



# LOCAL GOVERNMENT ACADEMY

Newly Elected Officials Course

## Powers & Duties of Elected Officials

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# The Pennsylvania Constitution and Local Government



## CONSTITUTION OF THE COMMONWEALTH OF PENNSYLVANIA

Article I

### DECLARATION OF RIGHTS

Natural Resources and Public Estate

Section 27

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come.

As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.



# The Pennsylvania Constitution and Local Government

- Pennsylvania Constitution

- Article III, Section 20

- The following are the six types of local governments listed in the Pennsylvania Constitution

- ❖ County
      - ❖ City
      - ❖ Township
      - ❖ Borough
      - ❖ Town
      - ❖ School District



# The Pennsylvania Constitution and Local Government (continued)

- Pennsylvania Constitution
  - Article IX, Section 2
    - Gives municipalities the right and power to adopt home rule charters



# Branches of Government

STATE AND LOCAL



# Branches of Government – Commonwealth of Pennsylvania



## Legislative Branch

Pennsylvania House of Representatives  
Pennsylvania Senate



## Judicial Branch

Magisterial District Courts, Courts of  
Common Pleas, Commonwealth Court,  
Superior Court, Supreme Court of  
Pennsylvania



## Executive Branch

Governor of Pennsylvania

# Branches of Government – Local Government

- **Legislative Branch**

- Borough Council
- City Council
- Board of Commissioners / Supervisors
- 

- **Judicial Branch**

- Zoning Hearing Boards
  - Zoning Hearing Boards are ***quasi-judicial bodies*** that render decisions regarding specific types of land use appeals and applications.

- **Executive Branch**

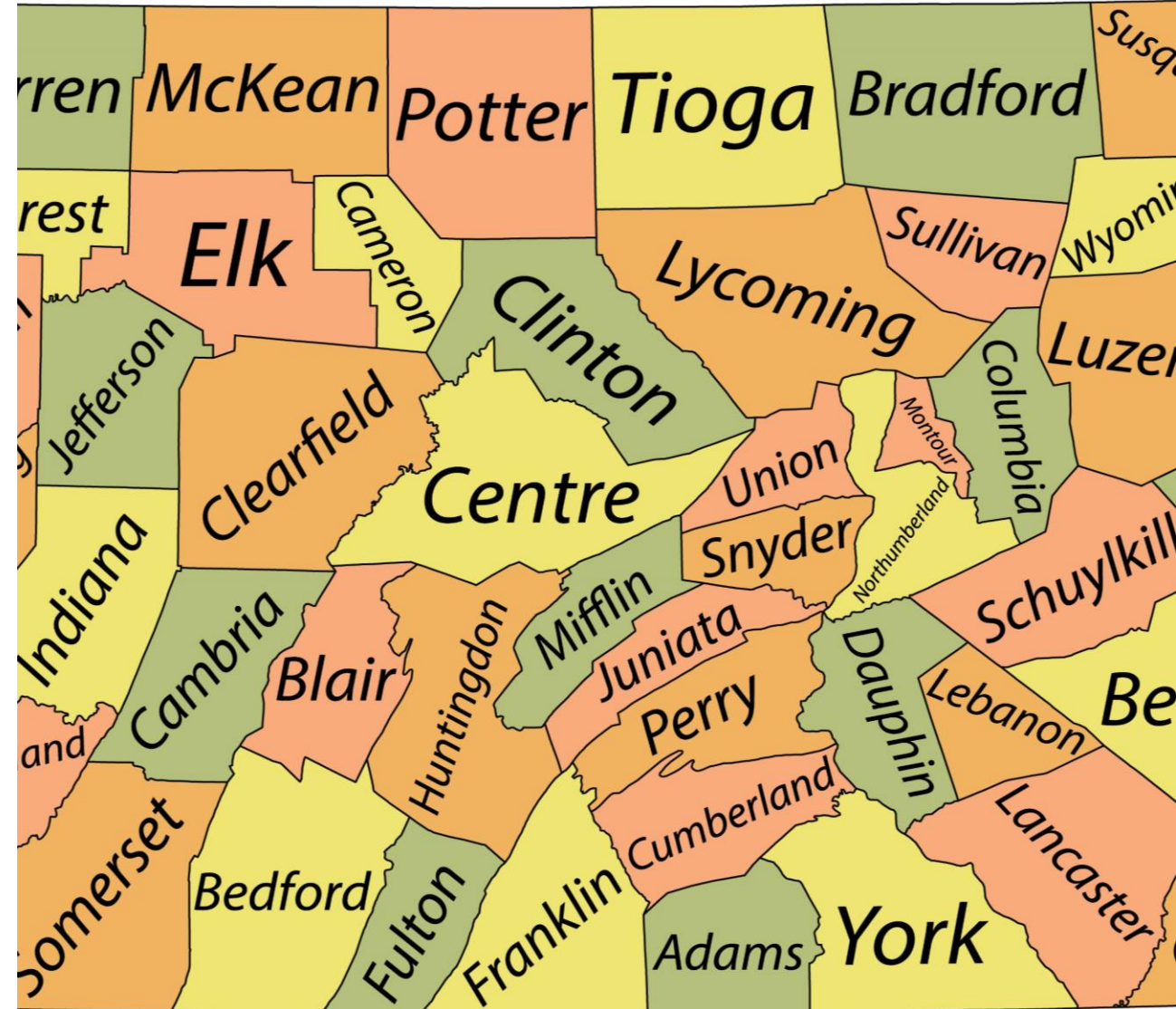
- Mayor

# Forms of Local Government and Municipal Codes



# Counties

- There are 67 counties in Pennsylvania.
- Most counties are governed by a board of commissioners, consisting of three members.
- Counties of the third, fourth, fifth, sixth, seventh, and eighth classes are governed by the County Code.
- 16 P.S. §§ 101 et seq.
- Second and Second A class counties are governed by the Second Class County Code.
- 16 P.S. §§ 3101 et seq.



# Cities

- **First Class Cities**

- The only first class city in Pennsylvania is Philadelphia.
- Has more than 1 million residents.
- Has a mayor and council.

- **Second Class Cities**

- The only second class city in Pennsylvania is Pittsburgh.
- Has between 250,000 and 1 million residents.
- Has a mayor and council.

- **Third Class Cities**

- Typically has a mayor and council.
- Governed by the Third Class City Code
- 11 Pa.C.S. §§ 10101 et seq.
- Optional Third Class City Charter Law
- 53 P.S. §§ 41101 et seq.

# Townships

- **First Class Township**

- Must have at least 300 inhabitants per square mile.
- Most first class townships have five commissioners which create a Board of Commissioners.
- Governed by the First Class Township Code
- 53 P.S. §§ 55101 et seq.

- **Second Class Township**

- All townships that are not townships of the first class or home rule townships are townships of the second class.
- Second class townships have three or five supervisors which create a Board of Supervisors.
- Governed by the Second Class Township Code
- 53 P.S. §§ 65101 et seq.

# Boroughs

- Boroughs elect a Mayor and a Borough Council. Council normally consists of seven council members who are elected to serve four-year overlapping terms.
- Role of Mayor vs. Council
- Governed by the Borough Code
- 8 Pa.C.S. §§ 101 et seq.

# Towns



There is only one legally-designated town in Pennsylvania, which is Bloomsburg.



However, Bloomsburg effectively is a Borough and operates under the Borough Code.

8 Pa.C.S. §§ 101 et seq.

# Home Rule Charter



Pa. Const. Art. IX, § 2.



Home Rule Charter and Optional  
Plans Law

53 Pa.C.S. §§ 2901 et seq.



# Pertinent Statutes Governing Local Municipalities

# Pertinent Statutes Governing Local Municipalities

## Municipalities Planning Code ("MPC")

- 53 P.S. §§ 10101 et seq.
- The MPC provides a uniform framework for planning and establishing land use laws for all of Pennsylvania's municipalities and counties with the exception of Philadelphia and Pittsburgh.

## Local Government Uniform Debt Act ("LGUDA")

- 53 Pa.C.S. §§ 8001 et seq.
- The LGUDA gives local government units full power and authority to issue bonds and notes, and make guaranties, leases, subsidy contracts, or other agreements to provide funds for completing any project or combination of projects that are within the unit's authorized municipal functions.

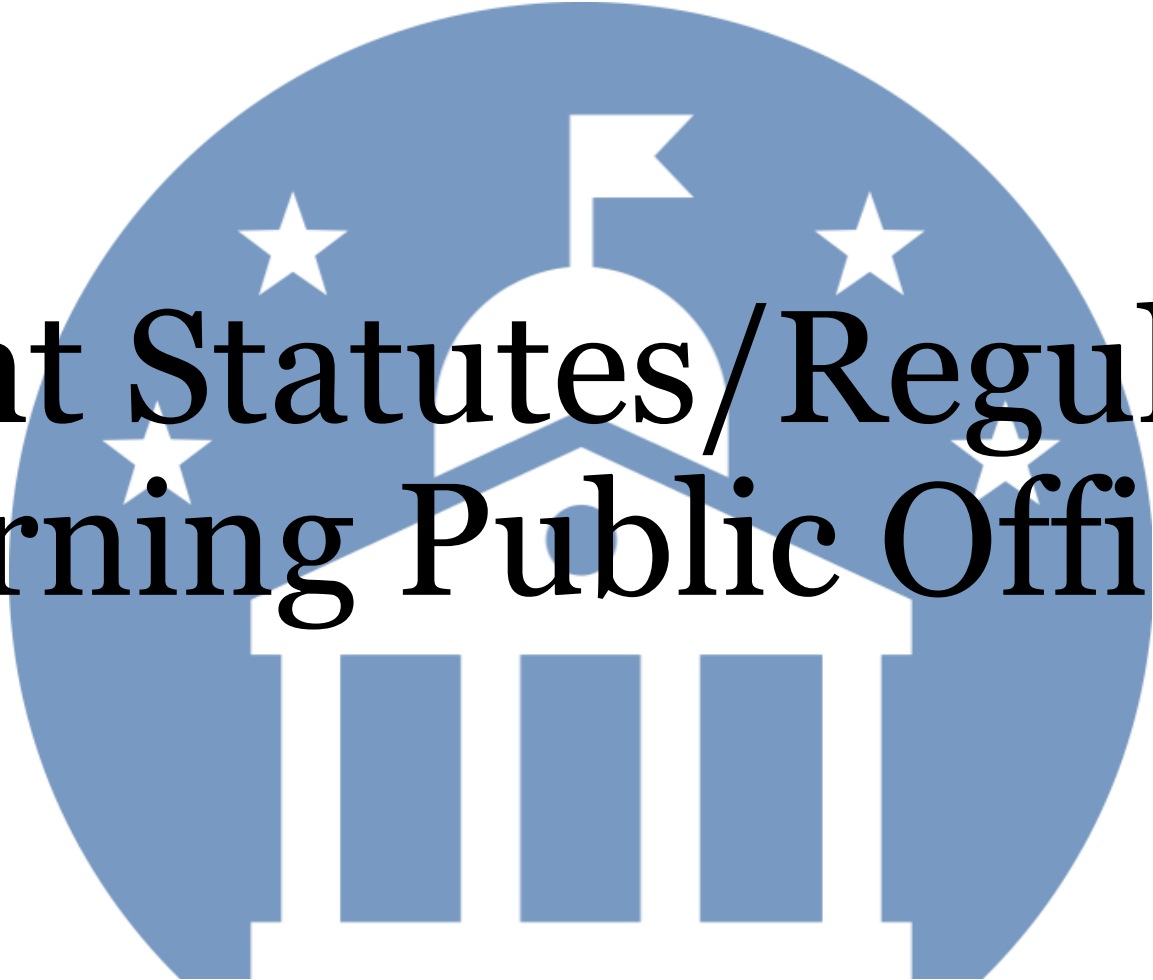
# Pertinent Statutes Governing Local Municipalities

## Collective Bargaining Laws

- Some examples:
  - Policeman's and Fireman's Collective Bargaining Act of 1968 (Act 111)
  - Public Employee Relations Act of 1970 (Act 195)
  - Pennsylvania Labor Relations Act (Act 294)

## International Property Maintenance Code ("IPMC")

- The IPMC is a model code that regulates the minimum maintenance requirements for existing buildings. Specifically, it establishes minimum maintenance standards for basic equipment, light, ventilation, heating, sanitation and fire safety.
- The IPMC is often used by local governments for code enforcement purposes.



# Relevant Statutes/Regulations Governing Public Officials

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Public Official & Employee Ethics Act

65 Pa.C.S. § 1101 et seq.



Sunshine Act

65 Pa.C.S. § 701 et seq.



Right-to Know Law

65 P.S. § 67.101 et seq.



Public Official & Employee  
Ethics Act

# Public Official & Employee Ethics Act

- Under the Public Official & Employee Ethics Act, a “**Public Official**” is defined as:
  - “Any person elected by the public or elected or appointed by a governmental body or an appointed official in the executive, legislative or judicial branch of this Commonwealth or any political subdivision thereof, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the State or any political subdivision thereof.” 65 Pa.C.S. § 1102.

# Public Official & Employee Ethics Act

- The Public Official & Employee Ethics Act addresses the following matters:
  - **Conflicts of interest**
    - Actual conflicts
    - Potential conflicts/Appearance of impropriety
  - **Seeking improper influence**
    - Public officials, employees, nominees, or candidates for public office cannot offer to give a public official, employee, nominee, or candidate something of monetary value with the expectation that the recipient will take official action or vote in a particular way because of the gift.
  - **Accepting improper influence**
    - Public officials, employees, nominees, or candidates for public office cannot accept something of monetary value based upon the understanding that the gift will influence their official action or vote.

# Public Official & Employee Ethics Act

## ➤ **Honorarium**

- Public officials and public employees cannot accept an honorarium.
  - ❖ An honorarium is a token payment made to bestow recognition to an individual for services they perform, for which payment is not required.

## ➤ **Contingent and Severance payments**

- No person shall solicit or accept a severance payment or anything of monetary value contingent upon the assumption or acceptance of public office or employment.
- Exceptions:
  - ❖ Payments received pursuant to an employment agreement in existence *prior* to the time a person becomes a candidate for public office.
  - ❖ Receipt of a salary, fees, severance payment, or proceeds resulting from the sale of a person's interest in a corporation resulting from termination or withdrawal therefrom upon the assumption or acceptance of public office or employment.

# Public Official & Employee Ethics Act

## Contracts

- No public official or public employee (or his/her spouse, child, or any business in which the person or his/her spouse or child is associated) shall enter into any contract or subcontract valued at \$500 or more with the governmental body with which the public official or public employee is associated.

## Voting Conflict

- If voting would result in a conflict of interest, the public official or public employee must abstain from voting and must disclose the potential conflict in a memo to be filed with the person responsible for recording the minutes of the meeting.
- In the case of a three-member governing body of a political subdivision, if one member has abstained from voting as a result of a conflict of interest and the remaining two members of the governing body have cast opposing votes, the abstaining member can break the tie.

# Public Official & Employee Ethics Act

- When in doubt, request an advisory opinion from the State Ethics Commission.
  - All requests must be in writing and must be signed by the requestor.
  - Additional requirements for requesting an advisory opinion can be found at:  
<https://www.ethics.pa.gov/How-To/Pages/How-To-Request-an-Advisory-Opinion.aspx>



# The Sunshine Act

# The Sunshine Act

The principal purpose of the Sunshine Act is to improve the quality of democratic institutions by increasing the knowledge of the electorate as to the critical issues faced by their elected representatives and appointed officials.

## Brief Overview of the Act:

- Public Meetings must be advertised in advance.
- Meeting Agendas must be advertised and available in advance of the public meeting.
- In order to take “Official Action,” Quorum is required.
- Meeting minutes must be taken during public meetings and posted.
  - Minutes should include the meeting date; names of all members present; summary of all official actions taken and recorded votes; and names of citizens appearing and topic of their testimony.
- When “Official Action” is taken, must allow time for public comment.

# The Sunshine Act

- The Sunshine Act also allows for Executive Sessions.
- Matters to be discussed during Executive Session include:
  - **Personnel Matters**
    - However, may not be held to discuss an appointment to fill a vacancy in any elected office.
  - **Strategy/negotiation sessions regarding Collective Bargaining**
  - **Purchase/lease of real property**
  - **Litigation matters**
  - **Confidential information** (quasi-judicial deliberations; investigations of violations of the law)
- The purpose of Executive Session should be announced at a public meeting.
  - Not required to give specifics, but must state the reason for the Executive Session.
- Time for Executive Session to be held:
  - During an open meeting or at the conclusion of an open meeting.
  - Can be announced for future date/time.

# The Sunshine Act

- Section 709(c.1) of the Sunshine Act, initially enacted in 2021, mandates that agencies post their agendas on their website 24 hours before the time of the meeting.
- Section 712.1 of the Sunshine Act, also enacted in 2021, provides that agencies cannot act on any item not included on the posted agenda. However, there are *four* exceptions to the general prohibition against agency action on matters that do not appear on a timely posted pre-meeting agenda:
  - **Related to emergency business;**
  - **Related to business arising within 24 hours before the meeting (de minimis / no contract or expenditure);**
  - **Related to business arising during meeting (de minimis / no contract or expenditure);**
  - **When items are added to the agenda by the governing body via motion.**
- In *Coleman v. Parkland School District* (November 2025), the PA Supreme Court determined that the fourth exception is a standalone basis for the agency to act on an item that was not on the published agenda.
  - The reason for the change must be announced publicly at the meeting and the revised agenda must be posted on the website and at the principal office of the agency on the next business day.



The Pennsylvania  
Right-to-Know Law

# Pennsylvania Right-to-Know Law

- Under the Pennsylvania RTKL, all state and local government agency records are presumed to be public. Essentially, if an agency wants to withhold a record, it must prove that it is entitled to do so under the RTKL, another law or regulation, privilege (such as attorney-client privilege), or court order.
- Local governments and authorities are considered “agencies” under the RTKL.
- Each local government agency must have a “Right to Know Officer.”
- Although the RTKL took effect on Jan. 1, 2009, all records (except if covered by an exception) in the possession of an agency are covered by the RTKL.
- The RTKL also sets forth an appeal process for the requestor if their request is denied.

# Pennsylvania Right-to-Know Law

The RTKL includes 30 exceptions agencies may use to withhold records.

While the following list is non-exhaustive, some records that would fall under a RTKL exception include:

- Records of an individual's medical, psychiatric or psychological history or disability status (identifiable health information).
- Employment application of an individual *not* hired by an agency.
- Records pertaining to strategy or negotiations related to labor relations or collective bargaining.
- Drafts of ordinances prepared for or by an agency.
- Records relating to criminal investigations by a police department.
- Draft minutes of a public meeting.

Agencies bear the burden of proving that a record is not public.

# Pennsylvania Right-to-Know Law



Because of the broad sweep of the RTKL, Public Officials and Employees should understand that many records or documents that are created or used in course of employment or which are related to agency business may be subject to public disclosure, including e-mail and text messages.



Public Officials and Employees should consider whether they would be comfortable having their e-mails and/or text messages related to agency business available for view by a member of the public.



# The Role of a Local Government Official

# The Role of a Local Government Official

## Legislative Functions:

- Responsible to set policy
- Ability to pass legislation in the form of Ordinances
- Take other official action via Resolution or Motion

## Other Functions:

- Budget and Finance
- Hire Professionals (engineer/solicitor/consultant)
- Decide certain personnel issues with regard to municipal employees with advice of staff and legal counsel

# The Role of a Local Government Official



## Voting

Deliberation

Quorum

Each vote must be publicly cast

Meetings typically follow Robert's Rules of Order



## Role of Local Government as a whole

Each member of the elected body has no individual authority

The group acts as a whole

Need a majority vote to approve action

The logo is a circular emblem with a blue background. It features a white silhouette of a classical building with a pediment and three columns. Above the building is a white flag on a pole. Four white stars are arranged in a circle around the top of the building.

# Practical Application

The Role of a Local Government Official in a Borough

# Practical Application

## THE ROLE OF A LOCAL GOVERNMENT OFFICIAL IN A BOROUGH

### Mayor's Responsibilities

- The Borough Code authorizes the Mayor to have full charge and control of the chief of police and the police force. 8 Pa.C.S. § 1123.1(a), (b).
  - Note: Council does make certain decisions concerning the Police Department (compensation, weekly hours, hiring, firing, and reducing rank).
- The Mayor has no power to direct other Borough employees.

### Council's Responsibilities

- Borough Council members are responsible, directly or indirectly, for the operations of all functions of a Borough's government. 8 Pa.C.S. § 1005.
  - However, Council can take official action only by affirmative vote of a majority vote of Council at a public meeting.

# Practical Application

## THE ROLE OF A LOCAL GOVERNMENT OFFICIAL IN A BOROUGH

### Appointed Borough Administration

- Based upon the size of the Borough, the Council may appoint a manager, secretary, or administrator who is responsible for managing the day-to-day business of the Borough.
- An individual Councilmember should not attempt to direct the activities of the Manager/Secretary or other Borough employees as one Councilmember does not have the authority to speak for the entire Borough Council.
- Council should, however, keep open lines of communication with the Manager/Secretary to exchange ideas and opinions and stay informed on the issues arising in the Borough.

### Incompatible offices

- Councilmembers and the Mayor cannot serve as borough manager, secretary, or treasurer. In boroughs with populations over 3,000, no elected official may serve as an employee of the Borough. 8 Pa.C.S. § 1104(b)(1), (c).

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