and benefits of these officials are entirely unnecessary, but must be paid due to the outdated provisions of the County Code.

## **5. The Recommended Charter Provides Improved Ways for Citizens to be Involved in Luzerne County Government**

The County Code provides no mechanism for citizens to place questions before the county's electorate. The recommended charter, however, creates this important right in Luzerne County. Under the charter, citizens will have the ability to place proposed legislation on the ballot in the form of an initiative, and will have the opportunity to utilize the referendum process to repeal unwanted legislation. Additionally, the process of agenda initiative, which allows citizens to require council to consider proposed legislation, is included in the recommended charter.



Amendments to the government system structured under the recommended charter can be adopted directly by county voters. This is an essential element of the concept of home rule—that local citizens can alter their form of government without appeal to a higher, far away authority. Presently, Luzerne County voters have no such direct way to alter the County Code which establishes the government under which they live. Changes in the County Code can only result from action of the state legislature, with approval from the governor. Serious changes tailored to individual counties like Luzerne County are unlikely.

County government, and the state of county affairs, can often be opaque to the average citizen. The recommended charter provides a number of mechanisms to make county government more accessible, including:

- a requirement for council to have evening meetings and to post the meeting agenda in advance on the county website;<sup>5</sup>
- a requirement for the manager to hold an annual public forum and to issue an annual “state of the county” address;
- a requirement that the county budgets provide comparative figures for each item from at least the current and prior fiscal years;
- a requirement that the manager submit an annual budget message summarizing the county’s budgets and providing important information on the county’s finances, operations, debt, and related issues; and
- a requirement that the manager annually prepare, and the council approve, a long range county plan.

The council is also empowered to make additional reforms, as it deems appropriate, to make government information more available and accessible to the citizenry.

## **6. The Recommended Charter Requires a Strong Ethics Code with a Mechanism for the Enforcement of Ethics Rules and Policies**

The federal corruption probe of Luzerne County has continued for the entire time this GSC has existed. Indeed, just five days prior to the GSC’s vote recommending this charter, on August 6, 2010 former County Commissioner Gregory Skrepenak was sentenced in the United States District Court to twenty-four months of incarceration for corruptly accepting a thing of value in connection with a decision he made as a county commissioner.<sup>6</sup>

The need for strong, enforceable ethics rules has been obvious both to the GSC members and to the citizens of Luzerne County. Ethics rules are needed not only to mandate such behavior but also to restore public trust and confidence in Luzerne County government.

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<sup>5</sup> No prior posting of a meeting agenda will be required for a meeting held during a declared state of emergency.

<sup>6</sup> Specifically, Skrepenak admitted that a developer gave him \$5,000 off the price of a home Skrepenak purchased from the developer in exchange for Skrepenak’s support of a tax incremental financing (TIF) plan in favor of the developer. The TIF plan required the approval of the Luzerne County commissioners.

The recommended charter requires that the county have an Accountability, Conduct, and Ethics Code. This code is to ensure that no Luzerne County official receives any benefit from his or her public position other than lawfully provided compensation. The ethics code will cover essentially all county employees<sup>7</sup> and will address gifts, conflicts of interest, personal use of county resources, and other issues.

The charter also establishes an Accountability, Conduct, and Ethics Commission to receive and investigate complaints. This Commission has been specifically empowered under the recommended charter to impose penalties and sanctions upon violators and to otherwise remedy ethics violations.

The GSC is hopeful that a strong ethics code and effective ethics commission will not only aid in ending the ethical failings that have occurred in Luzerne County, but will assist Luzerne County in becoming a future model for ethical and principled government behavior.

### **7. The Recommended Charter Ends the Insidious Practices of Nepotism, Cronyism, and Favoritism and Requires Appointments and Hirings Based on Public Notice, Merit, Fitness, and Qualifications.**

For too long, Luzerne County government has served as a vehicle to provide patronage jobs to relatives, friends, and political supporters. For too long, appointments to Luzerne County authorities, boards, and commissions have been available only to a group of insiders and political friends. These practices have excluded many qualified and meritorious candidates from service to our county. At a time when Luzerne County government should be a shining example of a meritocracy, it is instead often perceived as simply a bureaucracy of the well-connected.

The recommended charter makes wholesale and needed reforms to the way individuals are hired for county employment and appointed to county authorities, boards, and commissions. It starts at the top, with a manager who must be degreed, experienced, and have professional abilities, qualifications, preparation, and training to perform the function of county manager. Similarly high standards are required for the selection of each of the division/office heads.

Under the recommended charter, county career service jobs must be publicly advertised, candidates must be evaluated on the basis of merit and fitness as demonstrated by a valid and reliable examination, other objective evidence of competence, or other relevant factors, applicants are to be blindly ranked where possible, and any hiring must be made from the top three qualified applicants. For seasonal jobs where objective measures cannot be used, a lottery system will determine the successful applicants. Openings on authorities, boards, and commissions must also be advertised so any interested citizen can apply to council for appointment.

The recommended charter also prohibits nepotism in hiring and in the supervisory structure of the county workforce.

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<sup>7</sup> Certain judicial branch officials and employees cannot be covered due to separation of powers concerns deriving from the state constitution.

The sweeping changes in hiring and appointment required by the recommended charter will, in the judgment of the GSC, foster a government where merit and competence are rewarded, poor personnel practices are eliminated, and county government is opened to the best, brightest, and most fit candidates.

#### **8. The Recommended Charter Will Prevent the Imposition of Ruinous Tax Increases on Luzerne County Property Owners**

Prior to the recent reassessment, Luzerne County's property tax millage had reached the legal maximum. This was likely a contributing reason why, from 2004 through 2009, the county borrowed so frequently to balance its budget.

With the completion of the countywide reassessment for fiscal year 2009, the county's millage was lowered such that taxes could again be raised. The property tax levy increased by 10% that year (the maximum permitted in the first year after a reassessment). In 2010, a 15% property tax increase occurred. Notably, these increases were enacted solely to close the county's annual budget deficit.

The GSC has found that the temptation for officials to impose essentially unlimited tax increases presents a serious risk of harm to county property owners. The county's budget problem is not amenable to quick or painless solution, but the county should not be allowed to use its taxpayers as an unlimited source of funding to remedy government errors of the past. Without a tax limitation, however, this risk to taxpayers is real.

In light of these circumstances, the recommended charter contains an annual limitation of 8% on the growth of real estate tax revenues, which the GSC finds to be a reasonable compromise between the county's need to generate adequate revenues and the protection of Luzerne County property owners.

#### **IV. CONCLUSION**

For all the foregoing reasons, and to ensure the establishment of a professional, effective, accountable, responsive, efficient, and ethical government in Luzerne County, the members of the Luzerne County Government Study Commission, hereby call for the adoption of the Recommended Home Rule Charter by the voters of Luzerne County.

**QUESTION TO BE PLACED ON THE BALLOT**

Pursuant to 53 Pa.C.S. Sec. 2923(2), the Luzerne County Government Study Commission recommends that a referendum shall be held to submit to the electors of Luzerne County the question of adopting the Recommended Home Rule Charter prepared by the GSC and as authorized by 53 Pa.C.S. Chapter 29, Subpart B (the Pennsylvania Home Rule Charter and Optional Plans Law, Act of April 13, 1972, PL 883, as amended).

By action of the Luzerne County Government Study Commission, the following question shall appear on the ballot and be submitted to the voters of Luzerne County for adoption at the election to be held on November 2, 2010:

“Shall the Home Rule Charter contained in the report, dated August 11, 2010, of the government study commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by Luzerne County?”

**Yes**\_\_\_\_      **No**\_\_\_\_

## REASONS FOR CHANGE



*From Negative*

### Luzerne County Home Rule Charter Review: Problems Found and Reforms Proposed



*To Positive*

## REASONS FOR CHANGE CITED BY LUZERNE GSC

### Needs To Be Addressed:

- Separation of political authority and influence from day-to-day operations and decision making
- Better checks and balances
- More ethical, accountable, and transparent government
- Better decision making process (no more 2-vote rule)
- Separation of legislative & executive functions
- Establish clear lines of authority and unity of purpose
- Improved budget procedures & controls
- Integrity and uniformity in personnel matters
- Elimination of duplication and overlap
- Greater efficiency in government operation

## STRUCTURAL REFORMS

### Present Form:

1. Three Commissioners with legislative and administrative powers and duties
2. Eleven Independent Row Officers
3. Voters have no rights to Initiative and Referendum

### Charter Form:

1. Eleven part time Council members limited to legislative powers and duties
2. Full time appointed professional manager with all administrative powers and duties
3. Just two row officers
4. Required Administrative Code, Personnel Code, Accountability, Conduct, and Ethics Code
5. Initiative and Referendum

## POLITICAL REFORMS

### Problems Identified:

1. Commissioners hold political authority and power **and** control day-to-day county operations
2. Political power concentrated in two majority commissioners

### Charter Reform:

1. Separation of political authority from control of day-to-day operations. Professional manager and staff operate county, political council prohibited from involvement in day-to-day operations
2. Eleven member council reduces influence of specific individuals

## POLITICAL REFORMS

### Problems Identified :

1. County-wide elections for three commissioners require tremendous financial resources and exacerbate influence of big-money political contributors
2. Few citizens have realistic opportunity to be elected to county commissioner seat or row office
3. Most citizens cannot run for or serve in county office due to the current form

### Charter Reform:

1. Frequent elections for more numerous council seats reduce the money needed by a candidate to be elected to county council and **reduce** influence of big-money contributors
2. Large council creates greater opportunity for citizens to be elected to serve in county government
3. Most citizens can participate in new county government as part-time council members

## POLITICAL REFORMS

### Problems Identified :

1. Significant county elections only occur at commissioner elections every four years
2. Small three commissioner board creates little realistic opportunity for minority parties and interests to significantly participate in county decision making

### Charter Reform:

1. More voter input with election of half of county council every two years
2. Large council creates greater opportunities for minority parties and interests to be elected and creates real opportunity that a small number of council members hold balance of power on council

## POLITICAL REFORMS

### **Problems Identified :**

1. No term limits for any elected county official
2. Any elected county official can run and campaign for another office while serving in existing elected capacity

### **Charter Reform:**

1. Imposition of term limits prevents establishment of entrenched political class
2. “Resign to run” provision prohibits full-time elected county officials from using existing office as base from which to campaign

## DECISION-MAKING REFORMS

### **Problems Identified :**

1. Elected commissioners and row officers share day-to-day operational and decision-making authority, resulting in conflicts, cross-purposes, and lack of common goals
2. Only two commissioners required for approval of contracts

### **Charter Reform:**

1. Professional manager and staff have exclusive authority over all day-to-day operations and decision-making, resulting in common goals, teamwork and unified efforts
2. Majority of large council needed for approval of significant contracts. Creates system for thorough and independent review of contracts



## DECISION-MAKING REFORMS

### Problems Identified :

1. Commissioners have authority to negotiate contracts **and** to approve the same contract
2. Commissioners propose legislation and vote to adopt legislation

### Charter Reform:

1. Power to negotiate contracts vested **only** in manager. Council approval required for significant contracts. Separation of negotiation and approval authority creates check and balance
2. Legislation approved by council is subject to mandatory reconsideration at request of manager. Acts as check and balance and creates additional public opportunity to participate in legislative process

## DECISION-MAKING REFORMS

### Problems Identified :

1. Elected commissioners and row officers have day-to-day authority including the power to hire and fire employees resulting in decision-making based on political considerations
2. Commissioners appoint division/office heads without uniform standards resulting in inappropriate political appointments to key positions

### Charter Reform:

1. Elected council prohibited from day-to-day decisions including participation in hiring and firing of employees. Eliminates political considerations in hiring, firing, and day-to-day decision making
2. Manager appoints division/office heads based on qualifications and subject to council confirmation, preventing two majority commissioners from making appointment based solely on political considerations

## DECISION-MAKING REFORMS

### **Problems Identified :**

1. No ethics commission or county ethical standards
2. No limitation on annual tax increases

### **Charter Reform:**

1. Creates Accountability, Conduct, and Ethics Commission and requires establishment of ethics rules
2. Imposes limitation of 8% on any year-to-year tax increase

## CITIZEN ISSUES

### **Problems Identified :**

1. Commissioner meetings held during working hours
2. No requirement for commissioners to issue “state of county” address or updates
3. No citizen right to enact legislation by initiative or to repeal governmental action by referendum
4. County government organized and operates under County Code. State legislature must change County Code to modify governmental systems

### **Charter Reform:**

1. One council meeting per month required to be held during evening hours; prior posting of agendas required
2. Manager required to hold annual public forum and to issue annual “state of county” address
3. Creation of citizens’ right to propose and enact legislation by initiative process or to repeal legislation by referendum
4. Luzerne County voters have power to amend charter to modify governmental systems

## GOVERNMENT OPERATIONS

### **Problems Identified :**

1. Independent elected row officers not answerable to county commissioners or central county authority. Commissioners set row office budgets and provide office space. Otherwise, row officers have complete independence from county authority

### **Charter Reform:**

1. Elimination of most elected row offices with functions transferred to professional staff under jurisdiction of county manager. Provides for professional management of row office functions, unified control and accountability of row office practices, and opportunities for efficiency and consolidation of operations

## GOVERNMENT OPERATIONS

### **Problems Identified :**

1. Two elected jury commissioners with salaries and benefits but little apparent responsibility. All their work is handled by court system.

### **Charter Reform:**

1. Elimination of jury commissioner offices and expenses. Jury selection function continued in court system

## GOVERNMENT OPERATIONS

### Problems Identified :

1. Numerous solicitors throughout county government. Solicitors represent individual row office or department heads, not county. Creates opportunity for intra-county litigation between departments. Solicitors receive varying levels of compensation and benefits often set by row officers or department heads without regard to actual amount of work required

### Charter Reform:

1. Create unified county law department representing all county officials and functions. Law department attorneys owe legal duties to county and not to individual officers. Limits or eliminates wasteful intra-county litigation. Law department size tailored to actual workload generated by county activities. Allows assignment of subject matter expert lawyers to county legal business rather than standing office solicitors who may have no expertise regarding issue at hand

## GOVERNMENT OPERATIONS

### Problems Identified :

1. Controller operates under antiquated county controllers' act from June 27, 1895. Controller states that the office is many years behind in audits of county offices and functions with no realistic possibility of becoming current due to lack of resources
2. Controller's access to County records and information easily stymied by other officials

### Charter Reform:

1. Controller's role as independent watchdog enhanced by assignment of functions set forth in Model Legislation Guidelines for Local Government Auditors
2. Controller granted unrestricted access to county records and employees

## GOVERNMENT OPERATIONS

### **Problems Identified :**

1. No requirements for clarity or full disclosure in annual budgets
2. No requirement for budget message explaining programs and priorities or for long range planning

### **Charter Reform:**

1. Requires budgets to contain comparative figures for each line item from at least the current and prior fiscal years
2. Requires annual budget message by manager providing important information on the county's finances, operations, debt, and related issues. Manager must also submit long range plan for council approval on an annual basis

## GOVERNMENT OPERATIONS

### **Problems Identified :**

1. Various departments, row offices, divisions, and ad hoc committees maintain and control dozens of bank accounts

### **Charter Reform:**

1. Require all accounts connected with county operations to be under the unified control and management of the Budget and Finance office overseen by the manager

## GOVERNMENT OPERATIONS

### **Problems Identified :**

1. County purchasing policy not uniformly enforced or applicable to all row officers and agencies
2. Commissioners have unfettered discretion in contracting for professional services

### **Charter Reform:**

1. Institute uniform purchasing policy under direction of county manager requiring telephonic bidding of all purchases in excess of \$2,500 and sealed bidding for all purchases in excess of \$25,000. Bid splitting specifically prohibited by charter
2. All professional services in excess of \$25,000 subject to request for proposal (RFP) procedure. Insurance contracts, formerly treated as professional services, now subject to competitive bidding

## GOVERNMENT OPERATIONS

### **Problems Identified :**

1. County has no right to audit vendors regarding compliance with or performance concerning county contracts

### **Charter Reform:**

1. All contracts executed by county must contain “right to audit” clause allowing the county to audit county vendors in connection with county contracts

# PERSONNEL

## **Problems Identified :**

1. Hiring and promotions not required to be merit based
2. No requirement for posting of job openings
3. No criteria for hiring decisions
4. No standards for hiring of seasonal help. Relatives and friends of county officials and employees typically obtain summer employment
5. Weak or non-existent anti-nepotism policy

## **Charter Reform:**

1. Hiring and promotion based on merit as demonstrated by examination or objective evidence of competence
2. Job openings must be publicly advertised and posted
3. Applicants to be blindly ranked and must be in top three of ranked candidates for eligibility to be hired
4. All seasonal positions filled by lottery or random selection
5. Charter provision containing anti-nepotism policy

**SUMMARY OF MAJOR PROVISIONS OF THE  
RECOMMENDED HOME RULE CHARTER FOR LUZERNE COUNTY**

ARTICLE I—GENERAL POWERS. Authorizes the County government to exercise all powers not denied it by the constitutions of the United States and Pennsylvania, applicable law, or the Charter, and provides that all grants of power be broadly construed in favor of the County. This Article also preserves the rights, privileges, and powers of individuals under the United States and Pennsylvania constitutions and ensures the Charter will not limit or in any way interfere with the jurisdiction, rights, powers, or autonomy of any unit of local government.

ARTICLE II—LEGISLATIVE BRANCH/COUNTY COUNCIL. Provides that legislative, taxing, budgeting, and policy-making powers are to be exercised by an 11-member County Council elected at-large for staggered terms of four years. Members will serve on a part-time basis, be limited to three consecutive terms in office, and be paid \$8,000 per year. They will not receive a County pension or any other employee benefit. All legislative actions will require the adoption of an ordinance or resolution, and certain actions will require a special public hearing. At least one County Council meeting each month must be held in the evening.

ARTICLE III—OTHER ELECTIVE OFFICIALS. Provides for the election of a Controller and District Attorney for terms of four years. These officials may serve only three terms, and they must resign if they choose to run for any other elective public office. The Controller will serve on a full-time basis, be the people's "watchdog" over County fiscal and management activities, monitor and examine county operations, and have the authority to conduct fiscal, performance, management, contract, grant, compliance, and related audits of any aspect of County government. The District Attorney will continue to serve on a full-time basis and be the County's chief prosecutor. The compensation of both the Controller and District Attorney will remain as at present. The Clerk of Courts, Coroner, Jury Commissioners, Prothonotary, Recorder of Deeds, Register of Wills, Sheriff, and Treasurer will no longer be elected by the voters. The duties and responsibilities of these officials will become part of the County's Executive Branch and overall administrative structure resulting in unified control and accountability, and they will be carried out by employees appointed based on their qualifications,.

ARTICLE IV—EXECUTIVE BRANCH/COUNTY MANAGER. Separates control of the day-to-day operations of the County from the political and legislative authority of County Council and establishes the position of County Manager. The Manager will head the Executive Branch and be responsible for ensuring that all functions are carried out as efficiently and economically as possible. County Council is prohibited from interfering with the day-to-day operations of the Executive Branch, including the hiring, promotion, and firing of personnel and the negotiation of contracts, although Council must approve certain contracts and other actions of the Manager. The County Manager will be appointed by County Council on the basis of executive abilities and administrative qualifications as evidenced by professional preparation, training, and experience in public administration, finance, and/or other fields that demonstrate substantial ability to perform the functions of County Manager. The selection process requires the appointment of a Search Committee to recruit, screen, and interview candidates and recommend the most qualified for Council's consideration. The County Manager will be a full time employee and may not hold



any elective public office or any other public employment and may not engage in any other business or occupation during normal County business hours. The County Manager, subject to confirmation by County Council, will appoint division heads and other key officials who will be directly responsible for the day-to-day operations of the County. As a check and balance, the County Manager can require County Council to reconsider ordinances and resolutions it has adopted.

**ARTICLE V—BUDGET AND FINANCE.** Establishes the procedures for the adoption of the County's annual budgets and other fiscal actions, and limits the annual growth in real estate tax revenues to eight percent, except upon specific approval by the Court of Common Pleas. The County Manager will be responsible for preparing balanced budgets and presenting them to County Council for its consideration. The budgets must be available for public inspection for at least 30 days prior to adoption and at least one public hearing must be held. All County funds must be in the custody and control of the Division of Budget and Financial Services, and no payment can be made or obligation incurred unless in accordance with stated policies and procedures and unless there is a budget appropriation with a sufficient unencumbered balance. The County's accounting system must adhere to Generally Accepted Accounting Principles. County Council will hire a certified public accountant to conduct an independent and timely audit of all County financial transactions each year. Provisions are also made for emergency appropriations, changes in the adopted budget, and the transfer of funds during the budget year. The County will be required to have a long-range operational, fiscal, and capital plan.

**ARTICLE VI—ADMINISTRATIVE CODE.** Provides for an Administrative Code that will set forth a plan for the organization, administrative structure, procedures, and operations of the County. The Administrative Code will make adequate provision for budgeting and other financial procedures, purchasing and acquisition procedures, procedures for the disposition of County property, and other rules, regulations, and procedures desirable for the efficient and effective administration of County government. All elements of the Code will apply to every County division, department, bureau, office, agency, board, commission, and other administrative unit as well as the offices of all elective County officials, the Judiciary, and the Office of Court Administration and will cover all employees of the County, all members and employees of all County boards and commissions, all elective county officials and all employees of their offices, and all employees of the Judiciary and Office of Court Administration. The initial structure and organization is provided in Article XII of the Charter (Transitional Provisions). Permanent elements include the Office of Public Defender and the Office of Law/County Solicitor, which will serve as a unified source of legal advice on all official County matters. The heads of all divisions, the County Solicitor, and the Chief Public Defender will be selected on the basis of qualifications and experience, and operate under the jurisdiction of the County Manager. Nothing in the Charter shall be construed as interfering with the inherent and constitutional rights and powers of the Judiciary to do all things reasonably necessary for the administration of justice.

**ARTICLE VII—PERSONNEL SYSTEM.** Requires a Personnel Code that will establish and maintain the means to recruit, select, develop, and maintain a qualified, ethical, effective, efficient, productive, and responsive workforce in order to best meet the needs of the County. Employees who are members of the career service will be appointed and promoted based on merit and fitness as demonstrated by valid and reliable examinations, other objective evidence of

competence, and/or other relevant factors. Job openings will be publicly posted and advertised, candidates will be ranked, and job discrimination will be prohibited. The Charter protects the terms and conditions of collective bargaining agreements as well as the status and rights of collective bargaining units and present and former employees.

**ARTICLE VIII—AUTHORITIES, BOARDS, AND COMMISSIONS.** Provides the procedures for establishing authorities, boards, and commissions and the appointment of their members by County Council. In most cases, elective County officials and County employees are precluded from serving and members may not serve on multiple County authorities, boards, and commissions. In addition, there is a limitation on the direct involvement of members of authorities, boards, and commissions in County government for one year after they leave office. This Article also restricts the County's ability to pay salaries and benefits to members of authorities, boards, and commissions, reconstitutes the Board of Elections and Registration, Board of Tax Assessment Appeals, and Retirement Board, and changes the County's membership on the Joint Airport Board. The Charter abolishes the Board of County Commissioners, the Salary Board, and the Prison Board.

**ARTICLE IX—ACCOUNTABILITY, CONDUCT, AND ETHICS.** Provides for an Accountability, Conduct, and Ethics Code that will apply to every County division, department, bureau, office, agency, board, commission, and other administrative unit as well as the offices of all elective County officials, the Judiciary, and the Office of Court Administration and cover all employees of the County, all members and employees of all County authorities, boards, and commissions, all elective county officials and all employees of their officers, and all employees of the Judiciary and Office of Court Administration. At a minimum, this Code will include provisions addressing ethics, political activity, conflicts of interest, gifts, personal use of County resources, and conduct and behavior in the performance of duties and establish an Accountability, Conduct, and Ethics Commission to receive, investigate, and make determinations on complaints and alleged violations of the Code. It will also provide penalties, sanctions, and remedies for violations of the charter and this Code. In addition, this Article contains an anti-nepotism provision.

**ARTICLE X—INITIATIVE AND REFERENDUM.** Provides registered voters with the power to propose ordinances for consideration by County Council, the power to propose and enact ordinances independent of County Council, and the power to repeal ordinances adopted by County Council. The initiative process allows registered voters to gather signatures on a petition and propose certain types of ordinances, and, if Council does not enact the ordinance, the voters are given the power to enact it at the next election. The referendum process allows registered voters to gather signatures on a petition resulting in the suspension of certain types of ordinances adopted by Council, including those authorizing the borrowing equal to more than 15 percent of the County's General Fund Budget to finance one or more capital project, and, if Council fails to repeal the ordinance, to approve or disapprove it at the next election.

**ARTICLE XI—GENERAL/MISCELLANEOUS PROVISIONS.** Addresses the legal obligations of the County, terminology used in the Charter, common provisions relating to elective officials, the right of citizens to be heard, certain technical and procedural issues, and states that the power to amend the Charter and modify the government structure resides with the voters of Luzerne County, not the state legislature.

ARTICLE XII—TRANSITIONAL PROVISIONS. Establishes the effective date of the new form of government as Monday January 2, 2012, and states that the first elections to fill offices in the new form of government will be in 2011. It further provides for the initial appointment of the County Manager and Clerk of County Council and outlines the initial structure and organization of the Executive Branch, including the divisions of Administrative Services, Budget and Financial Services, Correctional Services, Human Services, Judicial Services and Records, and Operational Services. In addition, it provides for the adoption of temporary ordinances and defines various transitional procedures including the formation of a Transition Committee for the purpose of ensuring a smooth, orderly, and seamless transition to the new form of government. The Committee's responsibilities include drafting the Administrative Code, Personnel Code, Accountability, Conduct, and Ethics Code, and any other ordinances, rules, and regulations deemed to be appropriate for consideration by the County Manager and County Council. The Transition Committee will also undertake the search and recruitment process for the initial County Manager, Clerk of County Council, and possibly other positions in order to recommend suitable candidates to the newly elected County Council.

**RECOMMENDED**  
**HOME RULE CHARTER**  
**FOR**  
**LUZERNE COUNTY, PENNSYLVANIA**

**Prepared for Submission to the**  
**Voters of Luzerne County**  
**by the**  
**Luzerne County Government Study Commission**

**Under the Provisions**  
**of the**  
**Home Rule Charter and Optional Plans Law**  
**of the Commonwealth of Pennsylvania**

**Adopted August 11, 2010**

# LIST OF CHARTER ARTICLES AND SECTIONS

## PREAMBLE

### ARTICLE I—GENERAL POWERS

#### Section

- 1.01—Title
- 1.02—Purposes
- 1.03—Status, Powers, and Duties
- 1.04—Rights Reserved to the People
- 1.05—Preservation of Rights and Powers of Local Municipalities
- 1.06—State Laws

### ARTICLE II—LEGISLATIVE BRANCH/COUNTY COUNCIL

#### Section

- 2.01—County Council
- 2.02—Qualifications
- 2.03—Election and Term
- 2.04—Prohibitions
- 2.05—Compensation
- 2.06—Quorum
- 2.07—Organization
- 2.08—Meetings
- 2.09—Powers and Duties
- 2.10—Form of Action by County Council
- 2.11—Ordinance Requirements
- 2.12—Reconsideration of Ordinances and Resolutions
- 2.13—Actions Requiring an Ordinance
- 2.14—Emergency Ordinances
- 2.15—Effective Date of Ordinances and Resolutions and Publication of Ordinances
- 2.16—Recording and Codification
- 2.17—Limitations/Non-Interference

### ARTICLE III—OTHER ELECTIVE OFFICIALS

#### Section

- 3.01—Other Elective Officials
- 3.02—Qualifications
- 3.03—Election and Term
- 3.04—Prohibitions
- 3.05—Temporary Absence or Incapacity
- 3.06—Compensation of the Controller
- 3.07—Compensation of the District Attorney
- 3.08—Powers and Duties of the Controller
- 3.09—Powers and Duties of the District Attorney

## ARTICLE IV—EXECUTIVE BRANCH/COUNTY MANAGER

### Section

- 4.01—County Manager
- 4.02—Appointment and Qualifications
- 4.03—Compensation
- 4.04—Prohibitions
- 4.05—Removal
- 4.06—Acting County Manager
- 4.07—Powers and Duties
- 4.08—Appointments

## ARTICLE V—BUDGET AND FINANCE

### Section

- 5.01—Fiscal Year
- 5.02—County Budgets
- 5.03—Budget Format
- 5.04—Budget Message
- 5.05—Public Inspection
- 5.06—Public Hearing
- 5.07—Approval of the Budgets
- 5.08—Failure to Adopt
- 5.09—Limit on Annual Increases in Real Estate Tax Revenues
- 5.10—Changes in the Budgets
- 5.11—Emergency Appropriations
- 5.12—Deposit and Custody of County Funds
- 5.13—Payment of Funds
- 5.14—Lapse of Appropriations
- 5.15—Accounting System
- 5.16—Annual Financial Audit
- 5.17—Long-range Operational, Fiscal, and Capital Plan

## ARTICLE VI—ADMINISTRATIVE CODE

### Section

- 6.01—Administrative Code
- 6.02—Procedure for Adoption
- 6.03—Scope of Administrative Code
- 6.04—Organization of the Executive Branch
- 6.05—The Judiciary
- 6.06—Court Administration
- 6.07—Common Administrative Procedures
- 6.08—Common Administrative Services
- 6.09—Purchasing and Acquisition Procedures
- 6.10—Bonding

## ARTICLE VII—PERSONNEL SYSTEM

### Section

- 7.01—Personnel Code
- 7.02—Procedure for Adoption
- 7.03—Scope of Personnel Code
- 7.04—Career Service, Exempt Service, and State Civil Service
- 7.05—Filling Vacancies in the Career Service
- 7.06—Status and Rights of Collective Bargaining Units
- 7.07—Status and Rights of Present and Former Employees
- 7.08—Soliciting of Employment Favors
- 7.09—Political Activity

## ARTICLE VIII—AUTHORITIES, BOARDS, AND COMMISSIONS

### Section

- 8.01—General
- 8.02—Appointments to Boards and Commissions/Vacancies
- 8.03—Appointments to Authorities/Vacancies
- 8.04—Board of Elections and Registration
- 8.05—Board of Tax Assessment Appeals
- 8.06—Retirement Board
- 8.07—Joint Airport Board

## ARTICLE IX—ACCOUNTABILITY, CONDUCT, AND ETHICS

### Section

- 9.01—Accountability, Conduct, and Ethics Code
- 9.02—Procedure for Adoption
- 9.03—Scope of Accountability, Conduct, and Ethics Code
- 9.04—Accountability, Conduct, and Ethics Commission
- 9.05—Nepotism

## ARTICLE X—INITIATIVE AND REFERENDUM

### Section

- 10.01—General Powers
- 10.02—Procedures for Agenda Initiative
- 10.03—Limitations on the Power of Initiative
- 10.04—Procedures for Initiative
- 10.05—Limitations on the Power of Referendum
- 10.06—Procedures for Referendum
- 10.07—General Procedures, Form, and Sufficiency
- 10.08—Other Authority for Initiative and Referendum

## ARTICLE XI—GENERAL/MISCELLANEOUS PROVISIONS

### Section

- 11.01—Rights and Liabilities of the County
- 11.02—References to County Commissioners
- 11.03—Amendment
- 11.04—Definitions and Rules of Construction
- 11.05—Common Provisions Relating to Elective Officials
- 11.06—Declaration of a Vacancy
- 11.07—Citizens’ Right to be Heard
- 11.08—Severability

## ARTICLE XII—TRANSITIONAL PROVISIONS

### Section

- 12.01—Nature of Article
- 12.02—Effective Date
- 12.03—Schedule of Elections
- 12.04—Elective Offices Abolished
- 12.05—Continuity
- 12.06—Initial Appointment of the County Manager and Clerk of County Council
- 12.07—Initial Structure and Organization of the Executive Branch
- 12.08—Elective Terms Continued
- 12.09—Boards and Commissions Abolished, Replaced, Reconstituted, or Restructured
- 12.10—Authorities, Boards, and Commissions Continued
- 12.11—Temporary Ordinances
- 12.12—Administrative Organization and Operations/Written Directives
- 12.13—Personnel Policies and Procedures/Written Directives
- 12.14—Transitional Procedures



## **PREAMBLE**

The citizens of Luzerne County have both the right and responsibility to participate in all phases of County government and, united by a common desire for truth, accountability, and openness, we the people of Luzerne County enact this Charter.

This declaration asserts that those who serve a role in our County government undertake a contract of public trust, integrity, professionalism, and respect for the welfare and equality of all residents.

In the spirit of efficient progress and to prevent abuse of power, this Charter establishes separations of executive and legislative powers, ethics policies, checks on increases in real estate tax revenues, term limits, public initiative and referendum, viable management oversight, and elected legislators to ensure fair and just representation.

We, the people of Luzerne County, agree to uphold and enforce the principles embodied in this Charter with the full force of law.

## ARTICLE I—GENERAL POWERS

**Section 1.01—Title.** This Charter, together with all subsequent amendments, shall provide for and constitute the form of government for Luzerne County. It shall be known and may be cited as the “Luzerne County Charter.”

**Section 1.02—Purposes.** The principal purposes of this Charter are to provide for the health, safety, and well being of the citizens of Luzerne County and to secure for the citizens of Luzerne County the greatest degree of home rule and residual powers possible.

**Section 1.03—Status, Powers, and Duties.** Luzerne County shall continue as a municipal corporation and its boundaries and County seat shall remain as they are on the effective date of this Charter unless changed as provided for by applicable law. Luzerne County may exercise and perform any power or function not denied it by the Constitution of the United States, the Constitution of the Commonwealth of Pennsylvania, the General Assembly, or this Charter. The powers and functions that may be exercised shall include, but not be limited to, all those now or hereafter conferred or imposed upon it by this Charter or applicable law together with the rights, privileges, functions, and powers necessarily implied or incidental thereto. All possible powers and functions of the County, both present and future, are to be considered as if specifically set forth in this Charter and are to be broadly construed in favor of the County.

**Section 1.04—Rights Reserved to the People.** No provision of this Charter and no action by any Luzerne County elective official or employee of Luzerne County acting under its authority shall infringe upon the rights, privileges, and powers reserved or guaranteed to individual persons or to the people by the Constitution of the United States or the Constitution of the Commonwealth of Pennsylvania.

**Section 1.05—Preservation of Rights and Powers of Local Municipalities.** This Charter shall not limit or in any way interfere with the jurisdiction, rights, powers, or autonomy of any city, borough, township, or other governmental unit or group of municipalities or governmental units in Luzerne County. Nothing in this Charter shall be construed as interfering with the rights of any city, borough, township, or other governmental unit or group of municipalities or governmental units in the County to provide its municipal services in accordance with applicable law. However, the County, by action of County Council, may offer to provide municipal services to any city, borough, township, or other governmental unit or group of municipalities or governmental units in the County, subject to the provisions of the Home Rule Charter and Optional Plans Law, or successor law, permitting local municipalities to be excluded from or withdraw from these services by actions of their governing bodies or citizens.

**Section 1.06—State Laws.** The provisions of this Charter shall supersede any state law which is inconsistent to the extent of the inconsistency, except where applicable law prevents a home rule charter from superseding state law.

## **ARTICLE II—LEGISLATIVE BRANCH/COUNTY COUNCIL**

**Section 2.01—County Council.** There shall be a County Council composed of 11 members which shall serve as the Legislative Branch of government.

**Section 2.02—Qualifications.** At the time of election or appointment and throughout his/her term of office, each member of the County Council shall be a registered voter in Luzerne County and meet all other requirements as may be set forth in this Charter or applicable law. Each member of County Council shall have been a resident of the County continuously for at least one year immediately preceding the date of his/her election or appointment.

### **Section 2.03—Election and Term.**

- A. All members of County Council shall be elected at-large by the voters of the County.
- B. The 11 members of County Council shall be elected at the municipal general election in 2011. In order to produce staggered terms, the six candidates receiving the highest numbers of votes shall be elected for terms of four years, and the five candidates receiving the next highest numbers of votes shall be elected for terms of two years. Thereafter, except as may otherwise be provided for in this Charter or applicable law, all terms shall be four years.
- C. No member of County Council shall be eligible to be elected or appointed to serve in all or part of more than three consecutive terms. However, any member of County Council who has served in all or part of three consecutive terms may become eligible to serve additional terms after remaining out of office from the end of the final term to which he/she was elected or appointed until at least the first Monday in January following the next scheduled municipal general election. The initial two-year terms to which five members of Council will be elected in 2011 shall be considered a term of office for purposes of the three term limit.

### **Section 2.04—Prohibitions.**

- A. During his/her term of office, no member of County Council shall hold any other elective public office, serve as a County employee, serve as a member of any County authority, board, or commission except as may be provided for in this Charter or applicable law, be employed or compensated by any individual or business serving as a contractor to the County or any County authority, board, or commission, or serve as a paid consultant for the County or any County authority, board, or commission.
- B. For a period of one year after leaving office, no member of County Council may be appointed to any County authority, board, or commission except as may specifically be provided for in this Charter or applicable law, serve as a County employee, be employed or compensated by any individual or business that served as a contractor to the County or any County authority, board, or commission during the time he/she served as a member of County Council, or serve as a paid consultant for the County or any County authority, board, or commission.

**Section 2.05—Compensation.**

- A. County Council shall have the power to fix the annual salary of its members by ordinance. The annual salary shall not be less than the initial salary set forth in Section 2.05 C. of this Charter. No change in salary shall become effective for any member of County Council until the commencement of a new term of office, and any change in salary must be adopted by County Council at least 12 months prior to the commencement of a new term.
- B. County Council shall have the power to fix the additional annual stipend of the Chair of County Council by ordinance. The additional annual stipend shall not be less than the initial stipend set forth in Section 2.05 C. of this Charter. No change in the stipend shall become effective for any Chair of County Council until the commencement of a new term as Chair, and any change in the stipend must be adopted by County Council at least 12 months prior to its next scheduled organizational meeting as provided in Section 2.07 A. of this Charter.
- C. The initial salary of members of County Council shall be \$8,000 per annum. The initial additional stipend of the Chair of County Council shall be \$2,500 per annum.
- D. No member of County Council shall receive a County pension or other employee benefit by virtue of his/her position as a member of County Council. However, members of County Council shall be entitled to reimbursement of travel expenses to and from all regular and special meetings of County Council in keeping with County policy and shall also be entitled to reimbursement of expenses incurred when their duties require they travel outside Luzerne County, provided such expenses have been previously approved by County Council and are in keeping with County policy.

**Section 2.06—Quorum.** County Council may take action only at public meetings, and no action may be taken in the absence of a quorum. A quorum shall consist of a majority of the current members of County Council.

**Section 2.07—Organization.**

- A. On the first Monday of January in the even-numbered year following the election of members, County Council shall meet and organize by choosing a Chair, Vice Chair, and such other officers as desired from among its members. These officers shall serve at the pleasure of County Council.
- B. The Chair of County Council shall preside at meetings of County Council, be recognized as head of the County government for ceremonial purposes, and perform other duties as may be specified by this Charter, County Council, or applicable law. The Vice Chair shall act as Chair during his/her absence or inability to serve.

**Section 2.08—Meetings.** County Council shall establish the time, place, and conditions for its regular and special meetings. Regular meetings shall be held at least twice in each calendar month in separate weeks, and at least one of these meetings shall be scheduled to begin after 6 p.m. Meetings may be held in different geographic areas throughout the

County. The agenda of each regular meeting shall be posted for public inspection at the Office of Clerk of County Council and on the County website and/or other electronic medium continuously for at least 72 hours in advance of the meeting. The posting requirement for a special meeting shall be 24 hours. Failure to include an item as part of the posted agenda shall not preclude County Council from taking action on that item at the meeting. Neither public notice nor the posting of the agenda shall be required during a declared state of emergency.

**Section 2.09—Powers and Duties.**

- A. County Council shall have and may exercise such legislative powers and duties as are conferred or imposed upon it by this Charter, the Administrative Code, and other County ordinances or resolutions, and those generally conferred or imposed upon County governments in the Commonwealth of Pennsylvania by applicable law to the extent they are not inconsistent with the provisions, spirit, and purpose of this Charter. Specifically, County Council shall:
1. Appoint a County Manager to serve as head of the Executive Branch of government as provided for in this Charter.
  2. Adopt and/or amend an Administrative Code, Personnel Code, Accountability, Conduct, and Ethics Code, and any other code required by this Charter or desirable for the efficient and effective administration of County government.
  3. Make appropriations and/or adopt and amend the County General Fund, capital, and other required budgets and the long-range operational, fiscal, and capital plan as provided for in this Charter.
  4. Provide for an annual independent audit of all County financial transactions as required by this Charter.
  5. Make appointments to County authorities, boards, and commissions as provided for in this Charter or by applicable law.
  6. Adopt rules for the organization and orderly conduct of its affairs not inconsistent with the provisions, spirit, and purpose of this Charter and applicable law.
  7. Appoint a Clerk of County Council and such other staff as it deems desirable in keeping with the provisions of the County Personnel Code, other personnel policies, and the annual budget appropriation for this office. The appointment and removal of the Clerk of County Council and all other staff of County Council shall be made by resolution adopted by an affirmative vote of at least a majority of County Council's current members.
    - a. The Clerk of County Council shall be a full-time employee and serve at the pleasure of County Council. During the time he/she holds this position, no Clerk of County Council shall hold any elective public office, any other public employment, serve as a member of any County authority, board, or

commission except as may be provided for in this Charter or applicable law, be employed or compensated by any individual or business serving as a contractor to the County or any County authority, board, or commission, serve as a paid consultant for the County or any County authority, board, or commission, or actively engage in any other business or occupation during normal County business hours. Further, no Clerk of County Council shall file a petition for nomination or election or become a candidate for any elective public office unless he/she first resigns from his/her position, and, for a period of one year after leaving this position, shall not be employed or compensated by any individual or business that served as a contractor to the County or any County authority, board, or commission during the time he/she served as Clerk of County Council.

- b. The Clerk of County Council shall record and file the proceedings and papers of County Council, attest to all its official actions, and retain the statutory duties of the Chief Clerk as they relate to legislative functions to the extent they are not inconsistent with the provisions, spirit, and purpose of this Charter.
  - c. The Clerk of County Council shall perform and carry out any and all other duties and responsibilities assigned by this Charter, the Administrative Code, other ordinance, resolution, or motion of County Council, the Chair of County Council, or applicable law.
  - d. The Chair of County Council or his/her designee shall supervise the Office of Clerk of County Council. Other members of County Council shall deal with the Office of Clerk of County Council and its employees through the Chair or his/her designee.
- B. Further, County Council shall have and may exercise, but shall not be limited to, the following powers:
- 1. To adopt, repeal, and/or amend ordinances, resolutions, and motions.
  - 2. To levy, establish, alter, and/or abolish taxes and assessments except as may be limited by this Charter or applicable law.
  - 3. To create, combine, alter, and/or abolish any County division, department, bureau, office, agency, other administrative unit, authority, board, or commission and the functions, powers, and duties thereof in accordance with applicable law and this Charter, except those not subject to change under the terms of this Charter or applicable law.
  - 4. To confirm, by resolution adopted by affirmative vote of at least a majority of its current members, appointments made by the County Manager as provided for in Section 4.08 A. of this Charter or applicable law.

5. To approve, by resolution adopted by affirmative vote of at least a majority of its current members, any recommendation by the County Manager to initiate and/or settle litigation involving the County.
  6. To approve, by resolution adopted by affirmative vote of at least a majority of its current members, agreements to acquire, lease, sell, convey, vacate, or abandon land, buildings, or other real property.
  7. To approve, by resolution adopted by affirmative vote of at least a majority of its current members, collective bargaining agreements involving the County and its employees.
  8. Except as may otherwise be provided for in this Charter or applicable law, to approve, by resolution adopted by affirmative vote of at least a majority of its current members, any contract or obligation that would result in a payment by the County of more than \$25,000 in any future calendar year for which no budget has been adopted, or more than \$75,000 in the aggregate in any two or more future calendar years for which no budgets have been adopted. County Council may raise the amounts set forth in this Subsection by ordinance.
  9. To make or cause to be made such studies, audits, and investigations applicable to County government as it determines are in the best interests of the County, compel the attendance of witnesses and the production of documents and other evidence deemed necessary, and to administer oaths and issue subpoenas signed by officers of County Council. County Council shall also have the power to define and punish any contempt relating to the enforcement of subpoenas consistent with laws applicable to counties of Luzerne County's classification functioning without a home rule charter or, in the absence of such laws, by state laws applicable to counties having populations closest to that of Luzerne County.
  10. To require the attendance of the County Manager, any other County employee, any elective County official or employee of his/her office, and/or any member or employee of any County authority, board, or commission at any meeting of County Council and to require they provide such reports and information as County Council deems appropriate.
  11. To acquire property by eminent domain in keeping with applicable law.
- C. In addition, County Council shall have all necessary, inherent, implied, and incidental powers to perform and execute the duties and functions specified in this Section, elsewhere in this Charter, or in applicable law. Further, County Council shall have the power to make provisions for any legislative matters applicable to County government not otherwise provided for, including, but not limited to, those involving the health, safety, and welfare of the residents of Luzerne County and those desirable for the smooth, orderly, and seamless transition to the government structure provided for in this Charter.

**Section 2.10—Form of Action by County Council.** Actions of County Council shall be taken by the adoption of ordinances, resolutions, or motions. The vote on every ordinance and resolution shall be taken by roll call. All ordinances shall be adopted by an affirmative vote of at least a majority of the current members of County Council, except as may otherwise be provided for in this Charter or applicable law. All resolutions and motions shall be adopted by an affirmative vote of at least a majority of the members of County Council whose presence at the meeting is recorded and who are eligible to vote, except as may otherwise be provided for in this Charter or applicable law.

**Section 2.11—Ordinance Requirements.**

- A. A proposed ordinance may be introduced by any member of County Council, shall be in writing, and, except as may otherwise be provided for in this Charter or applicable law, shall be limited to one subject clearly expressed in the title.
- B. Except as may otherwise be provided for in this Charter or applicable law, if, upon introduction, the proposed ordinance is duly seconded and receives the affirmative vote of at least four members of County Council, it shall be advertised by the Office of Clerk of County Council in summary form as shall be provided for in the Administrative Code and posted for public inspection at the Office of Clerk of County Council and on the County website and/or other electronic medium during the time it remains under consideration by County Council. If the proposed ordinance fails to receive four affirmative votes, it shall be given no further consideration but may be reintroduced at a subsequent meeting. Proposed ordinances dealing with the annual budgets, long-range operational, fiscal, and capital plan, Administrative Code, Accountability, Conduct, and Ethics Code, Personnel Code, and any other matter the County Manager is required by this Charter to submit to County Council in the form of a proposed ordinance shall be considered automatically introduced and shall not require four affirmative votes. Proposed ordinances resulting from the agenda initiative and initiative processes provided for in Article X of this Charter, temporary ordinances, and emergency ordinances shall also be considered automatically introduced and shall not require four affirmative votes.
- C. Any proposed ordinance may be amended prior to adoption. Any proposed amendments shall be related to the subject of the proposed ordinance and shall require the same number of affirmative votes needed for final passage of the ordinance.
- D. No proposed ordinance, except an emergency or temporary ordinance, may be finally adopted at the meeting at which it is introduced, and, except as may otherwise be provided for in this Charter, the adoption of any ordinance may not occur sooner than the next regular or special meeting of County Council held at least six days after the proposed ordinance was introduced.
- E. Any proposed ordinance may incorporate by reference all or any part of a technical code or act or acts of the General Assembly.



**Section 2.12—Reconsideration of Ordinances and Resolutions.**

- A. Except as may otherwise be provided for in this Charter or applicable law, the Office of Clerk of County Council shall submit all lawfully passed ordinances and resolutions to the County Manager within five days after their passage.
- B. Within five days after the receipt of the ordinance or resolution, the County Manager may deliver or cause to be delivered to the Office of Clerk of County Council a written request, with supporting reasons, that County Council reconsider the ordinance or resolution. This action shall postpone the effective date of the ordinance or resolution until County Council confirms the ordinance or resolution as provided for in Section 2.12 D. of this Charter.
- C. If the County Manager does not request reconsideration as set forth in Section 2.12 B. of this Charter, the ordinance or resolution passed by County Council shall become effective as set forth in this Charter.
- D. If the County Manager requests reconsideration of an ordinance or resolution as set forth in Section 2.12 B. of this Charter, County Council shall reconsider the ordinance or resolution at a regular or special meeting held within 30 days after receipt of the request. County Council may confirm the ordinance or resolution by affirmative vote of at least the same number of its members required to pass the original ordinance or resolution. If confirmed, the ordinance or resolution shall become effective as set forth in this Charter. If not confirmed, the ordinance or resolution shall be void and of no effect. Only one reconsideration vote may occur on any ordinance or resolution for which the County Manager requests reconsideration.
- E. The reconsideration process shall not be applicable to emergency ordinances, temporary ordinances, resolutions suspending or removing the County Manager, resolutions designating an acting County Manager, resolutions involving appointments to authorities, boards, and commissions, ceremonial actions, and matters relating to County Council's rules of procedure, staffing, and other aspects of its internal operations.

**Section 2.13—Actions Requiring an Ordinance.**

- A. In addition to other actions this Charter or applicable law require County Council to take by ordinance, the following actions shall require an ordinance:
  - 1. Authorizing the borrowing of money except emergency loans and tax anticipation notes.
  - 2. Providing a penalty or establishing a rule or regulation for which a penalty is imposed for violation.
  - 3. Amending or repealing any ordinance previously adopted, except as may otherwise be provided for in this Charter or applicable law.

4. Granting, renewing, or extending a franchise.
- B. In addition to other actions this Charter or applicable law may require County Council to take by ordinance and on which it must hold a public hearing, the following actions shall require an ordinance and a public hearing at least seven days prior to a final vote:
1. Adoption of the annual General Fund, capital, and other budgets including the levying of taxes.
  2. Adoption of the long-range operational, fiscal, and capital plan.

**Section 2.14—Emergency Ordinances.** County Council may adopt emergency ordinances when a state of emergency exists by declaration or extension as set forth in Section 4.07 B. 6. of this Charter. Emergency ordinances shall be related to the declared state of emergency, may be adopted at the same meeting at which they are introduced, and shall be adopted by affirmative vote of at least a majority of the members of County Council whose presence at the meeting is recorded and who are eligible to vote. An emergency ordinance shall take effect immediately upon adoption, shall not be subject to a request by the County Manager for reconsideration, shall not be subject to the referendum process provided for in this Charter, and shall automatically stand repealed on the 30<sup>th</sup> day following its effective date unless repealed sooner by County Council using the same procedure as for the adoption of emergency ordinances.

**Section 2.15—Effective Date of Ordinances and Resolutions and Publication of Ordinances.**

- A. All ordinances except emergency, temporary, and budgetary ordinances shall become effective 30 days after enactment unless a different effective date is specified in the ordinance, a referendum process is initiated as provided for in Article X of this Charter, or the County Manager requests reconsideration of an ordinance as provided for in Article 2.12 B. of this Charter. In no case shall any ordinance other than an emergency, temporary, or budgetary ordinance take effect sooner than 15 days after enactment. A resolution shall become effective upon either the expiration of the time allowed for the County Manager to request reconsideration as provided for in Section 2.12 B. of this Charter if no reconsideration has been requested, or when County Council confirms the resolution following a request by the County Manager for reconsideration, or immediately if reconsideration is prohibited by Section 2.12 E. of this Charter.
- B. Any ordinance enacted by County Council, except an emergency, temporary, or budgetary ordinance, shall be published in summary form in at least one daily newspaper of general circulation in the County prior to the date on which it becomes effective. It shall also be posted for public inspection at the Office of Clerk of County Council and on the County website and/or other electronic medium for a period of at least 60 days after its enactment.

- C. A summary of an emergency, temporary, or budgetary ordinance shall be published promptly after enactment in at least one daily newspaper of general circulation in the County. It shall also be posted for public inspection at the Office of Clerk of County Council and on the County website and/or other electronic medium for a period of at least 60 days after its enactment.

**Section 2.16—Recording and Codification.** The minutes, ordinances, resolutions, and motions of County Council shall be entered as adopted in the record books of the County and/or such electronic or other media as may be provided for in the Administrative Code or applicable law for the permanent keeping of County records. These books or other media shall be in the custody and control of the Clerk of County Council, and all entries made therein shall be at his/her direction. The Office of Clerk of County Council shall cause all County ordinances and any resolutions or motions having legislative effect to be codified within two years after the effective date of this Charter and at least every two years thereafter. The record books shall be open and available for public inspection during normal County business hours.

**Section 2.17—Limitations/Non-Interference.**

- A. No member of County Council shall possess or exercise any power of County Council unless such power is specifically delegated to him/her by this Charter or by a resolution of County Council adopted by the affirmative vote of at least a majority of its current members.
- B. Except for the purposes of discussion, obtaining information, or conducting investigations as provided for in Section 2.09 B. 9. of this Charter, County Council, its members, committees, and employees shall deal with the employees of the Executive Branch of County government solely through the County Manager or his/her designee.
- C. No member of County Council, or committee or employee thereof, shall publicly or privately give directions or orders to the County Manager, any employee of the Executive Branch, the Controller, District Attorney or any employee of their offices, any member or employee of a County authority, board, or commission, or any employee of the Judiciary or Office of Court Administration, or in any way interfere with their work or duties, except as may specifically be provided for in this Charter.
- D. No member of County Council shall direct or request the County Manager, any employee of the Executive Branch, the Controller, District Attorney or any employee of their offices, any member or employee of a County authority, board or commission, or any employee of the Judiciary or Office of Court Administration, to appoint, promote, or remove any person, or in any manner take part in, intervene or interfere with, or influence the appointment, promotion, or removal of any person, except as may specifically be provided for in this Charter.
- E. The Accountability, Conduct, and Ethics Code as required by Article IX of this Charter shall provide penalties, sanctions, and remedies for violations of this Section.

### **ARTICLE III—OTHER ELECTIVE OFFICIALS**

**Section 3.01—Other Elective Officials.** In addition to the members of County Council, the elective officials of Luzerne County shall include a Controller, who shall serve as an independent watchdog over County fiscal and management activities, and a District Attorney, who shall serve as the County's chief prosecuting authority. Both the Controller and District Attorney shall devote full-time to their offices.

**Section 3.02—Qualifications.** At the time of their election or appointment and throughout their terms of office, the Controller and District Attorney shall each be a registered voter in Luzerne County and meet all other requirements as may be set forth in this Charter or applicable law. In addition, each shall have been a resident of the County continuously for at least one year immediately preceding the date of his/her election or appointment. Further, the District Attorney shall have been admitted to practice as an attorney before the Supreme Court of the Commonwealth of Pennsylvania for at least two years prior to taking the oath of office, or shall have been admitted to practice before the Supreme Court of Pennsylvania for at least six months prior to taking the oath of office and have been practicing law before a court of record for at least five years.

#### **Section 3.03—Election and Term.**

- A. The Controller and District Attorney shall be elected at-large by the voters of the County.
- B. The District Attorney shall be elected at the municipal general election in 2011 and every four years thereafter. The Controller shall be elected at the municipal general election in 2013 and every four years thereafter. Except as may otherwise be provided for in this Charter or applicable law, all terms shall be four years.
- C. No Controller or District Attorney shall be eligible to be elected or appointed to serve in all or part of more than three terms, including any term to which he/she was elected or appointed prior to the effective date of this Charter.

#### **Section 3.04—Prohibitions.**

- A. No District Attorney or Controller shall file a petition for nomination or election or become a candidate for any elective public office other than the one he/she holds at that time unless he/she first resigns from office.
- B. During his/her term of office, no Controller or District Attorney shall hold any other elective public office or public employment, serve as a member of any County authority, board, or commission except as may specifically be provided for in this Charter or applicable law, be employed or compensated by any individual or business serving as a contractor to the County or any County authority, board, or commission, or serve as a paid consultant for the County or any County authority, board, or commission.

- C. For a period of one year after leaving office no Controller or District Attorney may be appointed to any County authority, board, or commission except as may specifically be provided for in this Charter or applicable law, serve as a County employee, be employed or compensated by any individual or business that served as a contractor to the County or any County authority, board, or commission during the time he/she served as Controller or District Attorney, or serve as a paid consultant for the County or any County authority, board, or commission.
- D. In addition, neither the Controller nor the District Attorney shall be permitted to actively engage in any other business or occupation during normal County business hours, and the District Attorney shall not engage in the private practice of law.

**Section 3.05—Temporary Absence or Incapacity.** The Controller and District Attorney shall each designate an employee of his/her office who shall exercise the powers and duties of the officeholder during his/her temporary absence, incapacity, or inability to serve. The designation shall be in the form of a letter filed with the Office of Clerk of County Council and the County Manager, and it may be changed by the officeholder at any time by filing a new letter. If no such designation has been made by the officeholder or the designated individual is unable to serve, County Council, by resolution adopted by an affirmative vote of at least a majority of its current members, shall designate an employee of the office to serve during the officeholder's temporary absence, incapacity, or inability to act. County Council may change its designation at any time. Designees shall meet the qualifications set forth in Section 3.02 of this Charter.

**Section 3.06—Compensation of the Controller.** County Council shall have the power to fix the annual salary of the Controller by ordinance, but it shall not be lower than the salary for this office on the date this Charter is approved by the voters. No change in salary shall become effective for any Controller until the commencement of a new term of office, and any change in salary must be adopted by County Council at least 12 months prior to the commencement of a new term. The Controller shall be entitled to receive employee benefits and reimbursement of expenses incurred in the performance of his/her duties in keeping with County policy and shall be eligible to participate in the County retirement system.

**Section 3.07—Compensation of the District Attorney.** The annual salary of the District Attorney shall be \$1,000 lower than the salary paid to a judge of the Court of Common Pleas in Luzerne County's judicial district. The District Attorney shall be entitled to receive employee benefits and reimbursement of expenses incurred in the performance of his/her duties in keeping with County policy and shall be eligible to participate in the County retirement system.

**Section 3.08—Powers and Duties of the Controller.**

- A. The County Controller shall serve as an independent watchdog over County fiscal and management activities, shall monitor and examine the County government and its operations, and shall have the authority to conduct fiscal, performance, management, contract, grant, compliance, and/or related audits of any County division, department, bureau, office, agency, authority, board, commission, elective office, the Judiciary,

Office of Court Administration, or other administrative unit. Such audits shall be conducted in accordance with recognized government auditing standards in order to independently and objectively determine:

1. If County activities and programs are duly authorized and are being conducted and funds expended in compliance with this Charter, County ordinances and resolutions, and applicable laws or regulations;
  2. If County divisions, departments, bureaus, offices, agencies, administrative units, authorities, boards, commissions, the Judiciary, and Office of Court Administration are acquiring, managing, protecting, and using their resources, including, but not limited to, public funds, personnel, property, equipment, and space in an economic, efficient, and effective manner and consistent with the objectives set forth by the authorizing entity and/or the enabling legislation or regulations;
  3. If County programs, services, activities, functions, and policies are effective and, if not, the causes of ineffective and uneconomical practices;
  4. If the desired results and/or benefits of County programs, service, activities, functions, and policies are being achieved;
  5. If fiscal and other reports are being provided that disclose fairly, accurately, and fully all information necessary to ascertain the nature and scope of County programs, service, activities, functions, and policies and to establish a proper basis for evaluating the programs, service, activities, functions, and policies including the collection of, accounting for, and depositing of revenues and other resources;
  6. If County management has established adequate operating and administrative procedures, practices, and systems, internal accounting control systems, and internal management controls; and
  7. If any allegations or indications of fraud, abuse, or illegal acts warrant further investigation.
- B. All County divisions, departments, bureaus, offices, agencies, authorities, boards, commissions, and other administrative units, the offices of all elective County officials, the Judiciary, and Office of Court Administration as well as all employees of the County, all members and employees of all County authorities, boards, and commissions, all elective County officials and all employees of their offices, and all employees of the Judiciary and Office of Court Administration shall furnish the Controller, upon reasonable notice, with unrestricted access not otherwise limited by applicable law to any employees, information, files, and records in their custody pertaining to their powers, duties, programs, service, activities, functions, policies, operations, organization, property, financial transactions, contracts, and methods of business so the Controller may conduct an audit or otherwise perform his/her duties. To this end, the Controller may compel the attendance of witnesses and the

production of documents and other evidence deemed necessary to such studies, audits, and investigations and, for those purposes, may administer oaths and issue subpoenas to be served as provided by law. In addition, the Controller shall have access to and may inspect all County property, equipment, and facilities.

C. Further, the Controller shall:

1. Submit a schedule of proposed audits covering a minimum of one year and a maximum of five years to County Council and the County Manager at the beginning of each fiscal year for their review and comment. The schedule shall include the reasons for all audits and the plans for conducting them. This schedule may be changed by the Controller after review by County Council and the County Manager, and the Controller shall have final authority to select the audits to conduct.
2. Promptly notify County Council and the County Manager in writing when indications of any irregularities, abuse, or illegal acts are found. If it appears criminal activity has occurred, the Controller shall also promptly notify the District Attorney or other appropriate prosecuting or investigative authority.
3. Transmit the draft of each audit report to the audited entity for review and comment prior to its release. The audited entity shall respond in writing, specifying agreement with the audit findings and/or recommendations or the reasons for disagreement with the findings and/or recommendations, along with any plans and timetable for implementing remedies. The response shall be provided to the Controller within 14 days after the audited entity's receipt of the draft audit. The Controller shall include the audited entity's response in his/her final audit report.
4. Issue each final audit report in written form containing relevant background information as well as the findings and recommendations. The audit report shall be transmitted to the audited entity, County Council, and the County Manager and posted for public inspection in the Controller's Office and on the County website and/or other electronic medium for a period of at least 60 days after it is issued.
5. Follow up on audit recommendations, to the extent practical, in order to determine if corrective action has been taken. The Controller may request periodic status reports from the audited entity regarding actions taken to address reported deficiencies and audit recommendations.
6. Prepare for submission to the County Manager a proposed annual budget for the Office of the Controller in keeping with the format and schedule determined by the County Manager.
7. Prepare an annual report to the people of Luzerne County and present it in person at a County Council meeting during the first quarter of each calendar year. This report shall highlight the operations and finances of the Controller's office during

the prior year and identify audits completed, major findings, corrective actions taken by appropriate parties, and significant issues not fully addressed.

D. In addition, the Controller shall have and may exercise, but shall not be limited to, the following powers:

1. Except as may otherwise be provided for in this Charter or applicable law, to direct and supervise the internal organization of his/her office, to appoint the employees of his/her office in keeping with the provisions of the County Personnel Code, other personnel policies, and in such numbers and at such salaries as are fixed by the County annual budget, and to discipline, suspend, and remove employees of his/her office subject to the terms and conditions of the County Personnel Code, other personnel policies, applicable labor contracts, and applicable laws.
2. To contract for, within budget limitations and on a case-by-case basis, the services of qualified professional or technical experts when he/she deems it necessary to conduct a study, audit, or investigation he/she determines to be in the best interests of the County. Any such work performed under contract must be conducted by those who have no financial interest in the audited entity.
3. To contract for, within budget limitations and on a case-by-case basis, independent legal opinions and/or temporary special legal counsel if he/she becomes involved in a dispute with County Council, another elective County official, the County Manager, or any other County official, authority, board, or commission.

E. In addition, to the extent they are not inconsistent with the provisions, spirit, and purpose of this Charter, the Controller shall have the necessary, inherent, implied, and incidental powers to perform and execute the duties and functions specified in this Section, set forth elsewhere in this Charter, or lawfully delegated to him/her.

**Section 3.09—Powers and Duties of the District Attorney.** The District Attorney shall serve as the County's chief prosecuting authority and shall have and may exercise, but shall not be limited to, the following powers and duties:

- A. To the extent permitted by applicable law, those now or hereafter conferred or imposed upon this position by this Charter and the general laws of the Commonwealth of Pennsylvania and the laws applying to counties of Luzerne County's classification functioning without a home rule charter or, in the absence of such laws, by state law applicable to District Attorneys in counties having populations closest to that of Luzerne County.
- B. Except as may otherwise be provided for in this Charter or applicable law, to direct and supervise the internal organization of his/her office, to appoint the employees of his/her office in keeping with the provisions of the County Personnel Code, other personnel policies, and in such numbers and at such salaries as are fixed by the County annual budget, and to discipline, suspend, and remove employees of his/her



office subject to the terms and conditions of the County Personnel Code, other personnel policies, applicable labor contracts, and applicable laws.

- C. To contract for, within budget limitations and on a case-by-case basis, the services of qualified professional or technical experts when he/she deems it necessary to conduct an investigation he/she determines to be in the best interests of the County.
- D. To contract for, within budget limitations and on a case-by-case basis, independent legal opinions and/or temporary special legal counsel if he/she becomes involved in a dispute with County Council, another elective County official, the County Manager, or any other County official, authority, board, or commission.
- E. To prepare for submission to the County Manager a proposed annual budget for the Office of the District Attorney in keeping with the format and schedule determined by the County Manager.
- F. To prepare an annual report to the people of Luzerne County and present it in person at a County Council meeting during the first quarter of each calendar year. This report shall highlight the operations and finances of the District Attorney's office during the prior year.
- G. To the extent they are not inconsistent with the provisions, spirit, and purpose of this Charter, the necessary, inherent, implied, and incidental powers to perform and exercise the duties and functions specified in this Section, set forth elsewhere in this Charter, or lawfully delegated to him/her.

## **ARTICLE IV—EXECUTIVE BRANCH/COUNTY MANAGER**

**Section 4.01—County Manager.** There shall be a County Manager who shall serve as the head of the Executive Branch of government and be responsible for the administration of all County operations placed in his/her charge by this Charter, the Administrative Code, or other County ordinances or resolutions. The County Manager shall devote full-time to his/her office.

**Section 4.02—Appointment and Qualifications.** The County Manager shall be appointed by resolution of County Council adopted by an affirmative vote of at least a majority plus one of its current members. He/she shall be appointed on the basis of executive abilities and administrative qualifications as evidenced by professional preparation, training, and experience in public administration, finance, and/or other fields that demonstrate substantial ability to perform the functions of County Manager. He/she shall possess at least a bachelor's degree from an accredited college or university and have at least five years of relevant work experience. The process for hiring a County Manager subsequent to the hiring of the first non-interim County Manager as provided for in Article XII of this Charter shall require the appointment by County Council of a Search Committee consisting of at least three individuals who possess relevant qualifications, knowledge, and/or experience in the search for, recruitment of, and identification of qualified candidates for County Manager or related positions. After conducting its search, screening, and interview process, the Search Committee shall recommend the candidates it believes are the most qualified to County Council for its consideration.

**Section 4.03—Compensation.** The salary of the County Manager shall be set by resolution of County Council adopted by an affirmative vote of at least a majority of its current member and shall not exceed the salary of the District Attorney nor shall it be lower than 55 percent of the salary of the District Attorney. The County Manager shall be entitled to receive employee benefits and reimbursement of expenses incurred in the performance of his/her duties in keeping with County policy and shall be eligible to participate in the County retirement system.

**Section 4.04—Prohibitions.** During the time he/she holds this position, no County Manager shall hold elective public office, other public employment, serve as a member of a County authority, board, or commission except as may be allowed by this Charter, be employed or compensated by any individual or business serving as a contractor to the County or any County authority, board, or commission, serve as a paid consultant for the County or any County authority, board, or commission, or actively engage in any other business or occupation during normal County business hours. No County Manager shall file a petition for nomination or election or become a candidate for any elective public office unless he/she first resigns from his/her position, and for a period of one year after leaving this position shall not be employed or compensated by any individual or business that served as a contractor to the County or any County authority, board, or commission during the time he/she held the position of County Manager.

**Section 4.05—Removal.** The County Manager shall serve at the pleasure of County Council. County Council may suspend the County Manager pending his/her removal by

resolution adopted by an affirmative vote of at least a majority plus one of its current members setting forth the reasons for the suspension and proposed removal. A copy of the adopted resolution shall be promptly delivered to the County Manager. If the County Manager wishes to have a public hearing before County Council regarding his/her suspension and pending removal, he/she shall deliver a written request to the Office of Clerk of County Council within 15 days after his/her receipt of the copy of the adopted resolution. County Council shall then schedule a public hearing not sooner than ten days nor later than 15 days after delivery of the request. After the public hearing, if one is requested, County Council may adopt a resolution of removal by an affirmative vote of at least a majority plus one of its current members. The County Manager shall continue to be compensated until the effective date of his/her removal, unless an agreement to the contrary exists.

**Section 4.06—Acting County Manager.** The County Manager shall designate an employee of the Executive Branch who shall serve as Acting County Manager and exercise the powers and duties of the County Manager during his/her suspension, temporary absence, incapacity, or inability to serve. The designation shall be in the form of a letter filed with the Office of Clerk of County Council, and it may be changed by the County Manager at any time by filing a new letter. If the County Manager fails to make such a designation, the designated individual is unable to serve, or County Council for any reason wishes to change the County Manager’s designation, County Council, by resolution adopted by an affirmative vote of at least a majority of its current members, may designate an Acting County Manager from among the employees of the Executive Branch. County Council may change its designation at any time.

**Section 4.07—Powers and Duties.**

- A. The County Manager shall have and may exercise such executive and administrative powers and duties as are conferred or imposed upon him/her by this Charter, the Administrative Code, other County ordinances or resolutions, and those generally conferred upon County government in the Commonwealth of Pennsylvania by applicable law to the extent they are not inconsistent with the provisions, spirit, and purpose of this Charter. Specifically, the County Manager shall:
1. See that all relevant laws, provisions of this Charter, ordinances, resolutions, and other actions of County Council, and all policies established by County Council for the administration of County operations, are faithfully executed.
  2. Supervise and direct, or delegate the power to supervise and direct, the administration, operation, and the internal organization of all divisions, departments, bureaus, offices, agencies, boards, commissions, and other administrative units of the County government not specifically placed under the jurisdiction of any elective County official, the Judiciary, or Office of Court Administration by this Charter or applicable law.
  3. Appoint, promote, discipline, suspend, and remove, or delegate the power to appoint, promote, discipline, suspend, and remove, subject to the terms and conditions of the County Personnel Code, other personnel policies, applicable

labor contracts, and applicable laws, all County employees who have not been specifically placed under the jurisdiction of any elective or appointed County official, the Judiciary, or Office of Court Administration by this Charter or applicable law.

4. Prepare or cause to be prepared the annual General Fund, capital, and other required County budgets and the long-range operational, fiscal, and capital plan and submit them to County Council for its consideration in accordance with the provisions of this Charter.
  5. Prepare or cause to be prepared the Administrative Code, Personnel Code, Accountability, Conduct, and Ethics Code, and any other code required by this Charter or desirable for the efficient and effective administration of County government and submit them to County Council for consideration in accordance with the provisions of this Charter.
  6. Keep County Council informed as to the financial condition of the County, the activities and operations of all divisions, departments, bureaus, offices, agencies, boards, commissions, and other administrative units of the County under his/her direction and supervision, and the future needs of the County.
  7. Subject to the provisions set forth in Section 2.09 of this Charter, negotiate, award, and sign on behalf of the County, or cause to be negotiated, awarded, and signed on behalf of the County, all agreements and other instruments to which the County is a party including those which prior to the adoption of this Charter required the signature of the chair or any member of the Board of Commissioners.
  8. Present an Annual "State of the County" Report at a meeting of County Council within 60 days after the close of the fiscal year.
  9. Hold at least one public forum annually for the purpose of providing a reasonable opportunity for the public to offer comments and suggestions directly to the County Manager. Each forum shall be held in the evening. The date, time, and place of each forum shall be advertised and posted on the County website and/or other electronic medium as shall be provided for in the Administrative Code.
  10. Represent the County in intergovernmental relationships, in meetings and negotiations with the heads of other governmental or quasi-governmental bodies, and in matters relating to economic development, or designate a County employee to represent the County in his/her place.
- B. Further, the County Manager shall have and may exercise, but shall not be limited to, the following powers:
1. To recommend to County Council for its consideration such ordinances, resolutions, policies, and other actions he/she deems appropriate and in the best interests of the County.

2. Except as may otherwise be provided for in this Charter, to request in writing that County Council reconsider ordinances or resolutions pursuant to Section 2.12 of this Charter.
  3. To initiate and/or settle litigation involving the County, subject to the approval of County Council as set forth in Section 2.09 B. 5. of this Charter.
  4. To attend and participate in meetings of County Council, but he/she shall not have the right to vote at these meetings.
  5. To attend and participate in meetings of any County board, commission, or agency of which any member of County Council is a member in the absence of that person or to designate someone to represent him/her at these meetings unless County Council designates otherwise.
  6. To declare a state of emergency whenever there is an immediate threat to life and/or property in Luzerne County and, in the absence of a quorum of County Council, to take appropriate action to meet the declared emergency, including action of a legislative nature. A state of emergency as declared by the County Manager shall not exceed a period of five days unless extended by the County Manager for subsequent periods not to exceed five days each. Any legislative action taken by the County Manager shall continue only until County Council takes appropriate action or until the declared emergency expires, whichever comes first.
- C. The County Manager shall have all necessary, inherent, implied, and incidental powers to perform and execute the duties and functions specified in this Section, elsewhere in this Charter, or in applicable law. The County Manager shall have the power to make provisions for any administrative matters relating to County government not otherwise provided for, including, but not limited to, those desirable for the smooth, orderly, and seamless transition to the government structure provided for in this Charter.

**Section 4.08—Appointments.**

- A. The County Manager, subject to County Council’s confirmation as set forth in Section 2.09 B. 4. of this Charter, shall appoint the heads of the Executive Branch divisions, the County Solicitor, and the Chief Public Defender on the basis of abilities and qualifications as demonstrated by professional preparation, training, and/or experience relevant to the duties and responsibilities of these positions. These individuals shall serve at the pleasure of the County Manager, who may discipline, suspend, and remove them. Upon suspending or removing the head of any Executive Branch division, the County Solicitor, or the Chief Public Defender, the County Manager shall notify County Council in writing within five days.
- B. Each appointment subject to confirmation by County Council shall be made in writing and filed with the Office of Clerk of County Council within five days after it is made. An appointee shall take office when confirmed by County Council, but if

County Council fails to act within 30 days after the appointment is filed, the appointment shall be considered to be approved.

- C. The County Manager may designate a qualified person to serve in a temporary capacity as head of any Executive Branch division, County Solicitor, or Chief Public Defender for a period not to exceed 90 days in any calendar year.

## ARTICLE V—BUDGET AND FINANCE

**Section 5.01—Fiscal Year.** The fiscal year of Luzerne County shall begin on January 1 and end on December 31.

**Section 5.02—County Budgets.** On or before October 15 of each year the County Manager shall submit to County Council the proposed County budgets for the ensuing fiscal year. The budgets shall provide a complete and balanced financial plan for all County funds and activities. Each budget shall be in the form of a separate ordinance and shall include all proposed expenditures and other uses, all anticipated revenues and other sources of income, and any unreserved fund balance to be used. The total of all budgeted expenditures and other uses in each budget shall not exceed the total of all budgeted revenues and other sources of income, plus any unreserved fund balance to be used. The budgets shall clearly define all rates of taxation, and these rates of taxation shall become law on the effective date of the budgets.

**Section 5.03—Budget Format.** The format of the proposed budgets shall be as provided for in the Administrative Code. However, unless changed by the Administrative Code, the budgets shall, at a minimum:

- A. Be line item budgets structured by division, department, bureau, office, agency, board, commission, elective office, the Judiciary, Office of Court Administration, and other administrative unit or budgetary function, and meet current recognized best practices.
- B. Provide comparative figures on actual year-to-date and estimated remaining revenues and other sources of income and expenditures and other uses for the current fiscal year and actual figures for at least the preceding fiscal year.
- C. Enumerate proposed capital expenditures by project and, where practical, by division, department, bureau, office, agency, board, commission, elective office, the Judiciary, Office of Court Administration, and other administrative unit or budgetary function, and identify the method of financing each capital expenditure.

**Section 5.04—Budget Message.** The proposed budgets submitted by the County Manager shall include a budget message that shall serve as a simple and clear summary of the various budgets. The budget message shall describe the important features of the budgets, explain County programs, goals, and objectives for the ensuing fiscal year along with their financial implications, indicate any major changes from the current year in financial policies, expenditures, revenues, and personnel complement together with the reasons for such changes, summarize the County's debt position, and include such other information as the County Manager deems appropriate.

**Section 5.05—Public Inspection.** Concurrent with the submission of the proposed budgets to County Council, the County Manager shall post summaries of the budgets on the County website and/or other electronic medium continuously until their adoption and publish summaries in at least one daily newspaper of general circulation in the County.

The summaries shall indicate that full copies of the budgets are available for public inspection in the County Manager's office during normal County business hours.

**Section 5.06—Public Hearing.** County Council shall hold at least one public hearing on the proposed budgets not sooner than seven days and not later than 21 days following receipt of the proposed budgets from the County Manager.

**Section 5.07—Approval of the Budgets.** Except as may otherwise be provided for in this Charter, subsequent to the public hearing(s) but no sooner than November 15 nor later than December 15 of the year in which the proposed budgets are submitted, County Council shall adopt the budgets by ordinance. County Council may add to, delete from, increase, or decrease any item in any of the proposed budgets, but no change shall cause the total of budgeted expenditures and other uses in any budget to exceed the total of budgeted revenues and other sources of income, plus any unreserved fund balance expected to be used. Further, no change shall reduce budgeted expenditures required by law, for debt service, or to meet any estimated unpaid obligations. The budgets as adopted shall become effective on January 1 of the budget year.

**Section 5.08—Failure to Adopt.** Except as may otherwise be provided for in this Charter, if County Council fails to adopt any budget by December 15 of the year in which the budget is submitted, the current year's budget for that fund or activity, including the rates of taxation specified in that budget, shall stand adopted and enacted to the same extent as if favorable action had been taken by County Council.

**Section 5.09—Limit on Annual Increases in Real Estate Tax Revenues.**

- A. In no year shall the sum of budgeted County general and special purpose real estate tax revenues exceed 108 percent of the preceding year's budgeted real estate tax revenues for general and special purposes, and, if necessary, the County shall take appropriate action to reduce budgeted real estate tax revenues to accomplish this. The calculation of this limitation shall exclude real estate tax revenues dedicated to debt service and services authorized under Section 2963 of the Home Rule Charter and Optional Plans Law, or its successor section or law.
- B. Notwithstanding the limitation set forth in Section 5.09 A. of this Charter, budgeted County general and special purpose real estate tax revenues may be raised to an amount greater than 108 percent of the preceding year's budgeted real estate tax revenues for general and special purposes upon adoption by County Council of a resolution by an affirmative vote of at least a majority of its current members showing due cause for such an increase and approval by the Court of Common Pleas of Luzerne County upon petition.
- C. The 108 percent limit set forth in Section 5.09 A. of this Charter, and the process for exceeding this limit, shall apply to any year in which assessment figures resulting from a Countywide revision of assessment of real property or a change in the predetermined assessment ratio are used for the first time for County tax purposes. For the purpose of determining the amount of taxes to be levied in the first year after a Countywide revision of assessment of real property or a change in the



predetermined assessment ratio, any increase from the preceding year in the amount of real estate taxes to be levied on newly-constructed structures, on increased valuations based on new improvements made to existing structures or properties, and on properties not previously on the tax roles shall be excluded.

**Section 5.10—Changes in the Budgets.**

- A. During the first 30 days of any fiscal year, County Council, at the request of the County Manager, may, by resolution adopted by an affirmative vote of at least a majority of its current members, amend any of the budgets in order to correct any technical errors or omissions as defined by the County Manager.
- B. Prior to February 15 in the year following a municipal election, County Council may amend any of the budgets and the rates of taxation by ordinance. Council shall hold at least one public hearing on the proposed amendment(s), commencing not earlier than seven days following introduction of the proposed amendment(s).
- C. At any time during the fiscal year, the County Manager may transfer part or all of any unencumbered balance within any division, department, bureau, office, agency, board, commission, other administrative unit, or budgetary function subject to his/her control. He/she shall notify County Council and the Controller in writing within five days after the transfer is made.
- D. At any time during the fiscal year, the Controller, District Attorney, the Judiciary, and Office of Court Administration may transfer part or all of any unencumbered balance between programs, services, functions, or other purposes subject to their direct control provided the transfers are not used to increase salaries or create new positions. The Controller, District Attorney, the Judiciary, and Office of Court Administration shall notify the County Manager, County Council, and the Controller in writing within five days after the transfer is made.
- E. At any time during the fiscal year, County Council may, by resolution adopted by an affirmative vote of at least a majority of its current members, make transfers of part or all of any unencumbered balance from any division, elective office, the Judiciary, Office of Court Administration, or other administrative unit or budgetary function to any other division, elective office, the Judiciary, Office of Court Administration, or other administrative unit or budgetary function.
- F. At any time during the fiscal year, County Council may amend any of the budgets by ordinance adopted by an affirmative vote of at least a majority plus one of its current members. County Council shall hold at least one public hearing on the proposed amendment(s), commencing not sooner than seven days following introduction of the proposed amendment(s).
- G. No amendment or other change to any budget including emergency actions shall reduce expenditures required by law, for debt service, or to meet any estimated unpaid obligation, or shall cause the total of all budgeted expenditures and other uses

in any budget to exceed the total of all budgeted revenues and other sources of income, plus any unreserved fund balance to be used.

**Section 5.11—Emergency Appropriations.** To meet a state of emergency as defined in Section 4.07 B. 6. of this Charter, County Council may by emergency ordinance make appropriations from any source available to the County, and Council may incur indebtedness, but not in excess of that permitted by applicable law. In the absence of a quorum of County Council, the County Manager may make emergency appropriations from any source available to the County, except the use of indebtedness.

**Section 5.12—Deposit and Custody of County Funds.** Each elective County official, division, department, bureau, office, agency, board, commission, the Judiciary, Office of Court Administration, and other administrative unit or budgetary function shall deposit County funds only in accounts in the custody of the Division of Budget and Financial Services.

**Section 5.13—Payment of Funds.** Disbursement of County funds for all elective County officials, divisions, departments, bureaus, offices, agencies, boards, commissions, the Judiciary, Office of Court Administration, and other administrative units or budgetary functions shall be made only through accounts in the custody of the Division of Budget and Financial Services. No payment shall be made by the County and no obligation may be incurred by the County that is not in accordance with the terms of this Charter, the Administrative Code, other County ordinances and resolutions, applicable laws, agreements lawfully entered into, and/or established procedures and unless there is a budget appropriation containing a sufficient unencumbered balance to meet the proposed payment or obligation. In addition, no payment of any funds of the County shall be made except upon approval of the County Manager or his/her designee, and all payments shall require the signatures of two individuals. The County Manager shall designate those who may sign payments on his/her behalf and shall notify County Council and the Controller in writing within five days after taking such action.

**Section 5.14—Lapse of Appropriations.** Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until its purpose has been accomplished or abandoned, unless three years pass from the time of a capital appropriation without any disbursement from or encumbrance of the appropriation, in which case the appropriation shall lapse.

**Section 5.15—Accounting System.** The County accounting system shall be as provided for in the Administrative Code. However, unless changed by the Administrative Code, it shall be a fund-based system and must adhere to Generally Accepted Accounting Principles.

**Section 5.16—Annual Financial Audit.** County Council shall provide for an annual independent audit of all County financial transactions to be conducted by a certified public accountant or a firm of certified public accountants. This audit shall be made in accordance with generally accepted professional auditing standards and procedures and shall be completed within six months after the close of the fiscal year. No certified public

accountant or firm of certified public accountants shall conduct the audit for more than four consecutive years unless no other qualified accountant or firm competes for the contract.

**Section 5.17—Long-range Operational, Fiscal, and Capital Plan.** On or before June 1 of each year, the County Manager shall submit to County Council a long-range plan for public operations and services, fiscal policy, and capital improvements covering at least the three subsequent fiscal years. The format of this long-range plan and the information contained in it shall be as provided for in the Administrative Code, and the requirements for public inspection, public hearing, and the number of votes required for approval shall be consistent with the procedures established in this Charter for the adoption of the County budgets. If County Council fails to adopt a long-range plan by September 1 of the year in which it is submitted, the plan submitted by the County Manager shall stand adopted and enacted to the same extent as if favorable action had been taken by County Council.

## ARTICLE VI—ADMINISTRATIVE CODE

**Section 6.01—Administrative Code.** There shall be an Administrative Code that shall set forth a plan for the organization, administrative structure, procedures, and operations of the County government.

**Section 6.02—Procedure for Adoption.** Within four months after the effective date of this Charter, the County Manager shall propose and submit to County Council an Administrative Code for the County government consistent with the provisions, spirit, and purpose of this Charter. County Council shall adopt an Administrative Code by ordinance with or without amendments within two months after its submission by the County Manager. If County Council fails to do so, the Administrative Code as proposed by the County Manager shall stand adopted and shall become effective immediately. County Council may amend the Administrative Code by ordinance.

**Section 6.03—Scope of Administrative Code.** Except as may otherwise be provided for in this Charter or applicable law, the Administrative Code shall apply to every County division, department, bureau, office, agency, board, commission, and other administrative unit as well as the offices of all elective County officials, the Judiciary, and Office of Court Administration and shall cover all employees of the County, all members and employees of all County boards and commissions, all elective county officials and all employees of their offices, and all employees of the Judiciary and Office of Court Administration. The Administrative Code shall include, among other provisions, an enumeration of the divisions, departments, bureaus, offices, agencies, boards, commissions, and other administrative units of the County government, their scope of responsibility, and the internal procedures for their operations. In addition, the Administrative Code shall make adequate and specific provisions for, but shall not be limited to: budgeting and other financial procedures; purchasing and acquisition procedures; procedures for the disposition of County property; and any other rules, regulations, and procedures desirable for the efficient and effective administration of County government.

**Section 6.04—Organization of the Executive Branch.** The initial structure and organization of the various divisions of the Executive Branch shall be as provided for in Section 12.07 of this Charter. In addition, the County shall maintain an Office of Law/County Solicitor and an Office of Public Defender unless changed by this Charter or applicable law.

- A. The Office of Law/County Solicitor shall serve as legal advisor, attorney, and counsel in all official matters to all elective County officials, divisions, departments, bureaus, offices, agencies, boards, commissions, and other administrative units of the County government, except where this Charter specifically authorizes an elective official to contract for independent legal opinions and/or temporary special legal counsel. The County Solicitor and Office of Law shall act at all times on behalf of Luzerne County as their client and shall owe the highest duties of loyalty, independent judgment, and professional responsibility to Luzerne County.

1. The Office of Law shall be headed by the County Solicitor who shall be appointed by the County Manager, subject to confirmation by County Council. The County Solicitor shall be a full-time employee, serve at the pleasure of the County Manager, and be responsible directly to the County Manager.
  2. The County Solicitor shall have the power to direct and supervise his/her office and to appoint employees in keeping with the provisions of the County Personnel Code, other personnel policies, and the County's annual budget appropriation for this office. The County Solicitor may promote, discipline, suspend, and remove employees of his/her office subject to the terms and conditions of the County Personnel Code, other personnel policies, applicable labor contracts, and applicable laws.
  3. The County Solicitor and any deputy or assistant solicitors shall be licensed to practice law in the Commonwealth of Pennsylvania at the time of their appointment and throughout their time in office.
  4. In connection with the performance of his/her duties, the County Solicitor or his/her designee from among his/her employees shall have access to and the right to inspect at reasonable times the records of any County division, department, bureau, office, agency, authority, board, commission, elective office, the Judiciary, Office of Court Administration, or other administrative unit.
- B. The Office of Public Defender shall provide legal services as required by applicable law and shall have and may exercise, but shall not be limited to, those powers and duties now or hereafter conferred or imposed upon it by this Charter, the Administrative Code, or other County ordinance or resolution, and, to the extent which they are not inconsistent with the provisions, spirit, and purpose of this Charter, the Administrative Code, or other County ordinance or resolution, those powers and duties now or hereafter conferred or imposed on public defenders in counties of Luzerne County's classification functioning without a home rule charter or, in the absence of such laws, by state law applicable to counties having populations closest to that of Luzerne County.
1. The Office of Public Defender shall be headed by the Chief Public Defender who shall be appointed by the County Manager, subject to confirmation by County Council. The Chief Public Defender shall serve at the pleasure of the County Manager and be responsible directly to the County Manager.
  2. The Chief Public Defender shall have the power to direct and supervise his/her office and to appoint employees in keeping with the provisions of the County Personnel Code, other personnel policies, and the County's annual budget appropriation for this office. The Chief Public Defender may promote, discipline, suspend, and remove employees of his/her office subject to the terms and conditions of the County Personnel Code, other personnel policies, applicable labor contracts, and applicable laws.

3. The Chief Public Defender and any deputy or assistant public defenders shall be licensed to practice law in the Commonwealth of Pennsylvania at the time of their appointment and throughout their time in office.
- C. If this Charter or the Administrative Code does not specifically designate the division, department, bureau, office, agency, board, or commission, or other administrative unit to which a power, duty, program, service, or function is assigned, or if the County assumes new powers, duties, programs, services, or functions, the County Manager shall make the assignment by written directive until such time as the Administrative Code is adopted or amended in keeping with the provisions of this Charter.

**Section 6.05—The Judiciary.**

- A. The judicial power in Luzerne County is vested in the Court of Common Pleas of the 11th Judicial District of the Commonwealth of Pennsylvania, presently coterminous with Luzerne County, and the Magisterial District Judges of said Judicial District, all of which are part of the Unified Judicial System of the Commonwealth of Pennsylvania and not part of the County government.
- B. To the extent it does not interfere with the inherent and constitutional rights and powers possessed by the Judiciary to do all things as are reasonably necessary for the administration of justice, including, but not necessarily limited to, the power to hire, fire, and supervise Court-appointed personnel, all employees appointed by the Judiciary and required for the conduct of the Judicial System and the offices and employees set forth in Section 6.06 of this Charter shall be subject to the County's annual budget appropriations for judicial functions, Personnel Code, other personnel policies, Accountability, Conduct, and Ethics Code, purchasing and acquisition procedures, procedures for the disposition of County property, and all other relevant provisions of the Administrative Code.
- C. The Judiciary shall prepare for submission to the County Manager a proposed annual budget for its operations and all judicial functions including the Office of Court Administration in keeping with the format and schedule determined by the County Manager.

**Section 6.06—Court Administration.** The Office of Court Administration shall include the Court Administrator, court reporters, judicial staff, magisterial operations, juvenile probation, domestic relations, adult probation, and any other court-related services or functions that may be assigned by the Administrative Code or applicable law. This structure shall continue in effect until altered, superseded, or repealed as provided for in this Charter, unless changed by applicable law, the County is no longer required by law to provide any of these services or functions, or the County chooses not to provide any of these services or functions by action taken in keeping with the terms of this Charter.

**Section 6.07—Common Administrative Procedures.** The County Manager shall have the power to implement uniform administrative procedures, regulations, and forms to be followed by all County divisions, departments, bureaus, offices, agencies, boards, commissions, elective County offices, the Judiciary, Office of Court Administration, and

other administrative units. However, nothing in this Section shall be construed as interfering with the inherent and constitutional rights and powers possessed by the Judiciary to do all things as are reasonably necessary for the administration of justice.

**Section 6.08—Common Administrative Services.** All County divisions, departments, bureaus, offices, agencies, boards, commissions, elective offices, the Judiciary, Office of Court Administration, and other administrative units shall use the services and facilities of the County’s Executive Branch whenever determined by the County Manager. However, nothing in this Section shall be construed as interfering with the inherent and constitutional rights and powers possessed by the Judiciary to do all things as are reasonably necessary for the administration of justice.

**Section 6.09—Purchasing and Acquisition Procedures.** Purchasing and acquisition procedures to be included in the Administrative Code, shall, among other things, provide that:

- A. All contracts for purchases and acquisitions shall be executed on behalf of the County by the County Manager or his/her designee, except as may otherwise be provided for in this Charter or applicable law.
- B. All contracts for purchases and acquisitions in excess of \$25,000 shall be competitively bid and awarded to the lowest responsible bidder, except as may otherwise be provided for in this Charter. County Council may raise the minimum amount set forth in this Subsection for purchases and acquisitions subject to competitive bidding by ordinance.
- C. Procedures for competitive bidding shall include, but shall not be limited to: definitions; advertising and publication requirements; deposit and bond requirements; and conditions, terms, rules, and regulations desirable for an efficient and effective competitive bidding process. The use of the technique commonly known as bid-splitting to avoid the requirement for competitive bidding shall be specifically prohibited.
- D. Competitive bidding shall not be required for: contracts with other governmental entities; purchases and acquisitions from state contracts under the Local Piggyback Purchasing Program and purchases and acquisitions involving similar cooperative public sector arrangements; contracts for emergency repairs or services involving the health and safety of County employees or the public; contracts for professional or unique services except insurance coverage which shall be subject to competitive bidding; contracts for the purchase of services, materials, or supplies available from only one vendor; and contracts relating to the acquisition or use of real property. However, there shall be procedures for seeking Requests For Proposals (RFPs) for professional or unique services costing in excess of the minimum level required for competitive bidding. These procedures shall include, but shall not be limited to, requirements for advertisement and publication, posting for public inspection in the office of the administrative unit responsible for the administration of the County purchasing and acquisition system and on the County website and/or other electronic medium of planned purchases and acquisitions containing an accurate and specific

description of the services or items sought together with necessary technical requirements, and definitions, conditions, terms, rules, and regulations necessary and desirable for an efficient and effective purchasing and acquisition system. The use of the technique commonly known as bid-splitting to avoid the requirement for an RFP shall be specifically prohibited.

- E. Procedures for purchases and acquisitions costing less than the minimum required for competitive bidding but more than \$2,500 shall include, but shall not be limited to, requirements for at least three written, telephonic, or electronic price quotes and definitions, conditions, terms, rules, and regulations desirable for an efficient and effective purchasing and acquisition system. The use of the technique commonly known as bid-splitting to avoid the requirement for written, telephonic, or electronic price quotes shall be specifically prohibited. County Council may raise the minimum amount set forth in this Subsection for purchases and acquisitions subject to written, telephonic, or electronic price quotes by ordinance.
- F. All contracts with public or private vendors, outside contractors, subcontractors, or other entities receiving County funds to provide goods or services to the County shall contain a “right-to-audit” clause allowing the Controller and the County Manager or their designees reasonable access to employees and relevant records of the vendor, contractor, subcontractor, or other entity as well as any property and equipment purchased in whole or in part with County funds.

**Section 6.10—Bonding.** The Administrative Code shall set forth the elective County officials and employees of the County and its divisions, departments, bureaus, offices, agencies, the Judiciary, Office of Court Administration, and other administrative units and the members and employees of County boards and commissions who shall be bonded and the conditions and the amount of the bond. The premiums on all bonds shall be paid by the County.



## ARTICLE VII—PERSONNEL SYSTEM

**Section 7.01—Personnel Code.** There shall be a Personnel Code that shall establish and maintain the means to recruit, select, develop, and maintain a qualified, ethical, efficient, effective, productive, and responsive work force in order to best meet the needs of Luzerne County.

**Section 7.02—Procedure for Adoption.** Within four months after the effective date of this Charter, the County Manager shall propose and submit to County Council a Personnel Code for the County government consistent with the provisions, spirit, and purpose of this Charter. County Council shall adopt a Personnel Code by ordinance with or without amendments within two months after its submission by the County Manager. If County Council fails to do so, the Personnel Code as proposed by the County Manager shall stand adopted and shall become effective immediately. County Council may amend the Personnel Code by ordinance.

**Section 7.03—Scope of Personnel Code.** Except as may otherwise be provided for in this Charter or applicable law, the Personnel Code shall apply to every County division, department, bureau, office, agency, board, commission, and other administrative unit as well as the offices of all elective County officials, the Judiciary, and Office of Court Administration and shall cover all employees of the County, all members and employees of all County boards and commissions, members of County authorities, all elective County officials and all employees of their offices, and all employees of the Judiciary and Office of Court Administration. Consistent with all applicable contracts and laws, the Personnel Code shall provide, but not be limited to, policies, procedures, rules, and regulations governing employee recruitment, examinations, selection, promotion, and establishment and use of eligibility lists; training, orientation, and career development; job descriptions and classification; salary and employee benefits administration; discipline, force reduction, and discharge; grievances; working conditions including safety; civil service systems; labor relations; equal employment opportunity; whistleblower protection; and other policies, practices, and procedures desirable for efficient and effective personnel management.

**Section 7.04—Career Service, Exempt Service, and State Civil Service.** Each elective County official and employee of Luzerne County shall be a member of the career service, exempt service, or part of the state civil service system.

- A. The Personnel Code shall define the County positions to be included in the career service. The career service shall be designed to attract, appoint, and promote the best qualified individuals on the basis of a fair and open competitive process. The Personnel Code shall set forth the process by which employees in the career service shall be appointed and promoted on the basis of merit and fitness as demonstrated by valid and reliable examinations, other objective evidence of competence, and/or other relevant factors.
- B. The exempt service shall consist of all elective County officials and certain policy-making and other positions filled outside the career service provisions as defined in the Personnel Code. Except for elective officials and any others serving fixed terms,

those appointed to these positions shall serve at the pleasure of the person authorized to make the appointments.

- C. The terms and conditions of the state civil service system shall cover those employees required to be included in a state civil service system.

**Section 7.05—Filling Vacancies in the Career Service.**

- A. Notice of each newly created, vacant, or otherwise available permanent full-time position, temporary full-time position, and permanent part-time position for which there is no current eligibility list shall be posted in the office of the administrative unit responsible for administering the County personnel system, on the bulletin boards at the various work locations of the County, and on the County website or other electronic medium and advertised in at least one daily newspaper of general circulation in the County.
- B. Candidates shall be given a composite ranking utilizing the measures and criteria of competence and fitness established in the Personnel Code. To the extent feasible, the identity of individuals being examined shall be shielded from the examiner until after the individual has been ranked on that section of the examination.
- C. The administrative unit responsible for administering the County personnel system shall certify a list of the candidates receiving the highest rankings to the person authorized to make the appointment. Except as may otherwise be provided for in this Charter, he/she shall select one of the three top-rated candidates to fill the newly created, vacant, or otherwise available position.
- D. The County may appoint provisional employees only in the absence of an appropriate eligibility list and only until an eligibility list is established and candidates are given a reasonable opportunity to qualify for the position. The eligibility list shall be established within six months after such appointment. No provisional employee shall be employed for longer than nine months in any 12-month period.
- E. Temporary part time and seasonal employees may be hired in keeping with budgetary limitations. If practicable, notice of the intent to fill any such position shall be given pursuant to the terms of Section 7.05 A. of this Charter; otherwise, the administrative unit responsible for administering the County personnel system shall determine the best methods for public notification. No examination or other objective measure of competence shall be required for seasonal positions. If the number of applicants exceeds the number of seasonal positions available, the successful applicant or applicants shall be determined by a process of lottery or random selection.

**Section 7.06—Status and Rights of Collective Bargaining Units.** Employees who are members of a collective bargaining unit shall be subject to the County personnel system except where an existing applicable collective bargaining agreement has specific terms and conditions inconsistent with the provisions of the County Personnel Code and other personnel policies. In any such case, until they are no longer in effect, the terms of the collective bargaining agreement shall supersede the specific provisions of the County

Personnel Code and/or other personnel policies. Henceforth, no collective bargaining agreement that would violate this Charter or any existing County ordinance or resolution may be approved by County Council unless this Charter is amended or the conflicting ordinance or resolution is amended or repealed.

**Section 7.07—Status and Rights of Present and Former Employees.**

- A. Nothing in this Charter shall be construed to limit the rights granted under the laws of Pennsylvania or the United States to any employee or employee organization.
- B. Any employee holding a County position at the time this Charter takes effect who was serving in the same or comparable position at the time of its adoption shall not be subject to an examination or other objective evidence of competence as a condition for continuance in the same position, but in all other respects shall be subject to the County Personnel Code and personnel system.

**Section 7.08—Soliciting of Employment Favors.** No individual who seeks appointment or promotion to any position or office shall directly or indirectly give, render, or pay money, service, or other valuable thing to any person for, or in connection with, his/her past or prospective employment, appointment, or promotion.

**Section 7.09—Political Activity.** Except as may otherwise be provided for in this Charter or applicable law, County employees may refrain from participating in political activity or may be politically active, except as prohibited by law, but may do so only in a manner that does not materially compromise their efficiency or integrity as County employees. No County employee shall serve as officer in a political party at the County, state, or national level or engage in political activity during working hours, while in a uniform identifying him/her as a County employee, or at any County workplace at any time. Further, no County employee may in any way be solicited by any person for any assessment, subscription, or contribution for any political party, organization, committee, or candidate.

## **ARTICLE VIII—AUTHORITIES, BOARDS, AND COMMISSIONS**

**Section 8.01—General.** There shall be such authorities, boards, and commissions as may be established from time to time by this Charter, the Administrative Code, County Council, or applicable law. Any new board or commission established by County Council shall be by ordinance. Any new County authority shall be established in the manner set forth in applicable law. If County Council establishes a new authority by ordinance, the Articles of Incorporation shall not be filed with the Commonwealth until sufficient opportunity has been provided for a referendum proceeding to occur as provided for in Article X of this Charter.

### **Section 8.02—Appointments to Boards and Commissions/Vacancies.**

- A. Except as may otherwise be provided for in this Charter, the Administrative Code, or applicable law, all members of County boards and commissions shall be appointed by resolution of County Council adopted by an affirmative vote of at least a majority of its current members. Prior to making any appointment or filling any vacancy on a board or commission, County Council shall give notice of its intent to do so and solicit applicants in the manner prescribed for vacancies in the career service in Section 7.05 A. of this Charter.
- B. At the time of appointment and throughout his/her term, each member of any County board or commission shall, at a minimum, be a citizen of the United States and a resident of Luzerne County.
- C. The terms of office of members of County boards and commissions shall be as established by this Charter, the Administrative Code, other County ordinance, or applicable law for the specific board or commission.
- D. Except as may otherwise be provided for in this Charter or applicable law, each member of any County board or commission shall serve until the expiration of his/her term and a new appointment is made. However, if a new appointment is not made within 60 days after the expiration of the term, the position shall be considered vacant.
- E. Positions on any County board or commission shall also become vacant upon the member's death or resignation, or when the member lacks any qualification prescribed by this Charter or applicable law; has been found to be incapacitated or incompetent by a court with appropriate jurisdiction; has been convicted of or pleads no contest to a charge constituting misbehavior in office, embezzlement or theft of public monies, bribery, perjury, any felony, or other infamous crime, as provided for in the Pennsylvania Constitution and applicable law; knowingly or willfully violates any provision of this Charter; fails to assume the office within 30 days after the scheduled beginning of his/her term; or is disqualified from holding office as provided for in this Charter. Further, County Council may establish meeting attendance standards for members of County boards and commissions by ordinance and shall have the power to declare the member's seat vacant if he/she fails to meet these standards.

- F. Except as may otherwise be provided for in this Charter or applicable law, upon the creation of a County board or commission, at the expiration of the term of office of any member of a County board or commission, or when a position on any County board or commission is declared vacant by County Council pursuant to Section 11.06 of this Charter, County Council, at a regularly scheduled or special meeting held within 60 days after the creation of the board or commission, the expiration of the term, or the declaration of the vacancy, shall make the appointment(s) or fill the vacancy by resolution adopted by an affirmative vote of at least a majority of its current members. If County Council fails to do so, any resident of Luzerne County may petition the Court of Common Pleas to make the appointment(s) or fill the vacancy. In such a case, the Court by a majority vote of its members shall make the appointment or fill the vacancy within 30 days after receiving such petition.
- G. Where a binding agreement, County ordinance or resolution, or applicable law requires one or more County Commissioner(s) to serve(s) as a member of a board or commission, the County Manager and/or his/her designee(s) shall fill such position(s), except as may otherwise be provided for in this Charter. All such designee(s) shall require the consent of County Council by resolution adopted by an affirmative vote of at least a majority of its current members. In those cases where the County Manager may designate someone to serve on any such board or commission, he/she may designate any elective County official or County employee. Participation as a member of any such board or commission shall not disqualify any elective County official or employee from receiving the compensation to which he/she is entitled by virtue of his/her elective position or employment with the County.
- H. Except to the extent that this Charter or applicable law may require or permit an elective County official or County employee to serve on a board or commission, no member of any County board or commission shall hold any elective County office or serve as a County employee, and no member of any County board or commission shall be employed or compensated by any individual or business serving as a contractor to the County or any County authority, board, or commission, or serve as a paid consultant to the County or any County authority, board, or commission. Further, except as may otherwise be specifically provided for in this Charter or applicable law, no member of a County board or commission other than a member of County Council, the County Manager, or his/her designee may simultaneously serve on more than one County authority, board, or commission. In addition, for a period of one year after leaving office, no member of any County board or commission may serve as an elective County official or a County employee except as may otherwise be specifically provided for in this Charter or applicable law, be employed or compensated by any individual or business that served as a contractor to the County or any County authority, board, or commission during the time he/she served as a member of any County board or commission, or serve as a paid consultant for the County or any County authority, board, or commission.
- I. Unless otherwise provided for in this Charter or applicable law, no member of a County board or commission shall receive any County salary by virtue of his/her position as a member of a board or commission or any County pension or other

employee benefit. However, members shall be entitled to reimbursement of expenses incurred in the performance of their duties in keeping with County policy.

**Section 8.03—Appointments to Authorities/Vacancies.**

- A. For the purpose of appointing members of any County authority, County Council shall be considered the governing body and shall make all such appointments. The procedure for appointing members of County authorities and the qualifications for appointment shall be as provided for in this Charter and applicable law. Prior to making any appointment or filling any vacancy on an authority, County Council shall give notice of its intent to do so and solicit applicants in the manner prescribed in Section 7.05 A. of this Charter for vacancies in the career service.
- B. The terms and tenure of members of authorities shall be as provided for in applicable law.
- C. Except as may otherwise be provided for in this Charter or applicable law, upon the creation of a County authority, at the expiration of the term of office of any member of a County authority, or when a position on any County authority is declared vacant by County Council pursuant to Section 11.06 of this Charter, County Council at a regularly scheduled or special meeting held within 60 days after the creation of the authority, the expiration of the term, or the declaration of the vacancy, shall make the appointment(s) or fill the vacancy in the manner provided for in applicable law. If County Council fails to do so, any resident of Luzerne County may petition the Court of Common Pleas to make the appointment(s) or fill the vacancy. In such a case, the Court by a majority vote of its members shall make the initial appointment or fill the vacancy within 30 days after receiving such petition.
- D. Where a binding agreement, County ordinance or resolution, or applicable law requires one or more County Commissioner(s) to serve(s) as a member of an authority, the County Manager and/or his/her designee(s) shall fill such position(s), except as may otherwise be provided for in this Charter. All such designee(s) shall require the consent of County Council by resolution adopted by an affirmative vote of at least a majority of its current members. In those cases where the County Manager may designate someone to serve on any such authority, he/she may designate any elective County official or County employee. Participation as a member of any such authority shall not disqualify any elective County official or employee from receiving the compensation to which he/she is entitled by virtue of his/her elective position or employment with the County.
- E. Except to the extent this Charter or applicable law may require or permit an elective County official or County employee to serve on a County authority, no member of any County authority shall hold any elective County office or serve as a County employee, and no member of any County authority shall be employed or compensated by any individual or business serving as a contractor to the County or any County authority, board, or commission or serve as a paid consultant to the County or any County authority, board, or commission. Further, except as may otherwise be specifically provided for in this Charter or applicable law, no member of

a County authority other than a member of County Council, the County Manager, or his/her designee may simultaneously serve on more than one County authority, board, or commission. In addition, for a period of one year after leaving office, no member of any County authority may serve as an elective County official or County employee except as may otherwise be specifically provided for in this Charter or applicable law, be employed or compensated by any individual or business that served as a contractor to the County or any County authority, board, or commission during the time he/she served as a member of any County authority, or serve as a paid consultant for the County or any County authority, board, or commission.

- F. Unless otherwise provided for in applicable law, no member of a County authority shall receive any County salary by virtue of his/her position on a County authority or any County pension or other benefit.

#### **Section 8.04—Board of Elections and Registration.**

- A. The Board of Elections shall be replaced by a reconstituted Board of Elections and Registration that shall exercise all powers and duties now or hereafter conferred on it by this Charter, the Administrative Code, or other County ordinance or resolution, and, to the extent they are not inconsistent with this Charter, those powers and duties now or hereafter conferred by applicable law on boards of elections in counties of Luzerne County's classification functioning without a home rule charter or, in the absence of such laws, by state law applicable to boards of elections in counties having populations closest to that of Luzerne County.
- B. The reconstituted Board of Elections and Registration shall consist of five registered voters, four of whom shall be appointed by resolution of County Council adopted by an affirmative vote of at least a majority of its current members. For those initially appointed under the terms of this Charter, one member each from the two political parties receiving the highest and second highest number of votes cast in Luzerne County for the office of Governor of Pennsylvania in the most recent general election for that office shall be appointed to serve for terms of two years, and one member each from these political parties shall be appointed to serve for terms of four years. Thereafter, except as may otherwise be provided for in this Charter or applicable law, all terms shall be four years. At the time of their appointment, each member of the Board of Elections and Registration appointed by County Council shall have been a member of the same political party continuously for at least five years and shall remain a member of that party during his/her term of office.
- C. Within the first 30 days of the year following its initial election, County Council shall appoint the four members of the Board of Elections and Registration it is empowered to appoint. Within 30 days after their appointment, these members shall appoint the fifth member by an affirmative vote of at least a majority of their current members. The person appointed shall serve a term of four years and shall serve as the board's chair.
- D. If County Council fails to make the initial appointments within the first 30 days of the year following its initial election, or if the four members initially appointed fail to fill

the fifth position within 30 days after their appointment, any resident of Luzerne County may petition the Court of Common Pleas to make the appointment(s). In such a case, the Court by majority vote of its members shall make the appointment(s) within 30 days after receiving such petition.

- E. At the expiration of a term of office of any member subject to appointment by County Council or when any of these positions is declared vacant by County Council pursuant to Section 11.06 of this Charter, County Council, at a regular or special meeting held within 60 days after the expiration of the term or the declaration of the vacancy, shall make the appointment or fill the vacancy by resolution adopted by an affirmative vote of at least a majority of its current members. The person appointed shall be a member of the same political party as the person he/she is to succeed, unless that party is no longer one of the parties that received the highest or second highest number of votes cast in Luzerne County for the office of Governor of Pennsylvania in the most recent general election for that office. In such a case, the person appointed shall be a member of the party that replaced it as one of the two parties receiving the highest number of votes cast in Luzerne County for the office of Governor in the most recent general election for that office. In either case, the person appointed shall have been a member of that party continuously for at least five years prior to the date of appointment. At the expiration of the term of office of the member subject to appointment by the Board of Elections and Registration or when a vacancy in this position is declared by County Council pursuant to Section 11.06 of this Charter, the remaining members of the board shall make the appointment or fill the vacancy within 60 days after the expiration of the term or the declaration of the vacancy by an affirmative vote of at least a majority of its current members.
- F. If County Council or the members of the Board of Elections and Registration fail to make any appointment or fill any vacancy within the time allotted, any resident of Luzerne County may petition the Court of Common Pleas to fill the position. In such a case, the Court by majority vote of its members shall fill the position within 30 days after receiving such petition.
- G. If any member of the Board of Elections and Registration files a petition for nomination or election or becomes a candidate for any elective public office, his/her position shall become vacant, and the vacancy shall be filled in a manner prescribed elsewhere in this Article.
- H. At the time of his/her appointment, throughout his/her term of office, and for a period of at least four years prior to appointment, no member of the Board of Elections and Registration shall be or have been an elective County official, County employee, member or employee of any other County authority, board, or commission, hold or have held any elective public office or public employment, be or have been employed or compensated by any individual or business serving as a contractor to the County or any County authority, board, or commission, serve or have served as a paid consultant for the County or any County authority, board, or commission, or serve or have served as an officer in a political party. Further, for a period of one year after leaving office, no member of the Board of Elections and Registration shall serve as a County employee, be appointed to or serve as an employee of any County authority, board, or



commission except as may specifically be provided for in this Charter, be employed or compensated by any individual or business that served as a contractor to the County or any County authority, board, or commission during the time he/she served as a member of the Board of Elections and Registration, or serve as a paid consultant for the County or any County authority, board, or commission.

- I. Any three members of the Board of Elections and Registration shall constitute a quorum and shall have the power to perform the functions of the Board of Elections and Registration.

**Section 8.05—Board of Tax Assessment Appeals.**

- A. The Board of Assessment Appeals shall be replaced by a reconstituted Board of Tax Assessment Appeals that shall exercise all powers and duties now or hereafter conferred on it by this Charter, the Administrative Code, or other County ordinance or resolution, and, to the extent they are not inconsistent with the provisions, spirit, and purpose of this Charter, those powers and duties now or hereafter conferred by applicable law on boards of assessment appeals in counties of Luzerne County's classification functioning without a home rule charter or, in the absence of such laws, by state law relating to boards of assessment appeals in counties having populations closest to that of Luzerne County.
- B. The terms of office of incumbent members of the County Board of Assessment Appeals shall end on the effective date of this Charter, but those holding office at that time may be reappointed if they meet the qualifications and other requirements and conditions set forth in this Charter.
- C. The reconstituted Board of Tax Assessment Appeals shall consist of three registered voters of Luzerne County who shall be appointed by resolution of County Council adopted by an affirmative vote of at least a majority of its current members. For those initially appointed under the terms of this Charter, one member shall be appointed to serve for a term of two years, and two members shall be appointed to serve for terms of four years. Thereafter, except as may otherwise be provided for in this Charter or applicable law, all terms shall be four years. Members of the Board of Tax Assessment Appeals shall be qualified by training, knowledge, experience, and/or expertise in property appraisal, the real estate market, and/or related matters.
- D. Within the first 30 days of the year following its initial election, County Council shall appoint the members of the Board of Tax Assessment Appeals. If County Council fails to do so, any resident of Luzerne County may petition the Court of Common Pleas to make the appointment(s). In such a case, the Court by a majority vote of its members shall make the appointment(s) within 30 days after receiving such petition.
- E. Vacancies on the Board of Tax Assessment Appeals shall be filled as provided for in Section 8.02 F. of this Charter.
- F. At the time of his/her appointment, throughout his/her term of office, and for a period of at least four years prior to appointment, no member of the Board of Tax

Assessment Appeals shall be or have been an elective County official, County employee, member or employee of any other County authority, board, or commission, hold or have held any elective public office or public employment, be or have been employed or compensated by any individual or business serving as a contractor to the County or any County authority, board, or commission, serve or have served as a paid consultant for the County or any County authority, board, or commission, or serve or have served as an officer in a political party. Further, for a period of one year after leaving office, no member of the Board of Tax Assessment Appeals shall serve as a County employee, be appointed to or serve as an employee of any County authority, board, or commission except as may specifically be provided for in this Charter, be employed or compensated by any individual or business that served as a contractor to the County or any County authority, board, or commission during the time he/she served as a member of the Board of Tax Assessment Appeals, or serve as a paid consultant for the County or any County authority, board, or commission.

- G. Any two members of the Board of Tax Assessment Appeals shall constitute a quorum and shall have the power to perform the functions of the Board of Tax Assessment Appeals.
- H. The salary of members of the Board of Tax Assessment Appeals shall be set by resolution of County Council adopted by an affirmative vote of at least a majority of its current members, but it shall not exceed the salary paid to a member of County Council. Members of the Board of Tax Assessment Appeals shall not receive a County pension or any other employee benefit by virtue of their position on this board.
- I. In the event of a countywide reassessment of property, County Council, by ordinance, may, if it deems necessary, temporarily expand the Board of Tax Assessment Appeals to meet the increased demand placed upon it. Those appointed to fill the temporary positions shall meet the qualifications and other requirements and conditions set forth in this Charter, and their terms shall end as provided for in the ordinance temporarily expanding the Board.

**Section 8.06—Retirement Board.**

- A. There shall be a Retirement Board that shall oversee the administration of the County retirement system and exercise the powers and duties now or hereafter conferred on it by this Charter, the Administrative Code, or other County ordinance or resolution and, to the extent they are not inconsistent with the provisions, spirit, and purpose of this Charter, those powers and duties now or hereafter conferred by applicable law on retirement boards in counties of Luzerne County's classification functioning without a home rule charter or, in the absence of such laws, by state law applicable to retirement boards in counties having populations closest to that of Luzerne County.
- B. The Retirement Board shall be restructured and composed of five members: the County Manager, the head of the County Division of Budget and Financial Services or its successor, the Chair of County Council or his/her designee from among Council's other members, a member of County Council selected by resolution

adopted by an affirmative vote of at least a majority of its current members, and one member of the County retirement system selected by a vote of the members of the retirement system. The member of the Retirement Board appointed by County Council and the member of the Retirement Board appointed by the members of the County retirement system shall serve for terms of four years. Upon the expiration of the term or when a vacancy in the position filled by a member of County Council is declared by County Council pursuant to Section 11.06 of this Charter, County Council shall make the appointment or fill the vacancy within 60 days by resolution adopted by an affirmative vote of at least a majority of its current members. Upon the expiration of a term or when a vacancy in the position filled by a member of the retirement system is declared by County Council pursuant to Section 11.06 of this Charter, the members of the retirement system shall make the appointment or fill the vacancy within 60 days by a vote of its members. If County Council or the members of the retirement system fail to make any appointment or fail to fill any vacancy within the time allotted, any resident of Luzerne County may petition the Court of Common Pleas to do so. In such a case, the Court by a majority vote of its members shall make the appointment(s) or fill the vacancy within 30 days after receiving such petition.

- C. Any three members of the Retirement Board shall constitute a quorum and shall have the power to perform the functions of the Retirement Board.
- D. Participation as a member of the Retirement Board shall not disqualify any elective County official or County employee from receiving the compensation to which he/she is entitled by virtue of his/her elective position or employment with the County.

**Section 8.07—Joint Airport Board.** Until such time as the agreement between the counties of Luzerne and Lackawanna is amended or renegotiated, Luzerne County’s representatives on the Joint Airport Board for the administration of the Wilkes-Barre/Scranton International Airport shall consist of the County Manager, the Chair of County Council or his/her designee from among Council's other members, and a member of the County Council selected by resolution adopted by an affirmative vote of at least a majority of its current members. The member of the Joint Airport Board appointed by County Council shall serve for a term of four years. Upon the expiration of the term or when the position filled by the member of County Council selected by its members is declared vacant by County Council pursuant to Section 11.06 of this Charter, County Council shall make the appointment or fill the vacancy within 60 days by resolution adopted by an affirmative vote of at least a majority of its current members. If County Council fails to do so, any resident of Luzerne County may petition the Court of Common Pleas to do so. In such a case, the Court by a majority vote of its members shall make the appointment(s) or fill the vacancy within 30 days after receiving such petition.

## **ARTICLE IX—ACCOUNTABILITY, CONDUCT, AND ETHICS**

**Section 9.01—Accountability, Conduct, and Ethics Code.** There shall be an Accountability, Conduct, and Ethics Code that shall establish and maintain the means for ensuring those involved in County government receive no financial benefits from their public positions other than their lawful compensation and receive no benefit on the profits or emoluments of any contract, job, work, or service performed for the County, or accept anything of value, upon terms more favorable than those granted to the public generally, from any person dealing with the County.

**Section 9.02—Procedure for Adoption.** Within four months after the effective date of this Charter, the County Manager shall propose and submit to County Council an Accountability, Conduct, and Ethics Code for the County government consistent with the provisions, spirit, and purpose of this Charter. County Council shall adopt an Accountability, Conduct, and Ethics Code by ordinance with or without amendments within two months after its submission by the County Manager. If County Council fails to do so, the Accountability, Conduct, and Ethics Code as proposed by the County Manager shall stand adopted and shall become effective immediately. County Council may amend the Accountability, Conduct, and Ethics Code by ordinance.

**Section 9.03—Scope of Accountability, Conduct, and Ethics Code.** Except as may otherwise be provided for in this Charter or applicable law, the Accountability, Conduct, and Ethics Code shall apply to every County division, department, bureau, office, agency, board, commission, and other administrative unit as well as the offices of all elective County officials, the Judiciary, and Office of Court Administration and shall cover all employees of the County, all members and employees of County authorities, boards, and commissions, all elective County officials and all employees of their offices, and all employees of the Judiciary and Office of Court Administration. At a minimum, the Accountability, Conduct, and Ethics Code shall include provisions addressing ethics, political activity, conflicts of interest, gifts, the personal use of County resources, and conduct and behavior in the performance of duties, and shall provide penalties and sanctions for violations of this Code and Section 2.17 of this Charter, as well as for discrimination, favoritism, harassment, and oppression. The Code shall incorporate by reference the State Ethics Act, and where the State Ethics Act or other applicable laws differ from the County Accountability, Conduct, and Ethics Code, the more stringent regulations and penalties shall control. This Section of the Charter shall not be construed to prohibit employees of the County, members and employees of County authorities, boards, and commissions, elective County officials and employees of their offices, and employees of the Judiciary and Office of Court Administration from accepting group discounts, group insurance, or other economic advantages offered to all these individuals.

**Section 9.04—Accountability, Conduct, and Ethics Commission.**

- A. There shall be an Accountability, Conduct, and Ethics Commission that shall be empowered to receive complaints from any individual and investigate alleged violations of the Accountability, Conduct, and Ethics Code by any employee of the County, member or employee of any County authority, board, or commission,

elective County official or employee of his/her office, or any employee of the Judiciary or Office of Court Administration.

- B. The Accountability, Conduct, and Ethics Code shall set forth standards for determining which complaints warrant investigation; procedures by which investigations shall be conducted; the methods to preserve confidentiality, as appropriate; standards upon which final determinations shall be made; procedures for notification and dissemination of determinations; standards for imposition of sanctions, penalties, and remedies; and any other policies, practices, and procedures desirable for the efficient and effective operation of the Accountability, Conduct, and Ethics Commission.
- C. The Accountability, Conduct, and Ethics Commission shall be composed of the County Manager or his/her designee, the District Attorney or his/her designee, the Controller or his/her designee, and two registered voters of Luzerne County appointed by resolution of County Council adopted by an affirmative vote of at least a majority of its current members.
- D. The two registered voters appointed by County Council shall not be members of the same political party. One appointee shall be a member of the political party receiving the highest number of votes cast in Luzerne County for the office of Governor of Pennsylvania in the most recent general election for that office and one appointee shall be a member of the political party receiving the second highest number of votes cast for that office in that election. At the time of their appointment, the members of the Accountability, Conduct, and Ethics Commission appointed by County Council shall have been a member of the same political party continuously for at least five years and shall remain a member of that party during his/her term of office.
- E. For those initially appointed to the Accountability, Conduct, and Ethics Commission by County Council, one member shall serve for a term of two years, and one member shall serve for a term of four years. The appointees shall draw lots to determine who shall serve the two year term and who shall serve the four year term. Thereafter, except as may otherwise be provided for in this Charter or applicable law, all terms shall be four years.
- F. Within the first 30 days of the year following its initial election, County Council shall appoint the members of the Accountability, Conduct, and Ethics Commission it is empowered to appoint. If County Council fails to do so, any resident of Luzerne County may petition the Court of Common Pleas to make the appointment(s). In such a case, the Court by a majority vote of its members shall make the appointment(s) within 30 days after receiving such petition.
- G. At the expiration of a term of office of any member subject to appointment by County Council, or when either of these positions is declared vacant by County Council pursuant to Section 11.06 of this Charter, County Council at a regular or special meeting held within 60 days after the expiration of the term or the declaration of the vacancy shall make the appointment or fill the vacancy by resolution adopted by an affirmative vote of at least a majority of its current members. The person appointed

shall be a member of the same political party as the person he/she is to succeed, unless that party is no longer one of the parties that received the highest or second highest number of votes cast in Luzerne County for the office of Governor of Pennsylvania in the most recent general election for that office. In such a case, the person appointed shall be a member of the party that replaced it as one of the two parties receiving the highest number of votes cast in Luzerne County for the office of Governor in the most recent general election for that office. In either case, the person appointed shall have been a member of that party continuously for at least five years prior to the date of appointment.

- H. If County Council fails to make any appointment or fill any vacancy within the time allotted, any resident of Luzerne County may petition the Court of Common Pleas to fill the position. In such a case, the Court by majority vote of its members shall fill the position within 30 days after receiving such petition.
- I. At the time of his/her appointment, throughout his/her term of office, and for a period of at least four years prior to appointment, no member of the Accountability, Conduct, and Ethics Commission appointed by the County Council shall be or have been an elective County official, County employee, member or employee of any County authority, board or commission, be or have been employed or compensated by any individual or business serving as a contractor to the County or any County authority, board, or commission, serve or have served as a paid consultant for the County or any County authority, board, or commission, or serve or have served as an officer in a political party. Further, for a period of one year after leaving office, no member of the Accountability, Conduct, and Ethics Commission appointed by County Council shall serve as a County employee, be appointed to or serve as an employee of any County authority, board, or commission except as may specifically be provided for in this Charter, be employed or compensated by any individual or business that served as a contractor to the County or any County authority, board, or commission during the time he/she served as a member of the Accountability, Conduct, and Ethics Commission, or serve as a paid consultant for the County or any County authority, board, or commission.
- J. Any three members of the Accountability, Conduct, and Ethics Commission shall constitute a quorum and shall have the power to perform the functions of the Commission.

**Section 9.05—Nepotism.** No elective County official or employee of his/her office, employee of the County, or member or employee of any County authority, board, or commission shall be allowed to hire a member of his/her immediate family or the spouse or child of a member of his/her immediate family and shall not recruit, recommend, lobby for, or in any way be involved in the process of hiring such a person. Further, no elective County official or employee of his/her office, employee of the County, or member or employee of any County authority, board, or commission shall be allowed to supervise a member of his/her immediate family or the spouse or child of a member of his/her immediate family or be allowed to be supervised by a member of his/her immediate family or the spouse or child of a member of his/her immediate family. Any person holding a County position at the time this Charter takes effect, who held the same

position at the time of its adoption, shall not be prevented by the provisions of this Section from continuing in that position.

## ARTICLE X—INITIATIVE AND REFERENDUM

**Section 10.01—General Powers.** In accordance with the procedures hereinafter provided, the voters of Luzerne County shall have the power to propose ordinances to County Council for its consideration, to propose and enact ordinances independent of County Council, and to repeal ordinances adopted by County Council.

**Section 10.02—Procedures for Agenda Initiative.** A petition signed by at least 250 registered voters and filed with the Office of Clerk of County Council shall require County Council to consider a proposed ordinance at a public meeting. The petition shall state the full text of the proposed ordinance, which shall be limited to one subject related to County government clearly expressed in its title. The petition shall contain the enacting clause: “Be it enacted by the people of Luzerne County....” The petition shall designate five of the individuals signing the petition as the Petitioners Committee, state the names and mailing addresses of these individuals, indicate they are registered voters, and identify the mailing address to which any notices to the Petitioners Committee shall be sent. If County Council fails to adopt the proposed ordinance within 60 days after it is determined the petition is sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other County ordinance, and applicable law no further action need be taken. A given ordinance may be brought to County Council through agenda initiative only once in a 12-month period.

**Section 10.03—Limitations on the Power of Initiative.** Initiative powers shall not extend to the adoption or amendment of the County General Fund, capital, or other budgets and the tax levies contained therein; the long range operational, fiscal, and capital plan; the Administrative Code and Personnel Code; any ordinance fixing the salaries of elective County officials or County employees, or relating to zoning regulations; or any ordinance for which the specific procedures for adoption or amendment may be established by applicable law.

### **Section 10.04—Procedures for Initiative.**

- A. **Petitioners Committee.** An application for an initiative petition stating the full text of the proposed ordinance, signed by at least 100 registered voters, and filed with the Office of Clerk of County Council shall be necessary to commence the procedure for initiative. Those signing this application shall be known as the Petitioners Committee and shall be responsible for coordinating the circulation of the initiative petition and for filing it in the proper form. The application shall state the names and mailing addresses of these individuals, indicate they are registered voters, and identify the mailing address to which any notices to the Petitioners Committee shall be sent. Upon the filing of a sufficient application, the Office of Clerk of County Council shall issue petition forms to the Petitioners Committee.
- B. **Petition.** An initiative petition shall state the full text of the proposed ordinance, which shall be limited to one subject related to County government clearly expressed in its title. Each petition shall contain the enacting clause: “Be it enacted by the people of Luzerne County....” A petition signed by registered voters equal in number to at least ten percent of the total number of votes cast in Luzerne County for the



office of Governor of Pennsylvania in the most recent general election for that office shall cause County Council to consider the proposed ordinance, unless it is determined the petition is not sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other County ordinance, and applicable law. An initiative petition shall be void and of no effect unless it is filed with the Office of Clerk of County Council within 60 days after the Office of Clerk of County Council issues the petition forms to the Petitioners Committee.

- C. Consideration by County Council. Within 60 days after the initiative petition is finally determined to be sufficient, County Council shall consider the proposed ordinance. If County Council fails to adopt the proposed ordinance during this period without any material change in substance, the Board of Elections and Registration shall cause the proposed ordinance to be submitted to voters of the County.
- D. Submission to Voters. The vote on a proposed ordinance shall be held at the next primary, municipal, or general election, whichever comes first, occurring not less than 13 Tuesdays after County Council takes action not to adopt the proposed ordinance or after the expiration of County Council's 60 day opportunity to consider the proposed ordinances, whichever occurs first. The Board of Elections and Registration shall frame the question to be placed on the ballot and, if it deems appropriate, an interpretive statement to accompany the question.
- E. Public Notice. At least 30 days, but no more than 60 days, prior to the scheduled election, the Office of Clerk of County Council shall publish a summary of the proposed ordinance in at least one daily newspaper of general circulation in the County and indicate where a full copy of the proposed ordinance is available for public inspection. The Office of Clerk of County Council shall make full copies of the proposed ordinance available for public inspection at its office during normal County business hours and at public libraries within the County. Further, the Office of Clerk of County Council shall post a copy on the County website and/or other electronic medium for at least 30 days prior to the election.
- F. Approval and Effective Date. The affirmative vote of the majority of those voting on the proposed ordinance shall result in its enactment, and the date of the certification of the affirmative vote shall be considered the date of enactment. An ordinance approved by the voters shall become effective on the 60th day following its enactment unless a later date is provided in the ordinance.
- G. Limitation on County Council's Power to Change. Any ordinance adopted by County Council or by the voters as a result of the initiative process provided for in this Article shall not be materially amended or repealed by County Council within two years after its effective date. However, the two-year prohibition on material amendment and repeal shall not prevent an ordinance adopted by County Council as a result of the initiative process from being repealed by a vote of the electorate under the referendum process or an ordinance adopted by the voters as a result of the initiative process from being rescinded or materially amended by a vote of the electorate under the initiative process.

H. **Conflicting Ordinances.** If conflicting ordinances are approved by the voters at the same election, the one approved by the larger number of affirmative votes shall prevail to the extent of such conflict.

**Section 10.05—Limitations on the Power of Referendum.** Referendum powers shall not extend to the adoption or amendment of the County General Fund, capital, or other budgets and the tax levies contained therein; the long range operational, fiscal, and capital plan; the Administrative Code and Personnel Code; any ordinance fixing the salaries of elective County officials or County employees, authorizing emergency loans, or relating to zoning regulations; any emergency or temporary ordinance; or any ordinance for which the procedures for adoption or amendment may be established by applicable law.

**Section 10.06—Procedures for Referendum.**

- A. **Petitioners Committee.** An application for a referendum petition stating the full text of the ordinance proposed for repeal, signed by at least 100 registered voters, and filed with the Office of Clerk of County Council shall be necessary to commence the procedure for referendum. Those signing this application shall be known as the Petitioners Committee and shall be responsible for coordinating the circulation of the referendum petition and for filing it in the proper form. The application shall state the names and mailing addresses of these individuals, indicate they are registered voters, and identify the mailing address to which any notices to the Petitioners Committee shall be sent. Upon the filing of a sufficient application, the Office of Clerk of County Council shall issue petition forms to the Petitioners Committee.
- B. **Petitions Involving Certain Capital Project(s).** A referendum petition seeking to repeal an ordinance authorizing borrowing equal to more than 15 percent of the current County General Fund Budget to finance one or more capital project stating the full text of the ordinance proposed for repeal, signed by registered voters equal in number to at least one percent of the total number of votes cast in Luzerne County for the office of President of the United States in the most recent general election for that office, and filed with the Office of Clerk of County Council within 14 days after the adoption of the ordinance shall serve to postpone its effective date to the 60th day after adoption, unless it is determined the petition is not sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other County ordinance, and applicable law. Within this 60 day period, a petition proposing a referendum on such ordinance signed by a sufficient number of other registered voters so the total number of signatures is equal to at least ten percent of the total number of votes cast in Luzerne County for the office of President of the United States in the most recent general election for that office and filed with the Office of Clerk of County Council shall cause the effective date of the ordinance to be further postponed pending the actions outlined in this Article, and the ordinance shall be referred to County Council for its reconsideration as provided for in Section 10.06 D. of this Charter, unless it is determined the petition is not sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other County ordinance, and applicable law.

- C. **Petitions Involving Other Matters.** A referendum petition seeking to repeal any other ordinance subject to referendum stating the full text of the ordinance proposed for repeal, signed by registered voters equal in number to at least one percent of the total number of votes cast in Luzerne County for the office of Governor of Pennsylvania in the most recent general election for that office, and filed with the Office of Clerk of County Council within 14 days after the adoption of the ordinance shall serve to postpone its effective date to the 60th day after adoption, unless it is determined the petition is not sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other County ordinance, and applicable law. Within this 60 day period a petition proposing a referendum signed by a sufficient number of other registered voters so the total number of signatures is equal to at least ten percent of the total number of votes cast in Luzerne County for the office of Governor of Pennsylvania in the most recent general election for that office and filed with the Office of Clerk of County Council shall cause the effective date of the ordinance to be further postponed pending the actions outlined in this Article, and the ordinance shall be referred to County Council for its reconsideration as provided for in Section 10.06 D. of this Charter, unless it is determined the petition is not sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other County ordinance, and applicable law.
- D. **Reconsideration by County Council.** Within 30 days after the referendum petition is finally determined to be sufficient, County Council shall reconsider the referred ordinance. If County Council fails to repeal the referred ordinance during this period, the Board of Elections and Registration shall cause the referred ordinance to be submitted to voters of the County. Any ordinance referred to the voters in this manner shall take effect only if the vote of a majority of those voting on the referred ordinance is against its repeal.
- E. **Submission to Voters.** The vote on a referred ordinance shall be held at the next primary, municipal, or general election, whichever comes first, occurring not less than 13 Tuesdays after County Council takes action not to repeal the referred ordinance or after the expiration of County Council's 30 day opportunity to repeal the ordinance, whichever occurs first. The Board of Elections and Registration shall frame the question to be placed on the ballot and, if it deems appropriate, an interpretive statement to accompany the question.
- F. **Public Notice.** At least 30 days, but no more than 60 days, prior to the scheduled election, the Office of Clerk of County Council shall publish a summary of the referred ordinance in at least one daily newspaper of general circulation in the County and indicate where a full copy of the referred ordinance is available for public inspection. The Office of Clerk of County Council shall make full copies of the referred ordinance available for public inspection at its office during normal County business hours and at public libraries within the County. Further, the Office of Clerk of County Council shall post a copy on the County website and/or other electronic medium for at least 30 days prior to the election.
- G. **Approval and Effective Date.** If the vote of the majority of those voting on the referred ordinance is in favor of repeal, the ordinance shall be void and of no effect.

If the vote of the majority of those voting on the referred ordinance is against its repeal, it shall become effective immediately upon the certification of the election results unless a later effective date is provided in the ordinance.

- H. Limitation on County Council's Power to Reenact. Any ordinance rescinded by County Council as a result of this process or repealed by the voters at a referendum provided for in this Article shall not be reenacted by County Council within two years after such action. However, it may be reenacted at any time upon a vote of the electorate under the initiative process provided for in this Article.

**Section 10.07—General Procedures, Form, and Sufficiency.** Petitions for agenda initiative, applications for initiative and referendum petitions, and the petitions for initiative and referendum shall be governed by the procedures and rules for form and sufficiency set forth in this Charter and as may be provided in the Administrative Code, other County ordinance, and applicable law. Petitions for agenda initiative and applications for initiative and referendum petitions shall be filed with the Office of Clerk of County Council, which shall be the sole judge of their sufficiency. Initiative and referendum petitions shall be filed with the Office of Clerk of County Council, which shall be the initial judge of their sufficiency.

- A. Determination by the Office of Clerk of County Council. Within 20 days after the filing of any petition for agenda initiative, any application for an initiative or referendum petition, or any initiative or referendum petition, the Office of Clerk of County Council shall examine the application or petition and determine whether it is sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other County ordinance, and applicable law. If the Office of Clerk of County Council determines the application or petition is sufficient, it shall issue petition forms to the Petitioners Committee or submit the petition to County Council for further action. If the Office of Clerk of County Council determines the application or petition is not sufficient, it shall certify the application or petition as not sufficient and return it by registered mail to the Petitioners Committee with a statement of the findings of fact to support its determination.
- B. Review by the Board of Elections and Registration. Any determination by the Office of Clerk of County Council on any initiative or referendum petition or any failure by the Office of Clerk of County Council to make such a determination within 20 days after the date of the filing shall be subject to review by the Board of Elections and Registration, but only if such review is requested in writing by any County resident within ten days after the determination or within ten days after the expiration of the Office of Clerk of County Council's 20 day opportunity to make a determination, whichever occurs first.
- C. Determination by the Board of Elections and Registration. If the Board of Elections and Registration determines the initiative or referendum petition is sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other County ordinance, and applicable law, it shall certify the petition and return it to the Office of Clerk of County Council for it to submit the petition to County Council for further action consistent with such determination. If the Board of

Elections and Registration determines the petition is not sufficient, it shall certify the petition as not sufficient and return it by registered mail to the appropriate parties, with a statement of the findings of fact to support the Board's determination.

- D. **Judicial Review.** Any determination by the Board of Elections and Registration on any initiative or referendum petition or any failure by the Board of Elections and Registration to make such a determination within 20 days after being requested to do so shall be subject to review by the Court of Common Pleas of Luzerne County, but only if such review is requested in writing by any County resident within ten days after such determination or within ten days after the expiration of the Board of Elections and Registration's 20 day opportunity to make a determination, whichever occurs first. In such cases any County resident shall have standing to apply for judicial review, and the Court shall have jurisdiction.
  
- E. **Determination by the Court.** If the Court of Common Pleas of Luzerne County determines the initiative or referendum petition is sufficient to meet the provisions set forth in this Charter and as may be provided in the Administrative Code, other County ordinance, and applicable law, it shall certify the petition as sufficient and shall return it to the Office of Clerk of County Council for it to submit the petition to County Council for further action consistent with such determination. If the Court of Common Pleas determines the petition is not sufficient, it shall certify the petition as not sufficient and return it by registered mail to the appropriate parties, with a statement of the findings of fact to support the Court's determination, and the petition shall become void and of no effect.

**Section 10.08—Other Authority for Initiative and Referendum.** Nothing in this Article shall limit the use of initiative or referendum as may be provided for under applicable law including the procedure for amending home rule charters as provided for in the Home Rule Charter and Optional Plans Law, or successor law.

## ARTICLE XI—GENERAL/MISCELLANEOUS PROVISIONS

**Section 11.01—Rights and Liabilities of the County.** Luzerne County shall own, possess, and control the rights to property of every kind owned, possessed, or controlled by it on the effective date of this Charter, and it shall continue to be subject to all lawful debts, liabilities, and duties, except as may be modified by provisions of this Charter.

**Section 11.02—References to County Commissioners.**

- A. All references to County Commissioners in the laws of Pennsylvania shall, at such time as the first members of County Council take office, be construed to refer to County Council and the County Manager whenever such construction would be reasonable. Except as may otherwise be provided for in this Charter, County Council shall succeed to all legislative powers vested in the County Commissioners by the laws of Pennsylvania and the County Manager shall succeed to all executive and administrative powers vested in the County Commissioners by the laws of Pennsylvania.
- B. Unless otherwise provided for in this Charter, when an applicable law requires an appointment to an authority, board, or commission to be made by the Board of County Commissioners, the Chair of the County Commissioners, or the governing body, the appointment shall be made by County Council.

**Section 11.03—Amendment.** This Charter may be amended as provided for in the Home Rule Charter and Optional Plans Law, or successor law.

**Section 11.04—Definitions and Rules of Construction.**

- A. *Adoption or enactment of an ordinance or resolution* occurs when an ordinance or resolution is lawfully passed by County Council, or when a majority of those voting on an ordinance proposed by an initiative petition cast votes in the affirmative and the results are certified by the Board of Elections and Registration. However, if this Charter requires County Council to submit an ordinance or resolution to the County Manager for his/her review, then *adoption or enactment* does not occur until the expiration of the time allowed for the County Manager to request in writing that County Council reconsider its action as provided for in Section 2.12 B. of this Charter, or, if reconsideration is requested, Council confirms its original action as provided for in Section 2.12 D. of this Charter
- B. *Applicable law and applicable laws* shall refer to those laws of the federal government and/or the Commonwealth of Pennsylvania that the County is required to observe and adhere to in the exercise of its home rule powers.
- C. *Charter* shall mean the Home Rule Charter of Luzerne County.
- D. *Clerk of County Council and Office of Clerk of County Council* shall mean the position/office responsible for recording and filing the proceedings and papers of

County Council, attesting to all official actions of County Council, and possessing related powers and duties.

- E. *County* shall mean Luzerne County or the County of Luzerne.
- F. *County Council* shall mean the elective legislative body of Luzerne County as provided for in this Charter.
- G. *County employee* and *County employment* shall mean any individual who has been hired by or is employed by Luzerne County in any capacity and to whom a salary, compensation, stipend, or emolument is paid.
- H. *Current members of County Council* shall mean those holding seats on County Council that are not vacant.
- I. *Days* shall mean calendar days unless business days are specifically referenced. A calendar day is any day including a Saturday, Sunday, and legal County holiday. If action is required on a calendar day that is not a County business day, action shall be required by the next business day, which shall mean any day not a Saturday, Sunday, or a legal County holiday.
- J. *Elected or elective County office* and *elected or elective County official* shall mean the members of Luzerne County Council, the Controller, and the District Attorney, and, until they vacate office or their terms expire, the Luzerne County Commissioners, Clerk of Courts, Coroner, Jury Commissioners, Prothonotary, Recorder of Deeds, Register of Wills, Sheriff, and Treasurer.
- K. *Elected or elective public office* and *elected or elective public official* shall mean any federal, state, county, municipal, or school district position that is elective.
- L. *Home Rule Charter and Optional Plans Law* shall mean the Act of April 13, 1972, as amended, or successor law.
- M. *Immediate Family* shall mean parent, spouse, child, brother, or sister.
- N. *Luzerne County Court of Common Pleas, Court of Common Pleas of Luzerne County, Court of Common Pleas,* and *Court* shall mean the Court of Common Pleas of the 11th Judicial District of the Commonwealth of Pennsylvania, presently coterminous with Luzerne County.
- O. *Members of Council whose presence at the meeting is recorded and who are eligible to vote* shall mean those in attendance at a meeting of County Council or lawfully participating in a meeting of County Council via telephonic, electronic, and/or other permitted devices and who are not prevented from voting by the State Ethics Act, by the County Accountability, Conduct, and Ethics Code, or by any other prohibition in this Charter or applicable law.

- P. *Public hearing* shall mean a special meeting at which time there will be only one order of business, and at which the public shall be permitted to speak on the subject specified. For required public hearings, public notice must be given as provided for in this Charter, the Administrative Code, or applicable law.
- Q. *Public office, public official, public employee, and public employment* shall mean any paid or unpaid federal, state, county, municipal, or school district position that is not elective.
- R. *Registered voter* shall mean a person who is lawfully registered and eligible to vote in Luzerne County having met the residency, registration, and other requirements as set forth in applicable law.
- S. *Technical codes* are standard or nationally recognized codes or technical rules, regulations, or specifications, such as building, electrical, health and safety codes, etc.

**Section 11.05—Common Provisions Relating to Elective Officials.**

- A. No individual may simultaneously be a candidate for more than one elective County office.
- B. Except as may otherwise be provided for in this Charter or applicable law, the terms of office of the members of County Council, the Controller, and the District Attorney shall begin on the first Monday of January in the year following their election and shall end when their successors take the oath or affirmation of fidelity. The terms of office of those elected or appointed to fill a vacancy in an elective office shall begin upon taking the oath or affirmation of fidelity.
- C. Upon beginning his/her term of office, each member of County Council, the Controller, and the District Attorney shall execute an oath or affirmation of fidelity to this Charter and the laws of the Commonwealth of Pennsylvania and the United States of America, or such other oath or affirmation as prescribed in the Administrative Code or applicable law. Any person appointed or elected to fill a vacancy on County Council shall take the oath or affirmation prior to the next regular or special meeting of County Council following his/her appointment or election, and any person appointed or elected to fill a vacancy in the office of Controller or District Attorney shall take the oath or affirmation within five days after his/her appointment or election.
- D. The office of a member of County Council, the Controller, and District Attorney shall become vacant upon the officeholder's death, resignation, forfeiture, or removal in accordance with the Pennsylvania Constitution or other applicable law, or if the person elected or appointed to the office fails to assume the office within 30 days after the scheduled beginning of the term.
- E. Any member of County Council, the Controller, and the District Attorney shall forfeit office if, during his/her term, County Council determines he/she lacks any qualification prescribed by this Charter or applicable law, has been found to be



incapacitated or incompetent by a court with appropriate jurisdiction, has been convicted of or pleads no contest to a charge constituting misbehavior in office, embezzlement or theft of public monies, bribery, perjury, any felony, or other infamous crime as provided for in the Pennsylvania Constitution or applicable law, or is disqualified from holding office as provided for in this Charter. Further, the offices of the District Attorney and Controller shall be declared vacant if the officeholder files a petition for nomination or election or becomes a candidate for any elective public office other than the one he/she holds at that time.

- F. When a position on County Council or the office of Controller or District Attorney is declared vacant by County Council pursuant to Section 11.06 of this Charter, County Council, at a regularly scheduled or special meeting held within 60 days after the declaration of that vacancy, shall fill the vacancy by resolution adopted by an affirmative vote of at least a majority of its current members. If County Council fails to do so, the Office of Clerk of County Council within five days after the expiration of County Council's 60-day opportunity to fill the vacancy, shall officially file a request with the Court of Common Pleas of Luzerne County to fill the vacancy. In such cases, the Court of Common Pleas by a majority vote of its members shall appoint a person to fill the vacancy within 30 days after receiving the request from the Office of Clerk of County Council.
- G. Any person appointed to fill a vacancy on County Council or in the office of Controller or District Attorney shall possess the qualifications set forth in this Charter and applicable law and shall be a member of the same political party as the person he/she is to succeed and shall have been a member of that party continuously from the time the person whose office is to be filled was most recently elected or appointed to the office. In the event the vacant position was filled by a person of no political party affiliation, the person appointed to fill the vacancy shall have no political party affiliation and shall have had no political party affiliation at the time the person whose office is to be filled was most recently elected or appointed to the office.
- H. If a vacancy on County Council or in the office of Controller or District Attorney is declared during the first 18 months of a term, the appointee shall serve until the voters of the County fill the unexpired term at the next scheduled municipal primary or municipal general election occurring no sooner than the 13<sup>th</sup> Tuesday after the vacancy was declared. If the vacancy on County Council is declared on or after the first day of the 19th month of a term, the appointee shall serve the full unexpired term of his/her predecessor.

**Section 11.06—Declaration of a Vacancy.** Whenever facts or circumstances result in a vacancy as defined in this Charter or applicable law in any elective office or on any County authority, board, or commission, County Council at its next regularly scheduled or special meeting shall declare such office vacant by resolution adopted by an affirmative vote of at least a majority of its current members. The vacancy shall then be filled as provided for in this Charter. In the event County Council fails to declare the existence of a vacancy when one is believed to exist, any resident of Luzerne County may bring an action in the Court of Common Pleas of Luzerne County to determine whether

or not a vacancy exists. In the event the Court determines a vacancy exists, the vacancy shall be filled as provided for in this Charter.

**Section 11.07—Citizens’ Right to be Heard.** A reasonable opportunity shall be provided for the residents and taxpayers of Luzerne County to provide public comment to County Council at its regular and special meetings prior to Council taking official action. County Council shall adopt procedures for citizen participation not inconsistent with the provisions, spirit, and purpose of this Charter and applicable law.

**Section 11.08—Severability.** If any Article, Section, Subsection, sentence, clause, or phrase in this Charter shall be held unconstitutional, invalid, or inapplicable by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of this Charter.

## ARTICLE XII—TRANSITIONAL PROVISIONS

**Section 12.01—Nature of Article.** The provisions of this Article shall relate to the transition from the County's existing form of government to the form of government provided for in this Charter. Where inconsistent with any other Article of this Charter, the provisions of this Article shall constitute temporary exceptions thereto.

**Section 12.02—Effective Date.** Upon approval by the voters of Luzerne County in the manner provided by law at the General Election held on November 2, 2010, the effective date of the new form of government provided for in this Charter shall be Monday January 2, 2012. However, upon the certification of the election results approving it, this Charter shall be in effect to the extent necessary to fill the elective positions provided for in this Charter at the 2011 municipal elections and allow all other transitional activities to be undertaken in order to ensure a smooth, orderly, and seamless transition from the existing form of government to the form of government provided for in this Charter.

**Section 12.03—Schedule of Elections.** The first election to fill the offices provided for in this Charter shall be held at the municipal general election in 2011. At that time all members of County Council and the District Attorney shall be elected. The next scheduled election for the office of Controller, which was most recently filled by election in 2009, will be held in 2013. The Luzerne County Bureau of Elections shall conduct the nominating and election process in a manner consistent with the intent of this Charter.

**Section 12.04—Elective Offices Abolished.** The following elective offices are abolished effective with the end of the terms of office to which the officeholders were elected in 2007 or subsequently appointed: County Commissioners, Clerk of Courts, Coroner, Recorder of Deeds, Sheriff, and Treasurer. The following elective offices are abolished effective with the end of the terms of office to which the officeholders were elected in 2009 or subsequently appointed: Jury Commissioners, Prothonotary, and Register of Wills.

**Section 12.05—Continuity.**

- A. All County ordinances, resolutions, rules, and regulations in force on the effective date of this Charter that are not inconsistent with or interfere with the provisions of this Charter shall continue in force until amended, superseded, or repealed. Unless prohibited by the Constitution of the Commonwealth of Pennsylvania or an Act of the General Assembly of Pennsylvania, all laws relating to or affecting this County or any of its divisions, departments, bureaus, offices, agencies, administrative units, boards, commissions, elective officials, the Judiciary, or Office of Court Administration in force on the effective date of this Charter are superseded to the extent they are inconsistent with or interfere with the effective operation of this Charter or any ordinances or resolutions adopted pursuant thereto.
- B. All rights, orders, actions, contracts, and legal or administrative proceedings of or involving the County government shall continue except as may be modified pursuant to the provisions of this Charter.

**Section 12.06—Initial Appointment of the County Manager and Clerk of County Council.** At its meeting on January 2, 2012, County Council shall appoint a County Manager and a Clerk of County Council. The appointment of the County Manager may be made either in a manner consistent with the provisions of Section 4.02 of this Charter or on an interim basis requiring a resolution adopted by an affirmative vote of at least a majority of County Council’s current members. The appointment of the Clerk of County Council may be made either in a manner consistent with the provisions of Section 2.09 A. 7. of this Charter or on an interim basis requiring a resolution. In no case shall an individual appointed on an interim basis pursuant to this Section serve for more than six months.

**Section 12.07—Initial Structure and Organization of the Executive Branch.** The initial structure and organization of the Executive Branch shall include the divisions of Administrative Services, Budget and Financial Services, Correctional Services, Human Services, Judicial Services and Records, and Operational Services. The structure provided for in this Section shall continue in effect until altered, superseded, or repealed as provided for in this Charter, but in no case shall such actions occur sooner than one year after the effective date of this Charter, unless changed by applicable law, the County is no longer required by law to provide any of these services or functions, or the County chooses not to provide any of these services or functions by action taken in keeping with the terms of this Charter or applicable law.

- A. The Division of Administrative Services shall be responsible for: the County personnel system; purchasing and acquisition activities; information technology, data processing, and other data management services; the registration of voters and the conduct of elections; the issuance of appropriate licenses and permits; the maintenance of appropriate records; grant writing; community development; tourist promotion; and any other powers, duties, programs, services, or functions that may be assigned by the Administrative Code.
- B. The Division of Budget and Financial Services shall be responsible for: the financial administration of the County government, including the custody and disbursement of all County funds; the establishment and maintenance of the budgeting, accounting, and financial management systems; the assessment of real property; and any other powers, duties, programs, services, or functions that may be assigned by the Administrative Code.
- C. The Division of Correctional Services shall be responsible for: the operation of the County prison, juvenile detention, and any other powers, duties, programs, services, or functions that may be assigned by the Administrative Code.
- D. The Division of Human Services shall be responsible for: programs relating to adult care and welfare, child care and welfare, drug and alcohol, mental health and mental retardation, and veterans affairs; transportation; and any other powers, duties, programs, services, or functions that may be assigned by the Administrative Code.
- E. The Division of Judicial Services and Records shall be responsible for: the services and functions that prior to the effective date of this Charter were performed by the

Clerk of Courts, Coroner, Prothonotary, Recorder of Deeds, Register of Wills, and Sheriff, and any other powers, duties, programs, services, or functions that may be assigned by the Administrative Code.

- F. The Division of Operational Services shall be responsible for: engineering; the construction and/or maintenance of roads and bridges; parks and recreation; solid waste/recycling; environmental projects; planning and zoning; emergency management; emergency communications; the care, maintenance, and security of buildings and grounds; and any other powers, duties, programs, services, or functions that may be assigned by the Administrative Code.
- G. If this Charter does not specifically designate the division, department, bureau, office, agency, administrative unit, board, or commission to which a power, duty, program, service, or function is assigned, or if the County assumes new powers, duties, programs, services, or functions, the County Manager shall make the designation by written directive, until such time as the Administrative Code is adopted in keeping with the provisions of this Charter and makes such designation.

**Section 12.08—Elective Terms Continued.**

- A. In conformance with the Home Rule Charter and Optional Plans Law, the Jury Commissioner(s), Prothonotary, and Register of Wills, whose terms of office continue beyond the effective date of this Charter, may remain in office for the terms to which they were elected in 2009 or subsequently appointed, and each may continue to be compensated at the rate in effect at the time of their election or appointment. However, if any of these officials vacate their office prior to the expiration of their term, the vacancy shall not be filled and the position shall be abolished.
- B. On the effective date of this Charter:
  - 1. The Controller shall assume the powers, duties, and responsibilities provided for in the Charter, and the operations of his/her office shall conform to the provisions of this Charter.
  - 2. The duties and responsibilities of the Prothonotary and Register of Wills shall be transferred to the Division of Judicial Services and Records. The Prothonotary and Register of Wills in office at that time shall be placed under the supervision and direction of the head of the Division of Judicial Services and Records, and neither the Prothonotary nor the Register of Wills shall interfere with or duplicate the powers, duties, and responsibilities of any County division, department, bureau, office, or other administrative unit.
  - 3. The duties and responsibilities of the Jury Commissioners shall be assumed by the Judiciary or its designee.

**Section 12.09—Boards and Commissions Abolished, Replaced, Reconstituted, or Restructured.** On the effective date of this Charter, the Board of County Commissioners, the Salary Board, and the Prison Board shall be abolished. The Board of Elections, Board

of Assessment Appeals, and Retirement Board shall be replaced, reconstituted, or restructured in keeping with the terms of this Charter. Except as may otherwise be provided for in this Charter, the members of any board or commission abolished, replaced, reconstituted, or restructured shall vacate their offices on the effective date of this Charter.

**Section 12.10—Authorities, Boards, and Commissions Continued.** All County authorities, boards, and commissions not specifically abolished, replaced, reconstituted, or restructured by this Charter shall continue and may exercise the powers conferred upon them until such time as may otherwise be provided for in this Charter, the Administrative Code, other County ordinance or resolution, or applicable law. Except as may otherwise be provided for in this Charter, members of these County authorities, boards, and commissions in office on the effective date of this Charter, whose terms of office have not expired, may complete their terms even if they do not meet the qualifications and other requirements and conditions set forth in this Charter. However, no person who would be ineligible to serve as a member of an authority, board, or commission under the terms of this Charter shall be appointed or reappointed to such position subsequent to the adoption of this Charter by the voters.

**Section 12.11—Temporary Ordinances.**

- A. Until December 31, 2012, County Council may adopt temporary ordinances to deal with cases in which there is need for prompt action in connection with the transition of government and in which a delay in taking action may cause hardship or the impairment of County finances and/or operations. Every temporary ordinance shall be plainly labeled as such.
- B. A temporary ordinance may be considered and may be adopted with or without amendment at the meeting at which it is introduced; however, if this Charter or applicable law requires a public hearing for the type of ordinance proposed, a public hearing must be held. A temporary ordinance shall not be subject to the reconsideration process or referendum process defined in this Charter and shall become effective upon adoption or at such later time as it may specify. Promptly after adoption, the Office of Clerk of County Council shall publish a summary of a temporary ordinance in at least one daily newspaper of general circulation in the County and, for at least 60 days, shall post a full copy for public inspection in its office and on the County website and/or other electronic medium.
- C. Every temporary ordinance, including any amendments made thereto, shall continue only until superseded by an ordinance that is not a temporary or emergency ordinance, and in no case shall any temporary ordinance remain in effect beyond December 31, 2012.

**Section 12.12—Administrative Organization and Operations/Written Directives.** Subject to the provisions of this Charter and until December 31, 2012, the County Manager shall have the authority to issue written directives for the administration of the Executive Branch in such manner as he/she deems desirable for the efficient and effective operation of County government. Copies of all such directives and any amendments

thereto shall be forwarded to County Council, other elective officials, and the Court of Common Pleas of Luzerne County and posted on the County website and/or other electronic medium within two days after being issued. In no case shall such a directive remain in effect beyond December 31, 2012.

**Section 12.13—Personnel Policies and Procedures/Written Directives.** Subject to the provisions of this Charter and until December 31, 2012, the County Manager shall have the authority to establish personnel policies and procedures for County employees by written directive in such manner as he/she deems desirable for the efficient and effective operation of County government, provided they do not violate applicable laws or collective bargaining agreements. Copies of all such directives and any amendments thereto shall be forwarded to County Council, other elective officials, and the Court of Common Pleas of Luzerne County and posted on the County website and/or other electronic medium within two days after being issued. In no case shall such a directive remain in effect beyond December 31, 2012.

**Section 12.14—Transitional Procedures.**

- A. Upon approval of this Charter by the voters of Luzerne County, a Transition Committee shall be formed to help ensure necessary or desirable transitional activities are successfully carried out and this Charter may become fully operational on its effective date resulting in a smooth, orderly, and seamless transition from the County's existing form of government to the form provided for in this Charter.
- B. The Transition Committee shall be composed of the three Luzerne County Commissioners in office at that time or their designees, five members of the Luzerne County Government Study Commission, and three registered voters of the County who were not members of the Government Study Commission. The five members of the Government Study Commission, one of whom shall be designated as the temporary Chair of the Committee, shall be selected by the members of the Commission prior to its final meeting. The three registered voters shall be selected by the members of the Transition Committee at its first meeting. The members of the Transition Committee other than the County Commissioners or their designees shall hold no other Luzerne County elective or appointed office or employment.
- C. The 11 individuals receiving the highest number of votes cast in the initial election of County Council members on November 8, 2011, as posted by the Bureau of Elections as of the close of business on Friday, November 11, 2011 shall immediately become voting members of the Transition Committee and may serve until January 2, 2012.
- D. The temporary Chair of the Transition Committee shall convene the first meeting of the Committee no later than December 1, 2010. Any vacancy on the Transition Committee involving other than the County Commissioners shall be filled by the remaining members of the Committee from among the registered voters of the County.

E. The Transition Committee shall:

1. Be responsible for drafting, for consideration by the County Manager and/or County Council subsequent to the effective date of this Charter, the Administrative Code, Personnel Code, Accountability, Conduct, and Ethics Code, and any other ordinances, rules, and regulations required by this Charter or deemed by the Transition Committee to be appropriate.
2. Undertake the search and recruitment process for the positions of County Manager and Clerk of County Council and recommend the most qualified candidates to the newly elected County Council for its consideration. Further, the Transition Committee may undertake the search and recruitment process for the heads of any division or office provided for in this Charter and for any other key position it deems appropriate. The Transition Committee may also give consideration to candidates to serve in any of these positions on an interim basis and to candidates to serve on the newly created Accountability, Conduct, and Ethics Commission, the reconstituted Board of Elections and Registration, the reconstituted Board of Tax Assessment Appeals, and any other authority, board, or commission where appointments will need to be promptly made by the incoming County Council.
3. Be responsible for arranging and advertising in accordance with this Charter and applicable law the first meeting of the newly elected County Council, which shall be held on Monday, January 2, 2012.
4. Engage in other activities it deems appropriate for ensuring transitional activities are successfully carried out so this Charter may become fully operational on its effective date resulting in a smooth, orderly, and seamless transition from the County's existing form of government to the form provided for in this Charter.

F. Members of the Transition Committee shall serve without compensation but shall be entitled to reimbursement by the County for reasonable expenses incurred in the performance of their duties. The County shall appropriate and pay to the Transition Committee monies deemed by the Transition Committee to be reasonably necessary to fulfill its responsibilities as outlined in this Charter. The amount to be appropriated and paid shall not be less than the total appropriation made to the Government Study Commission for the performance of its duties. The Transition Committee may appoint a solicitor, consultants, and clerical assistants to serve at the pleasure of the Committee and may fix reasonable compensation for their services.

G. The Board of County Commissioners in office in 2011 shall prepare and adopt the County budgets for 2012 in compliance with this Charter, but this shall in no way limit the power of the members of County Council taking office on the first Monday of January 2012 from revising the budgets for 2012 as authorized by this Charter.

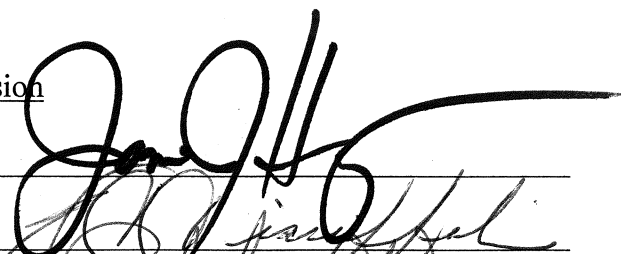
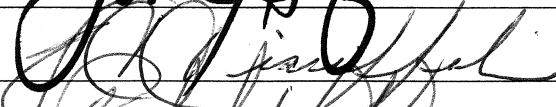

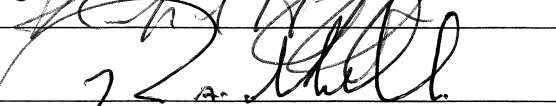
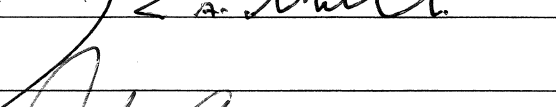
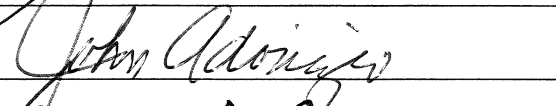
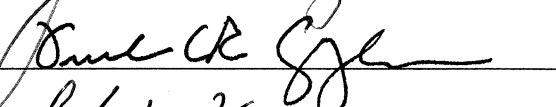

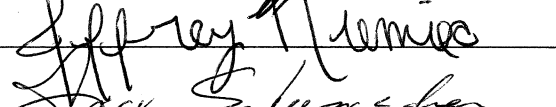
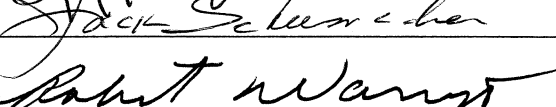
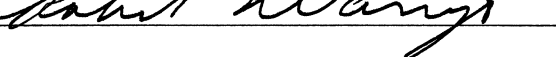


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## CERTIFICATION

This is certified to be a true and correct copy of the Recommended Home Rule Charter as approved by the Luzerne County Government Study Commission at its meeting held on August 11, 2010, for submission to the voters of Luzerne County at the general election to be held on November 2, 2010.

Luzerne County Government Study Commission

Mayor James J. Haggerty, Chair	
Veronica Ciaruffoli, First Vice-Chair	
Richard Heffron, Second Vice-Chair	
Richard Morelli, Treasurer	
Charmaine Hersker Maynard, Secretary*	
John Adonizio	
Frank E. P. Conyngham	
Christopher Kersey	
Jeffrey Niemiec**	
Jack Schumacher	
Robert Wanyo	

\* Mrs. Maynard also served as the Commission's Open Records Officer.

\*\*Until his resignation on December 16, 2009, Walter Griffith, Jr. served as a member of the Commission. At the Commission's January 6, 2010 meeting Jeffrey Niemiec was selected to fill the vacancy caused by Mr. Griffith's resignation. Prior to his selection, Mr. Niemiec served as the Commission's clerical assistant.

Attorney Jeffrey J. Malak served as the Commission's Solicitor.

The Pennsylvania Economy League, Central PA Division, served as the Commission's Professional Consultant.

P. J. Best served as the Commission's Web & Technology Consultant.

**LIST OF RESOURCES USED**

The Luzerne County Commissioners allocated \$89,400 for the operations of the Government Study Commission. As of July 31, 2010, the Commission had expended \$46,810.59. It is expected the Commission will expend approximately \$37,000 more to fulfill its requirements under the law. This would bring the Commission’s total spending to about \$84,000.

The following is a list of resources used by the Luzerne County Government Study Commission as of July 31, 2010, as well as estimates of additional resources to be used.

**Actual and Estimated Expenditures**

<u>Item or Service</u>	<u>Supplier</u>	<u>Amount</u>
Legal Advertising <sup>1/</sup>	Scranton Times Co. (Citizens Voice & Hazleton Standard Speaker)	\$ 2,500.00
Legal Advertising	Reimbursement to Jeffrey J. Malak for payments to Citizens Voice & Hazleton Standard Speaker	530.17
Legal Advertising	Reimbursement to Luzerne County for payments to The Times Leader	370.93
Clerical Assistant	Jeffrey Niemiec	1,200.00
Legal Services <sup>1/</sup>	Attorney Jeffrey J. Malak	10,000.00
Professional Consulting Services <sup>1/</sup>	Pennsylvania Economy League	38,400.00
Toll Free Number	Grass Roots Green Direct Consulting	600.00
Website Set Up Fee	Grass Roots Green Direct Consulting	825.00
Sound System Rental <sup>1/</sup>	Grass Roots Green Direct Consulting	1,100.00
Webcast Fees <sup>1/</sup>	Grass Roots Green Direct Consulting	250.00
Website Maintenance <sup>1/</sup>	Grass Roots Green Direct Consulting	300.00
Public Officials Liability Ins.	Joseph Joyce Associates	1,500.00
Policy Fee Binder	Joseph Joyce Associates	150.00
Office Supplies <sup>2/</sup>	Reimbursement to Charmaine Maynard <sup>3/</sup>	169.58
Security Fee	Hazleton Area School District	134.31
Room Rental Fee	Hazleton Area School District	50.00
Room Usage Fee <sup>4/</sup>	King's College	50.00
Printing/Distribution of Report <sup>4/</sup>	Unknown at this time	25,000.00
Mileage Reimbursement	Jeffrey Niemiec	72.38
Additional Public Forums <sup>4/</sup>	Unknown at this time	<u>500.00</u>
<b>TOTAL</b>		<b><u>\$83,702.37</u></b>

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<sup>1/</sup> Reflects actual and estimated costs.  
<sup>2/</sup> Binders, audiotapes, paper, ink, etc.  
<sup>3/</sup> Staples, Wal-Mart, and InkLink.  
<sup>4/</sup> Reflects estimated costs.

In addition, the Government Study Commission received the following in-kind services:

- Space for its regular meetings and public hearings from: Wyoming Seminary, Hazleton Area School District, Commission on Economic Opportunity, Hoyt Library, Bentley's Restaurant, Pittston Area School District, Luzerne County Community College, King's College, and Jackson Township
- Secretarial services, postage, photocopies, office space, and related services from James J. Haggerty, Esq.
- Technology consulting from P. J. Best/Grass Roots Green Direct Consulting
- Travel and related expenses from all members of the Government Study Commission

We, the members of the Luzerne County Government Study Commission, being duly sworn according to law, depose and say the foregoing statement of funds, goods, materials, services, and suppliers used by the Luzerne County Government Study Commission is correct to the best of our knowledge and belief.

Mayor James J. Haggerty, Chair \_\_\_\_\_  
Veronica Ciaruffoli, First Vice-Chair \_\_\_\_\_  
Richard Heffron, Second Vice-Chair \_\_\_\_\_  
Richard Morelli, Treasurer \_\_\_\_\_  
Charmaine Hersker Maynard, Secretary \_\_\_\_\_  
John Adonizio \_\_\_\_\_  
Frank E. P. Conyngham \_\_\_\_\_  
Christopher Kersey \_\_\_\_\_  
Jeffrey Niemiec \_\_\_\_\_  
Jack Schumacher \_\_\_\_\_  
Robert Wanyo \_\_\_\_\_

Sworn to and subscribed before me this 11<sup>th</sup> day of August, A.D., 2010

J. H. Malak  
Notary Public

