

Chapter 1

Administration and Government

Part 1 Preliminary Provisions

- §1-101. Short Title
- §1-102. Citation of Code of Ordinances
- §1-103. Arrangement of Code
- §1-104. Headings
- §1-105. Tenses, Gender and Number
- §1-106. Construction
- §1-107. Normal Numbering
- §1-108. Special Numbering Problems
- §1-109. Amending Code
- §1-110. Altering Code
- §1-111. Penalties

Part 2 Commissions and Committees

A. Planning Commission

- §1-201. Creation of Commission

Part 3 Police Department

A. Establishment of Police Department

- §1-301. Police Department Established; Chief of Police in Charge
- §1-302. Subordinate Classifications in Police Department
- §1-303. Appointment of Special Police

B. Chief of Police

- §1-311. Confirmation of the Position of Chief of Police
- §1-312. Purpose of the Position
- §1-313. Essential Duties and Responsibilities of the Chief of Police

Part 4 Borough Manager

- §1-401. Creation of Office
- §1-402. Election and Term of Office
- §1-403. Qualifications
- §1-404. Manager's Bond

- §1-405. Manager's Compensation
- §1-406. Powers and Duties of Manager
- §1-407. Disability or Absence of Manager

Part 5
Firefighters' Relief Association

- §1-501. Recognition of Firefighters' Relief Association
- §1-502. Certification to Auditor General
- §1-503. Annual Appropriation

Part 6
Escrow of Fire Insurance Proceeds

- §1-601. Use of Fire Insurance Proceeds
- §1-602. Limits of Liability
- §1-603. Insurance Company Rights Reserved
- §1-604. Construction
- §1-605. Notification of Pennsylvania Department of Community and Economic Development
- §1-606. Penalty

Part 7
Tax, Tax Claim, Tax Lien, Municipal Claim and Municipal Lien Attorney Fees and Servicing Charges, Expenses and Fees

- §1-701. Short Title
- §1-702. Expenses Approved
- §1-703. Attorney Fees Approved
- §1-704. Procedure
- §1-705. Servicing Charges, Expenses and Fees Approved
- §1-706. Effective Date and Retroactivity
- §1-707. Assignment

Part 8
Recognizing Volunteer Fire Companies

- §1-801. Recognition
- §1-802. Authority
- §1-803. Officers
- §1-804. Control of Equipment and Funds

Part 9
Right-to-Know Policy

- §1-901. Public Records
- §1-902. Exempted Records
- §1-903. Financial Records
- §1-904. Aggregated Data
- §1-905. Law Enforcement Activity

Part 10
Independent Auditor

- §1-1001. Confirmation of Use of Independent Auditor and Abolition of Offices of Elected Auditor
- §1-1002. Requirements for Annual Appointment

Part 1**Preliminary Provisions****§1-101. Short Title.**

The short title of this Code of Ordinances prepared and published for the Borough of Pitcairn shall be the "Borough of Pitcairn Code of Ordinances."

(Ord. 978, 5/31/2011)

§1-102. Citation of Code of Ordinances.

The Borough of Pitcairn Code of Ordinances may be cited by Section number. The approved short form is "Code." Thus, "Code, §27-101" refers to §101 of Chapter 27 of this Code of Ordinances.

(Ord. 978, 5/31/2011)

§1-103. Arrangement of Code.

1. This Code is divided into Chapters which are subdivided as follows:
 - A. Subchapters, identified by capital letters, beginning with a Chapter title and number.
 - B. Parts, identified by Arabic numerals, beginning with a Part title and number.
 - C. Subparts, identified by Arabic numerals, beginning with a title.
2. The Sections of the Code are subdivided as follows:
 - A. Subsections, identified by Arabic numerals.
 - B. Paragraphs, identified by capital letters.
 - C. Subparagraphs, identified by Arabic numerals enclosed within parentheses.
 - D. Clauses, identified by lower case letters enclosed within parentheses.
 - E. Subclauses, identified by Arabic numerals followed by a parenthesis.
 - F. Items, identified by lower case letters followed by a parenthesis.
 - G. Subitems, identified by small Roman numerals.

(Ord. 978, 5/31/2011)

§1-104. Headings.

Chapter, Subchapter, Part, Subpart, Section, Subsection, Paragraph, Subparagraph, Clause, and Subclause headings contained in the Code may not be deemed to govern, limit, modify or affect the scope, meaning or intent of the Code. The headings of Sections, Subsections or other divisions of this Code are intended as mere captions to indicate the contents of the Section, Subsection or other division and shall not be deemed to be taken as titles of such Section, Subsection or other division, nor as any part of said Section, Subsection or other division unless expressly so provided.

(Ord. 978, 5/31/2011)

§1-105. Tenses, Gender and Number.

Except as may be otherwise stated in any provision of this Code, the present tense includes the past and future tenses, and the future the present; the masculine gender includes the feminine and neuter, the feminine includes the masculine and neuter, and the neuter includes the masculine and feminine; and the singular includes the plural, and the plural the singular.

(Ord. 978, 5/31/2011)

§1-106. Construction.

1. Except as may be otherwise specifically provided by any provision of this Code, the Statutory Construction Act of 1972, 1 Pa.C.S.A. §1501 *et seq.*, shall be applied in construing this Code.

2. *Effect of Repeal or Expiration of Code Section.*

A. The repeal of a Code Section or ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued or any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.

B. When any ordinance repealing a former Code Section, ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former Code Section, ordinance, clause or provision, unless it shall be expressly so provided.

3. *Saving Clause.* The provisions of this Code, so far as they are the same as those ordinances and regulations in force immediately prior to the adoption of this Code, are intended as a continuation of such ordinances, resolutions and regulations and not as a new enactment. The provisions of this Code shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations. Except as specifically stated in this Code or in the ordinance adopting this consolidation, codification and revision of the ordinances and regulations, it is the intention of the Borough Council that no ordinance or regulation of the Borough be amended, revised or repealed by implication.

4. *Resolutions.* The provisions of this Code of Ordinances may contain resolutions, that is, actions of the Borough Council (in written form and designated "resolution") which did not require prior public notice in accordance with the provisions of the Borough Code, 53 P.S. §45101 *et seq.*, at the time of their passage by the Borough Council. Such "resolutions" are included herein for ease of reference and the Borough Council does not intend by their inclusion herein to require prior public notice before amending, revising or repealing such resolution or resolutions as may have been included herein in the future. It is the intention of the Borough Council that such actions of the Borough Council that may be included in this Code and specifically cited and designated as a resolution shall not become an ordinance (requiring prior public notice before amendment, revision or repeal) by the simple fact of inclusion in this Code.

(Ord. 978, 5/31/2011)

§1-107. Normal Numbering.

1. *Chapters.* Chapters are numbered sequentially in Arabic throughout this Code.
2. *Parts.* Parts are numbered sequentially in Arabic throughout this Code.
3. Whenever other divisions are necessary, Chapters shall be divided into Subchapters, Parts into Subparts and designated with the Chapter or Part number followed by a capital letter. For instance, Chapter 1 may be divided into Subchapters 1A and 1B.
4. *Sections.* Sections are numbered sequentially throughout a Chapter and a Part such that the first number or numbers is the Chapter number, followed by a hyphen, followed by the Part number, followed by the Section number within the Part. For example, "§1-101" designates Chapter 1, Part 1, Section 1. Similarly, "§27-305" designates Chapter 27, Part 3, Section 5.
5. *Internal Divisions of Sections.* Whenever internal divisions are necessary, Sections shall be divided into Subsections, Subsections into Paragraphs, Paragraphs into Subparagraphs, Subparagraphs into Clauses, and Clauses into Subclauses, and Subclauses into Items, designated as follows:

1. Subsection.
 - A. Paragraph.
 - (1) Subparagraph.
 - (a) Clause.
 - 1) Subclause.
 - a) Item.
 - i. Subitem

(Ord. 978, 5/31/2011)

§1-108. Special Numbering Problems.

1. *Addition of New Units Between Existing Units.* If it becomes necessary to introduce a new Chapter, Part or Section between existing Chapters, Parts or Sections, the new Chapter, Part or Section shall be designated by the addition of a capital letter suffix to the preceding Chapter, Part or Section number. Thus, a Chapter introduced between Chapters 5 and 6 would be Chapter 5A and Sections in that Chapter would be numbered, for instance, "§5A-101." If it becomes necessary to introduce a Part between existing Parts 5 and 6 the new Part would be Part 5A and Sections in that Part would be numbered, for instance, "§5-5A01." A new Section introduced between existing Sections 5 and 6 would be "§5-105A." When a number of new Parts or Sections have been introduced the Chapter or Part shall be renumbered.
2. If it becomes necessary to introduce a Subsection between Subsections, for instance, Subsections .5 and .6, the new Subsection would be numbered Subsection .5-A.
3. If it becomes necessary to introduce a unit smaller than a Subsection between existing units, the entire Subsection shall be revised and renumbered.
4. *Vacated Numbers.* Whenever a number is vacated by a revocation or repeal, the remaining elements in the overall unit shall retain their old numbers until the overall unit is completely revised. Prior to revision, the vacated number may be marked: "[Reserved]."

(Ord. 978, 5/31/2011)

§1-109. Amending Code.

1. All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code shall be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed Chapters, Parts, Sections, Paragraphs, Clauses or other part or provision hereof, by subsequent ordinance, such repealed portions may be excluded from this Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code and subsequent ordinances omitted are readopted as a new Code by the Borough Council.

2. Amendment to any provision of this Code shall be made by specific reference to the Chapter, Part, Section and/or Subsection number of this Code in the following language:

A. *Amendment or Revision.* "Chapter ___, Part ___, Section ___, Subsection ___, is hereby amended (revised) to read as follows" The amended or revised provisions may then be set out in full as desired.

B. *Addition.* "Chapter ___, Part ___, Section ___, Subsection ___, is hereby amended by the addition of the following" The new provision shall then be set out in full as desired.

C. *Repeal.* "Chapter ___, Part ___, Section ___, Subsection ___, is hereby repealed in its entirety."

3. It is the intention of the Borough Council that the numbering scheme of this Code be adhered to in enacting future ordinances. In the event that any ordinance or other enactment be adopted which does not conform to the numbering system of this Code, it is the intention of the Borough Council that such enactment be renumbered in the process of supplementing, revising or updating this Code to conform to the numbering scheme of this Code. The Borough Council hereby acknowledges and confirms that the numbering scheme herein is for ease of reference and that the renumbering of any enactment when added to this Code shall not in any manner affect the validity of said enactment.

(Ord. 978, 5/31/2011)

§1-110. Altering Code.

It shall be unlawful for any person to change or amend by addition or deletion any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever, except by ordinance or resolution or other official act of the Borough Council.

(Ord. 978, 5/31/2011)

§1-111. Penalties.

1. *Penalty Where No Penalty Provided.* Whenever in this Code or in any ordinance of the Borough any act is prohibited or is declared to be unlawful, or whenever in this Code or other ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefor:

A. *Violations of Health, Safety and Welfare Provisions.* For violations of

ordinances adopting building, housing, property maintenance, health, fire or public safety codes; and for ordinances regulating water services, water pollution, air pollution and noise, the following penalty shall be provided:

(1) Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

B. *Other Violations.* All other penalties, except for penalties in Chapter 15, "Motor Vehicles and Traffic" (based on the Vehicle Code, 75 Pa.C.S.A. §101 *et seq.*), penalties and ordinances adopted under the authority of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, earned income tax ordinances adopted under the Local Tax Enabling Act, 53 P.S. §6913, and ordinances adopted under authority of the Sewage Facilities Act, 35 P.S. §750.1 *et seq.*, should provide, generally:

(1) Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

2. The imposition of a penalty under the provisions of this Code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the laws of the Commonwealth of Pennsylvania and the United States of America. In addition, the Borough may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Code. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

(Ord. 978, 5/31/2011)

Part 2**Commissions and Committees****A. Planning Commission****§1-201. Creation of Commission.**

A Borough Planning Commission, to be composed of five members, appointed as provided by law, 53 P.S. §10202, is hereby created in and for the Borough. The Planning Commission shall perform all duties and may exercise all powers conferred by law upon Borough planning agencies; provided, the Planning Commission previously created in and for the said Borough shall constitute the tenure of any of the members thereof, but any and all vacancies in the said Commission, hereafter occurring, shall be filled in the manner and for the term provided in the law governing Borough planning commissions in effect at the time of the happening of the said vacancy.

(*Ord. 606, 10/25/1960; as amended by Ord. 846, 9/18/1991, §1-601*)

Part 3**Police Department****A. Establishment of Police Department.****§1-301. Police Department Established; Chief of Police in Charge.**

A Police Department is hereby established in and for the Borough. The Chief of Police shall be the chief executive of the Police Department. He shall, under the direction of the Mayor, be in charge of the police force and have supervision over its members, in the exercise of their powers, duties and authority.

(Ord. 607, 12/29/1960, §1)

§1-302. Subordinate Classifications in Police Department.

Subordinate to the Chief of Police, in the Police Department, the following classifications are hereby established: Assistant Chief and Patrolman, or those of such other classifications to which Council shall at any specific time have appointed one or more police officers. The priority of authority among such subordinate classifications shall be in the order as provided for in §1-301 of this Part. The number of persons to serve in each of such subordinate classifications, on a full time and/or part time basis, and the compensation of each shall be as determined by the Borough Council from time to time.

(Ord. 607, 12/29/1960, §2)

§1-303. Appointment of Special Police.

Nothing contained in this Part shall affect the authority of the Mayor to appoint special policemen during emergencies.

(Ord. 607, 12/29/1960, §3)

B. Chief of Police.**§1-311. Confirmation of the Position of Chief of Police.**

The position of Chief of Police is hereby confirmed by Council of the Borough of Pitcairn. The Chief of Police, pursuant to the applicable provisions of the Borough Code, 53 P.S. §45101 *et seq.*, shall report directly to the Mayor and Council of the Borough of Pitcairn or such other person or committee as may be designated by ordinance or resolution of Borough Council.

(*Res. 808, 9/22/2009, §I*)

§1-312. Purpose of the Position.

1. The Chief of Police shall be the chief executive of the Police Department and chief law enforcement officer for the Borough of Pitcairn and shall be ultimately responsible for all operations of the Police Department.

2. In addition to the police powers prescribed by law, the Chief shall be responsible for all administrative functions of the Police Department, preparing and regulating the budget for the Police Department, the supervision of all subordinate officers and other employees, establishing and maintaining a work schedule and ensuring that all provisions of the police contract, as well as all Borough policies and procedures are observed.

3. The Chief of Police shall authorize vacation and other legitimate leave, direct and authorize all training, and direct police services in an attempt to provide the greatest protection and security for the residents of the Borough.

4. The Chief of Police is responsible for establishing and enforcing departmental policy, keeping all departmental employees informed and abreast of all changes, updates and/or modifications in the law and/or relevant policy, directives, etc., effecting disciplinary action when necessary and in accordance with applicable laws and Borough ordinances, policies and procedures.

(*Res. 808, 9/22/2009, §II*)

§1-313. Essential Duties and Responsibilities of the Chief of Police.

Duties and responsibilities of the Chief of Police for the Borough of Pitcairn, in addition to those set forth in §1-312 include but are not limited to the following:

A. Shall be the principal administrative officer of the Police Department and shall be responsible for supervising all personnel, functions and operations of the department.

B. The Borough Council and the Chief shall have full authority to enforce all laws, regulations, rules, mandates, procedures, directives, and provisions of the police contract and special requests and/or instructions from the Mayor, Council or other competent authority with regard to the Police Department.

C. Maintain control over the assignments, deployment, scheduling, special details, transfers, etc., of all officers, supervisors and employees in the Police Department in accordance with law, Borough ordinances, directives and/or the provisions established by the police contract.

D. Responsible for the timely execution of all applicable Borough directives,

procedures and policies, as well as the completion of all special assignments from the Borough Council.

E. Prepare and submit a monthly police report to the Borough Council.

F. Develop, issue and maintain a comprehensive department manual, addressing every major function, regulation, directive, procedure, requirement and general policy of the police organization. A particular effort will be made to establish policies that will create an efficient and safe working environment, prevent liability to the Borough or its officials, insure public safety, address emerging concerns and allow for an effective day-to-day operation. Responsible for reviewing, updating and implementing the provisions of the manual on a regular basis.

G. Develop, present and administer the annual operating budget for the Police Department. Establish adequate controls over expenditures and the monitoring of disbursements over the course of the fiscal year. Utilize available funds in a manner that provides for the most effective police service possible in an efficient and cost-effective manner. Assist the Borough Council in the planning of long range capital purchases and provide an anticipated 5-year capital purchase schedule during every budget preparation period.

H. Responsible for the care and maintenance of the department facility, fleet and all equipment and uniforms.

I. Responsible for all department recordkeeping, including the maintenance, organization, storage, retrieval and utilization of departmental records and assure that all applicable laws and directives regarding such records are properly followed.

J. Responsible for maintaining the integrity of the evidence room and assuring that all applicable laws and directives regarding recordkeeping and disposition of property/evidence are properly followed.

K. Strive to organize, direct, control and deploy all resources of the department in a manner which will provide for the safety and well being of the citizenry, the preservation of the peace and harmony of the community and to enforce all applicable laws, mandates and proclamations. In addition, make every effort to create and coordinate a plan with all affected agencies that will endeavor to protect lives and property during any natural or man-made disaster.

L. Plan and execute a police service program, based on an analysis of crime trends, emerging problem areas, actual need, etc., designed to prevent and repress crime, apprehend and prosecute offenders, allow for the safe and expedient movement of the citizenry, provide for the public safety and the harmony of the community.

M. Oversee the general inspection and supervision of all public places within the community and cause the laws and ordinances concerning such places to be obeyed.

N. Maintain an active, productive alliance with other local police agencies, appropriate Allegheny County agencies and institutions, professional police authorities and training facilities, in an effort to improve and/or advance the administration of law enforcement and/or to provide for the safety and well being of the community. Ensure the prompt reporting of pertinent information to all

affected agencies, regardless of jurisdiction and/or geographic location.

O. Responsible for establishing and executing an effective and comprehensive training program for all employees. Recognize and identify special abilities or needs and provide appropriate advanced or remedial training as necessary or desired.

P. Conduct regular staff meetings in an effort to apprise employees of departmental and Borough activity, policy and direction.

Q. Shall at all times remain informed of the affairs of the department and be assured that the duties of his/her subordinates are properly discharged. Oversee continuous staff inspection as a part of a comprehensive and relevant performance evaluation in accordance with departmental policy and procedures.

R. Responsible for responding to grievances and for all departmental disciplinary action and shall initiate such action for any member who violates any law or disregards or violates departmental policy. Disciplinary action shall be taken in accordance with the Borough Code, 53 P.S. §45101 *et seq.*, and any police contract currently in effect at the time, other policies and procedures established by law.

S. Establish acceptable standards and follow Borough policies for recruitment, selection and promotion of department members and employees. Establish and implement procedures for recognizing outstanding performance by department employees.

T. Prepare department-related ordinances, resolutions and proclamations and review same for accuracy.

U. Prepare and submit monthly reports to the Borough Mayor and/or Borough Council regarding the department's activities and prepare a variety of other reports as appropriate.

V. Attend conferences and meetings to keep abreast of current trends in the field; represent the Borough Police Department in a variety of local, County, State and other meetings and/or functions.

W. Cooperate with County, State and Federal law enforcement agencies as appropriate where activities of the Police Department are involved.

X. Perform the duties of subordinate personnel as needed.

Y. Perform other work-related duties as assigned by the Mayor, Borough Council or such other person or committee as may be designated by ordinance or resolution of the Borough Council.

(Res. 808, 9/22/2009, §III)

Part 4**Borough Manager****§1-401. Creation of Office.**

The Office of Borough Manager is hereby created by the Borough, subject to the right of the Borough, by ordinance, at any time to abolish such office.

(*Ord. 717, 5/15/1974, §1*)

§1-402. Election and Term of Office.

As soon as practicable after the enactment of this Part, the Borough Council shall elect, by a majority vote of all its members, one person to fill the office of Borough Manager, who shall serve until the first Monday of January of the even-numbered years succeeding his appointment, and until his successor is elected and qualifies. The said office shall be filled biennially thereafter. In the case of a vacancy, the Council shall fill said office by majority vote of all its members. The Borough Manager shall, however, be subject to removal at any time by a majority vote of all the members of Council.

(*Ord. 717, 5/15/1974, §2*)

§1-403. Qualifications.

The Manager shall be chosen principally on the basis of his executive and administrative abilities, with special reference to his actual experience in or his knowledge of accepted practices in respect to the duties of his office as herein outlined. The Manager need not be a resident of the Borough or of the Commonwealth of Pennsylvania at the time of his appointment, but within a reasonable time thereafter (which time may be fixed by agreement between the Manager and the Borough) he shall become and during his tenure shall remain a resident of the Borough.

(*Ord. 717, 5/15/1974, §3*)

§1-404. Manager's Bond.

Before entering upon his duties, the Borough Manager shall give a bond to the Borough, with a bonding company as surety, in the sum of \$75,000, conditioned for the faithful performance of his duties, premium for the said bond to be paid by the Borough.

(*Ord. 717, 5/15/1974, §4; as amended by Ord. 846, 9/18/1991, §1-104*)

§1-405. Manager's Compensation.

The Borough Manager shall receive such compensation as shall be fixed from time to time by ordinance.

(*Ord. 717, 5/15/1974, §5*)

§1-406. Powers and Duties of Manager.

1. The Manager shall be the chief administrative officer of the Borough, and he shall be responsible to the Council as a whole for the proper and efficient administration of the affairs of the Borough. His powers and duties shall relate to the

general management of all Borough business not expressly, by statute or ordinance, imposed or conferred upon other Borough officers. The Mayor is hereby authorized to delegate to the Borough Manager, subject to recall by written notification at any time, any of his nonlegislative and nonjudicial powers and duties.

2. Subject to recall by ordinance, the powers and duties of the Manager shall include the following:

A. He shall supervise and be responsible for the activities of all Borough departments, except such departments the supervision of which shall not have been delegated to the Manager by the Mayor or by Council, as the case may be.

B. He shall hire and, when he shall deem it necessary for the good of the service, shall suspend or discharge all employees under his supervision; provided, persons covered by the civil service provisions of the Borough Code shall be hired, suspended or discharged in accordance with such provisions; provided further, the Manager shall report, at the next meeting thereafter of Council, any action taken by authority of this Section.

C. He shall prepare and submit to Council before November 5 of each year, or on such alternate date as Council shall determine, a suggested budget for the next fiscal year and an explanatory budget message. In preparing the budget the Manager or an officer designated by him shall obtain from the head of each department, agency, board or officer, estimates of revenues and expenditures and other supporting data as he requests. The Manager shall review such estimates and may suggest revisions when submitting the suggested budget to the Council.

D. He shall be responsible for the administration of the budget after its adoption by the Council.

E. He shall, under the direction of the Mayor, execute and enforce the laws of the Commonwealth, and ordinances, resolutions and by-laws of the Borough.

F. He shall hold the office of Borough Secretary and shall perform all the duties of all such officers, in addition to the specific duties assigned to the Manager by this Part.

G. He shall attend all meetings of the Borough Council and its committees with the right to take part in the discussion, and he shall receive notice as to all special meetings of Council and of its committees.

H. He shall keep the Council informed as to the conduct of Borough affairs; submit periodic reports on the condition of the Borough finances and such other reports as the Council shall request; and shall make such recommendations to the Council as he deems necessary.

I. He shall submit to Council, as soon as possible after the close of the fiscal year, a complete report on the financial and administrative activities of the Borough for the preceding year.

J. He shall see that the provisions of all franchises, leases, permits, and privileges granted by the Borough are observed.

K. He may employ, by and with the approval of Council, experts and consultants to perform work and to advise in connection with any of the functions of the Borough.

L. He shall attend to the letting of contracts in due form of law, subject to the

approval of the Solicitor, and he shall supervise the performance and faithful execution of the same except insofar as such duties are expressly imposed upon some other Borough officer by statute.

M. He shall see that all money owed the Borough is promptly paid and that proper proceedings are taken for the security and collection of all the Borough's claims.

N. He shall be the purchasing officer of the Borough, and he shall purchase, in accordance with the provisions of the Borough Code, 53 P.S. §45101 *et seq.*, all supplies and equipment for the various agencies, boards, departments, and other offices of the Borough. He shall keep an account of all purchases and shall, from time to time or when directed by Council, make a full written report thereof. He shall also issue rules and regulations, subject to the approval of Council, governing the requisition and purchasing of all Borough supplies and equipment.

O. He shall cooperate with the Borough Council at all times and in all matters that the best interest of the Borough and of the general public may be maintained.

P. All complaints regarding services of personnel of the Borough shall be referred to the Office of the Manager. He, or an officer designated by him, shall investigate and dispose of such complaints, and the Manager shall report thereon to Council.

(*Ord. 717, 5/15/1974, §6*)

§1-407. Disability or Absence of Manager.

In case of illness or absence of the Manager from the Borough, he shall delegate one qualified member of his staff who shall perform the duties of the Manager during his absence or disability. The person so designated shall not perform such duties for a period longer than 2 weeks without the approval of the Council.

(*Ord. 717, 5/15/1974, §7*)

Part 5**Firefighters' Relief Association****§1-501. Recognition of Firefighters' Relief Association.**

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

Pitcairn Volunteer Firefighters' Relief Association [*Ord. 978*]

The above-named association has been formed for the benefit of its members and their families in case of death, sickness, temporary or permanent disability or accident suffered in the line of duty.

2. The above-named association of the Borough is designated the proper association to receive such funds as are due and payable to the Borough Treasurer by the Treasurer of the State of Pennsylvania from the tax on premiums from foreign fire insurance companies.

(*Ord. 846, 9/18/1991, §1-701; as amended by Ord. 978, 5/31/2011*)

§1-502. Certification to Auditor General.

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

(*Ord. 846, 9/18/1991, §1-702*)

§1-503. Annual Appropriation.

There is annually appropriated from the Borough Treasury all such sums of money that may hereafter be paid into the Borough Treasury by the Treasurer of the State of Pennsylvania on account of taxes paid on premiums of foreign fire insurance companies in pursuance of the Act of December 18, 1984, No. 205, §701 *et seq.*, 53 P.S. §895.101 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. Such monies received by the Borough Treasurer from the State Treasurer shall be distributed to the duly recognized association within 60 days of receipt. The funds shall be distributed on the basis of the percentage of service established in the certification to the Auditor General and with other provisions of the Act.

(*Ord. 846, 9/18/1991, §1-703*)

Part 6**Escrow of Fire Insurance Proceeds****§1-601. Use of Fire Insurance Proceeds.**

1. No insurance company, association or exchange (hereinafter “insurer”) doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located with the Borough where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Borough with a certificate pursuant to §508(b) of the Insurance Company Law of 1921, as amended by Act 98 of 1992 and Act 93 of 1994 (collectively, the “Act”) and unless there is compliance with the procedures set forth in §508(c) and (d) of the Act, 40 P.S. §638.

2. Where there are delinquent taxes, assessments, penalties or user charges against the property (“municipal claims”), or there are expenses which the Borough has incurred as a cost of the removal, repair or securing of a building or other structure on the property (collectively “municipal expenses”), a designated official of the Borough shall immediately render a bill for such work, if he has not already done so. Upon written request of the named insured specifying the tax description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Treasurer shall furnish a certificate within 14 working days after the request, to the insurer, a certificate (or at his discretion an oral notice confirmed in writing) either:

- A. Stating that there are no unpaid municipal claims or municipal expenses against the property.
- B. Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed for claims under applicable law. Upon receipt of a certificate and bill pursuant to paragraph .A of this subsection, the insurer shall transfer to the Treasurer an amount from the insurance proceeds sufficient to pay such sums prior to making payment to the named insured, subject to the provisions of subsection .3 hereof.

3. When all municipal claims and municipal expenses have been paid pursuant to subsection .2 of this Section, or where the Treasurer has issued a certificate described in subsection .2.A indicating that there are no municipal claims or municipal expenses against the property, the insurer shall pay the claim of the named insured; provided, however, that if the loss agreed upon by the named insured and the insurer equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:

- A. The insurer shall transfer from the insurance proceeds to the Treasurer, in the aggregate, \$2,000 for each \$15,000 of such claim or fraction thereof.
- B. If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Borough, a contractor’s signed estimate of the cost of removing, repairing or securing the building or structure in an

amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer to the Treasurer from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro rata basis by all insurers insuring the building or other structure.

C. Upon receipt of the above described portion of the insurance proceeds, the Treasurer shall do the following:

(1) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Borough to be required in removing, repairing or securing the building or structure as required by this Part. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair or securing or any proceedings related thereto.

(2) Mail to the named insured, at the address received from the insurer, a notice the proceeds have been received by the Borough and that the procedures under this paragraph shall be followed.

(3) After the transfer, the named insured may submit to the Borough a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Treasurer shall, if such estimate is deemed by the Treasurer to be reasonable, return to the insured the amount of the funds transferred to the Borough in excess of that required to pay the municipal expenses; provided, the Borough has not commenced to remove, repair or secure the building or other structure, in which case the Borough will complete the work.

(4) Pay to the designated official, for reimbursement to the Borough general fund, the amount of the municipal expenses paid by the Borough.

(5) Pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the designated official that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable codes and regulations of the Borough.

4. Nothing in this Section shall be construed to limit the ability of the Borough to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this Part, or to insurance proceeds, by an action at law or in equity to enforce the codes of the Borough or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Borough may deem responsible.

(Ord. 978, 5/31/2011)

§1-602. Limits of Liability.

Nothing in this Part shall be construed to make an insurance company, association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this Part or to make the Borough, any Borough official, a municipal or public official an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this Part.

(*Ord. 978, 5/31/2011*)

§1-603. Insurance Company Rights Reserved.

An insurance company, association or exchange making payment of policy proceeds under this Part for delinquent taxes or structure removal liens or removal expenses incurred by the Borough shall have a full benefit of such payment including all rights of subrogation and of assignment.

(*Ord. 978, 5/31/2011*)

§1-604. Construction.

This Part shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.

(*Ord. 978, 5/31/2011*)

§1-605. Notification of Pennsylvania Department of Community and Economic Development.

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

(*Ord. 978, 5/31/2011*)

§1-606. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 978, 5/31/2011*)

Part 7**Tax, Tax Claim, Tax Lien, Municipal Claim and Municipal Lien Attorney Fees and Servicing Charges, Expenses and Fees****§1-701. Short Title.**

This Part shall be known as the “Tax, Tax Claim, Tax Lien, Municipal Claim and Municipal Lien Attorney Fees and Servicing Charges, Expenses and Fees Ordinance.” (Ord. 971, 8/24/2010, Art. I)

§1-702. Expenses Approved.

1. *Title Search.* In any enforcement proceeding, the actual cost of a title search in an amount not to exceed \$250 shall constitute a reasonable expense for each title search necessary for the initiation of each proceeding and compliance with Pa. R.C.P. 3129. The sum not to exceed \$50 shall constitute a reasonable expense for each bringdown or update of the title search in connection with entry of judgment, issuance of execution, listing for sale, or other action.

2. Actual out-of-pocket expenses in connection with any enforcement action, such as for postage, non-Sheriff's service of process, investigation of the whereabouts of interested parties and other necessary expenses shall constitute reimbursable expenses as part of each claim recovered.

(Ord. 971, 8/24/2010, Art. II)

§1-703. Attorney Fees Approved.

1. *Flat Fee Matters.* The following schedule of attorney fees is hereby adopted and approved as reasonable attorney fees pursuant to Act 1 and Act 20 for all matters described, which fees shall be awarded to the Borough, its agents, counsel or assigns in each action initiated pursuant to the Act for the collection of unpaid claims. The property owner's obligation to pay the full amount of the flat fee for each phase of each action shall accrue upon the initiation of any aspect of each phase. The full amount of each flat fee for each prior phase of the proceeding shall carry over and be due on a cumulative basis together with the flat fee for each subsequent phase.

A. *Filing or Municipal Claim.* The sum of \$150 shall constitute reasonable attorney fees for the preparation and filing of a municipal claims as defined under the Act.

B. *Preparation and Service of Writ of Scire Facias or Complaint in Assumpsit as Provided in the Act.* The sum of \$450 shall constitute reasonable attorney fees for the initiation of each proceeding and shall include preparation and filing of the Praeceptum for Writ of Scire Facias or Complaint in Civil Action, Sheriff's direction for service, Notice pursuant to Pa. R.C.P. 5237.1 and the preparation and filing of the Praeceptum to Settle and Discontinue the proceeding. The above does not include:

(1) *Federal Tax Liens, Judgments and Mortgages.* Where there are Federal tax liens, Federal judgments, Federal mortgages or other record Federal interests, the sum of \$200 shall constitute reasonable attorney fees for all matters necessary to properly notify and serve the United States with all

required additional notice and the presentation of related motions to Court.

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

(a) Investigation of defendant(s) whereabouts and preparation of Affidavit of Diligent Search—\$100.

(b) Preparation and presentation of Motion for Alternative Service, and delivery of the Order of Court, along with appropriate directions to the Sheriff for service—\$200.

C. *Entry of Judgment.* The sum of \$22 shall constitute reasonable attorney fees in connection with entry of judgment which shall include preparation and filing of the praecipe to enter judgment, notices of judgment, affidavit of non-military status, and the praecipe to satisfy judgment.

D. *Writ of Execution—Sheriff's Sale of Property or Execution upon Assumpsit Judgment.* The sum of \$ 700 shall constitute reasonable attorney fees for preparation of all documents necessary for each execution upon any judgment pursuant to the Act. This sum shall include the preparation and filing of the praecipe for writ of execution, all Sheriff's documents, preparation and service of notices of Sheriff's Sale, staying the writ of execution, and attendance at one Sheriff's Sale.

(1) *Postponements.* The sum of \$100 shall constitute reasonable attorney fees for each continuance of Sheriff's Sale at the request of the defendant.

E. *Sale Pursuant to 431 of the Act, 53 P.S. §7281.* The sum of \$700 shall constitute reasonable attorney fees for the sale of property pursuant to §31 of the Act, 53 P.S. §7281 including preparation and service of necessary documents, court appearances, attendance at sale and preparation of proposed schedule of distribution of the proceeds realized from such sale.

F. *Sale Pursuant to §31.1 of the Act, 53 P.S. §7282.* The sum of \$500 shall constitute reasonable attorney fees for a sale of property pursuant to §31.1 of the Act, 53 P.S. §7282, including the preparation of necessary documents, service, court appearances, and the preparation of proposed Sheriff's Schedule of Distribution.

G. *Installment Payment Agreement.* The sum of \$150 shall constitute reasonable attorney fees for the preparation of each written installment payment agreement.

H. *Motions.* The sum of \$200 shall constitute reasonable attorney fees for the preparation, filing, and presentation of motions, other than for alternative service, which shall include, but are not limited to, motions to reassess damages, motions to amend caption, motions to continue the Sheriff's Sale.

2. *Hourly Rate Matters.* The following schedule of attorney fees is hereby adopted and approved as reasonable attorney fees pursuant to Act 1 and Act 20, which fees shall be awarded to the Borough, its agents, counsel or assigns as compensation in all contested matters, and in all other matters not specifically referenced in subsection .1 above, undertaken in connection with the collection of claims:

A. Senior Attorneys (practicing law for 10 years or more)—\$185 per hour.

- B. Junior Attorneys (practicing law for less than 10 years)—\$160 per hour.
- C. Paralegals—\$100 per hour.
- D. Law Clerks—\$65 per hour.

each as recorded and charged in units of 1/10th of an hour for all time devoted to enforcement and collection of the Borough's claims. Counsel, whether duly employed or duly appointed by the Borough, its agents or assigns, shall not deviate from this fee schedule absent a subsequent ordinance amending the same. Hourly rate matters include, but are not limited to, any matters where any defense, objection, motion, petition or appearance is entered in any phase of any proceeding by or on behalf of any defendant or other. interested party.

(Ord. 971, 8/24/2010, Art. III)

§1-704. Procedure.

1. *Required Notice.* The notice required by the Act, as amended, 53 P.S. §7106, shall be provided in accordance therewith and shall be incorporated into an appropriate delinquency notice or notices sent by the Borough, its agent, counsel or assigns.

2. *Fees to Be Accrued and Claims to Be Filed.* Fees shall accrue for all efforts in collection after the 30th day after the notice, or after the 10th day of any required second notice under the Act, as amended, 53 P.S. §7106, on all accounts referred to counsel for enforcement. Fees accumulated as a result of enforced collection shall be certified by duly appointed counsel for the Borough authorized to pursue collection of claims pursuant to the Act, or by counsel for the Borough's agents or assigns and, if not collected in due course with the debt as by voluntary payment, shall be included in any claims filed on behalf of the Borough or by its agents or assigns in the course of enforcement including any claims originally filed with the Department of Court Records, any claims filed with the Sheriff or in any other claims filed or statements provided where attorney fees are due.

3. The amount of fees determined as set forth above shall be added to and become part of the claim or claims in each proceeding as provided by the Act and as provided herein.

(Ord. 971, 8/24/2010, Art. IV)

§1-705. Servicing Charges, Expenses and Fees Approved.

1. The following schedule of charges, expenses and fees (hereinafter collectively referred to as "Servicing Fees") is hereby approved and adopted by the Municipality pursuant to §§1, 2, and 3 of the Act of May 16, 1923, as amended, 53 P.S. §§7101, 7103 and 7106, which amounts are the direct result of each person's or property's failure to pay claims promptly. The servicing fees established, assessed, and collected hereunder shall be in addition to the record costs, §1-703, attorney fees and §1-702. Expenses associated with legal proceedings initiated by or on behalf of the Borough to collect its claims.

2. Servicing of a claim or claims may result in voluntary payment without the initiation of enforcement proceedings. It is the intent of this Part to pass the cost of servicing on to the delinquent person or property as part of each claim. The recovery of servicing fees established herein shall not be contingent upon the initiation of

enforcement proceedings. However, such servicing fees are due even where enforcement proceedings are initiated. The purpose of this Section is to pass the cost and expense associated with delinquent collection on to the delinquent person or property and to make the Borough whole on all claims collected.

3. *Schedule.* The following schedule of fees shall constitute reasonable and appropriate servicing fees for each indicated service. The servicing fees shall be added to and become part of the Borough's claims, together with the face, penalties, interest, costs and attorney fees and shall be payable in full before the discharge or satisfaction of any claim. The schedule of fees is separate and distinct from any amounts imposed by the Sheriff, Department of Court Records, Court or any other public office in connection with the collection of the Borough's claims.

- A. Assignments—\$5 per claim.
- B. Filing tax liens—\$5.50 per item.
- C. Satisfactions—\$10 per claim.
- D. Tax claim revivals (i.e. S&A)—\$15 per claim.
- E. Act 1/Act 20 compliance—\$35 per case.
- F. Filing municipal claim and filing municipal claim revivals—\$20 per claim.
- G. Municipal claim/short title examination—\$40 per claim.
- H. Sheriff sale claim certificates—\$60 per case.
- I. Claim certifications—\$10 per year.
- J. Servicing including staffing, computers, office space, telephones, equipment, and materials: For all delinquent and liened taxes, tax liens, municipal claims (filed or unified) and municipal liens—10 percent of gross collections.
- K. Postage and court costs—actual cost.

(Ord. 971, 8/24/2010, Art. V)

§1-706. Effective Date and Retroactivity.

1. This Part shall take effect on the date of enactment set forth below and with respect to attorney fees pursuant to §§1-703 and 1-704 shall apply to all taxes, tax claims, tax liens, municipal claims, municipal liens, writs of scire facias, judgments, or executions filed on or after December 19, 1990, or as otherwise provided by law.

2. In no event shall the Borough's right to charge and collect reasonable attorney fees pursuant to §1-703 of this Part be impaired by the fact that any claim may also include an attorney commission of 5 percent for claims filed prior to December 19, 1990. Any attorney fees assessed and collected under this or any prior ordinances pursuant to Act 1 shall be in addition to any 5 percent commission previously included in any claim or judgment thereon.

3. Attorney fees and expenses incurred in pending enforcement proceedings prior to the effective date of this Part, pursuant to a prior ordinances adopted under Act 1, but not collected, shall remain due and owing in accordance therewith, and shall be incorporated in any future statement, claim, pleading, judgment, or execution. Attorney fees and expenses in any pending or new action incurred after the effective date of this Part shall be incurred, charged, and collected in accordance with the schedules and procedures set forth in this Part.

4. The charges, expenses and fees set forth in §1-705 of this Part relate to all unpaid claims in favor of the Borough, its agents and assigns, and shall be retroactive to the date of each claim.

(Ord. 971, 8/24/2010, Art. VI)

§1-707. Assignment.

The Borough assigns the provisions of this Part to any assignee of its claims unless the assignment limits the assignee's ability to collect such amounts. The Borough and its duly authorized agents and their counsel shall retain all rights to charge reasonable. Attorney fees, charges, expenses, and fees in accordance with the provisions of this Part in actions commenced under the Act and for servicing any claims retained by the Borough.

(Ord. 971, 8/24/2010, Art. VII)

Part 8**Recognizing Volunteer Fire Companies****§1-801. Recognition.**

The Borough of Pitcairn hereby recognizes the Pitcairn Hose Company #1 and Pitcairn Relief Fire Company Number 2, volunteer fire companies which have been organized by residents of said Borough. No other organization dedicated to the fighting of fires is authorized to operate within the Borough except for those acting under a mutual aid or other agreement approved by Borough Council.

(*Ord. 846, 9/18/1991, §7-201; as amended by Ord. 978, 5/31/2011*)

§1-802. Authority.

The Pitcairn Hose Company #1 and the Pitcairn Relief Fire Company Number 2 Volunteer Fire Companies are hereby given all power, so far as the Borough of Pitcairn has power to grant the same, to enact such rules and regulations for the management and government of individual members thereof as shall be necessary for the proper maintenance and control of said Volunteer Fire Companies. Neither the grant of the aforesaid power nor the recognition set forth in §1-801 above shall be construed as constituting the Pitcairn Hose Company #1 and the Pitcairn Relief Fire Company Number 2 Volunteer Fire Companies as an agent, department or employee of the Borough except insofar as such effect is provided under the provisions of the Act of June 2, 1915, P.L. 736, No. 338, known as the "Pennsylvania Workmen's Compensation Act," 77 P.S. §101 *et seq.*, or the Act of November 26, 1978, P.L. 1399, No. 330, known as the "Political Subdivision Tort Claims Act," 42 Pa.C.S.A. §8541 *et seq.*

(*Ord. 846, 9/18/1991, §7-202; as amended by Ord. 978, 5/31/2011*)

§1-803. Officers.

The members of Pitcairn Hose Company #1 and the Pitcairn Relief Fire Company Number 2 Volunteer Fire Companies may elect from their number such officers as may be provided by the bylaws of the Fire Companies.

(*Ord. 846, 9/18/1991, §7-203; as amended by Ord. 978, 5/31/2011*)

§1-804. Control of Equipment and Funds.

All appropriations made by the Borough of Pitcairn to or for the use of said Fire Companies, whether of money or property, and all equipment purchased by the Borough for the Fire Companies shall continue to be the property of the Borough. None of the fire apparatus or equipment so belonging to the Borough shall be permanently removed from the Borough without thereof.

(*Ord. 846, 9/18/1991, §7-204*)

Part 9**Right-to-Know Policy****§1-901. Public Records.**

1. *Purpose.* The Borough recognizes the importance of public records as the record of the Borough's actions and the repository of information about this Borough. The public has the right to access and procure copies of public records, with certain exceptions, subject to law, Borough policy and administrative regulations.

2. *Definitions, 65 P.S. §67.102.*

Financial record—any account, voucher or contract dealing with the receipt or disbursement of funds or acquisition, use or disposal of services, supplies, materials, equipment or property; or the salary or other payments or expenses paid to an officer or employee, including the individual's name and title; and a financial audit report, excluding the audit's underlying work papers.

Public record—a record, including a financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exemptions in Pennsylvania's Right-to-Know Law, 65 P.S. §67.101 *et seq.*, or under other Federal or State law or regulation, or judicial decree or order.

Record—information, regardless of physical form or characteristics, that documents a Borough transaction or activity and is created, received or retained pursuant to law or in connection with a Borough transaction, business or activity, including: a document; paper; letter; map; book; tape; photograph; film or sound recording; information stored or maintained electronically; and a data-processed or image-processed document.

Response—the Borough's notice informing a requester of a granting of access to a record or the Borough's written notice to a requester granting, denying, or partially granting and partially denying access to a requested record.

Requester—a legal resident of the United States, or an agency, who requests access to a record.

3. *Borough, 65 P.S. §§67.302, 67.305, 67.504 and 67.701.* The Borough shall make the Borough's public records available for access and duplication to a requester, in accordance with law, Borough policy and administrative regulations.

4. *Delegation of Responsibility.*

A. *65 P.S. §67.502.* The Borough shall designate an Open Records Officer, who shall be responsible to:

(1) Receive written requests for access to records submitted to the Borough.

(2) Review and respond to written requests in accordance with law, Borough policy and administrative regulations.

(3) Direct requests to other appropriate individuals in the Borough or in another agency.

(4) Track the Borough's progress in responding to requests.

- (5) Issue interim and final responses to submitted requests.
 - (6) Maintain a log of all record requests and their disposition.
 - (7) Ensure Borough staff are trained to perform assigned job functions relative to requests for access to records.
- B. *65 P.S. §§67.502, 67.901 and 67.1101.* Upon receiving a request for access to a record, the Open Records Officer shall:
- (1) Note the date of receipt on the written request.
 - (2) Compute and note on the written request the day on which the 5-day period for response will expire.
 - (3) Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled.
 - (4) If the written request is denied, maintain the written request for 30 days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.
5. *Guidelines.*
- A. *65 P.S. §67.701.*
- (1) Requesters may access and procure copies of the public records of the Borough during the regular business hours of the administration offices.
 - (2) A requester's right of access does not include the right to remove a record from the control or supervision of the Open Records Officer.
- B. *65 P.S. §67.302.* The Borough shall not limit the number of records requested.
- C. *65 P.S. §67.705.* When responding to a request for access, the Borough is not required to create a record that does not exist nor to compile, maintain, format or organize a record in a manner which the Borough does not currently use.
- D. *42 U.S.C. §12132, 28 CFR §§35.160, 35.164.* Information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.
- E. *65 P.S. §§67.504, 67.505.* The Borough shall post at the administration office and on the Borough's website, if the Borough maintains a website, the following information:
- (1) Contact information for the Open Records Officer.
 - (2) Contact information for the State's Office of Open Records or other applicable appeals officer.
 - (3) The form to be used to file a request, with a notation that the State Office of Open Records form may also be used if the Borough decides to create its own form.
 - (4) Borough policy, administrative regulations and procedures governing requests for access to the Borough's public records.
- F. *Request for Access.*
- (1) *65 P.S. §§67.504, 67.505 and 67.703.*
 - (a) A written request for access to a public record shall be submitted

on the required form(s) and addressed to the Open Records Officer.

(b) Written requests may be submitted to the Borough in person, by mail, to a designated facsimile machine, and to a designated email address.

(2) *65 P.S. §§67.701, 67.703.* Each request must include the following information:

(a) Identification or description of the requested record, in sufficient detail.

(b) Medium in which the record is requested.

(c) Name and address of the individual to receive the Borough's response.

(3) *65 P.S. §67.703.* The Borough shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.

G. *Fees, 65 P.S. §67.1307.*

(1) Except for the duplication fee established by the State, the Borough will approve a list of reasonable fees relative to requests for public records. The Borough shall maintain a list of applicable fees and disseminate the list to requesters.

(2) No fee may be imposed for review of a record to determine whether the record is subject to access under law.

(3) Prior to granting access, the Borough may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed \$100.

(4) The Manager may waive duplication fees when the requester duplicates the record or the Manager deems it is in the public interest to do so.

H. *Response to Request.*

(1) *65 P.S. §§67.502, 67.702.* Borough employees shall be directed to immediately forward requests for access to public records to the Open Records Officer.

(2) *65 P.S. §67.901.*

(a) Upon receipt of a written request for access to a record, the Open Records Officer shall determine if the requested record is a public record and if the Borough has possession, custody or control of that record.

(b) The Open Records Officer shall respond as promptly as possible under the existing circumstances, and the initial response time shall not exceed 5 business days from the date the written request is received by the Open Records Officer.

(c) The initial response shall grant access to the requested record; deny access to the requested record; partially grant and partially deny access to the requested record; notify the requester of the need for an extension of time to fully respond; or request more detail from the requester to clearly identify the requested material.

(d) If the Borough fails to respond to a request within 5 business days of receipt, the request for access shall be deemed denied.

I. *Extension of Time, 65 P.S. §§67.901, 67.902.*

(1) If the Open Records Officer determines that an extension of time is required to respond to a request, in accordance with the factors stated in law, written notice shall be sent within 5 business days of receipt of request. The notice shall indicate that the request for access is being reviewed, the reason that the review requires an extension, a reasonable date when the response is expected, and an estimated of applicable fees owed when the record becomes available.

(2) Upon a 30-day extension for one of the listed reasons does not require the consent of the requester. If the response is not given by the specified date, it shall be deemed denied on the day following that date.

(3) A requester may consent in writing to an extension that exceeds 30 days, in which case the request shall be deemed denied on the day following the date specified in the notice if the Open Records Officer has not provided a response by that date.

J. *Granting of Request.*

(1) If the Open Records Officer determines that the request will be granted, the response shall inform the requester that access is granted and either include information on the regular business hours of the administration office, provided electronic access, or state where the requester may go to inspect the records or information electronically at a publically accessible site. The response shall include a copy of the fee schedule in effect, a statement that prepayment of fees is required in a specified amount if access to the records will cost in excess of \$100, and the medium in which the records will be provided.

(2) *65 P.S. §67.701.* A public record shall be provided to the requester in the medium requested if it exists in that form; otherwise, it shall be provided in its existing medium. However, the Borough is not required to permit use of its computers.

(3) *65 P.S. §§67.701. 67.704.* The Open Records Officer may respond to a records request by notifying the requester that the record is available through publicly accessibly electronic means or that the Borough shall provide access to inspect the record electronically. If the requester, within 30 days following receipt of the Borough's notice, submits a written request to have the record converted to paper, the Borough shall provide access in printed form within 5 days of receipt of the request for conversion to paper.

(4) *65 P.S. §67.506.* A public record that the Borough does not possess but is possessed by a third party with whom the Borough has contracted to perform a governmental function and which directly relates to that governmental function shall be considered a public record of the Borough. When the Borough contracts with such a third party, the Borough shall require the contractor to agree in writing to comply with requests for such records and to provide the Borough with the requested record in a timely manner to allow the Borough

to comply with law.

(5) *65 P.S. §67.706.* If the Open Records Officer determines that a public record contains information both subject to and not subject to access, the Open Records Officer shall grant access to the information subject to access and deny access to the information not subject to access. The Open Records Officer shall redact from the record the information that is not subject to access. The Open Records Officer shall not deny access to a record if information is able to be redacted.

(6) *65 P.S. §67.905.* If the Open Records Officer responds to a requester that a copy of the requested record is available for delivery at the administration office and the requester does not retrieve the record within 60 days of the Borough's response, the Borough shall dispose of the copy and retain any fees unpaid to date.

K. Notification to Third Parties.

(1) *65 P.S. §67.707.*

(a) When the Borough produces a record that is not a public record in response to a request, the Open Records Officer shall notify any third party that provided the record to the Borough, the person that is the subject of the record, and the requester.

(b) The Open Records Officer shall notify a third party of record request if the requested record contains a trade secret or confidential proprietary information, in accordance with law and administrative regulations.

L. Denial of Request, 65 P.S. §§67.901, 67.903.

(1) If the Open Record Officer denies a request for access to a record, whether in whole or in part, a written response shall be sent within 5 business days of receipt of the request. The response denying the request shall include the following:

(a) Description of the record requested.

(b) Specific reasons for denial, including a citation of supporting legal Borough.

(c) Name, title, business address, business telephone number, and signature of the Open Records Officer on whose Borough the denial is issued.

(d) Date of the response.

(e) Procedure for the requester to appeal a denial of access.

(2) *65 P.S. §67.506.*

(a) The Open Records Officer may deny a request for access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the Borough.

(b) The Open Records Officer may deny a request for access to a record when timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the record. To the

extent possible, a record’s contents shall be made accessible even when the record is physically unavailable.

(3) 65 P.S. §§67.706, 67.903. Information that is not subject to access and is redacted from a public record shall be deemed a denial.

(4) 65 P.S. §67.1101. If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the State’s Office of Open Records within 15 business days of the mailing date of the Open Records Officer’s response or deemed denial.

M. *Document Management.* The following public records shall be maintained by the Borough for the length of time listed below:

Accident/Incident Reports	Borough	7 years
Activity Account Records	Borough	7 years
Architect Contracts	Borough	10 years
Audit Reports	Borough	10 years
Bank Statements & Canceled Checks	Borough	7 years
Construction Contracts	Borough	10 years
Contracts with a Value of more than \$100,000		5 years after termination
Deeds, Real Estate Sales Agreement and Other Documents defining any interest of the Borough covering its interest in real property		Permanent
EEQC Reports	Borough	3 years
Insurance Policies	Borough	20 years
Inventory–Equipment	Borough	2 years
Notes, Mortgages and Bonds	Borough	Permanent
Personnel Records	Borough	Permanent
Purchase Orders/Invoices	Borough	7 years
Time Cards	Borough	Permanent

No public record may be removed from the control or supervision of the designated custodian.

N. *References.*

- (1) Right-to-Know Law, 65 P.S. §67.101 *et seq.*
- (2) Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*
- (3) Accessibility to Communications, Title 28, Code of Federal

Regulations, 28 CFR §§35.160, 35.164.

(4) Borough policy.

(Ord. 956, 12/23/2008, §I)

§1-902. Exempted Records.

1. To determine if a requested record is exempt from access, the Open Records Officer will consider and apply each exemption separately.

2. The following records are exempt from public access by a requester in accordance with the Right-To-Know Law.

A. *Loss of Funds / Physical Harm / Personal Security.* When the disclosure of a record would result in the Borough's loss of Federal or State funds or would reasonably be likely to result in a substantial and demonstrable risk of physical harm to or personal security of an individual.

B. *Public Safety.* When the disclosure of a record maintained in connection with the military, homeland security, national defense, law enforcement or other public safety activity would reasonably be likely to jeopardize or threaten public safety or public protection activity, or a record that is designated classified by an appropriate Federal or State military Borough.

C. *Safety / Security of Facilities.* When the disclosure of a record creates a reasonable likelihood of endangering the safety or physical security of a building, public utility, resource, infrastructure, facility, or information storage system, which may include:

(1) Documents or data relating to computer hardware; source files; software; and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act.

(2) List of infrastructure, resources and significant special events, including those defined by the Federal government in the National Infrastructures Protections, that are deemed critical due to their nature and result from risk analysis; threat assessments; consequences assessments; antiterrorism protective measures and plans; counter-terrorism measures and plans; and security needs assessments.

(3) Building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems; structural elements; technology; communication; electrical; fire suppression; ventilation; water; wastewater; sewage; and gas systems.

D. *Computer Systems.* When the disclosure of record regarding computer hardware, software and networks, including administrative and technical records, would reasonably be likely to jeopardize computer security.

E. *Medical Information.* When the disclosure of a record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation; consultation; prescription; diagnosis or treatment; results of tests, to include drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocational rehabilitation;

workers' compensation and unemployment compensation; or related information would disclose individually identifiable health information.

F. *Personal Identification Information.*

(1) Disclosure of the following personal identification information:

(a) A record containing all or part of an individual's Social Security number; driver's license; driver's license number; personal financial information home, cellular or personal telephone numbers; personal e-mail addresses; employee number or other confidential personal identification number.

(b) A spouse's name, marital status, beneficiary or dependent information.

(c) The home address of a law enforcement officer or judge.

(2) Personal information that must be disclosed includes the name; position; salary; actual compensation or other payments or expenses; employment contract; employment-related contract or agreement; and length of service of a public official or Borough employee.

(3) The Open Records Officer may redact from a record the name or other identifying information relating to an individual performing an undercover or covert law enforcement activity.

G. *Certain Employee Information.* Disclosure of the following records relating to a Borough employee:

(1) A letter of reference or recommendation pertaining to the character or qualifications of an identifiable individual, unless it was prepared in relation to the appointment of an individual to fill a vacancy in an elected office or an appointed office requiring Senate confirmation.

(2) A performance rating or review.

(3) The result of a civil service or similar test administered by a Commonwealth agency, legislative agency or judicial agency. The result of a civil service or similar test administered by a local agency shall not be disclosed if restricted by a collective bargaining agreement. Only test scores of individuals who obtained a passing score on a test administered by a local agency may be disclosed.

(4) The employment application of an individual who is not hired by the Borough.

(5) Workplace support services information.

(6) Written criticisms of a Borough employee.

(7) Grievance material, including documents related to discrimination or sexual harassment.

(8) Information regarding discipline, demotion or discharge contained in a personnel file, except information that applies to the Borough's final action that results in demotion or discharge.

H. *Labor Relations/Negotiations/Arbitration.*

(1) *Labor Relations/Negotiations/Arbitration.* Disclosure of a record

pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings. In the case of the arbitration of a dispute or grievance under a collective bargaining agreement, disclosure of an exhibit entered into evidence at an arbitration proceeding or a transcript of the arbitration or the opinion.

(2) This exemption does not apply to a final or executed contract or agreement between the parties in a collective bargaining agreement, or to the final award or order of an arbitrator in a dispute or grievance procedure.

I. *Predecisional Drafts*. Disclosure of the draft of a bill, ordinance, regulation, statement of policy, management directive, or ordinance, or their amendments, prepared by or for the Borough.

J. *Predecisional Deliberations*. Disclosure of a record that reflects:

(1) The internal, predecisional deliberations of the Borough, its Council members, employees or officials, or predecisional deliberations between Council members, employees, or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation; legislative proposal; legislative amendment; contemplated or proposed policy or course of action; or any research, memos or other documents used in the predecisional deliberations, subject to law governing open meetings.

Public records do include a record of any of the above that is not exempt from access by law and which is presented to a quorum for deliberation in accordance with law governing open meetings; a written or Internet application or document that has been submitted to request Commonwealth funds; and the results of public opinion surveys, polls, focus groups, marketing research or similar efforts designed to measure public opinion.

(2) The strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal or regulation.

K. *Trade Secret / Confidential Proprietary Information*. Disclosure of a record that constitutes or reveals a trade secret or confidential proprietary information.

L. *Personal Notes / Working Papers*. Disclosure of notes and working papers prepared by or for a Borough public official or employee use solely for that official's or employee's own personal use, including telephone message slips; routing slips; and other materials that do not have an official purpose.

M. *Donor Identity*. Disclosure of records that would disclose the identity of an individual who lawfully makes a donation to the Borough, unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a Borough public official or employee, including lists of potential donors compiled by the Borough to pursue donations; donor profile informational; or personal identifying information relating to a donor.

N. *Criminal Investigations*.

(1) Disclosure of a record of the Borough or an agency relating to or resulting in a criminal investigation, including:

(a) Complaints of potential criminal conduct other than a private criminal complaint.

(b) Investigative materials, notes, correspondence, videos and reports.

(c) A record that includes the identity of a confidential source or of a suspect who has not been charged with an offense to whom confidentiality has been promised.

(d) A record that includes information made confidential by law or court order.

(e) Victim information, including any information that would jeopardize the safety of a victim.

(f) A record that if disclosed would reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges; deprive an individual of the right to a fair trial or impartial adjudication; impair the ability to locate a defendant or codefendant; hinder an agency's ability to secure an arrest, prosecution or conviction; or endanger the life or physical safety of an individual.

(2) This exemption does not apply to information contained in a police blotter as defined in law and utilized or maintained by the State police, local, campus, transit or port Borough Police Department or other law enforcement agency, or in a traffic report except as provided by law.

O. *Noncriminal Investigations*. Disclosure of a Borough record relating to a noncriminal investigation, including:

(1) Complaints submitted to the Borough.

(2) Investigative materials, notes, correspondence and reports.

(3) A record that includes the identity of a confidential source, including individuals subject to the Whistleblower Law.

(4) A record that includes information made confidential by law.

(5) Work papers underlying an audit.

(6) A record that if disclosed would reveal the institution, progress or result of a Borough investigation, except the imposition of a fine or civil penalty; the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement unless the agreement is determined to be confidential by a court; deprive a person of the right to an impartial adjudication; constitute an unwarranted invasion of privacy; hinder an agency's ability to secure and administrative or civil sanction; or endanger the life or physical safety of an individual.

P. *Emergency Communications*. Disclosure of records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings, unless the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.

Q. *DNA/RNA*. Disclosure of DNA and RNA records.

R. *Coroner/Medical Examiner*. Disclosure of specific records and reports of a coroner or medical examiner.

S. *Draft Minutes.* Disclosure of draft minutes of any Borough meeting until the next regularly scheduled Council meeting, minutes of an executive session, and any record of discussions held in executive session.

T. *Real Estate Appraisals/Feasibility Studies.*

(1) Disclosure of the contents of real estate appraisal, engineering or feasibility estimate, environmental reviews, audits or evaluations made for or by the Borough relative to the leasing, acquiring, or disposing of real property or an interest in real property; the purchase of public supplies or equipment included in the real estate transaction; and construction projects.

(2) This exemption does not apply to the documents listed above once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property, the purchase of public supplies, or a construction project.

U. *Library Records.* Disclosure of the library and archive circulation and order records of an identifiable individual or groups of individuals.

V. *Archeological Site/Endangered Species.* Disclosure of a record identifying the location of an archeological site or an endangered or threatened plant or animal species if not already known to the general public.

W. *Pre-contract Award Documents.* Disclosure of a proposal pertaining to Borough procurement or disposal of supplies, service or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offerer requested in an invitation for bid or request for proposals to demonstrate the bidder's or offerer's economic capability; or the identify of members, notes and other records of Borough proposal evaluation committees established under law relating to competitive sealed proposals.

X. *Insurance Communications.*

(1) Disclosure of a record or information relating to a communication between the Borough and its insurance carrier, administrative service organization or risk management office.

(2) This exemption does not apply to a contract with an insurance carrier, administrative service organization or risk management office, or to financial records relating to the provision of insurance.

Y. *Social Services.* Disclosure of a record or information identifying an individual who applies for or receives social services, the type of social services received by an individual, an individual's application to receive social services, or eligibility to receive social services.

Z. *General Assembly Correspondence.* Disclosure of correspondence between an individual and member of the General Assembly and records accompanying the correspondence that would identify an individual requesting assistance or constituent services, except for correspondence between a member of the General Assembly and a principal or lobbyist under law.

(Ord. 956, 12/23/2008, §II)

§1-903. Financial Records.

The listed exemptions do not apply to financial records, except that the Open

Records Officer shall redact the portions of a financial record protected under exemptions §1-902.A through .F, P, or .Q.

(Ord. 956, 12/23/2008, §III)

§1-904. Aggregated Data.

The listed exemptions do not apply to aggregated data maintained or received by the Borough, except for data protected under §1-902.A through .D or .E.

(Ord. 956, 12/23/2008, §IV)

§1-905. Law Enforcement Activity.

The Open Records Officer will not disclose the identity of an individual performing an undercover or covert law enforcement activity.

(Ord. 956, 12/23/2008, §V)

Part 10**Independent Auditor****§1-1001. Confirmation of Use of Independent Auditor and Abolition of Offices of Elected Auditor.**

The Borough of Pitcairn hereby confirms its appointment of an independent auditor, pursuant to §1005(7) of the Borough Code, 53 P.S. §46005(7). The Borough of Pitcairn further confirms that upon the initial appointment of an independent auditor, the offices of elected auditor are and were hereby abolished. This provision is retroactive to the Borough's initial use and appointment of an independent auditor approximately 10 years ago and annually thereafter.

(Ord. 968, 2/23/2010, §I)

§1-1002. Requirements for Annual Appointment.

Council for the Borough of Pitcairn shall, by resolution annually before the commencement of a fiscal year, appoint an independent auditor who shall be a certified public accountant, registered in Pennsylvania, a firm of certified public accountants so registered or a competent public accountant or a competent firm of public accountants to audit, for such fiscal year, the accounts, records and all other evidences of financial transactions of the Borough and file a report thereof with Borough Council. The independent auditor shall perform all other duties and exercise such powers as conferred upon him by law.

(Ord. 968, 2/23/2010, §II)

