



**LUZERNE COUNTY GOVERNMENT STUDY COMMISSION  
MEETING**

**June 5th, 2025 6:00PM  
Council Meeting Room  
Luzerne County Courthouse  
200 N. River Street  
Wilkes-Barre, PA 18701**

**AND**

**Video/Teleconference via ZOOM  
(ZOOM recording of meeting maintained on County website)**

**6:00 PM CALL TO ORDER**

**PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**

**ROLL CALL**

**PUBLIC COMMENT ON AGENDA ITEMS**

*This is an opportunity for Luzerne County residents and taxpayers to address the Commission on any or all items on the Agenda. Each speaker shall have three (3) minutes to address the Commission, for a total of up to one hour for all speakers during this public comment period. Speakers may not yield or transfer their time to another speaker.*

*Those attending in person are asked to complete and submit a Speaker Card to the Clerk of Council before the first speaker is called. Those attending virtually are asked to refer to the Public Meetings Online page of County's Website at <https://www.luzernecounty.org/1279/Public-Meetings-Online> for more information on how to participate in Public Comment via technology.*

**AGENDA ITEMS**

1. Secretary Report
  - Motion to Approve Minutes
2. Treasurer Report
  - Motion to Pay Bills
3. Solicitor Report
4. Consultant Report
5. Discussion and Motions Regarding Approval of Remaining Articles and Changes to Draft Charter Document
6. Discussion and Motions Regarding Draft Charter Recommendation
7. Discussion and Motions regarding Final Report and Public Hearing

**PUBLIC COMMENT ON NON-AGENDA ITEMS**

*This is an opportunity for Luzerne County residents and taxpayers to address the Commission on matters not listed on the Agenda, but which must be within the subject matter jurisdiction of the Commission. Each speaker shall have three (3) minutes to address the Commission, for a total of up to one hour for all speakers during this public comment period. Speakers may not yield or transfer their time to another speaker.*

*Those attending in person are asked to complete and submit a Speaker Card to the Clerk of Council before the first speaker is called. Those attending virtually are asked to refer to the Public Meetings Online page of County's Website at <https://www.luzernecounty.org/1279/Public-Meetings-Online> for more information on how to participate in Public Comment via technology.*

**ADJOURNMENT**



## **LUZERNE COUNTY GOVERNMENT STUDY COMMISSION MEETING**

**June 2<sup>nd</sup>, 2025**

**Council Meeting Room  
Luzerne County Courthouse  
200 N. River Street  
Wilkes-Barre, PA 18701**

**AND**

**Video/Teleconference via ZOOM**

### **Minutes**

#### **Call to Order**

The Luzerne County Government Study Commission convened for a Voting Session in the Council Meeting Room of the Luzerne County Courthouse on June 2<sup>nd</sup>, 2025 at 6:00 PM. The meeting was called to order by Chairman Ted Ritsick.

#### **Pledge of Allegiance and Moment of Silence**

#### **Roll Call**

##### **Present**

Vito Malacari  
Cindy Malkemes  
Ted Ritsick  
Mark Shaffer  
Matt Mitchell  
Steve Urban

##### **Absent**

Tim McGinley

##### **Also Present**

Joe Khan, Solicitor  
Lynne Shedlock, Consultant  
Sharon Lawrence, Clerk of Luzerne County Council

#### **Public Comment on Agenda Items**

**No public comments.**

## **AGENDA ITEMS**

### **Secretary Report**

- Motion to approve the May 29<sup>th</sup>, 2025 meeting minutes which includes copies of the amendments approved at those meetings by Mr. Mitchell.  
Second by: Mr. Malacari

Vote:

Motion passed unanimously (6-0)

### **Treasurer Report**

- Nothing to report.

### **Solicitor Report**

- Attorney Khan reported that there are drafts of proposed changes that have been approved by GSC in the agenda packet. There are “clean” and “redlined” versions of the recommendations. Mr. Khan reported that he will provide guidance as GSC works through the agenda.

### **Consultant Report**

- Ms. Shedlock reported that PEL provided GSC with examples of final reports from the current Luzerne County Charter and provided an overview of the contents and will provide guidance when GSC discusses that agenda item.

### **Motions on Article XII – Transition Provisions**

- Mr. Khan provided an overview of Article XII.
- Mr. Malacari discussed his proposal to change drafted language in 12.03 to change County Council membership from 11 to 7 members by electing 4 members to a 4 year term and 2 members to a 2 year term in 027 and 3 members to a 4 year term in 2029 to have 7 members seated in 2030.
- Mr. Malacari motioned to accept 12.02 as amended.  
Second by Mr. Urban

Vote:

Motion passed unanimously (6-0)

- Motion to accept a numbering change in 12.04 by Mr. Malacari.  
Second by: Mr. Urban

Vote:

Motion passed unanimously (6-0)

## **Discussion regarding Other Articles or Charter Issues**

- No votes were taken but members discussed their views on other charter issues.
- GSC spoke on mirroring charter language for DA qualifications to match state law. GSC discussed striking language in 3.02 – Qualifications – “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.”
- GSC discussed adopted recommendations for the Ethics Commission, Board of Elections, and term limits.
- Mr. Ritsick proposed changing the requirement for introducing an ordinance for Council consideration to 2 County Council members and the County Manager.
- Mr. Ritsick spoke on ensuring charter language conformity throughout for political party registration status to serve on the Board of Elections.
- Mr. Malacari spoke on his opposition to changing the size of County Council to seven members.
- Mr. Khan discussed his conversation with Chief County Solicitor Skene regarding advertising for public job posting requirements. Members discussed.

## **Discussion regarding Final Report and Public Hearing**

- Ms. Shedlock discussed the email sent to GSC which included different examples of final reports and PA DCED’s Home Rule Charter book which outlines items that should be included in the final report. GSC discussed the public hearing format and how to distribute information to the public.
- Mr. Khan recommended that the GSC vote on the rules for submitting and presenting public comments during the Public Hearing.

## **Public Comment on Non-Agenda Items:**

Walter Griffith of Kingston Twp. provided verbal comments regarding implementing the findings of County Controller audits and the makeup of the Ethics Commission.

## **ADJOURNMENT**

Motion by: Mr. Malacari

Second: Mr. Urban

Vote:

Motion Passed Unanimously (6-0)

**Meeting adjourned at 8:42.**



**PENNSYLVANIA  
ECONOMY LEAGUE**  
Information, Insight, Integrity.

Pennsylvania Economy League, Central PA  
PO Box 27  
Camp Hill, PA 17001  
Website: pelcentral.org  
Phone: 570-824-3559  
Email: pel@pelcentral.org

## INVOICE

**To:**

**Luzerne County GSC**  
Cindy Malkemes, Treasurer

**Invoice Number:** LUZCTYGSC2025-04  
**Date:** 5/15/2025  
**Total Amount:** **\$5,250.00**

[Cindy.Malkemes@luzernecounty.org](mailto:Cindy.Malkemes@luzernecounty.org)

**PROJECT:** Luzerne County Government Study Commission - April 2025  
**Description:** Project research; attend meetings.

Description	Hours	Rate	Amount
Project Lead/Research Associate	23.00	\$200.00	\$4,600.00
Research Associate I	3.25	\$200.00	\$650.00
Research Associate II	0.00	\$200.00	\$0.00
Total PEL	26.25		\$5,250.00
Terms: 30 days			
<b>Total Due This Invoice</b>			<b>\$5,250.00</b>

Please make all checks payable to:

**PA Economy League**  
**PO Box 27**  
**Camp Hill, PA 17001**

CURRENT BALANCE	30 DAYS	60 DAYS	>90 DAYS	TOTAL BALANCE
\$5,250.00	\$6,250.00			<b>\$11,500.00</b>

If payment has been sent, please accept our apology.

# Detail By Person

Date Range: 4/1/2025 - 4/30/2025

Person	Project	Date	Task	Comment	Hours
<b>Project Lead Research Associate</b>					
	LuzCo - 202425GSC	2024-25	Government Study Commission		
		4/3/2025	Attended Mtgs/Muni. Officials		2.50
		4/4/2025	Meet/Phone w/Other Team Mbrs.		0.50
		4/7/2025	Attended Mtgs/Muni. Officials		2.50
		4/8/2025	Research Reports		4.00
		4/9/2025	Research Reports		4.00
		4/11/2025	Meet/Phone w/Other Team Mbrs.		1.00
		4/11/2025	Research Reports		1.50
		4/14/2025	Research Reports		3.00
		4/17/2025	Attended Mtgs/Muni. Officials		2.50
		4/21/2025	Attended Mtgs/Muni. Officials		1.50
			LuzCo - 202425GSC 2024-25 Government Study Commission Total:		23.00
			<b>Project Lead Research Associate Total</b>		<b>23.00</b>
				<b>Hourly Rate</b>	<b>\$200.00</b>
			<b>Project Lead Research Associate Total</b>		<b>\$4,600.00</b>
<b>Research Associate</b>					
	LuzCo - 202425GSC	2024-25	Government Study Commission		
		4/11/2025	Meet/Phone w/Other Team Mbrs.		0.50
		4/17/2025	Attended Mtgs/Muni. Officials		2.50
		4/18/2025	Meet/Phone w/Other Team Mbrs.		0.25
			LuzCo - 202425GSC 2024-25 Government Study Commission Total:		3.25
			<b>Research Associate I Total:</b>		<b>3.25</b>
				<b>Hourly Rate</b>	<b>\$200.00</b>
			<b>Research Associate I Total:</b>		<b>\$650.00</b>
			<b>Grand Total Hours</b>		<b>26.25</b>
			<b>Grand Total</b>		<b>\$5,250.00</b>

Curtin & Heefner LLP  
 1040 Stony Hill Road  
 Suite 150  
 Yardley, PA 19067

Federal Tax I.D. 23-1454105  
 Invoice Number 10164197  
 Invoice Date 06/01/2025

Cindy Malkemes  
 cindy.malkemes@luzernecounty.org

Re: 13978 60233 General Representation

Balance forward as of invoice dated 05/05/2025	\$10,278.00
Payments received since last invoice	\$10,278.00
<b>Accounts receivable balance carried forward</b>	<b>\$0.00</b>

**For Professional services rendered through 05/30/2025**

Service Date	Atty	Description	Hours	Rate	Amount
04/02/2025	JJK	Reviewed and provided responses to requests from Secretary (no charge)	0.20	\$0.00	\$0.00
05/01/2025	JJK	Agenda discussion with Chair and Vice Chair	0.30	\$220.00	\$66.00
05/01/2025	JJK	Prepared and submitted 2.03C options for GSC after meeting	0.40	\$220.00	\$88.00
05/01/2025	JJK	Updated and submitted updated Article II document after meeting	0.50	\$220.00	\$110.00
05/01/2025	JJK	Prepared for public meeting	0.30	\$220.00	\$66.00
05/01/2025	JJK	Attended public meeting	2.50	\$220.00	\$550.00
05/01/2025	JJK	Followup call with Chair and Vice Chair after meeting	0.60	\$220.00	\$132.00
05/01/2025	JJK	Submitted recommendations to Chair and Vice Chair after meeting	0.20	\$220.00	\$44.00
05/04/2025	JJK	Drafted and sent response to Chair	0.40	\$220.00	\$88.00
05/04/2025	JJK	Reviewed and analyzed materials from Chair	0.40	\$220.00	\$88.00
05/04/2025	JJK	Provided overview to BWF	0.30	\$220.00	\$66.00
05/05/2025	BWF	Participated in Commission meeting and prepared for same	3.50	\$185.00	\$647.50
05/05/2025	JJK	Review of documents	0.20	\$220.00	\$44.00

05/05/2025	JJK	Conference call with Chair, Vice Chair and BWF	0.90	\$220.00	\$198.00
05/06/2025	BWF	Conferred with JJK re. 5.5.25 Commission meeting	0.20	\$185.00	\$37.00
05/06/2025	JJK	Initial review of draft minutes	0.20	\$220.00	\$44.00
05/06/2025	JJK	Debriefed with BWF	0.30	\$220.00	\$66.00
05/07/2025	JJK	Updated amended versions of Articles II, III and VI; reviewed relevant portions of audio; revised minutes and sent all materials to Secretary	1.80	\$220.00	\$396.00
05/08/2025	JJK	Scheduling messages with Chair and Vice Chair (no charge)	0.20	\$0.00	\$0.00
05/08/2025	JJK	Reviewed Article XI	0.20	\$220.00	\$44.00
05/08/2025	JJK	Phone call with Chair	0.60	\$220.00	\$132.00
05/09/2025	JJK	Drafted Article XI document	0.40	\$220.00	\$88.00
05/09/2025	JJK	Sent email to Chair	0.20	\$220.00	\$44.00
05/09/2025	JJK	Teams meeting with PEL	0.90	\$220.00	\$198.00
05/09/2025	JJK	Began legal memo on BOE options	1.10	\$220.00	\$242.00
05/11/2025	JJK	Reviewed and responded to inquiries from Chair	0.70	\$220.00	\$154.00
05/12/2025	BWF	Reviewed and edited memorandum on Board of Elections	0.50	\$185.00	\$92.50
05/12/2025	JJK	Review of messages from Manager and Chair	0.20	\$220.00	\$44.00
05/12/2025	JJK	Drafted and revised memo on BOE options; sent to BWF and Chair for review	3.40	\$220.00	\$748.00
05/12/2025	JJK	Exchanged messages with Chair and Vice Chair	0.20	\$220.00	\$44.00
05/12/2025	JJK	Review of packet for meeting	0.20	\$220.00	\$44.00
05/13/2025	JJK	Finalized memo and sent to GSC and PEL	0.30	\$220.00	\$66.00
05/14/2025	JJK	Conference call with Chair and Vice Chair	1.00	\$220.00	\$220.00
05/14/2025	JJK	Phone call with Chief County Solicitor	0.30	\$220.00	\$66.00
05/15/2025	JJK	Attended GSC public meeting	2.60	\$220.00	\$572.00
05/15/2025	JJK	Prepared for Commission meeting	0.20	\$220.00	\$44.00
05/15/2025	JJK	Updated Article XI packet and sent to GSC Chair	0.20	\$220.00	\$44.00
05/15/2025	JJK	Began draft of Section 8.04 amendments	1.50	\$220.00	\$330.00

05/15/2025	JJK	Phone call with Chair	0.20	\$220.00	\$44.00
05/16/2025	JJK	Completed draft 8.04 amendments and sent to Chair and Vice Chair	0.30	\$220.00	\$66.00
05/16/2025	JJK	Reviewed and revised minutes and sent same to GSC	0.50	\$220.00	\$110.00
05/19/2025	BWF	Reviewed BOE email from Chair	0.10	\$185.00	\$18.50
05/19/2025	JJK	Read and analyzed materials from PEL and Chair	0.40	\$220.00	\$88.00
05/19/2025	JJK	Fielded questions before meeting about Section 11.05 and state law definitions	0.20	\$220.00	\$44.00
05/19/2025	JJK	Prepared for GSC meeting	0.30	\$220.00	\$66.00
05/19/2025	JJK	Attended GSC meeting	1.80	\$220.00	\$396.00
05/19/2025	JJK	Finalized Article XI amendments and sent to Secretary	0.20	\$220.00	\$44.00
05/20/2025	JJK	Budget discussion with Treasurer	0.30	\$220.00	\$66.00
05/21/2025	JJK	Reviewed and revised minutes	0.30	\$220.00	\$66.00
05/21/2025	JJK	Drafted 8.04 document and sent to Chair and Vice Chair	1.20	\$220.00	\$264.00
05/22/2025	BWF	Reviewed draft language on BOE	0.20	\$185.00	\$37.00
05/22/2025	JJK	Phone call with Chairman regarding proposed amendments; exchanged messages about same	0.90	\$220.00	\$198.00
05/22/2025	JJK	Revised 8.04 document and sent to Chair, Vice Chair and PEL	0.30	\$220.00	\$66.00
05/23/2025	JJK	Reviewed emails from GSC and Secretary and prepared and replied with packet materials	0.30	\$220.00	\$66.00
05/23/2025	JJK	Drafted transition section topics for discussion	0.50	\$220.00	\$110.00
05/27/2025	JJK	Exchanged messages with Chair, Vice Chair and Secretary	0.30	\$220.00	\$66.00
05/27/2025	JJK	Drafted and sent message to Chair about transition language	0.30	\$220.00	\$66.00
05/27/2025	JJK	Phone call with PEL; preparation for same	0.40	\$220.00	\$88.00
05/27/2025	JJK	Spoke with Vice-Chair regarding request for additional amendment alternatives	0.10	\$220.00	\$22.00
05/28/2025	JJK	Drafted alternative amendment language for 8.04 and sent to Vice Chair and Chair	0.60	\$220.00	\$132.00

05/28/2025	JJK	Prepared for public meeting	0.20	\$220.00	\$44.00
05/28/2025	JJK	Attended public meeting	1.70	\$220.00	\$374.00
05/28/2025	JJK	Completed revisions to final Article VIII documents and sent to Secretary after public meeting	0.90	\$220.00	\$198.00
05/29/2025	JJK	Reviewed draft minutes, made revisions, and returned same to Secretary	0.50	\$220.00	\$110.00
05/29/2025	JJK	Drafted new Article XII and sent to Chair, Vice Chair and PEL	1.70	\$220.00	\$374.00
05/30/2025	JJK	Exchanged messages with GSC members	0.40	\$220.00	\$88.00
05/30/2025	JJK	Began preparing materials for June 5 meeting	0.40	\$220.00	\$88.00
05/30/2025	JJK	Reviewed emails from GSC	0.30	\$220.00	\$66.00
05/30/2025	JJK	Reviewed and prepared notes on materials from PEL	1.40	\$220.00	\$308.00
<b>Total Professional Services</b>					<b>\$9,720.50</b>

**For Expenses Advanced**

**Fee Recap**

Flynn, Brendan W	4.50	hrs at	\$185.00 /hour	\$832.50
Khan, Joseph J	0.40	hrs at	\$0.00 /hour	\$0.00
Khan, Joseph J	40.40	hrs at	\$220.00 /hour	\$8,888.00
	<u>45.30</u>			<u>\$9,720.50</u>

**Billing Summary**

Total current professional fees for this matter	\$9,720.50
<b>Total of new charges for this invoice</b>	<u>\$9,720.50</u>
<b>Total balance now due</b>	<u><u>\$9,720.50</u></u>

\*\*\*\*\*

## 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 4, 2025, the effective date of the new form of government provided for in this Charter shall be Monday January 5, 2026, except where provided otherwise by this Article.

**Section 12.03— Reduction of County Council and Schedule of Elections.** County Council shall remain composed of 11 members until Monday, January 7, 2030, when County Council shall be composed of 7 members, as set forth in Article II of this Charter. In order to effectuate these compositions, six members of County Council shall be elected at the municipal general election in 2027, where the four candidates receiving the highest numbers of votes shall be elected for terms of four years, and the two 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. Three members of County Council shall be elected at the municipal general election in 2029.

**Section 12.04—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.
- C. All County authorities, boards, and commissions 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.
  - 1. The head of the County Division of Budget and Financial Services or its successor may continue to serve on the Retirement Board until County Council appoints to the Board a registered voter of Luzerne County who

is neither a member of the retirement system nor a member of the same household as a member of the retirement system or until April 30, 2026, whichever date is earlier. Thereafter, the head of the County Division of Budget and Financial Services or its successor may serve on the Board as the County Manager's designee only if so designated by the County Manager.

2. The County Manager may serve on the Joint Airport Board until County Council appoints to the Board an additional member of County Council or until April 30, 2026, whichever date is earlier.

DRAFT

## 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 4, 2025, the effective date of the new form of government provided for in this Charter shall be Monday January 5, 2026, except where provided otherwise by this Article.

**Section 12.03—Reduction of County Council and Schedule of Elections.** In order to provide for an orderly transition, County Council shall remain composed of 11 members until Monday, January 3, 2028. Thereafter, County Council shall be composed of 9 members until Monday, January 7, 2030, when County Council shall be composed of 7 members, as set forth in Article II of this Charter. In order to effectuate this composition, four members of County Council shall be elected at the municipal general election in 2027 and three members of County Council shall be elected at the municipal general election in 2029.

**Section 12.04—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.
- C. All County authorities, boards, and commissions 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.
  - 1. The head of the County Division of Budget and Financial Services or its successor may continue to serve on the Retirement Board until County Council appoints to the Board a registered voter of Luzerne County who is neither a member of the retirement system nor a member of the same household as a member of the retirement system or until April 30, 2026, whichever date is earlier. Thereafter, the head of the County Division of

Budget and Financial Services or its successor may serve on the Board as the County Manager's designee only if so designated by the County Manager.

2. The County Manager may serve on the Joint Airport Board until County Council appoints to the Board an additional member of County Council or until April 30, 2026, whichever date is earlier.

DRAFT

**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.~~

### **3.04 – Prohibitions**

...

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. Notwithstanding these prohibitions, nothing in this Article shall be construed to prevent the current District Attorney from employing or contracting with a former District Attorney whose knowledge, experience, and abilities are necessary for the effective prosecution of any pending case.

### **Section 4.07—Powers and Duties**

...

B. ..

4. To attend and participate in meetings of County Council, but he/she shall not have the right to vote at these meetings nor shall he/she have the power to propose ordinances or resolutions without the consent of at least two of County Council's current members.

**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.~~

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

...

B....

5. 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~~three 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.

## Section 9.02—Procedure for County Council.

- A. Within four months after the effective date of this Charter, County Council shall appoint a five-person ACE Code advisory committee comprised of three members of County Council and two registered voters of Luzerne County. The two registered voters appointed by County Council shall not belong to the same political party nor shall County Council appoint more than two of its members from the same political party
- B. Within 23 months after the effective date of this Charter, after consultation with the ACE Code advisory committee, County Council shall vote to ratify or amend the existing Accountability, Conduct, and Ethics Code by ordinance.
- C. Thereafter, on at least a biennial basis, County Council shall vote to ratify or amend the Accountability, Conduct, and Ethics Code by ordinance.

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

- A. County Council shall maintain an Accountability, Conduct, and Ethics Commission empowered to receive complaints from any individual, investigate alleged violations of the Accountability, Conduct, and Ethics Code, and make recommendations to be considered as part of County Council's biennial review of the Code. ~~Until such time as County Council ratifies or amends the Code in accordance with Section 9.02 of this Charter, the Code shall maintain the qualifications, composition, terms of office, prohibitions, and requirements set forth in Section 104.02 of the Code as amended on October 14, 2014.~~
1. For at least two years after the effective date of the Accountability, Conduct and Ethics Code passed pursuant to Section 9.02B of this Charter, the Accountability, Conduct, and Ethics Commission shall be composed of no more than seven members, including an even number of at least four 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.
  2. Half of the registered voters appointed by County Council shall be members 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 the other half of the registered voters appointed by County Council shall be members of the political party receiving the second highest number of votes cast for that office in that election.
  3. At the time of their appointment, each member 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 three years and shall remain a member of that party during his/her term of office.

## 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 maintains 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.** This Charter secures for the citizens of Luzerne County a form of government with the greatest degree of home rule and residual powers possible. To the extent that any provision of this Charter is inconsistent with any form of government, action, or provision established by state law, this Charter shall control unless restricted by the Pennsylvania Constitution, the acts of the General Assembly, or this Charter itself.

## ARTICLE II—LEGISLATIVE BRANCH/COUNTY COUNCIL

**Section 2.01—County Council.** There shall be a County Council composed of 7 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. 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 more than three consecutive terms. However, any member of County Council who has served in three consecutive terms may become eligible to serve additional terms after remaining out of office for a period of 23 months. The three term limit described in this Subsection shall not apply to any term in which the member served for two years or less nor to any term in which the member was elected or appointed prior to the effective date of this Charter.

**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 \$10,000 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. 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. Nothing in this section shall be construed to restrict County Council from directing the Clerk to provide assistance to a County office, County official, or County-funded authority, board, or commission

- 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 two 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 two 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 two 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 two 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 30th 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 Law or the County Council's designee 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 Nothing in this Section shall be construed to prevent Division Heads from providing subject matter expertise to County Council or serving as ex officio members of its committees.
- 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—Elective Officials Defined.** For purposes of this Charter, elective officials shall include the members of County Council, 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. Except as may otherwise be provided for in this Charter or applicable law, the District Attorney and Controller shall continue to be elected at municipal general elections every four years and all terms shall be four years.
- C. No Controller or District Attorney shall be eligible to be elected or appointed to serve in more than three consecutive terms. However, any Controller or District Attorney who has served in three consecutive terms may become eligible to serve additional terms after remaining out of that office as an elective official for a period of 23 months. The three term limit described in this Subsection shall not apply to any term in which the member served for two years or less nor to any term in which the Controller or District Attorney 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, file a petition for election or accept a party's nomination 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—Benefits and Reimbursement.** 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 District Attorney and the Controller shall be entitled to receive employee benefits and reimbursement of expenses incurred in the performance of their duties, consistent with County policy and shall be eligible to participate in the County retirement system.

**Section 3.07—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.

### **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, to the extent not otherwise limited by privilege or other applicable law, 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. Nothing in this Charter shall be construed to limit the authority of County Council to enact protocols and procedures to protect the integrity of confidential data, including but not limited to records contained in the Office of Law and the Office of Public Defender.

## **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.**

- A. 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.
- B. The process for hiring a County Manager shall require the appointment by County Council of a Search Committee consisting of at least three and not more than seven 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. County Council may appoint up to two members of County Council to serve on the Search Committee, provided that those members do not belong to the same political party. County Council shall provide a process for registered voters in Luzerne County to submit an application to serve on the Search Committee. 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.
- C. In the event of a vacancy in the position of County Manager, County Council, by resolution adopted by an affirmative vote of at least a majority of its current members, may appoint an Interim County Manager who, on an interim basis not to exceed 18 months, shall exercise the powers and duties of the County Manager until a County Manager is appointed pursuant to Section 4.02 B of this Charter.

**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 75 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, file a petition for election or accept a party's nomination 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—Designated Acting County Manager.** The County Manager shall designate an employee of the Executive Branch who shall be designated 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. Except where otherwise provided by this Charter, 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, at County Council's request, 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 nor shall he/she have the power to propose ordinances or resolutions without the consent of at least three of County Council's current members.
  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 Subject to Confirmation.**

- 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.
1. The heads of the Executive Branch divisions 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 explain the suspension or removal to County Council in writing within five days.

2. The County Manager may remove the County Solicitor and Chief Public Defender subject to County Council's confirmation as set forth in Section 2.09 B. 4. of this Charter. The County Manager may discipline or suspend these individuals. Upon suspending any of these individuals, the County Manager shall explain the suspension to 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 180 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 30 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 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). An affirmative vote of a majority of the current members of County Council shall be required to introduce any ordinance under this subsection.
- 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 provided that such transfer is not used to create a new position or increase the salary for any position above the per annum amount which has been budgeted for that year. 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 that, unless otherwise authorized by County Council, such transfers are not used to create a new position or increase the salary for any position above the per annum amount which has been budgeted for that year. 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 eight 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, the creation and/or maintenance of a County reserve fund, 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 County Council.** Within nine months after the effective date of this Charter, County Council shall vote to ratify or amend the existing Administrative Code by ordinance. Thereafter, on at least a biennial basis, County Council shall review the entire Administrative Code in consultation with the County Manager and receive public comment on whether to 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 Administrative Code shall set forth the structure and organization of the various divisions of the Executive Branch as determined by County Council, provided that the Code provides for an Office of Law and an Office of Public Defender and that the Code does not provide for a Deputy County Manger, co-County Manager, or other position which would dilute the executive authority of the County Manager.

- A. The Office of Law 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 permits County Council to appoint staff or 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 whose appointment, supervision and removal shall be subject to the provisions of Section 4.08 of this Charter .
  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 whose appointment, supervision and removal shall be subject to the provisions of Section 4.08 of this Charter.,
  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 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 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. Unless otherwise authorized by County Council, 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.

DRAFT

## 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 a permanent service to which the provisions of the Personnel Code shall apply. 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. 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 in accordance with a process set forth in the Personnel Code.
- B. The Exempt Service shall consist of all elective County officials and certain policymaking and other positions filled outside the career service provisions as defined in the Personnel Code and shall include at least the County Manager, Chief County Solicitor, Chief Public Defender, Division Heads, and Clerk of Council. Except for elective officials, those

serving fixed terms, and positions for which a different removal process is required by this Charter or other applicable law, 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 Commonwealth of Pennsylvania 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.

**Section 8.01—General Provisions for Authorities, Boards and Commissions.**

- A. There shall be such authorities, boards, and commissions as may be established 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.
- B. Except as may otherwise be specifically provided for in this Charter the Administrative Code, or applicable law, no member of a County authority, board or commission may simultaneously serve on more than one County authority, board, or commission and no authority, board or commission may include more than one elective County official or County employee among its members.
- C. 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.
- C. Unless otherwise provided for in applicable law, no member of a County authority, board or commission shall receive any County salary, pension or other compensation or pecuniary benefit by virtue of his/her position on such authority, board or commission. In accordance with County policy, however, members shall be entitled to reimbursement of expenses incurred in the performance of their duties.
- D. Persons who are employed or otherwise compensated by individuals or entities that have contracts with or are paid consultants of Luzerne County or any of its boards, authorities or commissions shall be allowed to serve on a County authority, board or commission after such person has fully disclosed to County Council the nature of their interests and relationship with Luzerne County in writing. Such written disclosure shall be made public at a meeting of County Council, where public comment about the written disclosure shall be permitted. Such written disclosure shall be made prior to the person's appointment or within 60 days of the person's agreement to receive compensation from such an individual or entity, whichever is later.

**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 be a citizen of the United States and a resident of Luzerne County. No person who has been convicted or found guilty of a charge constituting misbehavior in office, embezzlement or theft of public monies, bribery, perjury, any felony, or other infamous crime as defined in the Pennsylvania Constitution shall be eligible to serve on any County board or commission.
- 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 a 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;; knowingly or willfully violates any provision of this Charter; fails to make disclosures required by this Charter or applicable law; 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. Members of County boards and commissions shall observe high standards of ethics and professionalism during meetings and in their interactions with the public. Further, County Council shall establish ethical requirements and 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.

**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.

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

- A. The Board of Elections and Registration shall exercise all powers and duties now or hereafter conferred on it by this Charter and applicable law. Nothing in this Charter, the Administrative Code, or any other County ordinance or resolution shall be construed to deprive the Board of its powers to appoint, procure, or otherwise act to protect the elective franchise as required by state law.
- B. The Board of Elections and Registration shall be comprised as follows:
  - 1. The Board 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. These four members of the Board shall include two members 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.
  - 2. 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.
  - 3. 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 three years and shall remain a member of that party during his/her term of office.

4. The Board of Elections and Registration appointed by Council 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 may serve as the board's chair. The Board may also elect from its members a Vice Chair and a Secretary.
  5. 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.
  6. 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.
- C. Unless and until such time as the Administrative Code is amended to provide otherwise, the following provisions shall apply to the Board of Elections and Registration:
1. All terms shall be four years.
  2. If any member of the Board of Elections and Registration files a petition for nomination or election or accepts a party's nomination 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.

3. 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.
- D. County Council may modify, amend, or eliminate provisions of the Administrative Code governing the Board of Elections and Registration, including the provisions described in Section 8.04 C of this Charter, by ordinance adopted by an affirmative vote of at least a majority plus one of its members.
- E. The composition and governance of the Board of Elections and Registration shall not be limited by the provisions of Section 8.01 of this Charter.

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

- A. The Board of Tax Assessment Appeals 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 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. The Board shall elect its own Chair and may create and fill the offices of Vice-Chair and Secretary as it may determine.
- C. County Council may appoint by resolution at least one but no more than three registered voters of Luzerne County to serve as alternate members of the Board of Tax Assessment Appeals.

1. The Chair of the Board may designate an alternate member to substitute for any absent member or member who has recused himself or herself and, if, by reason of absence or recusal of a member, a quorum is not reached, the Chair shall designate as many alternate members to sit on the Board as may be needed to reach a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final decision on the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
  2. When seated pursuant to this Section, an alternate member shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by this Charter for Board members, including, specifically, the right to cast a vote as a voting member during the proceedings
  3. Any alternate member may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated unless designated as a voting alternate member by the Chair.
- D. All terms for members and alternate members shall be four years. Members and alternate 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 and shall meet all training requirements applicable to boards of assessment appeals in counties having populations closest to that of Luzerne County.
- E. Vacancies on the Board of Tax Assessment Appeals shall be filled as provided for in Section 8.02F. of this Charter except that nothing in this Section shall preclude County Council from appointing a current or former member or alternate member of the Board of Tax Assessment Appeals to serve as a member or alternate member of the Board.
- 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 or alternate 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 or alternate member of the Board of Tax Assessment Appeals shall serve as a County employee, be appointed to or serve as an employee of any other 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 and alternate 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. Members and alternate 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 composed of five members: the County Manager or his/her designee, a registered voter of Luzerne County who is neither a member of the retirement system nor a member of the same household as a member of the retirement system, 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 Chair of County Council or his/her designee from among Council's other members and two members of the County Council selected by resolution adopted by an affirmative vote of at least a majority of its current members. Each 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 a 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.

**Section 8.08—County Jail Oversight Board and Public Defender Advisory Board.** To promote the fair and equal administration of justice and to protect the County against potential litigation and liability, County Council may establish a County Jail Oversight Board and a Public Defender Advisory Board in accordance with state law.

## **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 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 County Council.** Within 23 months after the effective date of this Charter, County Council shall vote to ratify or amend the existing Accountability, Conduct, and Ethics Code by ordinance. Thereafter, on at least a biennial basis, County Council shall vote to ratify or 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, at a minimum, to every County division, department, bureau, office, agency, board, commission, and other administrative unit as well as the offices of all elective County officials and shall cover all employees of the County, all members and employees of County authorities, boards, and commissions, and all elective County officials and all employees of their offices. 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 the Code and Section 2.17 of this Charter, as well as for discrimination, favoritism, harassment, and oppression. Nothing in the Code shall be construed to nullify, lessen, or minimize the applicability of the State Ethics Act to any person.

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

- A. County Council shall maintain an Accountability, Conduct, and Ethics Commission empowered to receive complaints from any individual, investigate alleged violations of the Accountability, Conduct, and Ethics Code, and make recommendations to be considered as part of County Council’s biennial review of the Code. Until such time as County Council ratifies or amends the Code in accordance with Section 9.02 of this Charter, the Code shall maintain the qualifications, composition, terms of office, prohibitions, and requirements set forth in Section 104.02 of the Code as amended on October 14, 2014.
- B. County Council shall set forth standards for addressing complaints, provided that:
  - 1. County Council sets forth civil penalties for intimidating or retaliating against any person for making a complaint, participating in an investigation, or otherwise cooperating with the Commission’s investigation or resolution of a complaint.
  - 2. County Council receives conclusions and recommendations on all complaints as well as an annual report which shall include all necessary information and statistics regarding the number and types of complaints received and dispositions rendered.

- a. This report shall not contain the names of any complainants or respondents or any other personal information that would reasonably lead to the identification of either a complainant or respondent.
- b. The County Manager shall furnish such clerical assistance and supplies as may be deemed reasonable for the completion and submission of the annual report to the County Council.
- c. Within 45 days of receiving the written annual report, County Council shall include the report on the agenda of a public meeting at which public comment about the report shall be permitted.

**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.

## 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.**

C0 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.

D0 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 ~~five~~ 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 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.
- 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. *Staff of County Council* shall include any full-time or part-time employees of County Council, including but not limited to professionals providing administrative, clerical and legal support.
- T. *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 appear on the ballot 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 accepts a party's nomination 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 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 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 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 19<sup>th</sup> 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 on County Council or in the office of Controller 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.

DRAFT

## 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 maintains ~~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.** This Charter secures for the citizens of Luzerne County a form of government with the greatest degree of home rule and residual powers possible. To the extent that any provision of this Charter is inconsistent with any form of government, action, or provision established by state law, this Charter shall control unless restricted by the Pennsylvania Constitution, the acts of the General Assembly, or this Charter itself.

~~**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.~~

DRAFT

## ARTICLE II—LEGISLATIVE BRANCH/COUNTY COUNCIL

**Section 2.01—County Council.** There shall be a County Council composed of ~~11~~7 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, e~~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 for a period of 23 months. The three term limit described in this Subsection shall not apply to any term in which the member served for two years or less nor to any term in which the member was elected or appointed prior to the effective date of this Charter. 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 ~~\$10,000~~ \$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. Nothing in this section shall be construed to restrict County Council from directing the Clerk to provide assistance to a County office, County official, or County-funded authority, board, or commission
  - 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~~ two 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~~ two 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~~ two 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~~ two 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 30th 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 ~~Law or the Clerk of~~ County Council's designee 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 Nothing in this Section shall be construed to prevent Division Heads from providing subject matter expertise to County Council or serving as ex officio members of its committees.-
- 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 Defined.** ~~In addition to the members of County Council, For purposes of this Charter, the~~ elective officials ~~of Luzerne County~~ shall include the members of County Council, 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, the District Attorney and Controller shall continue to be elected at municipal general elections every four years and 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 consecutive terms, ~~including any term to which he/she was elected or appointed prior to the effective date of this Charter.~~ However, any Controller or District Attorney who has served in three consecutive terms may become eligible to serve additional terms after remaining out of that office as an elective official for a period of 23 months. The three term limit described in this Subsection shall not apply to any term in which the member served for two years or less nor to any term in which the Controller or District Attorney 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, file a petition for election or accept a party's nomination ~~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—Benefits and Reimbursement. ~~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 District Attorney and the Controller shall be entitled to receive employee benefits and reimbursement of expenses incurred in the performance of his/her their duties, consistent ~~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 3.079—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.

### **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, to the extent not otherwise limited by privilege or other applicable law, 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. Nothing in this Charter shall be construed to limit the authority of County Council to enact protocols and procedures to protect the integrity of confidential data, including but not limited to records contained in the Office of Law and the Office of Public Defender.

## 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.**

- A. 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.
- B. 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 and not more than seven 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. County Council may appoint up to two members of County Council to serve on the Search Committee, provided that those members do not belong to the same political party. County Council shall provide a process for registered voters in Luzerne County to submit an application to serve on the Search Committee. 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.
- C. In the event of a vacancy in the position of County Manager, County Council, by resolution adopted by an affirmative vote of at least a majority of its current members, may appoint an Interim County Manager who, on an interim basis not to exceed 18 months, shall exercise the powers and duties of the County Manager until a County Manager is appointed pursuant to Section 4.02 B of this Charter.

**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 ~~75.55~~ 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, file a petition for election or accept a party's nomination ~~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—Designated Acting County Manager.** The County Manager shall designate an employee of the Executive Branch who shall be designated ~~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. Except where otherwise provided by this Charter, 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, at County Council's request, 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 nor shall he/she have the power to propose ordinances or resolutions without the consent of at least three of County Council's current members.
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 Subject to Confirmation.**

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.

1. The heads of the Executive Branch divisions. 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 explain the suspension or removal ~~notify to~~ County Council in writing within five days.
2. The County Manager may remove the County Solicitor and Chief Public Defender subject to County Council's confirmation as set forth as set forth in Section 2.09 B. 4. of this Charter. The County Manager may discipline or suspend these individuals. Upon suspending any of these individuals, the County Manager shall explain the suspension to 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 90-180 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~~30 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 rolls 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). An affirmative vote of a majority of the current members of County Council shall be required to introduce any ordinance under this subsection.
- 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 provided that such transfer is not used to create a new position or increase the salary for any position above the per annum amount which has been budgeted for that year. 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 that, unless otherwise authorized by County Council, such the-transfers are not used to increase salaries or create a new positions or increase the salary for any position above the per annum amount which has been budgeted for that year. 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~~eight 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, the creation and/or maintenance of a County reserve fund, 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 AdoptionCounty Council.** Within ~~four~~nine months after the effective date of this Charter, ~~County Council~~the County Manager shall vote to ratify or amend the existing 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. Thereafter, on at least a biennial basis, County Council shall review the entire Administrative Code in consultation with the County Manager and receive public comment on whether to 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 Administrative Code shall set forth the initial structure and organization of the various divisions of the Executive Branch as determined by County Council, provided that the Code provides for 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 and that the Code does not provide for a Deputy County Manger, co-County Manager, or other position which would dilute the executive authority of the County Manager. 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 permits County Council to appoint staff or 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 whose appointment, supervision and removal shall be subject to the provisions of Section 4.08 of this Charter. ~~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 whose appointment, supervision and removal shall be subject to the provisions of Section 4.08 of this Charter. ~~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. Unless otherwise authorized by County Council, €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 eCareer sService, eExempt service, or part of the state civil service system.

- A. The Personnel Code shall define the County positions to be included in the Career sService. The eCareer sService shall be a permanent service to which the provisions of the Personnel Code shall apply. 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~~ eEmployees in the eCareer sService 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 in accordance with a process set forth in the Personnel Code.-
- B. The eExempt sService shall consist of all elective County officials and certain policymaking and other positions filled outside the career service provisions as defined in the Personnel Code and shall include at least the County Manager, Chief County

Solicitor, Chief Public Defender, Division Heads, and Clerk of Council. Except for elective officials, those and any others serving fixed terms, and positions for which a different removal process is required by this Charter or other applicable law, 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 Commonwealth of Pennsylvania state-eCivil sService system shall cover those employees required to be included in a state eCivil sService 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.

**Section 8.01—General Provisions for Authorities, Boards and Commissions.**

- A. 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.
- B. ~~Further, e~~Except as may otherwise be specifically provided for in this Charter the Administrative Code, or applicable law, no member of a County authority, 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 and no authority, board or commission may include more than one elective County official or County employee among its members.;
- CD. 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.
- C. Unless otherwise provided for in applicable law, no member of a County authority, board or commission shall receive any County salary, pension or other compensation or pecuniary benefit by virtue of his/her position on such a County authority, board or commission or any County pension or other benefit. In accordance with County policy, Hhowever, members shall be entitled to reimbursement of expenses incurred in the performance of their duties in keeping with County policy.
- D. Persons who are employed or otherwise compensated by individuals or entities that have contracts with or are paid consultants of Luzerne County or any of its boards, authorities or commissions shall be allowed to serve on a Luzerne County Aauthorities, board or commission after such person has fully disclosed to County Council the nature of their interests and relationship with Luzerne County in writing. Such written disclosure by an Authority applicant shall be made public at a meeting of Luzerne County Council, where public comment about the written disclosure shall be permitted. Such written disclosure shall be made prior to the person's applicant's appointment or within 60 days of the person's agreement to receive compensation from such an individual or entity, whichever is later. to an Authority and public comment shall be permitted.

## 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. No person who has been convicted or found guilty of a charge constituting misbehavior in office, embezzlement or theft of public monies, bribery, perjury, any felony, or other infamous crime as defined in the Pennsylvania Constitution shall be eligible to serve on any County board or commission.
- 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 a~~ 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 make disclosures required by this Charter or applicable law; 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. Members of County boards and commissions shall observe high standards of ethics and professionalism during meetings and in their interactions with the public. Further, County Council ~~may shall~~ establish ethical requirements and 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 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 applicable law, no member of a County board or commission shall receive any County salary by virtue of his/her position on a County board or commission or any County pension or other benefit.~~

~~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. 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. 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. 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 a County employee except as may otherwise be specifically provided for in this~~

~~Charter or applicable law. — Persons who are employed or otherwise compensated by individuals or entities that have contracts with or are paid consultants of Luzerne County or any of its boards, authorities or commissions shall be allowed to serve on Luzerne County Authorities after such person has fully disclosed the nature of their interests and relationship with Luzerne County in writing. Such written disclosure by an Authority applicant shall be made public at a meeting of Luzerne County Council prior to the applicant's appointment to an Authority and public comment shall be permitted.~~

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. — Nothing in this Charter, the Administrative Code, or any other County ordinance or resolution shall be construed to deprive the Board of its powers to appoint, procure, or otherwise act to protect the elective franchise as required by state law.~~

B. ~~The reconstituted Board of Elections and Registration shall be comprised as follows:~~

1. The Board 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. These four members of the Board shall include two ~~For those initially appointed under the terms of this Charter, one~~ members 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, a~~

2. 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.

3. 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~~ three years and shall remain a member of that party during his/her term of office.

4.

~~Within the first 30 days of the year following its initial election, County Council shall appoint the four members of t~~The Board of Elections and Registration appointed by Council 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 may serve as the board's chair. The Board may also elect from its members a Vice Chair and a Secretary.

5.  
~~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.~~

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.

6.  
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.

C. Unless and until such time as the Administrative Code is amended to provide otherwise, the following provisions shall apply to the Board of Elections and Registration:

1. All terms shall be four years.

2.

If any member of the Board of Elections and Registration files a petition for nomination or election or accepts a party's nomination ~~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.

3.

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.

~~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 Registrati~~

D. County Council may modify, amend, or eliminate provisions of the Administrative Code governing the Board of Elections and Registration, including the provisions described in Section 8.04 C of this Charter, by ordinance adopted by an affirmative vote of at least a majority plus one of its members.

E. The composition and governance of the Board of Elections and Registration shall not be limited by the provisions of Section 8.01 of this Charter.

## 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. The Board shall elect its own Chair and may create and fill the offices of Vice-Chair and Secretary as it may determine.
- C. County Council may appoint by resolution at least one but no more than three registered voters of Luzerne County to serve as alternate members of the Board of Tax Assessment Appeals.
1. The Chair of the Board may designate an alternate member to substitute for any absent member or member who has recused himself or herself and, if, by reason of absence or recusal of a member, a quorum is not reached, the Chair shall designate as many alternate members to sit on the Board as may be needed to reach a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final decision on the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
  2. When seated pursuant to this Section, an alternate member shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by this Charter for Board members, including, specifically, the right to cast a vote as a voting member during the proceedings
  3. Any alternate member may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated unless designated as a voting alternate member by the Chair.
- D. ~~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, A~~all terms for members and alternate members shall be four years. Members and alternate 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; and shall meet all training requirements applicable to boards of assessment appeals in counties having populations closest to that of Luzerne County.

- ~~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 8.02F. of this Charter; except that nothing in this Section shall preclude County Council from appointing a current or former member or alternate member of the Board of Tax Assessment Appeals to serve as a member or alternate member of the Board.
- 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 or alternate 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 or alternate member of the Board of Tax Assessment Appeals shall serve as a County employee, be appointed to or serve as an employee of any other 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 and alternate 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 and alternate 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 or his/her designee, the head of the County Division of Budget and Financial Services or its successor, a registered voter of Luzerne County who is neither a member of the retirement system nor a member of the same household as a member of the retirement system, 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 ~~two~~ members of the County Council selected by resolution adopted by an affirmative vote of at least a majority of its current members. ~~The Each~~ 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 a~~ 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.

**Section 8.08—County Jail Oversight Board and Public Defender Advisory Board.**

To promote the fair and equal administration of justice and to protect the County against potential litigation and liability, County Council may establish a County Jail Oversight Board and a Public Defender Advisory Board in accordance with state law.

## 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 AdoptionCounty Council.** Within ~~23~~ 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 vote to ratify or amend the existing ~~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. Thereafter, on at least a biennial basis,~~ County Council may shall vote to ratify or 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, at a minimum, 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, and 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 the this Code and Section 2.17 of this Charter, as well as for discrimination, favoritism, harassment, and oppression. Nothing in ¶the Code shall be construed to nullify, lessen, or minimize the applicability of ~~incorporate by reference~~ the State Ethics Act to any person, ~~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~~ County Council shall ~~be~~ maintain 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, ~~and make recommendations to be considered as part of County Council’s biennial review of the Code. Until such time as County Council ratifies or amends the Code in accordance with Section 9.02 of this Charter, the Code shall maintain the qualifications, composition, terms of office, prohibitions, and requirements set forth in Section 104.02 of the Code as amended on October 14, 2014.~~ 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~~ County Council shall set forth standards for addressing complaints, provided that:
1. County Council sets forth civil penalties for intimidating or retaliating against any person for making a complaint, participating in an investigation, or otherwise cooperating with the Commission’s investigation or resolution of a complaint.
  2. County Council receives conclusions and recommendations on all complaints as well as an annual report which shall include all necessary information and statistics regarding the number and types of complaints received and dispositions rendered.
    - a. This report shall not contain the names of any complainants or respondents or any other personal information that would reasonably lead to the identification of either a complainant or respondent.
    - b. The County Manager shall furnish such clerical assistance and supplies as may be deemed reasonable for the completion and submission of the annual report to the County Council.
    - c. Within 45 days of receiving the written annual report, County Council shall include the report on the agenda of a public meeting at which public comment about the report shall be permitted.
- ~~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~~-five 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.
- K. *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.

- O. *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. *Staff of County Council shall include any full-time or part-time employees of County Council, including but not limited to professionals providing administrative, clerical and legal support.*
- R.T. *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 appear on the ballot ~~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 accepts a party's nomination ~~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 on County Council or in the office of Controller ~~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.

DRAFT