

# **Chapter 1**

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**Part 1****Preliminary Provisions and Appointed Officials****A. Preliminary Provisions****§1-101. Short Title.**

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

*(Ord. 05-02, 6/1/2005)*

**§1-102. Citation of Code of Ordinances.**

The Borough of Swissvale 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. 05-02, 6/1/2005)*

**§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 identified by lower case letters followed by a parenthesis.
  - G. Subitems, identified by small Roman numerals.

*(Ord. 05-02, 6/1/2005)*

**§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. 05-02, 6/1/2005)

### **§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. 05-02, 6/1/2005)

### **§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 of the Borough of Swissvale, 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 of the Borough of Swissvale (in written form and designated "resolution") which did not require prior public notice in accordance with the provisions of the Second Class Borough Code, 53 P.S. §65101 *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. 05-02, 6/1/2005)

### **§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. 05-02, 6/1/2005)

### **§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 unites, 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. 05-02, 6/1/2005)

### **§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. 05-02, 6/1/2005)

### **§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. 05-02, 6/1/2005)

**§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 the ordinance, upon conviction thereof, shall be sentenced to a fine of not 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 ordinance continues or each section of this ordinance 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.*, and earned income tax ordinances adopted under the Local Tax Enabling Act, 53 P.S. §6913, should provide, generally:

(1) Any person, partnership or corporation who shall violate any provision of this ordinance, upon conviction thereof, shall be sentenced to a fine of not 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 continues or each section of this Part which shall be found to have been violated shall constitute a separate violation.

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. 05-02, 6/1/2005)



**B. Manager****§1-121. Intent and Purpose.**

It is the intent and purpose of this Part to establish in the Borough of Swissvale the office of Borough Manager and the basic principles governing the office. The Council shall be responsible for determining legislative policy and for appointing a Borough Manager who shall be responsible for supervising and conducting the administrative affairs of the Borough in a professional, nonpartisan manner. It is the intent of this Part to delegate to the Borough Manager all of the nonlegislative and nonjudicial powers and duties of the Borough Council as authorized by §1141 of the Borough Code, 53 P.S. §46141. It is also the intent of this Part that the Council act as a body in all administrative matters except those of a ministerial nature performed by the President of Council. The Council and all members thereof shall deal with administrative matters through the Borough Manager. Nothing in this Part shall prevent the Council from establishing a Committee of its own members to review the operations and legislative needs of the Borough departments or from assigning its members to liaison relationships with boards, commissions and authorities. It is also the intent of this Part to authorize the Mayor to delegate to the Borough Manager any of his nonlegislative and nonjudicial powers and duties as the Mayor may deem fit.

(*Ord. 92-3, 6/10/1992, §1*)

**§1-122. Appointment of Manager.**

The Borough Manager shall be appointed by Council for an indefinite term in accordance with §1141 of the Borough Code, 53 P.S. §46141. Council shall fix the amount of compensation for said position. The Council may enter into an Employment Agreement with the Borough Manager setting forth the terms and conditions of employment.

(*Ord. 92-3, 6/10/1992, §2*)

**§1-123. Qualifications.**

The Borough Manager shall be chosen solely on the basis of administrative qualifications, with special reference to training and/or experience in municipal management. The Borough Manager need not be a resident of the Borough or Commonwealth at the time of appointment, but may reside outside of the Borough while in office only with the approval of Council.

(*Ord. 92-3, 6/10/1992, §3*)

**§1-124. Duties.**

1. The Borough Manager shall be the chief administrative officer of the Borough and shall be responsible to the Council for the proper administration of Borough affairs. The duties of the Borough Manager shall include the following:

A. Responsibility to Council for the carrying out of all policies, programs, ordinances and resolutions established or passed by the Council.

B. Direct and supervise the administration of all departments and functions of the Borough except as otherwise provided for by ordinance or the laws of the

Commonwealth of Pennsylvania. Appoint, suspend, remove or other wise discipline all Borough employees under the Borough Manager's supervision on the basis of merit system principles. All appointments and disciplinary action that occur at the department head level shall be presented to and discussed with the Council prior to any action being taken and shall be subject to the approval of Council.

C. Prepare and submit recommendations to Council concerning policy formulation or drafting of legislation as requested.

D. Prepare and submit the annual budget to Council together with explanatory documentation.

E. Administer the approved budget under the poser delegated to the Borough Manager's position. Keep the Council and public informed as to the conduct of Borough affairs as necessary.

F. Prepare the agenda and attend all meetings of the Council with the right to take part in the discussion but without the right to vote on any matters before the Council.

G. Negotiate and sign contracts for the Borough subject to approval by Council.

H. Perform other duties as the Council shall direct.

*(Ord. 92-3, 6/10/1992, §4)*

#### **§1-125. Removal.**

The Borough Manager shall serve at the pleasure and discretion of the Borough Council and may be removed at any time by Council in accordance with §1141 of the Borough Code, 53 P.S. §46141.

*(Ord. 92-3, 6/10/1992, §5)*

#### **§1-126. Acting Manager.**

The Borough may designate in writing a qualified employee to serve as acting Borough Manager during the temporary absence or disability of the Borough Manager. The Council, by a majority vote, may at any time revoke such designation and may appoint a qualified employee to serve as Acting Manager until a permanent replacement is appointed under the terms of this Part.

*(Ord. 92-3, 6/10/1992, §6)*

**C. Manager or Secretary May Be Appointed Treasurer****§1-131. Authority to Appoint.**

1. Borough Council is authorized, if the Council approves the appointment, to appoint the Borough Manager or Secretary as Treasurer of the Borough of Swissvale.

2. This appointment, if made under the authority granted in this Part, shall be for an indefinite term and at the pleasure of the Borough Council.

*(Ord. 94-2, 3/9/1994, §1)*



**D. Mandatory Retirement Age for Public Safety Employees****§1-141. Mandatory Retirement Age.**

All public safety employees are herewith retired at the age of 65 years, subject to the discretionary power of Council in certain cases to continue employment to the age of 72 years.

(*Ord. 1566*, 4/11/1962, §1; as amended by *Ord. 05-02*, 6/1/2005)



**Part 2****Police Department****A. Creation****§1-201. Positions or Titles.**

That, effective December 16, 1964, the Police Department of the Borough will consist of the following positions or titles: one Chief of Police, one captain, three lieutenants and patrolmen as necessary and they shall rank in the order set forth herein.

*(Ord. 64-8, 12/9/1964, §1)*

**§1-202. Responsible for Enforcing the Laws.**

The personnel of the Department, including the Chief of Police, shall be under the direction of the Mayor and they shall be responsible for enforcing the laws of this Commonwealth and the ordinances and regulations of the Borough.

*(Ord. 64-8, 12/9/1964, §2)*

**§1-203. Borough Council Determines Number of Patrolmen.**

The number of persons who shall serve in the subordinate position of patrolmen, and the compensation of all members of the Department, shall be as determined by the Borough Council, from time to time.

*(Ord. 64-8, 12/9/1964, §3)*

**§1-204. Metermen and School Traffic Officers Not Effected.**

This Part is not intended to regulate or control the special classifications of metermen and school traffic officers and the ordinance and regulations pertaining thereto shall not be affected by this Part 1A.

*(Ord. 64-8, 12/9/1964, §4)*

**§1-205. Policemen for Emergencies Appointed by Mayor.**

That nothing herein contained shall affect the authority of the Mayor to appoint special policemen during an emergency.

*(Ord. 64-8, 12/9/1964, §5)*



**B. Rules and Regulations****§1-211. Adopting Rules and Regulations for the Borough Police Department.**

1. Swissvale Borough Council feels that it is in the best interest of the citizens and residents of the Borough of Swissvale and of the Swissvale Borough Police Department that rules and regulations be adopted governing the working conditions, rules of conduct, administration and procedure to be followed in the operation of the Swissvale Police Department.

2. The Swissvale Borough Council, its Mayor and more particularly the Swissvale Borough Council Police Committee have studied this problem for some time and have formulated these rules and regulations which Swissvale Borough Council intends to adopt:

A. The rules and regulation dated June 10, 1970, governing the working conditions, rules of conduct, administration and procedure of the Swissvale Police Department are hereby adopted.

B. In the future, any changes or amendments to these rules and regulations shall be made by motion of Borough Council duly recorded upon the minutes of the Council meeting and notification of any future change shall be given to the Mayor and Police Chief of Swissvale Borough.

C. The Swissvale Borough Council Secretary shall furnish copies of these rules and regulations to the Mayor and Police Chief of Swissvale Borough and any other interested party.

D. These rules and regulations shall become effective immediately upon the enactment of the within Part.

(*Ord. 70-9, 6/10/1970, §1*)

**§1-212. Office of the Constable.**

Nothing, however, contained in the Section above shall prohibit police officers from running for the office of Constable.

(*Ord. 70-9, 6/10/1970, as amended by Ord. 79-6, 5/9/1979, §2*)



### **C. Restitution of Worker's Compensation Paid to Police Officers**

#### **§1-221. Short Title.**

This Part shall be known as the "Borough of Swissvale Restitution of Workers' Compensation Paid to Police Officers Ordinance."

(Ord. 99-1, -/-/, §2)

#### **§1-222. Purpose and Intention of Part.**

This Part is adopted for the above stated purposes and to aid in compensating victims for harm directly caused by an offender, to decrease the cost of workers' compensation insurance, minimize taxes to the residents of the Borough of Swissvale, to minimize losses sustained by the Borough and its police officers through workers' compensation payments which occur as a direct result of criminal conduct inflicted upon its police officers by criminal offenders, and to obtain restitution for losses sustained by the Borough and its police officers as the direct result of criminal conduct resulting in personal injury to police officers in the performance of their official duties.

(Ord. 99-1, -/-/, §4)

#### **§1-223. Rules of Construction.**

In the construction of this Part, the rules and definitions contained in this Section shall be observed and applied, except when the context clearly indicated otherwise.

- A. Words used in the singular shall include the plural, and the plural the singular.
- B. Words used in the present tense shall include the future tense.
- C. The word "shall" is always mandatory and not discretionary.
- D. The word "may" is permissive.
- E. This Part shall be liberally construed to accomplish its purpose to protect the public's health, safety and welfare.

(Ord. 99-1, -/-/, § 5)

#### **§1-224. Definitions.**

*Crime* - any offense punishable under the Pennsylvania Crimes Code, 18 Pa.C.S.A. §101 *et seq.* (hereinafter the "Crimes Code") or the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §101 *et seq.* (hereinafter the "Vehicle Code").

*Offender* - any person, except a victim, who criminally causes personal injury to the person or property of another as a direct result of a crime and who is adjudged guilty of an offense punishable under the Crimes Code or the Vehicle Code.

*Personal injury* - actual bodily harm directly resulting from the crime.

*Police officer* - any person duly employed by the Borough of Swissvale who is by law given the power to arrest when acting with the scope of the person's employment.

*Restitution* - the return of property of the victim or payments in cash or the equivalent thereof pursuant to an order of court.

*Victim* - any person, except an offender, who suffered injuries to his person or

property as a direct result of the crime. The term "victim" specifically includes the Borough of Swissvale and any insurance company that has compensated the victim for loss under an insurance contract.

*Borough* - the Borough of Swissvale.

*Borough Manager* - the Manager of the Borough of Swissvale.

(Ord. 99-1, -/-/, § 6)

### **§1-225. Requirement of Offenders to Make Restitution.**

When required as a condition of probation or parole, offenders convicted of a crime, wherein a police officer suffered injury to property or personal injury directly resulting from the crime, shall make restitution in the amount of the value of the loss sustained by the victim, the Borough or an insurance company, as ordered by the sentencing court.

(Ord. 99-1, -/-/, §7)

### **§1-228. Duties of Police Officers.**

1. *Request for Information of Loss.* When a Borough police officer who has suffered personal injury receives notification from the District Attorney's Office of a pending trial for the offender, the officer who suffered personal injury shall request the Borough Manager to provide to the officer the monetary value of the loss sustained by the Borough and the Borough's insurance carrier.

2. *Reporting.* If the offender is convicted of a crime which resulted in personal injury to the Borough police officer, the police officer shall inform the Assistant District Attorney prior to sentencing of the loss sustained by the victim, the officer, the Borough and the Borough's insurance carrier so that restitution may be ordered by the court pursuant to 18 Pa.C.S.A. §1106(c).

3. *Preservation of Private Remedies.* No judgment or order of restitution shall bar the Borough or any police officer who sustained personal injury, by appropriate action, to recover from the offender as otherwise provided by law provided that any civil award shall be reduced by the amount paid under this Part.

(Ord. 99-1, -/-/, §8)

### **§1-229. Duties of the Borough Manager.**

1. *Notification of Value of Borough Loss.* Upon request from a Borough police officer who has suffered personal injury directly resulting from a crime in which the officer was injured within the performance of the officer's official duties, the Borough Manager shall provide the requesting officer with the monetary value of the loss sustained by the Borough and the Borough's insurance carrier.

2. *Value of Loss.* The value of the Borough's loss shall include but not be limited to: medical expenses, amount of medical expenses not covered by the Borough insurance carrier, amount of compensation received by the police officer during absence from duty caused by the offender and the amount of compensation paid to the police officer not reimburse by the insurance carrier of the Borough, as a direct result of the offender's crime.

(Ord. 99-1, -/-/, §9)

**Part 3****Commissions, Boards and Agencies****A. Planning Commission****§1-301. Planning Commission Established.**

There is created the Swissvale Planning Commission pursuant to the Pennsylvania Municipalities Planning Code, Act of June 31, 1968, 53 P.S. §10101 *et seq.*

(*Ord. 74-5, 9/11/1974, §1*)

**§1-302. Appointment of Members.**

The Commission shall consist of seven members who shall be appointed by the Borough Council for a term of 4 years, whose terms shall be staggered as Council deems appropriate to ensure that no more than three are to be filled in any 1 year. In the event of vacancies during a member's term, Borough Council shall appoint a member to fill the unexpired term. Council shall take steps to reduce the size of the Planning Commission from nine to seven members by appointing fewer members to the Commission when vacancies occur.

(*Ord. 74-5, 9/11/1974, §2; as amended by Ord. 06-02, 3/1/2006, §A*)

**§1-303. Authority of Planning Commission.**

The Planning Commission shall have such powers that Borough Council shall give it from time to time by resolution and as are permitted by the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(*Ord. 74-5, 9/11/1974, §3*)

**§1-304. Election of Officers.**

The Planning Commission shall elect its own chairman and vice-chairman and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The Commission may make and alter by-laws and rules and regulations to govern its procedures consistent with the ordinances of the Borough and the laws of the Commonwealth. The Commission shall keep a full record of its business and shall annually make a written report by March 1 of each year of its activities to the Borough Council. Interim reports may be made as often as may be necessary or as requested by the Council.

(*Ord. 74-5, 9/11/1974, §4*)

**§1-305. Fees.**

All members of the Commission shall serve without compensation, but may be reimbursed for necessary and reasonable expenses.

(*Ord. 74-5, 9/11/1974, §5*)

**§1-306. Appointment of New Members.**

The members of the existing Planning Commission shall continue in office and upon the expiration of their terms a new member shall be appointed pursuant to this Part.

*(Ord. 74-5, 9/11/1974, §5)*

**Part 4****Fees****A. Attorney's Fees****§1-401. Short Title.**

This Part shall be known as the “Tax, Tax Claim, Tax Lien, Municipal Claim and Municipal Lien Attorney Fees and Recordkeeping Charges, Expenses and Fees Ordinance.”

(*Ord. 04-01, 2/4/2004, Art. I*)

**§1-402. Attorney Fees Approved.**

1. *Flat Fee; Uncontested Matters.* The following schedule of attorney fees and services is hereby adopted and approved as reasonable attorney fees pursuant to Act 1 of 1996 and Act 20 of 2003 for all uncontested matters which fees shall be claimed by the Borough, its agents, counsel or assigns in each action initiated pursuant to the Act for the collection of unpaid claims as defined under the Act. The property owner's obligation to pay the full amount of the flat fee for each phase of each action shall accrue upon the initiation of any aspect of each phase. The full amount of each flat fee for each prior phase of any proceeding shall carry over and be due on a cumulative basis together with the flat fee for each subsequent phase.

A. *Filing of Claim.* The sum of \$150 shall constitute reasonable attorney fees for a short title examination, preparation and filing of claims as defined under the Act.

B. *Title Search.* The sum of \$250 shall constitute reasonable attorney fees for the title search necessary for the initiation of each proceeding and compliance with Pa. R.C.P. §3129. A sum not to exceed \$40 shall constitute a reasonable fee for update or bring down of a title search.

C. *Preparation and Service of Writ or 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 including service of process and notice pursuant to Pa. R.C.P. §237.1 plus case close-out and the settlement and discontinuance of each proceeding.

(1) *Federal Tax Liens, Judgments and Mortgages.* 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 where there are Federal tax liens, Federal judgments, Federal mortgages or other Federal interests.

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

(a) Investigation of defendant(s) whereabouts and preparation of

affidavit of diligent search - \$100.

(b) Preparation and presentation of motion for alternative service through filing of proofs of publication - \$200.

D. *Entry of Judgment.* The sum of \$225 shall constitute reasonable attorney fees for the entry of judgment whether by default, upon motion for judgment, upon award or verdict or by consent.

E. *Write of Execution; Sheriff's Sale of Property or Other Form of Execution on Any Entered Judgment Upon Complaint in Assumpsit.* The sum of \$700 shall constitute reasonable attorney fees for preparation of all documents necessary for execution upon any judgment pursuant to the Act. The sum of \$100 shall constitute reasonable attorney fees for each continuance of sheriff's sale at the request of the defendant.

F. *Second Sale Free and Clear.* The sum of \$700 shall constitute reasonable attorney fees for a second sale, free and clear of all liens, claims, mortgages, charges and estates pursuant to §7281 of the Act including preparation of necessary documents, service, court appearances, attendance at second sale and preparation of proposed sheriff's distribution.

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

H. *Demand Letter.* The sum of \$100 shall constitute reasonable attorney fees for preparation of any written demand letters to the property owner.

I. *Motions.* The sum of \$200 shall constitute reasonable attorney fees for preparation, filing, and presentation of any motion which shall include but not be limited to motions of assess damages, motions to continue sheriff's sale or motions to change caption.

2. *Contested Matters; Hourly Rates.* The following schedule of attorney fees is hereby adopted and approved as reasonable attorney fees pursuant to Act 1 of 1996 and Act 20 of 2003, which fees shall be awarded to the Borough, its agents, counsel or assigns as compensation in all contested matters, actions in assumpsit and in all other actions, not specifically referenced in subsection .1, above undertaken in connection with the collection of a delinquent account under the Act:

A. Senior attorneys (practicing 10 years or more) - \$185 per hour.

B. Junior attorneys (practicing less than 10 years) - \$160 per hour.

C. Paralegals - \$100 per hour.

D. Law clerks - \$75 per hour.

Each as recorded and charged in units of 1/10th of an hour for all time devoted to enforcement and collection of the unpaid claims. Counsel, whether duly employed or duly appointed by the Borough, its agents or assigns, shall not deviate from this fee schedule plus any authorized escalation provided below absent an ordinance amending the same. Contested matters are any matters where any defense, objection, motion, petition or appearance is entered in any phase of any proceeding by or on behalf of any defendant or other interested party.

(Ord. 04-01, 2/4/2004, Art. II)

**§1-403. 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 thirtieth day following the notice provided under §7106 of the Act or after the tenth day of any required second notice on all accounts referred to counsel for enforcement. Fees accumulated as a result of enforced collection shall be certified by duly appointed counsel for the Borough authorized to pursue collection of claims pursuant to the Act, or by counsel for the Borough’s agents or assigns and, if not collected in due course with the debt as by voluntary agreement, shall be included in all claims filed on behalf of the Borough or by its agents or assigns in the course of enforcement including any claim originally filed with the Prothonotary, any claim filed with the sheriff or in any other claim filed or statement provided where attorney fees are due.

3. There shall be added to the above amounts, the reasonable out-of-pocket expenses of counsel in connection with each of these services, including costs, fees, and expenses associated with the Court, Prothonotary, Sheriff or other relevant office.

4. The amount of fees determined as set forth above shall be added to the claim in each proceeding.

(Ord. 04-01, 2/4/2004, Art. III)

**§1-404. Recordkeeping Servicing Charges, Expenses and Fees Approved.**

The following schedule of charges, expenses and fees is hereby approved and adopted by the Borough pursuant to §2, No. 24 and §3 of the Act of May 16, 1923, as amended, 53 P.S. §§7103 and 7106, which recordkeeping services are necessary and are the direct result of each person’s failure to pay claims in a timely manner, whether or not enforcement proceedings have been initiated.

A. *Schedule.* The following schedule of charges, expenses and fees shall constitute reasonable and appropriate charges, expenses and fees for each indicated recordkeeping and servicing charge. The charges, expenses and fees shall be added to each claim and become part of the claim in addition to the principal, together with all penalties, interests, costs and attorney fees and shall be payable in full for each claim before the discharge or satisfaction of any claim. The below schedule of charges, expenses, and fees in separate and distinct form any costs or fees imposed by the Sheriff, Prothonotary, Court or any other public office in connection with the collection of claims.

(1) Assignments	\$5.00 per lien
(2) Filing tax liens	\$5.00 per lien
(3) Satisfactions	\$5.00 per lien
(4) Tax claim revivals (i.e., S&A)	\$10 per lien
(5) Municipal claim revivals	\$15 per lien

(6)	Tax certifications (for lien- ed delin- quent real estate taxes only)	\$10 per year
(7)	Sheriff's certificates	\$50
(8)	Postage	actual cost
(9)	Services including staffing, com- puters, office space, telephones, equipment, materials postage	5% of gross collections over \$100 10% of gross collections of \$100 and under
(10)	Docket service fees	\$1.75 per item
(11)	Municipal claim short title examination	\$35 per claim

*(Ord. 04-01, 2/4/2004, Art. IV)*

#### **§1-405. Effective Date and Retroactivity.**

This Part shall take effect on the date of enactment set forth below and with respect to attorney fees pursuant to §§1-402 and 1-403 shall apply to claims filed on or after December 19, 1990 and thereafter, or otherwise required by law. In no event shall the Borough or its assigns right to charge and assess reasonable attorney fees under Act 1 of 1996 and Act 20 of 3004 or charges, fees and expenses pursuant to §§7103 and 7106 of the Act be impaired by the fact that any claim may also include any amounts for claims filed prior to 1990 including 5% charges for claims filed prior to December 19, 1990. The charges, expenses and fees set forth in §1-404 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. 04-01, 2/4/2004, Art. V)*

#### **§1-406. Assignment.**

The Borough may use a tax collector and/or its Solicitor to perform the services contained herein. The Borough any duly authorized agent (including, but not limited to, its Tax Collector and its Counsel) retain all rights to charge reasonable attorney fees, charges, expenses and fees in accordance with the collection of any claims under this Part commenced under the Act and for servicing any claims under the Act.

*(Ord. 04-01, 2/4/2004, Art. VI)*

**B. Real Estate Tax Certification Fee****§1-411. Tax Certification Service Fee.**

1. Effective with the date of this Part, the Borough Council of the Borough of Swissvale appoints the locally-elected tax collector, or his/her successor, as the agent authorized to provide and issue a real estate tax certification upon request of the real estate property owner or his/her authorized agent and hereby authorizes said tax collector to assess, collect and retain, as compensation for providing said Tax Certification Service, a fee of \$10 per tax year certified.

2. Further, a fee is hereby established and authorized, to be collected and retained by the locally-elected tax collector or his/her successor for the issuance of a duplicate tax bill or facsimile thereof in the amount of \$10 for each document issued.

3. Hereafter, Council may from time to time revise the fees set forth in this Part 4B by resolution

*(Ord. 96-8, 9/11/1996, §§1-3)*



**Part 5****Borough Employees****A. Street and Sanitation Department Employee Residency Requirement****§1-501. Employees.**

All employees of the Street and Sanitation Department of the Borough of Swissvale hired after January 1, 1996, are hereby required to become residents of the Borough of Swissvale 6 months of their date of hire.

*(Ord. 96-3, 5/8/1996, §1)*



**B. Fire Department Employee Residency Requirement****§1-511. Full-Time Employees.**

All regular, full-time employees of the Fire Department of the Borough of Swissvale, hired after January 1, 1996, are hereby required to become residents of the Borough of Swissvale within 6 months of their date of hire.

*(Ord. 96-4, 5/8/1996, §1)*



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**C. Prohibiting Borough Employees from Working in Clubs, Bars and Restaurants****§1-521. Prohibiting Employees with Part-time Jobs of Conflicting Duties.**

1. No Swissvale Borough Employee shall accept employment or assist gratuitously any proprietor, owner or person in the operation of a retail liquor license business, whether the business be one of club retail liquor license, hotel retail liquor license or restaurant retail liquor license.

2. The prohibition shall not apply to accepting employment and dispensing liquor in a State operated bottled retail liquor store.

3. That any Borough employee who violates this Part 5C shall be subject to discipline as prescribed by the Borough Council and/or the statutes and laws of the Commonwealth of Pennsylvania.

4. The aforesaid prohibition shall be part of the working conditions and terms of employment of all Swissvale Borough employees.

*(Ord. 70-2, 1/14/1970, §1)*

