



County of Lackawanna

Lackawanna County
Administration Building
200 Adams Avenue
Scranton, Pennsylvania
18503

Certified Copy

Ordinance: 13-0019

File Number: 13-0019

Ordinance #224

Second Reading

Home Rule Charter Referendum

First Reading: January 23, 2013

Second Reading: February 5, 2013

BOARD OF COMMISSIONERS
OF THE
COUNTY OF LACKAWANNA, PENNSYLVANIA

ORDINANCE #224

AN ORDINANCE OF THE COUNTY OF LACKAWANNA, COMMONWEALTH OF PENNSYLVANIA, DIRECTING THAT A REFERENDUM QUESTION ABOLISHING THE OFFICES OF CLERK OF JUDICIAL RECORDS, REGISTER OF WILLS, RECORDER OF DEEDS AND SHERIFF; DEEMING THEIR DUTIES TO BE LEGISLATIVE POWERS UNDER §1.3-302 OF THE LACKAWANNA COUNTY HOME RULE CHARTER, PURSUANT TO THE HOME RULE CHARTER AND OPTIONAL PLANS GOVERNMENT ACT; BE PLACED ON THE MAY 21, 2013 MUNICIPAL PRIMARY BALLOT; AND FURTHER AMENDING ARTICLES II, III, VII, VIII, IX, X AND XVII OF THE LACKAWANNA COUNTY HOME RULE CHARTER, CONTINGENT UPON PASSAGE OF THE REFERENDUM QUESTION.

WHEREAS, Lackawanna County is a Third Class County existing pursuant to the Laws of the Commonwealth of Pennsylvania; and

WHEREAS, the residents of Lackawanna County adopted a Home Rule Charter, effective January 3, 1977, which provided for, among other things, Independently Elected County Official known as "Row Officers"; and

WHEREAS, Article XVI Section 1.16-1609 of the Lackawanna County Home Rule Charter in accordance with Act 62 of 1972, the Home Rule Charter and Optional Plans Government Act, as amended, provides for the amendment of the Home Rule Charter; and

WHEREAS, the Lackawanna County Board of Commissioners desire to submit a proposed ballot question to the residents of Lackawanna County which, if passed, would reduce the number of Lackawanna County Row Officers; and

WHEREAS, the proposed ballot question reducing the number of Row Officers in Lackawanna County also would necessitate certain amendments to the Lackawanna County Home Rule Charter for the assignment of the duties and responsibilities of the abolished Row Offices; and

WHEREAS, the proposed ballot question and the accompanying amendments to the Home Rule Charter, if passed, would provide for the orderly transition from the abolished Row Offices to the Board of Commissioners by permitting those elected officials who currently hold the Row Offices that are being abolished to serve the remainder of their respective terms; and

WHEREAS, these changes in the form of Lackawanna County government will inure to the benefit of the residents and taxpayers of Lackawanna County by providing for a more efficient, economical and effective delivery of governmental services to the residents of Lackawanna County.

NOW THEREFORE, the Board of Commissioners of the County of Lackawanna hereby ordains as follows:

I. Incorporation of Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference in their entirety herein.

II. Ballot Question.

Pursuant to the Pennsylvania Home Rule Charter and Optional Plans Law, the Lackawanna County Board of Elections is directed to place the following question on the May 21, 2013 Municipal Primary Ballot for consideration and approval by the registered electors of the County:

Shall the Lackawanna County Home Rule Charter be amended to abolish the elected offices of the Sheriff, Clerk of Judicial Records, Recorder of Deeds and Register of Wills and deem the duties and responsibilities associated with the abolished offices "Legislative Powers" under Section 1.3-302 of the Lackawanna County Home Rule Charter, said amendments to take effect upon expiration of the elected officials' current term.

III. Provisional Amendment to the Home Rule Charter.

If the Board of Election certifies that the ballot question set forth in Section II above has been approved by the registered electors of the County, then the Home Rule Charter shall be amended thirty (30) days following the Board of Elections certification in the form attached hereto as Attachment "A", which is incorporated herein by reference as though the same had been set forth at length, which incorporates all proposed amendments to the Home Rule Charter as required by the Home Rule and Optional Plans Government Act

IV. Transmittal.

The County Solicitor shall immediately transmit a certified copy of the Ordinance describing the proposed amendments to the Lackawanna County Home Rule Charter to the Lackawanna County

Board of Elections, upon its enactment.

V. Severability.

If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance, which shall remain in full force and effect.

VI. Repealer.

All Ordinances or parts of Ordinances inconsistent herewith be and the same are hereby repealed.

VII. Effective Date.

This Ordinance shall be effective upon adoption.

ADOPTED at a regular meeting of the Board of Commissioners of Lackawanna

County held on February 5, 2013.

COUNTY OF LACKAWANNA


COREY D. O'BRIEN



JIM WANSACZ

- NO -

PATRICK M. O'MALLEY

ATTEST:



MARIA ELKINS
CHIEF OF STAFF

Approved as to form and legality:



DONALD J. FREDERICKSON, ESQUIRE
COUNTY SOLICITOR

Attachment

"A"

LACKAWANNA COUNTY HOME RULE CHARTER

Art.		Sec.
I.	GENERAL	1.1-101
II.	ELECTED OFFICERS	1.2-201
III.	COUNTY COMMISSIONERS	1.3-301
IV.	CONTROLLER	1.4-401
V.	TREASURER	1.5-501
VI.	DISTRICT ATTORNEY	1.6-601
VII.	SHERIFF (Repealed)	1.7-701
VIII.	CLERK OF JUDICIAL RECORDS (Repealed)	1.8-801
IX.	RECORDER OF DEEDS (Repealed)	1.9-901
X.	REGISTER OF WILLS (Repealed)	1.10-1001
XI.	CORONER	1.11-1101
XII.	BUDGET AND FINANCE	1.12-1201
XIII.	INITIATIVE, REFERENDUM, AND RECALL	1.13-1301
XIV.	PERSONNEL SYSTEM	1.14-1401
XV.	ADMINISTRATIVE, LEGAL, AND PHYSICAL SERVICES	1.15-1501
XVI.	GENERAL PROVISIONS	1.16-1601
XVII.	TRANSITIONAL PROVISIONS	1.17-1701

Authority

The provisions of this Part I issued under sections 101-1309 act of April 13, 1972 (P. L. 184, No. 62) (53 P. S. §§ 1-101-1-1309), unless otherwise noted.

Source

The provisions of this Title 335 adopted April 27, 1976, effective January 3, 1977, unless otherwise noted.

On February 5, 2013, the Lackawanna County Board of Commissioners adopted Ordinance No. 224 to authorize a ballot question asking the voters in the 2013 Municipal Primary to decide whether to abolish the elected offices of Sheriff, Clerk of Judicial Records, Recorder of Deeds and Register of Wills. On May 21, 2013, the voters of Lackawanna County [adopted] amendments to the Lackawanna County Home Rule Charter (the "Charter") to abolish the elected offices of Sheriff, Clerk of Judicial Records, Recorder of Deeds and Register of Wills.

The Charter amendments [adopted] on May 21, 2013 became effective at [11:59 p.m.] on [January 5, 2014], unless otherwise noted.

ARTICLE I. GENERAL

Sec.	Title.
1.1-101	Status, Name, and Boundaries.
1.1-102	Powers and Functions: Construction.
1.1-103	Rights Reserved to the People.
1.1-104	

1.1-105 Local Municipal Services.

§ 1.1-101 Title.

This Home Rule Charter, together with any and all subsequent amendments, shall constitute the form of government for Lackawanna County. The Charter is the basic law for the County and is limited only by the Constitution of the United States of America, the Constitution and Laws of the Commonwealth of Pennsylvania where these Constitutions and Laws supersede the provisions of this Charter.

§ 1.1-102 Status, Name, and Boundaries.

The County of Lackawanna shall continue to be a municipality under the name of "The County of Lackawanna." Its boundaries and county seat shall be and remain as they are at the time this Charter takes effect and until otherwise changed by law.

§ 1.1-103 Powers and Functions: Construction.

The County of Lackawanna has and may exercise any powers and perform any functions not denied it by the Constitution of Pennsylvania by this Charter, or by the General Assembly at any time. These shall include, but shall not be limited to, all the powers and functions now, or hereinafter, conferred or imposed upon it by the Constitution, the laws of the Commonwealth of Pennsylvania and this Charter. This Charter does not authorize and should not be interpreted to authorize the elimination of services or functions currently mandated by law. All powers and functions of the County are to be liberally construed in favor of the County.

§ 1.1-104 Rights Reserved to the People.

Our government is emphatically and truly a government of the people. In form and in substance, it emanates from them. Its powers are granted by them, are to be exercised directly on them, and for their benefit. Therefore, no provision of this Charter, nor action by any officer, employee, or agent of the County acting under its authority, shall interfere with the rights, privileges, and powers reserved or guaranteed to individual persons, or to the people by the Constitution of the United States of America or the Constitution of the Commonwealth of Pennsylvania.

§ 1.1-105 Local Municipal Services.

Nothing in this Charter shall be construed as interfering with the rights of cities, townships, and boroughs within the County to retain powers and functions and to provide municipal services in accordance with law, including but not limited to the Home Rule Charter and Optional Plans Law. (Act 62 of 1972 (P. L. 184)). The County Government may, by action of the Board of Commissioners, offer to provide necessary municipal services as may be required from time to time in the cities, boroughs, and townships of the County. Such action shall be subject to provisions of the Home Rule Charter and Optional Plans Law (Act 62 of 1972 (P. L. 184)) permitting local municipalities to be excluded or to withdraw from County Government services by actions of their governing bodies or residents.

ARTICLE II. ELECTED OFFICERS

Sec.

- 1.2-201 Elected Officers.**
- 1.2-202 Qualifications of Elected Officers.**
- 1.2-203 Requirements; Prohibitions.**
- 1.2-204 Compensation.**
- 1.2-205 Forfeiture of Office.**
- 1.2-206 Vacancies and Filling of Vacancies.**
- 1.2-207 Oath of Office.**

§ 1.2-201 Elected Officers.

The elected officers of the County shall be:

- (a) Three (3) County Commissioners;**
- (b) Controller;**
- (c) Treasurer;**
- (d) District Attorney; and**
- (e) Coroner.**

§ 1.2-202 Qualifications of Elected Officers.

All elected officers of the county government shall be registered electors in the county. They shall be at least 18 years of age, a citizen of the United States and a resident of the county at least one year prior to nomination for any elected county office, and be free of conviction of a felony of any degree and/or conviction of a violation of the Pennsylvania Election Code. Candidates for the office of District Attorney shall be learned in the law and admitted to the practice of law in the Commonwealth at the time of election to office and throughout the term of office. Except as otherwise provided in this Charter, the term of office for all elected officers shall be for four years from the first Monday of January next after their election and until their successors shall be duly qualified. No person may seek election to more than one of the offices set forth in this Article at the same election.

§ 1.2-203 Requirements; Prohibitions.

- (a) Elected officers, except the District Attorney and Coroner, shall be considered full time employees of the County and shall devote the time and effort to official County business as is required for full time employees of the County Government generally.**
- (b) No elected officer shall hold any other County Office or County employment for compensation, any other elective public office, any other political employment for compensation during their term of office.**

§ 1.2-204 Compensation.

Unless otherwise stated by state law, elected officers shall receive annual salaries as set forth in Article XVII of this Charter. Any change in salary shall not be applicable to any incumbent elected officer until the commencement of a new term of office. All other such salaries shall be determined by the Salary Board.

§ 1.2-205 Forfeiture of Office.

Any elected officer shall forfeit their office if they lack at any time during their term of office any qualification prescribed by this Charter or by Law, or upon conviction in a court of record of competent jurisdiction of any criminal offense where the maximum sentence shall be 5 years imprisonment or more, in accordance with the Laws of this State, or any state, and the Laws or Constitution of the United States.

§ 1.2-206 Vacancies and Filling of Vacancies.

- (a) The office of any elected officer shall become vacant upon death, resignation, removal, forfeiture or failure to assume such office after election thereto within forty-five (45) days after scheduled commencement of the term thereof or is unable by reason of physical or mental disability to perform the duties of the office.
- (b) If a vacancy occurs, the executive committee of the political party of the person elected to the office in question shall submit a list of three persons to the judges of the court and bank within five (5) days of the vacancy. The court shall appoint one of the three (3) persons recommended to temporarily fill the vacancy.
- (c) A special election according to the Laws of the Commonwealth of Pennsylvania shall be held at the next primary municipal or general election to permanently fill the vacancy.
- (d) If a vacancy occurs in the last year of the term the temporary appointment of the court shall remain in office until his duly elected successor is sworn in.

§ 1.2-207 Oath of Office.

Every elected county officer shall voluntarily execute an oath or affirmation as prescribed by county ordinance or the Laws of the Commonwealth of Pennsylvania. Such oath or affirmation shall be administered by any person authorized to administer oaths or affirmations and shall be filed in the office of the Election and Registration Commission. Form and affirmation found in the Administrative Code.

ARTICLE III. COUNTY COMMISSIONERS

Sec.

- 1.3-301 Election and Composition.**
- 1.3-302 Powers and Duties.**
- 1.3-303 Organization and Rules of Procedure.**
- 1.3-304 Meetings.**
- 1.3-305 Quorum.**

- 1.3-306 Form of Action by the Board.**
- 1.3-307 Residents Right to be Heard.**
- 1.3-308 Ordinance Requirements.**
- 1.3-309 Actions Requiring an Ordinance.**
- 1.3-310 Emergency Ordinances.**
- 1.3-311 Effective Date and Publication of Ordinances.**
- 1.3-312 Recording and Codification of Ordinances.**
- 1.3-313 Enforcement of Ordinances.**

§ 1.3-301 Election and Composition.

Three county commissioners will be elected in Lackawanna County in odd-numbered years and every fourth year thereafter. In the election of commissioners each qualified elector shall vote for no more than two persons.

§ 1.3-302 Powers and Duties.

All legislative powers which may be exercised by the County under the Constitution and Laws of the Commonwealth of Pennsylvania shall be vested in the Board of Commissioners, except as otherwise stated in this Charter. The Board of Commissioners shall have, but not by way of limitation, the following powers:

- (a) to enact, amend, or repeal ordinances, resolutions not inconsistent with this Charter, Initiative and Referendum, the Constitution and Laws of the Commonwealth of Pennsylvania;**
- (b) to make appropriations, incur indebtedness, and adopt an annual and capital budget;**
- (c) to levy taxes, assessments and service charges. The maximum millage allowable under existing procedures shall be 25 mills. Upon imposition of such a tax rate, any millage increase which exceeds 5% of the preceding years' rate of millage shall be effective only if approved by a referendum of the qualified electors of the county;**
- (d) to adopt and amend by ordinance an administrative code which shall set forth in detail a plan for the organization and administration of the County Government not inconsistent with the provisions of this Charter;**
- (e) to adopt procedures, by ordinance, which shall provide for the purchasing of products, goods and services, the making of contracts, and the sale or lease of personal or real property of the County. Such procedures shall provide for negotiated contracts not exceeding \$1,500. In all other contracts there shall be competitive bidding, bidding procedures, assurances of controls on aggregate spending and safeguards against special interests;**
- (f) adopt a Personnel Code;**
- (g) in aid of its legislative powers and functions, to make, or cause to be made, as a body or through a committee thereof, such studies, audits, inquiries, and investigations relating to the affairs of the County and its government and to the conduct of any agency, officer, or employee, and in connection therewith to obtain professional and technical advice, subpoena witnesses, administer oaths, and require the production of books, papers, and other evidence deemed necessary;**

- (h) to serve as an elections board and board of return except when eligible for re-election. In such an instance the Court of Common Pleas will assume jurisdiction and may delegate its function in a manner consistent with law;**
- (i) to adopt all necessary rules and regulations governing meetings and administrative procedures of the Board of Commissioners;**
- (j) to appoint or confirm, as the case may be, officers and employees as provided by this Charter, by ordinance, or by state law;**
- (k) to establish the salaries and wage levels of County Officers and employees subject to the decisions of the Salary Board;**
- (l) to establish, abolish or reorganize departments and/or programs to promote efficiency and economy; except that any reorganization will not eliminate offices established by this Charter;**
- (m) to provide for enforcement of all ordinances;**
- (n) to receive and accept gifts or donations of real or personal property or interest therein in the name of the County;**
- (o) to acquire property by eminent domain;**
- (p) to provide for a personnel management system governing grievance procedures, personnel appointments, reappointments, and dismissals;**
- (q) to legislate in respect to intergovernmental programs involving negotiations with units of the national, state or local government;**
- (r) to enter into agreements with units or groupings of local governments with respect to establishment, revision, or cancellation of service agreements;**
- (s) to legislate concerning county participation in development programs including but not limited to mass transit, housing, aeronautics, land use, waste disposal and cultural development;**
- (t) to make provisions for any matters of County Government not otherwise provided for, including, but not restricted to, any matter involving health, safety, welfare or public emergency;**
- (u) the power to appoint members to agencies, commissions and authorities;**
- (v) to appoint a sheriff, who shall retain and exercise those powers granted by the General Laws of the Commonwealth of Pennsylvania for those counties whose population is most equal to that of Lackawanna County. The sheriff shall have the power to collect all fines and penalties for violation of county ordinances and the transmittal of those monies to the County Treasurer, provide security for County property and personnel and to perform all other duties as may be directed by the Board of Commissioners from time to time; and**

(w) to exercise all powers, functions and duties previously assigned by law to the Clerk of Judicial Records, Recorder of Deeds and Register of Wills under this Charter and the General Laws of the Commonwealth of Pennsylvania for those counties whose population is most equal to that of Lackawanna County.

§ 1.3-303 Organization and Rules of Procedure.

On the first Monday of January in each year the Board of Commissioners shall meet and adopt rules necessary for its organization, procedure, meetings, and committees. Should the first Monday of January be a legal holiday, the meeting to adopt rules necessary for its organization, procedure, meetings, and committees, shall take place on the next applicable legislative day.

§ 1.3-304 Meetings.

The Board of Commissioners shall establish the time, place, and conditions of its regular and special meetings. Regular meetings shall be held at least twice in each calendar month in separate weeks and may be held in geographic areas within the County. All meetings of the Board shall be open to the public. Public notice of all regular and special meetings shall be given showing the dates, times, and places at which the meetings are to be held. Public notice of the schedule of regular meetings shall be given at least once each calendar year. During a declared state of emergency public notice shall not be required if impractical under the circumstances.

§ 1.3-305 Quorum.

The Board of Commissioners may take no action unless a quorum is present. A quorum shall consist of a majority of the members of the Board in office.

§ 1.3-306 Forms of Action by the Board.

Actions of the Board shall be taken by the adoption of ordinances, resolutions or motions. The vote on these shall be by roll call unless there is unanimity. The Board may take action only at public meetings.

§ 1.3-307 Residents Right to be Heard.

The Board shall provide reasonable opportunity for persons to address the Board during its meetings. No ordinance or amendment thereto or resolution or motion may be adopted without the Board having provided reasonable opportunity for the residents and taxpayers of the County to address the Board before a vote is taken. The Board shall by ordinance, adopt procedures for resident participation.

§ 1.3-308 Ordinance Requirements.

A proposed ordinance should/shall be submitted in writing and shall be limited to one subject, which shall be clearly expressed in the title. Any proposed ordinance may incorporate by reference all or any part of a technical code or act or acts of the General Assembly. No proposed ordinance except an emergency ordinance may be finally adopted at the meeting at which it is introduced. Prior to the adoption of an ordinance, it may be amended, provided that the amendment is submitted in writing. Adoption of any ordinance or amendment may occur no sooner than the next following regular or special meeting of the Board held at least six (6) days after the proposed ordinance or amendment was introduced.

§ 1.3-309 Actions Requiring an Ordinance.

Actions of the Board which are legislative in nature shall be by ordinance. In addition to any other actions, which must be taken by ordinance as required by law or by this Charter, the following actions shall require an ordinance:

- (a) adopting or amending the Administrative Code or Personnel Code or establishing or abolishing an agency;**
- (b) levying taxes;**
- (c) fixing the compensation of any elected official;**
- (d) granting, renewing, or extending a franchise;**
- (e) authorizing the borrowing of money;**
- (f) conveying, leasing or authorizing rates charged for any utility or other service supplied by the County;**
- (g) amending or repealing any ordinance previously adopted except those achieved through Initiative and Referendum;**
- (h) exercising eminent domain;**
- (i) providing a penalty or establishing a rule or regulation for the violation of which a penalty is imposed;**
- (j) adopting the Operating and Capital Improvement Plan, program and budget;**
- (k) authorizing any intergovernmental agreement that transfers the exercise of any County power or function to any other governmental body or which transfers to the County the exercise of any power or function of a local municipality or another county;**
- (l) establishing new taxes or increasing rates of new taxes;**
- (m) adopting or repealing zoning ordinances or zoning maps or amendments thereto; and**
- (n) adopting or repealing subdivision regulations or land development or land use regulations or amendments thereto.**

§ 1.3-310 Emergency Ordinances.

The Board of Commissioners may adopt emergency ordinances necessary for the protection of public well being whenever there is an immediate threat to the life, health and/or property of the inhabitants of Lackawanna County. Emergency ordinances may be adopted at the same meeting at which they are

introduced and shall take effect immediately upon enactment. They may be re-enacted if the emergency still exists after a 31-day period.

§ 1.3-311 Effective Date and Publication of Ordinances.

All ordinances, except emergency ordinances, shall become effective thirty (30) days after enactment unless a different effective date is specified in the ordinance, but in no case shall such ordinances, take effect sooner than ten (10) days after enactment. All ordinances, except emergency ordinances, shall be published in summary form in at least two (2) newspapers of general circulation in the County at least seven (7) days prior to the date on which they become effective. A summary of emergency ordinances shall be published promptly or as soon as possible after enactment. Copies of all ordinances shall be made available for public inspection during normal working hours.

§ 1.3-312 Recording and Codification of Ordinances.

The minutes and ordinances, resolutions and motions of the Board shall be entered as approved in the record books of the County. These books shall be in the custody and control of the Administrative Director. All County ordinances and any resolutions or motions having legislative effect shall be codified and the codification kept current. The record books shall be open and available for public inspection during the County's regular business hours. Copies of the codified ordinances and resolutions shall be made available to the public upon request at a reasonable rate.

§ 1.3-313 Enforcement of Ordinances.

All proceedings for the violation of any ordinances and for the recovery of fines or penalties imposed thereby shall be brought as prescribed by law or ordinance. All penalties and fines shall be executed through the Office of the Sheriff.

ARTICLE IV. CONTROLLER

Sec.

- 1.4-401 Election and Qualification.**
- 1.4-402 Powers and Duties.**
- 1.4-403 Bonding.**

§ 1.4-401 Election and Qualification.

The Controller shall possess the qualifications for elected officers as stated in this Charter and shall be elected to a four year term in accordance with the procedures for nomination and election as established by the Pennsylvania Election Code.

§ 1.4-402 Powers and Duties.

The Controller shall retain and exercise those powers granted by general law to Controllers of counties whose population is most equal to that of Lackawanna. He may appoint a Deputy Controller, preferably a person familiar with public fiscal and accounting procedures; clerks and a solicitor. In addition to the powers already vested by general laws of the Commonwealth in the Controller he shall have, but shall not be limited to the following powers:

- (a) participate with the County Commissioners in the preparation of operating and capital budgets of the County;**
- (b) maintain accounting systems for the county government in accordance with generally recognized governmental accounting principles and procedures, keeping accounting records, and exercising financial and budgeting controls;**
- (c) prescribe the accounts to be kept by the county government, the form of receipts, vouchers, bills, or claims, warrants, requisitions, purchase orders or any financial stationery to be used and provide suitable instructions thereto;**
- (d) examine all contracts, purchase orders and other documents which would result in or involve financial obligations against the county government, and approve the same only on ascertaining that there is an unexpended, unencumbered, and unimpounded balance in each appropriation and allotment to which they are applicable sufficient to cover such potential obligations;**
- (e) audit before payment all bills, invoices, payrolls and other claims, demands, or charges against the county government and approve the same only if duly authorized by appropriations or allotments of appropriations;**
- (f) submit a monthly financial report to the Board of Commissioners showing the financial condition of various funds of the county government as well as, the condition of all items included in the adopted annual operating budget, including estimated revenues, revenues received, appropriations and allotments for such appropriations;**
- (g) submit an annual report by April 1 to the Board of Commissioners of the audits which he shall have made of the accounts of the preceding fiscal year of all officers having charge, custody and control or disbursement of public monies and other funds, and at the same time he shall file a copy of said report with the Court of Common Pleas. Appeals the reform may be taken as provided by general law. A summary of the annual audit and a financial statement shall be published in at least one newspaper of general circulation in the County;**
- (h) to administer oaths or affirmations in relation to any matter touching authentication of any account, claim or demand of or against the county; he shall have the power to issue subpoenas to obtain the attendance of any officers of the county whose accounts he is required or authorized to adjust, audit, and settle and of any person whom it may be necessary to examine as witness in connection therewith. Refusal to honor said subpoena may result in judicial procedures for a contempt citation;**
- (i) all bonds, notes, contracts and written obligations of the county shall be executed by the controller, the chairman of the board of commissioners and the treasurer; and**
- (j) prepare for inclusion in the Administrative Code, an article setting forth the structure, organization, manner and operational procedures whereby the office of the County Controller operates and functions.**

§ 1.4-403 Bonding.

The Controller shall give bonds to the county in a sum fixed by the general laws of the Commonwealth relating to counties whose population is most equal to that of Lackawanna County.

ARTICLE V. TREASURER

Sec.

1.5-501 Elections and Qualifications

1.5-502 Powers Duties

1.5-503 Bonding

§ 1.5-501 Election and Qualifications.

The Treasurer shall possess the qualification for elected officers as stated in this Charter and shall be elected to a four year term in accordance with the procedures for nomination and election as established by the Pennsylvania Election Code.

§ 1.5-502 Powers and Duties.

The Treasurer shall retain and exercise those powers granted by general law to Treasurers in Counties whose population is most equal to that of Lackawanna County. He may appoint a Deputy Treasurer, clerks and a solicitor. In addition to the powers already vested by the general law of the Commonwealth in the Treasurer he shall have, but shall not be limited to the following powers:

- (a) have custody of all County monies;
- (b) to designate a depository or depositories for all County funds;
- (c) to provide for investment of County monies. All investments shall be placed in a manner so as to obtain the highest rate of interest or return on the type of security or account invested;
- (d) act as a tax collecting agency for the Commonwealth or subdivisions of government as authorized by law;
- (e) sign all checks that are properly authenticated and vouched by the Controller; and
- (f) prepare for inclusion in the Administrative Code, an article setting forth the structure, organization, manner, and operational procedures whereby the office of the County.

§ 1.5-503 Bonding.

The Treasurer shall give bonds to the County in a sum fixed by the general laws of the Commonwealth relating to counties whose population is most equal to that of Lackawanna County.

ARTICLE VI. DISTRICT ATTORNEY

Sec.

1.6-601 Election and Qualifications.

1.6-602 Powers and Duties.

§ 1.6-601 Election and Qualifications.

The District Attorney shall possess the qualifications for elected officers as stated in this Charter and shall be elected to a four year term in accordance with the procedures for nomination and election as established by the Pennsylvania Election Code. In addition he shall be learned in the law, and at the time of his nomination be admitted to the practice of law in the Commonwealth of Pennsylvania.

§ 1.6-602 Powers and Duties.

The District Attorney shall retain and exercise those powers granted by the general laws of the Commonwealth of Pennsylvania for those counties whose population is most equal to that of Lackawanna County. The District Attorney may appoint such assistants, including a First Assistant, learned in the law and admitted to practice of law in the Commonwealth of Pennsylvania to assist him in the discharge of his duties. The District Attorney shall appoint assistant District Attorneys in conformity with his budgetary allowance. He shall also appoint county detectives who must be citizens of the United States, qualified electors of the county and prove that they have never been convicted of a crime involving moral turpitude under the laws of this Commonwealth or any other state or the laws of the United States. The District Attorney shall prepare for inclusion in the Administrative Code an article setting forth the structure, organization, manner, operational procedures whereby the office of the District Attorney operates and functions.

ARTICLE VII. SHERIFF

This Article was repealed on May 21, 2013 and became effective on January 5, 2014.

ARTICLE VIII. CLERK OF JUDICIAL RECORDS

This Article was repealed on May 21, 2013 and became effective on January 5, 2014.

ARTICLE IX. RECORDER OF DEEDS

This Article was repealed on May 21, 2013 and became effective on January 5, 2014.

ARTICLE X. REGISTER OF WILLS

This Article was repealed on May 21, 2013 and became effective on January 5, 2014.

ARTICLE XI. COUNTY CORONER

Sec.

- 1.11-1101 Election and Qualifications.**
- 1.11-1102 Powers and Duties.**

§ 1.11-1101 Election and Qualifications.

The Coroner shall possess the qualifications for elected officers as stated in this Charter and shall be elected to a four year term of office in accordance with the procedures for nominations and election as established by the Pennsylvania Election Code.

§ 1.11-1102 Powers and Duties.

The Coroner shall retain and exercise those powers granted by the General Laws of the Commonwealth, granted to Coroners in counties whose population is most equal to that of Lackawanna County. He shall have complete control over public and private morgues, and shall have a staff consisting of a certified pathologist, a specialist and/or technician knowledgeable in forensic chemistry, and a mortician licensed by the General Laws of the Commonwealth of Pennsylvania. The Coroner shall prepare for inclusion in the Administrative Code an article setting forth the structure, organization, manner, operational procedures whereby the office of the County Coroner operates and functions.

ARTICLE XII. BUDGET AND FINANCE

Sec.

- 1.12-1201 Fiscal Year.**
- 1.12-1202 The Budgetary Process.**
- 1.12-1203 Budget Message.**
- 1.12-1204 Budget.**
- 1.12-1205 Capital Budget.**
- 1.12-1206 Action on the Budget.**
- 1.12-1207 Balanced Budget.**
- 1.12-1208 Budget Modification.**
- 1.12-1209 Emergency Appropriations.**
- 1.12-1210 Lapse of Appropriations.**
- 1.12-1211 County Debt.**

§ 1.12-1201 Fiscal Year.

The fiscal year for the County shall begin on the first day of January and end on the last day of December of each year, unless otherwise prescribed by applicable state law.

§ 1.12-1202 The Budgetary Process.

Preparation of the annual operating budget shall commence no later than September 1 of the subsequent fiscal year when the Administrative Director will request all offices, departments, and/or agencies of the County Government to submit detailed estimates of monetary needs for the next fiscal year. The

estimates should show the amount originally appropriated, its current status, the future anticipated needs and probable sources of income. No later than October 1 for the subsequent fiscal year the Administrative Director, Controller and Commissioners will review the estimates and draft a preliminary budget for submission.

§ 1.12-1203 Budget Message.

By no later than October 15 of each fiscal year the Chairman of the Board of Commissioners shall submit the budget and accompanying message, which shall explain the budget in fiscal terms and in terms of programs and services. It shall outline the proposed financial policies of the County for the ensuing year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenue together with the reason for such changes, summarize the county debt position and include other material deemed desirable.

§ 1.12-1204 Budget.

The budget shall contain:

- (a) general summary of its contents;
- (b) all estimated income, indicating the existing and proposed tax levies, as well as assessments, fees and charges;
- (c) all proposed expenditures, including debt service for the ensuing year;
- (d) the number of proposed employees in every job classification;
- (e) comparative figures for estimated actual income expenditures for the current fiscal year and actual income and expenditures of the preceding fiscal year;
- (f) proposed expenditures for the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs and method of financing such expenditures; and
- (g) proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments, and agencies when practicable and proposed method of financing such capital expenditures.

The total of proposed expenditures shall not exceed the total estimated funds available.

§ 1.12-1205 Capital Budget.

The Commissioners will also propose a Capital budget prepared in the same manner as the annual budget except that the initial capital budget preparation shall commence at least six months prior to the submission of the annual budget. In all subsequent years, it shall be submitted to the Board of Commissioners at least three months prior to the final date of the submission of the budget. The capital budget shall contain:

- (a) summary of its contents;

- (b) list of all capital improvements which are proposed to be undertaken during the five fiscal years ensuing with appropriate supporting information as to the necessity for such improvements;
- (c) costs estimated, method of financing, and recommended time schedules for such improvements;
- (d) estimated annual cost of operating and maintaining the facilities to be constructed or acquired; and
- (e) inventory replacement schedule for purchase and replacement of major equipment.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

§ 1.12-1206 Action on the Budget.

The Commissioners shall publish in one or more newspapers of general circulation in the County a summary of the annual and capital budget and a notice stating the times where the budget is available for public inspection. Four public hearings (three regional and one at the county seat) shall take place no later than November 15 of the fiscal year. After the public hearings the Board of Commissioners may adopt the budget with or without amendment. In amending the budget the Commissioners may delegate, increase, or decrease programs or amounts except for expenditures required by law or for debt service. Should a change in a program or budgetary item exceed 10 percent of the proposed budget, another public hearing shall take place within 72 hours to justify said change. In no case can an amendment increase authorized expenditures to an amount greater than total estimated funds available. The Commissioners must adopt an annual and capital budget no later than December 1 of the fiscal year currently ending. If a total budget is not adopted by the first day of January then the Commissioners may authorize a continuing spending resolution which shall authorize monthly expenditures not exceeding one twelfth of total expenditures recorded for the fiscal year just completed. Such resolutions shall have the effect of permitting the continued operations of County Government but may not exceed thirty (30) days. If a total budget is not adopted by February 1, the budget adopted for the preceding fiscal year shall remain in effect until December 31 of the same year, with all expenditures and revenues remaining the same.

§ 1.12-1207 Balanced Budget.

When the budget shall have been finally adopted, the Board of Commissioners shall thereupon establish tax rates so that the budget shall be balanced as to revenue and expenditures.

§ 1.12-1208 Budget Modification.

The Commissioners may, by ordinance, amend the adopted annual or capital budget at any time, providing that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income. Adoption of the budget and amendments thereto shall constitute appropriations for the expenditures set forth therein.

§ 1.12-1209 Emergency Appropriations.

To meet a public emergency affecting life, health, public safety or property, the Commissioners may, by resolution make appropriations from contingent funds, from revenues received from anticipated sources

but in excess of budget estimates, or from revenues received from sources not anticipated in the budget for the current fiscal year. To the extent there may be insufficient unappropriated revenues to meet such emergency needs, the Commissioners may incur indebtedness not in excess of that permitted by applicable state law.

§ 1.12-1210 Lapse of Appropriations.

Every appropriation, except for capital expenditures, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished, but if three years without any disbursement from or encumbrance of the appropriation, then the appropriation shall lapse.

§ 1.12-1211 County Debt.

The County shall be bound by the debt limit and other substantive provisions of the Local Government Unit Debt Act of July 12, 1972, No. 185 as amended of the Commonwealth of Pennsylvania.

ARTICLE XIII. INITIATIVE, REFERENDUM, AND RECALL

Sec.

1.13-1301 Initiative Powers.

1.13-1302 Referendum Powers.

1.13-1303 Initiative-Referendum and Recall Procedures.

1.13-1304 Results of Election.

§ 1.13-1301 Initiative Powers.

- (a) The qualified voters of the county shall have power, except as provided in this section, to propose ordinances to the Board of Commissioners. If the Board of Commissioners rejects an ordinance proposed hereunder or passes it with amendment, the qualified voters shall have the power to approve or reject the proposed ordinance at a municipal or primary election. These powers comprise the initiative power.
- (b) The initiative power shall not extend to the proposing of any part or all of the annual budget or capital program; or any ordinance making or repealing any appropriation of money; or authorizing or repealing the levy of taxes, or relating to zoning.
- (c) The qualified electors seeking to propose an ordinance subject to initiative shall proceed by way of initiative petition addressed to the Board of Commissioners. Any initiative petition must be filed with the Administrative Director and must be signed by qualified electors of the county equal in number to at least ten (10) percent of the total number of electors voting for the office of Governor in the last gubernatorial general election within the county.

§ 1.13-1302 Referendum powers.

- (a) The qualified electors of the county shall have the power, except as provided in subsection (b) of this section to require reconsideration by the Board of Commissioners of any adopted ordinance, including any ordinance initiated under Section 1301 of this Article and adopted by the Board of Commissioners:

If the Commissioners fail to repeal an ordinance which it has been required to reconsider, the qualified electors shall have power to approve or reject that ordinance at a municipal or primary election. These powers comprise the referendum power.

- (b) The Referendum power shall not extend to any part or all of the annual or capital budget; or to any ordinance authorizing or repealing the levy of taxes; or to any ordinance making or repealing any appropriation of money; or to any emergency ordinance; or to any repealing ordinance adopted by the Board of Commissioners in compliance with a referendum petition; or to any ordinance relating to zoning.**
- (c) The qualified electors seeking a referendum on any ordinance shall proceed by way of a referendum petition addressed to the Board of Commissioners identifying the ordinance concerned and requesting that it either be repealed or referred to the qualified electors of the county. Any referendum petition must be filed with the Administrative Director within thirty (30) days after adoption by the Commissioners of the ordinance concerned and must be signed by qualified electors of the county equal in number to at least ten (10) percent of the total number of electors voting for the office of Governor in the last gubernatorial general election within the county.**
- (d) When a referendum petition is filed with the Administrative Director, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension will terminate when:
 - (a) there is a final determination of insufficiency of the petition; or**
 - (b) the petition is withdrawn; or**
 - (c) the Board of Commissioners repeals the ordinance; or**
 - (d) thirty (30) days have elapsed after a vote of the qualified electors on the ordinance.****

§ 1.13-1303 Initiative-Referendum and Recall Procedures.

- (a) Each initiative, referendum and/or recall petition shall contain or have attached thereto throughout its circulation the full text of the ordinance proposed or sought to be reconsidered.**
- (b) Each elector signing an initiative, referendum and/or recall petition shall add his signature, his occupation, his residence, and the date of signing. Signatures on an initiative, referendum and/or recall petition may be on separate sheets, but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are qualified electors of the county, that they signed with full knowledge of the contents of the petition, and that their residences are correctly given.**
- (c) An initiative, referendum and/or recall petition shall be tendered for filing to the Election Board. No signature shall be counted as valid which is dated more than sixty (60) days prior to the date the petition is tendered for filing. Upon tender to the Election Board, the petition shall be available for examination by any interested person. Within fifteen (15) days after tender, the Election Board shall pass upon the validity of the petition and the validity and number of signatures required thereon. The decision of the Election Board shall be subject to immediate review on appeal to the Court of Common Pleas.**
- (d) When an initiative, referendum and/or recall petition has been finally determined sufficient, the Board of Commissioners will promptly consider the proposed ordinance or reconsider the referred ordinance**

by voting its repeal. If the Board of Commissioners fail to adopt a proposed initiative ordinance without any change in substance within sixty (60) days, or fail to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, the Election Board shall submit the proposed or referred ordinance to the qualified electors of the county.

- (e) The vote of the qualified electors of the county on a proposed or referred ordinance shall be held at the next primary or municipal election occurring not less than sixty (60) days after the last day, as specified in the preceding subsection, for Board of Commissioners action thereon.
- (f) An initiative petition, referendum petition and/or recall petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the qualified electors of the county by filing with the Election Board a request for withdrawal signed by at least twenty-five (25) percent of the petitioners. Upon filing of such request, the petition will have no further force or effect and all proceedings shall be terminated.

(g) Recall Procedure

- (1) Any person holding an elective office of the County Government, whether by election or appointment to fill a vacancy, shall be subject to removal from office at a recall election in the manner provided in this article.
- (2) No recall petition shall be filed against any elected official within the first year of his term, within one year of the expiration of his term, or within two years of any previous recall attempt.
- (3) A recall of an elected official shall occur upon the filing of a recall petition signed by twenty-five (25) percent of the number of electors voting for the office of Governor in the last gubernatorial election within the county. Every recall petition shall name the office and the official against whom it is directed, and reason(s) for recall.
- (4) As soon as the Election Board has accepted a recall petition for filing and determined its validity and sufficiency, it shall notify the incumbent named in the petition that the petition has been filed. Upon receipt of such notice the incumbent may resign from his office and thereupon the recall proceedings shall terminate.
- (5) If the incumbent against whom the recall petition is directed does not resign from his office within ten (10) days after notice of the filing of such petition shall have been given to him, the Election Board shall arrange a recall election at the next general, municipal, or primary election to be held not less than sixty (60) days after the ten days have expired. The recall question shall be placed at such election before the qualified electors of the county. The incumbent against whom the question is directed may resign at any time prior to the recall election and thereupon the election proceedings shall be terminated.
- (6) The question of recall shall be submitted in the following form, unless otherwise prescribed by law:

Shall (name of officer) be recalled and removed from the office of (name of office)?

The above question shall appear for every official against whom a recall petition has been filed, and provision shall be made for every qualified elector to vote "yes" or "no" on the question(s).

§ 1.13-1304 Results of Election.

- (a) If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Board of Commissioners. If conflicting ordinances are approved at the same election the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.**
- (b) If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.**
- (c) If a majority of the qualified electors voting on the question at a recall election shall vote in the affirmative, the incumbent against whom the question is directed shall be recalled and removed from office. The effective date of the recall shall be the date of the certification of the returns, and the office shall be considered vacant on that date. If a majority of the qualified electors voting on the question vote in the negative, the incumbent against whom the question is directed shall remain in office.**

ARTICLE XIV. PERSONNEL SYSTEM

Sec.

- 1.14-1401 Personnel Code.**
- 1.14-1402 Exempt Service.**
- 1.14-1403 Conflict of Interest and Code of Ethics.**

§ 1.14-1401 Personnel Code.

- (a) Within six (6) months after the effective date of this Charter, the Board of Commissioners shall adopt by ordinance a Personnel Code for all County Employees. The Personnel Code shall provide means to recruit, select, develop, and maintain an effective work force and shall include policies and procedures for employee hiring and advancement, training and career development, job classification, salary administration, fringe benefits, discipline, discharge and other related activities; but the Personnel Code shall not in any way infringe upon rights granted to county employees or employee organizations by the Pennsylvania Public Employee Relations Act, Act of July 23,1970, P. L. 563 as amended. Notwithstanding any other provisions of this Article, all personnel, demotions, suspensions, transfers and discharges shall be subject to the provisions of any union contract, existing under the provisions of the aforesaid act, to which the County is a party.**
- (b) Appointments and promotions of County employees, except for positions in exempt service, as described in Section 1.14-1402, shall be made on the basis of merit and fitness; and no person shall be appointed or promoted to, or demoted or dismissed from any position in the County Service, or in any way discriminated against with respect to county employment because of his race, color, sex, religion, or national origin. All dismissals, demotions, or suspension shall be in writing with the reason for dismissal, demotion, or suspension stated therein. Any employee dismissed, demoted or suspended for disciplinary reason shall be entitled to a hearing before an independent review board to be provided for in the personnel code.**

§ 1.14-1402 Exempt Service.

The Exempt Service shall consist of (1) elected officers (2) members of authorities, boards, commissions and committees (3) the Administrative Director and Chief Deputy for each elected officer of the County (4) temporary or seasonal employees (5) employees required to be covered by a state merit or civil service system (6) employees, clerks and secretaries of the Judicial Branch.

Cross References

This section cited in 335 Pa. Code § 1.14-1401 (relating to personnel code).

§ 1.14-1403 Conflict of Interest and Code of Ethics.

A conflict of interest and code of ethics shall be adopted as part of the Administrative Code mandated by this Charter.

ARTICLE XV. ADMINISTRATIVE, LEGAL, AND PHYSICAL SERVICES

Sec.

- 1.15-1501 Authority.**
- 1.15-1502 Administrative Services.**
- 1.15-1503 Legal Services.**
- 1.15-1504 Physical Services.**

§ 1.15-1501 Authority.

There shall be created by this Charter a division of Administrative Legal and Physical Services.

§ 1.15-1502 Administrative Services.

- (a)** The Board of County Commissioners shall appoint an Administrative Director who shall coordinate, execute, and implement ordinances and resolution, enacted by the Board of County Commissioners in all Departments, agencies, and Commissions under their jurisdiction. It is mandatory that he hold a degree in accounting or other professional training in budgetary or financial procedures. He will serve in a liaison capacity with elected officials on the implementation of legislative policy so far as it relates to their Department. He shall also be a member of the Personnel Review Board and assist in the preparation of the Administrative Code, and supervise the Data Processing Bureau.
- (b)** The Lackawanna County Institution District is hereby abolished and its functions, personnel, records transferred to a Bureau of Institutional Management. The Bureau of Institutional Management shall also have under its jurisdiction the Bureau of Children's Services, Human Resources, Area Agency on Aging, Intercommunity Health Coordination. The Director of the Bureau of Institutional Management shall be appointed by the Board of County Commissioners.
- (c)** The functions and duties of the office of Public Relations and Consumer Affairs shall be combined and designated as the Public Information Office.

- (d) The Salary Board shall consist of the Board of County Commissioners, County Controller, and the Department head involved.**
- (e) The Board of Assessment Appeals shall consist of three members appointed by the Board of Commissioners, who shall exercise all powers and duties not inconsistent with this Charter now or hereinafter conferred on Board of Assessment Appeals in counties having a population most closely to that of Lackawanna County.**

§ 1.15-1503 Legal Services.

- (a) The Board of County Commissioners shall appoint a County Solicitor who shall be the chief legal officer and attorney for the County government except for those elected offices already authorized a Solicitor. The County Solicitor shall appoint assistant solicitors in such numbers and at such salaries as shall be fixed by the Salary Board. One of these assistant solicitors shall be designated solely to give legal advice to the Minority County Commissioners, and shall be the appointment of the Minority Commissioner. The County Solicitor and each assistant solicitor shall be duly admitted to the practice of law in the Commonwealth of Pennsylvania at the time of appointment and throughout the term of office shall accept no fees for the performance of their duties other than their salaries as fixed by the Salary Board.**
- (b) Public Defender shall have and exercise all powers and duties, not inconsistent with this charter, now or hereafter conferred or imposed on the Public Defender by State laws or by this Charter. The Public Defender shall appoint assistants in such numbers and at such salaries as fixed by the Salary Board. The Public Defender and each Assistant Public Defender shall be duly admitted to the practice of law in the Commonwealth of Pennsylvania at the time of appointment and throughout the term of office, shall accept no fees for the performance of their duties other than their salaries as fixed by the Salary Board.**
- (c) There shall be a Board of Viewers appointed by the Court of Common Pleas en banc which shall exercise all powers and duties not inconsistent with this Charter nor or hereinafter conferred on the Board of Viewers by applicable state law, including but not limited to the Eminent Domain Code as amended, relating to Board of Viewers in Counties having population most closely equal to that of Lackawanna County.**

§ 1.15-1504 Physical Services.

The Board of Commissioners shall give power and jurisdiction to the County Engineer to maintain Bridges, Culverts, and Viaducts, Public Works, Roads and Grounds and Buildings.

ARTICLE XVI. GENERAL PROVISIONS

Sec.

- 1.16-1601 General Responsibilities of Elected Officials.**
- 1.16-1602 Bonding.**
- 1.16-1603 Rights and Liabilities of the County.**
- 1.16-1604 Independent Audit.**
- 1.16-1605 County Seal, Flag, Anthem, and Seal of Office.**
- 1.16-1606 Facsimile Signatures.**

- 1.16-1607 Public Records.**
- 1.16-1608 Severability.**
- 1.16-1609 Amendments.**
- 1.16-1610 Definitions and Rules of Construction.**
- 1.16-1611 Continuation.**
- 1.16-1612 Private Use of Public Employees or Property.**
- 1.16-1613 Planning and Zoning.**
- 1.16-1614 Temporary Ordinances.**
- 1.16-1615 Administrative Organization.**
- 1.16-1616 Personnel System.**
- 1.16-1617 Contracts and Purchases.**
- 1.16-1618 Termination of Article.**

§ 1.16-1601 General Responsibilities of Elected Officials.

Each elected independent county officer shall:

- (a) supervise and direct the internal organization of that agency;**
- (b) execute and enforce all resolutions and ordinances of the County;**
- (c) assure that the laws of the State relating to the affairs and government of the County are duly executed and enforced;**
- (d) have the authority to recommend such measures for legislative action as may be in the best interests of the County;**
- (e) have all necessary incidental powers to perform and exercise those duties and functions set forth in this Charter or lawfully delegated; and**
- (f) be subject to quo warranto proceedings for any effort, or attempt to circumvent the provisions of this Charter.**

§ 1.16-1602 Bonding.

The Administrative Code shall set forth the county officials and employees of departments, offices, and other administrative units of the County and the members and employees of authorities, boards, committees and commissions of the County who shall be bonded as required by State law. Bond premiums will be paid by the county.

§ 1.16-1603 Rights and Liabilities of the County.

The County shall continue to own, possess, and control all rights and property of every kind and nature, possessed or controlled by it when this Charter takes effect, and shall be subject to all its debts, obligations, liabilities and duties.

§ 1.16-1604. Independent Audit.

The County Commissioners shall provide for an independent audit of all revenue and accounts of County government. Such audit shall be made by a certified public accountant, or a firm of such accountants, who have no personal interest, direct or indirect in the fiscal affairs of the County or of its officers. The first audit must be conducted within three (3) months after the close of the 1979 fiscal year and every four (4) years thereafter. The Commissioners may request an annual audit if they so desire. The same certified public accountant, or firm of accountants, may not perform more than two (2) successive audits.

§ 1.16-1605 County Seal, Flag, Anthem, and Seal of Office.

- (a) The official seal of Lackawanna County shall be the Seal of Pennsylvania with an outline of the county geographically in place of the symbols of the ship, plow and wheat within the crest. The state motto shall be replaced with "County - of Lackawanna - Pennsylvania." The name "County of Lackawanna" shall appear in a semi-circle above the crest, and the name "Pennsylvania" shall appear in a semi-circle below the crest.
- (b) The County flag shall contain the crest from the above named seal in full color on a white field. The bottom two-eighths of the flag shall be black to symbolize the rich coal deposits in our earth, the top two-eighths of the flag shall be blue to symbolize the mountains and blue sky of Northeastern Pennsylvania. It should be displayed on all county buildings, parks and grounds. The geographic symbol of the county shall be black on a white background.
- (c) The County Song shall be "Hail Pennsylvania" with words by Edgar M. Dilley and music by Alexis Lvoff. The name Lackawanna may be submitted for Pennsylvania. The song should be used at all official functions in Lackawanna County.
- (d) The official seal of a county elected officer shall consist of the seal described in Section (a) with the title of the office replacing the name Pennsylvania in the lower portion of the seal.

§ 1.16-1606 Facsimile Signatures.

Facsimile signatures may be used for the purpose of signing checks and drafts drawn against the County Treasury by any County Officer who is required by ordinance of the Board, or applicable state law to sign County checks and drafts. However, at least one (1) of the above signatures on a County check or draft must be manually signed.

§ 1.16-1607 Public Records.

The records of the County shall be available for examination and inspection by any resident of the County as required by law.

§ 1.16-1608 Severability.

If any provision of this Charter shall be held by any court of competent jurisdiction to be invalid, such invalidity shall not affect any other provisions of this Charter, it being the intent of the electors of this County that the remaining provisions of this Charter be given full force and effect as completely as if such invalid provision had not been included herein.

§ 1.16-1609 Amendments.

This Charter may be amended in conformity with the provisions of the Pennsylvania Home Rule Charter and Optional Plans Law, Act 62 of 1972 (P. L. 184) as amended.

§ 1.16-1610 Definitions and Rules of Construction.

- (a) "Applicable State Law" or "State Law" or "law" shall refer to those laws of the Commonwealth of Pennsylvania, which the County is required to observe and adhere to in the exercise of its Home Rule powers.
- (b) "Board" unless otherwise specified shall mean the Board of Commissioners of Lackawanna County.
- (c) "County" shall mean "Lackawanna County" or "The County of Lackawanna".
- (d) "County Government" shall mean the Government of Lackawanna County.
- (e) "Court of Common Pleas" shall mean the Court of Common Pleas of Lackawanna County.
- (f) "Elected Officers" shall include enumerated officers outlined in Section 201 of this Charter.
- (g) A "Qualified Elector" or "Qualified Voter" is a person who is legally eligible to vote, having met the age, residency, and registration requirements as set forth in the Pennsylvania Election Code.

§ 1.16-1611 Continuation.

All ordinances, resolutions, rules and regulations in force when this Charter takes effect, to the extent not in conflict herewith, are hereby continued in force and effect until amended, repealed, superseded or expired by their own terms.

§ 1.16-1612 Private Use of Public Employees or Property.

No officer or employee of the county, elected or appointed, shall direct or compel any other officer or employee of the county to do or perform any private service work outside of his public office or employment. No officer or employee shall perform any such work during the hours he is performing as a county employee; nor shall any officer or employee use or devote any county owned property for any private purpose.

§ 1.16-1613 Planning and Zoning.

The county shall be subject to the provisions of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P. L. 805 as amended.

§ 1.16-1614 Temporary Ordinances.

- (a) The Board of Commissioners may at any meeting held within ninety (90) days after the effective date of this Charter, adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government, and in which a delay incident to the

appropriate ordinance procedure would probably cause serious hardship or impairment of effective county government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances.

(b) A temporary ordinance may be considered and may be adopted without amendment at the meeting at which it is introduced. After enactment of a temporary ordinance, the Board shall cause it to be printed and published as prescribed for other enacted ordinances. A temporary ordinance shall not be subject to referendum and shall become effective upon enactment or at such later time as it may specify.

(c) Every temporary ordinance, including any amendments made thereto after enactment, shall automatically stand repealed as to the effective date of the Transitional Schedule of this Charter and shall not be re-enacted, re-newed, or otherwise continued except in the manner prescribed in this Charter for ordinances of the kind concerned.

Cross References

This section cited in 335 Pa. Code § 1.16-1618 (relating to termination of article).

§ 1.16-1615 Administrative Organization.

Until the effective date of the Administrative Code, the Board of Commissioners shall have the authority to issue written directives for the administration of the County Government as they shall deem necessary and proper for the most efficient operation of the County Government.

Cross References

This section cited in 335 Pa. Code § 1.16-1618 (relating to termination of article).

§ 1.16-1616 Personnel System.

Until the effective date of the personnel system required by Article XIV of this Charter, the Board of Commissioners shall have the authority to establish by written directive a personnel system for County employees.

Cross References

This section cited in 335 Pa. Code § 1.16-1618 (relating to termination of article).

§ 1.16-1617 Contracts and Purchases.

Until adoption of an ordinance by the Board of Commissioners specifying procedures and requirements for contracts and purchases, all contracts and purchases shall be made in conformity with state laws applicable to counties whose population is most equal to that of Lackawanna County.

Cross References

This section cited in 335 Pa. Code § 1.16-1618 (relating to termination of article).

§ 1.16-1618 Termination of Article.

Sections 1.16-1614 through 1.16-1617 inclusive of this Article shall terminate and cease to be part of this Charter as soon as:

- (a) the Board of Commissioners shall adopt ordinances to provide an Administrative Code, a Personnel Code, and purchasing and contracting procedures and requirements, in accordance with the requirements of this Charter;
- (b) the Board shall adopt a resolution declaring this Article's provisions to be no longer necessary; and
- (c) the County Solicitor issues a written opinion concurring with the Board's declaration as stated in its resolution.

ARTICLE XVII. TRANSITIONAL PROVISIONS

Sec.

- 1.17-1701 Nature of Article.**
- 1.17-1702 Effective Date.**
- 1.17-1703 Term of Elective Officers Not Affected by Home Rule.**
- 1.17-1704 Offices Abolished.**
- 1.17-1705 Schedule.**
- 1.17-1706 Termination of Article.**

§ 1.17-1701 Nature of Article.

The provisions of this Article relate to the Amendments to the Lackawanna County Home Rule Charter. The basic County Code insofar as it is inconsistent with this Charter is hereby repealed. This Charter does not repeal, amend, modify any Uniform Law of the Commonwealth of Pennsylvania.

§ 1.17-1702 Effective Date.

This Charter was originally approved by referendum in the manner provided by law on April 27, 1976, and became effective on the first Monday of January 1977. The amendments to the Charter adopted on May 21, 2013 become effective on the First Monday in January, 2014. The Chief Clerk will record the Charter in the County's ordinance books. The Chief Clerk will also file a certified copy of the Charter in the offices of: The Secretary of the Commonwealth, The Secretary of the Department of Community Affairs and with the County Board of Elections.

§ 1.17-1703 Terms of Elective Officers Not Affected by Home Rule.

All county officers elected to office prior to the effective date of this Home Rule Charter, and whose offices were not abolished, shall complete the term of office to which elected without interruption in the performance of statutory duties caused by application of any provisions of this Charter and shall serve at the salary in effect at the time of their election.

§ 1.17-1704 Offices Abolished.

The offices of Sheriff, Recorder of Deeds and Register of Wills are hereby abolished effective at 11:59 P.M. on the Sunday before the first Monday in January, 2014. The Clerk of Judicial Records is abolished effective at 11:59 P.M. on the Sunday before the first Monday in January, 2016.

§ 1.17-1705 Schedule.

Amending the Home Rule Charter	February 5, 2013
Referendum of Charter Amendments	May 21, 2013
Abolition of the Offices of Sheriff, Register of Wills and Recorder of Deeds	January 5, 2014
Abolition of the Office of Clerk of Judicial Records	January 3, 2016

§ 1.17-1706 Termination of Article.

This article shall terminate and cease to be part of this Charter when the County Solicitor issues a written opinion that the above schedule has been completed.