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**Part 1**

**Elected Officials**

**§101. Time and Place of Council Meeting.**

The Mayor and the Council of the Borough of Fountain Hill shall meet on the first Monday of each and every month, and oftener if the occasion requires, in Council chambers, for the purpose of transacting public business of said Borough, in accordance with the authority granted by the Borough Code of 1966.

(Ord. 285, 6/19/1968, §1)

**§102. Salary of Mayor.**

The salary of the Mayor of Fountain Hill shall be \$1,500 per year, payable in monthly installments from the General Fund.

(Ord. 346, 9/8/1981; as amended by Ord. 719, 12/21/2005)

**§103. Salaries for Borough Council.**

The salary of the President of Borough Council shall be \$1,500 per year. The salary of the remaining six members of Borough Council shall be \$1,200. All of these salaries are to be paid out in monthly installments from the General Fund.

(Ord. 346, 9/8/1981; as amended by Ord. 719, 12/21/2005)

**§104. Salary of Tax Collector.**

The salary of the elected official who collects the real estate taxes shall be \$4,400 per year. The salary of the official appointed by Borough Council to collect the Act 511 taxes shall be \$9,000 per year, of which \$6,000 is for the collection of the earned income tax.

(Ord. 378, 3/4/1985; as amended by Ord. 451, 5/1/1989; and by Ord. 596, 2/3/1997)



**Part 2**

**Appointed Officials**

**A. Independent Auditor**

**§201. Elected Office Abolished.**

The office of elected Borough Auditors is hereby abolished.

(Ord. 307, 5/7/1973, §1)

**§202. Independent Auditor Appointed.**

The Borough Council shall appoint an independent auditor who shall be a certified public accountant, registered in Pennsylvania, a firm of certified public accountants so registered or a competent public accountant or a competent firm of public accountants.

(Ord. 307, 5/7/1973, §2)

**§203. Annual Appointment by Resolution.**

The Independent Auditor shall be appointed, annually, by resolution of the Borough Council, before the close of a fiscal year, to make an independent examination of the accounting records of the Borough for such fiscal year.

(Ord. 307, 5/7/1973, §3)

**§204. Duties and Powers of Independent Auditor.**

The Independent Auditor shall also perform the other duties and exercise the powers as conferred upon him by subdivision (k) of Article XI of the Borough Code, the Act of February 1, 1966, P.L. (1965) –, No. 581, §1196, as amended, (53 P.S. §46196).

(Ord. 307, 5/7/1973, §4)

**§205. Elected Auditors to Complete Present Term of Office.**

The Borough Auditors presently in office shall continue to hold their office during the term for which elected and the Borough Auditors shall not audit, settle, or adjust the accounts audited by such independent auditor but shall perform the other duties of their office.

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(Ord. 307, 5/7/1973, §5)

### **B. Borough Treasurer**

#### **§231. Compensation.**

The annual salary of the Borough Treasurer for the services hereinbefore required to be performed shall be such sum as Council shall from time to time fix upon, payable monthly out of the treasury of the Borough, in full satisfaction for all of said services.

(Ord. 286, 6/19/1968, §1)

**Part 3**

**Boards and Commissions**

**A. Shade Tree Commission**

**§301. Creation.**

A Commission to be known as the “Shade Tree Commission” is hereby created pursuant of the authority conferred upon the Borough by the Act of July 10, 1947, P.L. 1621.

(Ord. 156, 6/8/1949, §1)

**§302. Composition.**

The Commission shall be composed of three residents of the Borough appointed by the Mayor. They shall serve without compensation. Of the initial Commission appointed by the Mayor, one member shall be appointed for a term of three years; one for a term of four years; and one, for a term of five years. On the expiration of the term of any commissioner, the Mayor shall appoint the successor to serve for a term of five years. Vacancies in the office of Commissioner before the expiration of a designated term may be filled by the Mayor for the unexpired term.

(Ord. 156, 6/8/1949, §2; as amended by Ord. 348, 1/4/1982)

**§303. Custody and Control of Shade Trees.**

The Commission shall have exclusive custody and control of the shade trees in the Borough, and is authorized to plant, remove and protect shade trees on the public highways of the Borough. It may employ and pay such superintendents, engineers, foresters, tree surgeons, or other assistants as the proper performance of the duties devolving upon it shall require, and may make, publish and enforce regulations for the care and protection of the shade trees of the Borough. It may also make, publish and enforce regulations for the prohibition, trimming or removal of any shade tree which may constitute an obstruction or nuisance upon the highways of the Borough. No such regulations shall be in force until they have been approved by the Council and until they have been published at least once in not more than two newspapers of the general circulation published in the Borough, and if no newspapers are published in the Borough then in such newspapers circulating in the Borough.

(Ord. 156, 6/8/1949, §3)

**§304. Annual Report.**

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The Shade Tree Commission shall annually report to the Mayor its transactions for the last fiscal year of the Borough.

(Ord. 156, 6/8/1949, §3; as amended by Ord. 348, 1/4/1982)

### **§305. Notice of Proposals to Plant, Transplant, or Remove Shade Trees.**

Whenever the Shade Tree Commission proposes to plant, transplant or remove shade trees on any street, notice of the time and place of the meeting at which such work is to be considered shall be given in not more than two newspapers published in the Borough, and if no such newspapers are published in the Borough, then in such newspapers circulating in the Borough, once a week for two weeks immediately preceding the time of the meeting. The notice shall specify in detail the streets or portions thereof upon which trees are proposed to be so planted, replanted or removed.

All penalties or assessments imposed under this ordinance shall be paid to the Borough Treasurer to be placed to the credit of the Commission, subject to be drawn upon by the Commission for the purposes enumerated in this ordinance.

(Ord. 156, 6/8/1949, §5)

## **B. Planning Commission**

### **§331. Creation.**

There is hereby created a Planning Commission, to be known as the "Fountain Hill Planning Commission," under and pursuant to the Pennsylvania Municipalities Planning Code, Act No. 247 of the 1968 Session of the General Assembly.

(Ord. 300, 9/7/1971, §1)

### **§332. Composition.**

The Commission shall consist of seven members, two of which may be officers or employees of the Borough, appointed by Borough Council.

(Ord. 300, 9/7/1971, §2)

### **§333. Residency Required.**

Members of the Commission shall be residents of the Borough and shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses.

(Ord. 300, 9/7/1971, §3)

**§334. Appointment and Term.**

All members of the Planning Commission shall be appointed by the Borough Council. The term of each member shall be for four years, or until his successor is appointed and qualified, except that the terms of the members first appointed shall be so fixed so that no more than two members shall be reappointed or replaced during any future calendar year. No more than two members of said Commission shall be officers or employees of said Municipality.

(Ord. 300, 9/7/1971, §4)

**§335. Removal and Vacancy Filled.**

Any member of a Planning Commission once qualified and appointed may be removed from office for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the governing body which appointed the member taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing. Any appointment to fill a vacancy created by removal shall be only for the unexpired term.

(Ord. 300, 9/7/1971, §5)

**§336. Chairman and Vice-Chairman Elected by Commission.**

The 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 ordinance of the Municipality 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 governing body. Interim reports may be made as often as may be necessary, or as requested by the governing body.

(Ord. 300, 9/7/1971, §6)

**§337. Powers and Duties.**

The Commission shall have the right to exercise all of the powers and rights conferred by the Act of Assembly under which it is established and shall perform all of the mandatory duties imposed by said Act of Assembly.

(Ord. 300, 9/7/1971, §7)



**Part 4**

**Social Security, Retirement, and Pensions**

**A. Social Security**

**§401. Purpose.**

The extension of the Social Security System to certain full-time, salaried, appointed employees and officers of the Borough of Fountain Hill will be of great benefit, not only to the employees of the Borough by providing that said employees and officers may participate in the provisions of the Old Age and Survivors Insurance System, but will also be of great benefit to the Borough of Fountain Hill by enabling it to attract and retain in employment the best of personnel and thus increase the efficiency of its government.

(Ord. 178, 5/4/1953, §1; as amended by Ord. 348, 1/4/1982)

**§402. Coverage of Employees and Officers.**

The 1951 Session of the General Assembly of the Commonwealth of Pennsylvania, in regular session, enacted a statute, known as Act No. 491, which is the enabling Act provided for in §218 of Public Law 734, 81st. Congress, which designated the Secretary of Labor and Industry of the Commonwealth of Pennsylvania to act as the "State Agency" to implement the coverage of employees and officers under the said Old Age and Survivors Insurance System. The Borough of Fountain Hill is hereby authorized to execute and deliver to the State Agency a plan, or plans, and agreement, required under §6 of said enabling act and the Social Security Act, to extend coverage to employees and officers of the Borough of Fountain Hill and do all other necessary things to effectuate coverage of employees and officers under the Old Age and Survivors Insurance System.

(Ord. 178, 5/4/1953, §2)

**§403. Payroll Deduction System Authorized.**

The Secretary is hereby authorized to establish a system of payroll deduction to be matched by payments by the Borough of Fountain Hill to be made into the Contribution Fund of the Social Security Act through the office of the State Agency, and to make charges of this tax to the fund, or funds, from which wage or salary payments are issued to employees of the Borough of Fountain Hill. Such payments are to be made in accordance with the provisions of the Law and Regulations promulgated by the State Agency and the Federal Security Administrator. Such payments which are delinquent shall bear interest at the rate of 1/2% per month until such time as payments are made.

(Ord. 178, 5/4/1943; §3)

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### **§404. Authorization to Enter Agreement.**

Appropriation is hereby made from the proper fund, or funds, of the Borough of Fountain Hill in the necessary amount to pay into the contribution fund as provided in §4 of the enabling act and in accordance with the plan, or plans, and agreement. Authority is given to the President of Council and the Secretary of the Borough of Fountain Hill to enter into an agreement with the State Agency, which agreement shall be in accordance with Act No. 491, and with paragraph 218 of the Social Security Act. Such plan and agreement shall provide that the participation of this Borough of Fountain Hill shall commence as of January 1, 1951.

(Ord. 178, 5/4/1953, §4)

## **B. Municipal Employees' Retirement System**

### **§421. Member Benefits.**

Fountain Hill Borough, being a member municipality of the Pennsylvania Municipal Retirement System, hereinafter referred as "PMRS," hereby elects to change its member benefits in that system as authorized by the Pennsylvania Municipal Retirement Law, as amended,<sup>1</sup> and does hereby agree to be bound by all of the requirements and provision of said Article and the law, as the case may be, and to assume all obligations, financial and otherwise, placed upon member municipalities by said amendment, as the case may be. All references hereafter shall be based on benefits negotiated between the Pennsylvania Municipal Retirement Board and the municipality under the provisions of Article IV of the Pennsylvania Municipal Retirement Law.

(Ord. 739, 12/1/2008)

### **§422. Membership.**

Membership in the Pennsylvania Municipal Retirement System shall be mandatory for all full-time municipal employees of the Borough. Membership for elected officials, part-time employees, and employees hired on a temporary or seasonal basis is optional. The election by elected officials, part-time employees, and employees hired on a temporary or seasonal basis employees to join the system must be made within one year after the official or employee first enters the service of the Borough. Membership for individuals paid only on a fee basis is prohibited.

(Ord. 739, 12/1/2008)

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<sup>1</sup> Editor's Note: See 53 P.S. §881.101 et seq.

**§423. Credit for Prior Service.**

Credit for prior years of service for original members is granted for each year or partial year thereof that the member was employed by the Borough from the original date of hire. Benefits provided to members in the agreement dated December 1, 2008, shall accrue based on all credited service granted and earned in accordance with this section.

(Ord. 739, 12/1/2008)

**§424. Payment for Obligations.**

Payment for any obligation established by the adoption of this Part 4B and the agreement between the Board and Fountain Hill Borough shall be made by the Borough in accordance with the Pennsylvania Municipal Retirement Law and Act 205 of 1984, the Municipal Pension Plan Funding Standard and Recovery Act.<sup>2</sup>

(Ord. 739, 12/1/2008)

**§425. Provision of Benefits.**

As part of this Part 4B, the Borough agrees that the system shall provide the benefits set forth in the agreement between the Board and Fountain Hill Borough, dated December 1, 2008. The passage and adoption of this Part 4B by Fountain Hill Borough is an official acceptance of said agreement and the financial obligation resulting from the administration of said benefit package. Fountain Hill Borough hereby assumes all liability for any unfundedness created or which may be created due to the acceptance of the benefit structure outlined in the above-referenced agreement.

(Ord. 739, 12/1/2008)

**§426. Authorization of Plan; Repealer.**

Fountain Hill Borough intends this Part 4B to be the complete authorization of the Borough's Municipal Pension Plan; and it shall become effective and specifically repeal Ordinance No. 724 either immediately or on January 1, 2009, which is the effective date of the agreement dated December 1, 2008, between the Pennsylvania Municipal Retirement System and Fountain Hill Borough, whichever is later.

(Ord. 739, 12/1/2008)

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<sup>2</sup> Editor's Note: See 53 P.S. §895.101 et seq.

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### **§427. Filing of Copies; Effective Date.**

A duly certified copy of this Part 4B and the referenced agreement shall be filed with the Pennsylvania Municipal Retirement System of the Commonwealth of Pennsylvania. Membership for the municipal employees of Fountain Hill Borough in the Pennsylvania Municipal Retirement System shall be effective the first day of March, 1968, with the revised plan structure reflected in the agreement dated December 1, 2008, effective the first day of January 2009.

(Ord. 739, 12/1/2008)

**Part 5**  
**Police Pension Plan<sup>3</sup>**

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<sup>3</sup> Editor's Note: The Police Pension Plan is on file and available for public inspection in the Borough offices.



**Part 6**

**Police Department**

**§601. Police Department Establishment.**

The establishment of a Police Department in and for the Borough of Fountain Hill and the appointment of policemen by the Council subject to any applicable civil service provisions in the law is hereby approved.

(Ord. 348, 1/4/1982)

**§602. Composition.**

The Police Department shall be composed of a Chief of Police and any other officers and patrolmen as have been or may be appointed by the Council from time to time, subject to applicable civil service provisions in the law.

(Ord. 348, 1/4/1982)

**§603. Duties of Chief.**

The Chief of Police shall be the head of the Department, and have supervision over all officers and members thereof. He shall be responsible for the keeping and filing of all reports concerning the activities of his department as may be required by law and Borough Council. The Chief shall be responsible for the upkeep of all equipment and supplies of the Department. He shall be responsible for the performance of the police department in carrying out its functions, and all persons who are members of the police department shall serve subject to the orders of the Chief. He shall also have the power to make or prescribe rules and regulations for the Department; such rules and regulations shall be binding on all members of the Department when approved by Council.

(Ord. 348, 1/4/1982)

**§604. Duties of all Members of the Department.**

It shall be the duty of all members of the department to see to the enforcement of all statutes and local ordinances of the Borough and Commonwealth, and to preserve order and arrest all violators thereof. It shall be the responsibility of each member of the department to conduct himself, or herself, in a proper and law abiding manner at all times.

(Ord. 348, 1/4/1982)



## Part 7

### Solid Waste Management Plan

#### §701. Purpose.

WHEREAS, Act No. 1980-97, 35 P.S. Section 6018.101 et seq. (known as the Solid Waste Management Act) provides that each municipality shall be responsible for the collection, transportation, processing and disposal of municipal waste which is generated or present within its boundaries and shall be responsible for implementing its approved plan as it relates to the storage, collection, transportation, processing and disposal of its municipal wastes; and

WHEREAS, under Article IX, Section 5 of the Pennsylvania Constitution and the Act of July 12, 1972, Pamphlet Law 762, No. 180, 53 P.S. Section 481, et seq., municipalities are given the broadest possible authority to cooperate with other governmental units in the exercise of any function so that what a municipality may do on its own, it may do in concert with other governmental units; and

WHEREAS, under the Solid Waste Management Act, Section 6018.202, municipalities are given specific authority to contract with other municipalities to carry out the responsibilities as aforementioned; and

WHEREAS, the 1982 update to the Joint Planning Commission Solid Waste Management Plan has been completed by the Joint Planning Commission, and makes recommendations for landfill sites and resource recovery actions; and

WHEREAS, the County of Lehigh can be designated as the coordinating agency on behalf of the municipalities within Lehigh County; and

WHEREAS, there is a need for additional landfill capacity in Lehigh County; and

WHEREAS, local municipalities must evidence their commitment to the next step of the Solid Waste Management Plan, that being the preliminary engineering study of the Joint Planning Commission recommended sites; and

WHEREAS, should the proposed Joint Planning Commission landfill sites not meet the preliminary engineering specifications, alternative sites will be explored and appropriate action will be taken by participating municipalities; and

WHEREAS, further evaluations of resource recovery should be undertaken by participating municipalities in accordance with the Joint Planning Commission study; and

WHEREAS, Lehigh County will match the financial commitment of the other participating municipalities on a one to one basis upon approval of a companion ordinance adopted by the Lehigh County Board of Commissioners.

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(Ord. 361, 2/7/1983)

### **§702. Adoption of Plan.**

1. The above purpose clauses are hereby adopted and made a part of this Part by this reference.
2. The Borough is hereby empowered to enter into agreements with other municipalities or other public bodies in Lehigh County for the purpose of establishing a cooperation among such municipalities towards the completion and implementation of a Solid Waste Management Plan as long as the parties adhere to the following terms:
  - A. The Borough will commit itself to participation as an active member in the Solid Waste Management Planning Process.
  - B. The Borough shall designate Lehigh County to prepare the Solid Waste Management Plan.
  - C. The Borough shall cooperate with the participating entities in approving a budget and other related fiscal activities necessary to undertake this planning process.
  - D. The Borough shall agree to share in the costs of the planning process on a per capita basis, the per capita amount shall be agreed upon by a simple majority of participating municipalities, however, this per capita fee shall not exceed the sum of \$.30 per capita.
  - E. The Borough shall agree to designate an individual to serve on the Lehigh County Solid Waste Association.
  - F. The Borough shall reserve the right to withdraw from the planning process, or the plan itself, at any time and for any reason, upon 90 days written notice to the County of Lehigh. In the event that the Borough exercises this right and privilege to withdraw, the cost of the planning process as set forth in subparagraph (D) above shall be calculated to the date of such withdrawal and the Borough shall be assessed on the basis of the cost due as of that date with the limitation as set forth in said subparagraph.
3. The proper officers and other personnel of the Borough are hereby authorized empowered to take all such further action and execute such additional documents as they may deem appropriate to carry out the purpose of this Part.

(Ord. 361, 2/7/1983)

## Part 8

### Fire Insurance Proceeds

#### §801. Use of Fire Insurance Proceeds.

1. No insurance company, association or exchange (hereinafter the “insurer”) doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough, where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Borough’s Treasurer with a certificate pursuant to §508(b) of the Insurance Company Law of 1921, as amended by Act 98 of 1992, and Act 93 of 1994, (collectively the “Act”) and unless there is compliance with the procedure set forth in §§508(c) and (d) of the Act.
2. Where there are delinquent taxes, assessments, penalties or user charges against the property (“Borough claims”) or there are expenses which the Borough has incurred as costs for the removal, repair or securing of a building or other structure on the property (collectively, “Borough expenses”), the Treasurer of the Borough shall immediately render a bill for such work, if he has not already done so.
3. Upon written request of the named insured specifying the tax description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Treasurer shall furnish to the insurer, within 14 working days after the request:
  - A. A certificate stating that there are no unpaid Borough claims or Borough expenses against the property as of the date specified in the request; or,
  - B. A certificate specifying the nature and amount of such Borough claims or Borough expenses, accompanied by a bill for such amounts. Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose, if a lien could have been filed for such claims under applicable law. Upon receipt of a certificate and bill pursuant to the preceding sentence, the insurer shall transfer to the Treasurer an amount from the insurance proceeds sufficient to pay such sums prior to making payment to the named insured, subject to the provisions of subsection (4) hereof.
4. When all Borough claims and Borough expenses have been paid pursuant to subsection (3) of this Section, where the Treasurer has issued a certificate described in subsection (3) indicating that there are no Borough claims or Borough expenses against the property, the insurer shall pay the claim of the named insured unless the loss agreed upon by the named insured and the insurer equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or structure. In the case of such a loss, the following procedures must be followed:

## ADMINISTRATION AND GOVERNMENT

- A. The insurer shall transfer from the insurance proceeds to the Treasurer, in the aggregate, \$2,000 for each \$15,000 of such claim or fraction thereof.
- B. If at the time of a loss report, the named insured has submitted to the insurer, with a copy to the Borough, a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer to the Treasurer, from the insurance proceeds, the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro rata basis by all insurers insuring the building or other structure.
- C. Upon receipt of the above-described portion of the insurance proceeds, the Treasurer shall:
  - (1) Place the proceeds in a separate fund to be used solely as security against the total Borough expenses anticipated by the Borough to be required in removing, repairing or securing the building or structure as required by this Part. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair or securing or any proceedings related thereto; and,
  - (2) Mail to the named insured, at the address received from the insurer, a notice that the proceeds have been received by the Borough and that the procedures under this subsection shall be followed.
  - (3) Following the transfer, the named insured may submit to the Borough a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, in which event the Treasurer shall, if such estimate is deemed by the Treasurer to be reasonable, return to the named insured the amount of the funds transferred to the Borough in excess of that required to pay the Borough expenses; provided, the Borough has not incurred costs to remove, repair or secure the building or other structure.
  - (4) Pay to the Borough Secretary for reimbursement to the Borough General Fund the amount of the Borough expenses incurred by the Borough.
  - (5) Pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the Building Inspector that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable codes and regulations of the Borough.
- D. Nothing in this Section shall be construed to limit the ability of the Borough to recover any deficiency in the amount of Borough claims or Borough ex-

penses recovered pursuant to this Part, or to insurance proceeds, by an action at law or equity to enforce the codes of the Borough or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Borough may deem reasonable.

5. Any owner of property, any named insured or insurer who violates the provisions of this Section or who shall fail to comply with any of the requirements hereof shall be liable, upon summary conviction, to fines and penalties not exceeding \$1,000, which fines and penalties may be collected by suit or summary proceeding brought in the name of the Borough before any district justice or recovered as debts of the like amount now by law recoverable.

(Ord. 600, 5/5/1997, §1)



**Part 9**

**Public Access to Information**

**§901. Policy; Rules and Regulations; Forms; Fees.**

This Part 9:

- A. Implements the requirements Act 3 of 2008, the Pennsylvania Open Records Law;
- B. Adopts a formal policy to follow when handling requests for access to public records;
- C. Adopts rules and regulations for implementing such policy;
- D. Adopts forms to be used for any and all requests for access to public records; and
- E. Establishes provisions for preserving the integrity of the Borough's records and minimizing the financial impact to the residents of the Borough regarding the resources consumed in the copying of Borough files.

(Ord. 742, 3/4/2009)

**§902. Short Title.**

This Part 9 shall be known and be cited as the "Fountain Hill Borough Right to Know Ordinance" of 2009.

(Ord. 742, 3/4/2009)

**§903. Procedural Challenges.**

Any procedural challenge shall be filed in accordance with applicable law.

(Ord. 742, 3/4/2009)

## ADMINISTRATION AND GOVERNMENT

### **§904. Enactment; When Effective.**

Under authority of law, the Borough Council of Fountain Hill hereby enacts and ordains into an ordinance the attached documents<sup>4</sup> this date of March 4, 2009. The provisions of this Part 9B shall become effective immediately from the date of passage of this Part 9B.

(Ord. 742, 3/4/2009)

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<sup>4</sup> Editor's Note: The "attached documents" consisted of Schedule 1, Open Records Policy, and Schedule 2, Rules and Regulations Pertaining to the Borough of Fountain Hill's Open Records Policy, both of which are on file in the Borough offices.

## Part 10

### Sexual Harassment Policy

#### §1001. Prohibition of Sexual Harassment.

1. In General. It is the Borough's policy to provide a positive, discrimination-free work environment, and therefore, sexual harassment in the workplace is unacceptable conduct that will not be tolerated. It is to be clearly understood that persons of either sex can be found to have engaged in sexual harassment. Proper decorum in speech, dress and interpersonal relationships shall be observed at all times. Sexual harassment is prohibited by law.
2. Definition. For purposes of this Part, "sexual harassment" is unsolicited, nonreciprocal behavior by an officer, elected official or employee who is in a position to control or affect another person's job status with the Borough and who uses the power or authority of that position to cause that person to submit to sexual activity or to fear that he or she would be punished for refusal to submit. "Sexual harassment" also includes any conduct by an officer, elected official or employee which unreasonably interferes with another's work performance for the Borough by creating an intimidating, hostile or offensive work environment. Sexual harassment consists of a variety of behaviors including, but not limited to:
  - A. Subtle pressure for sexual activity.
  - B. Inappropriate touching.
  - C. Inappropriate language.
  - D. Demands or requests for sexual favors.
  - E. Physical assault.
  - F. Unwelcome sexual advance.
  - G. Offensive comments, jokes, innuendo and other sexually oriented statements or conduct.
3. Reports of Sexual Harassment. The Borough strongly encourages all officers, elected officials and employees to report all situations which they believe may constitute job-related harassment on the basis of sex, race or other impermissible factors or other violations of this Part, including both actions against them personally and actions against others. Where appropriate, reports should initially be made to the reporting individual's immediate supervisor. However, the Borough recognizes that a person may not be comfortable making such a report to his/her immediate supervisor or may not believe that such a report will be effective. Ac-

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cordingly, in those situations, reports may be made to the Borough Executive Secretary, the President of Borough Council or the Borough Solicitor.

4. Investigation and Remedy. All reports of sexual harassment or other violations of this Part shall be promptly investigated with due regard for the privacy and confidentiality of all parties and witnesses involved. The Borough shall take prompt and effective action to remedy any violation of this Part.
5. Limited Disclosures. No disclosures shall be made of any reports under subsection (3) except to the extent necessary to investigate the report appropriately or remedy the problem, or as required by law.
6. Retaliation. No officer, elected official or employee shall take any action against any person for making a good-faith report under subsection (3) or for cooperating with any investigation under subsection (4).
7. Disciplinary Action. The Borough will treat sexual harassment, and retaliation for reporting sexual harassment or cooperating with an investigation of sexual harassment, as forms of misconduct. Employees who engage in harassing or retaliating behavior shall be disciplined appropriately, up to and including dismissal. Any discipline against police officers shall be in accordance with the civil service provisions and any other relevant provisions of the Borough Code and in accordance with the collective bargaining agreement in effect at that time.
8. A copy of this policy shall be posted conspicuously throughout the workplace.

(Ord. 628, 6/7/1999; as amended by Ord. 633, 10/7/1999)