

**AGENDA**  
**REGULAR MEETING OF COUNCIL**  
**July 14, 2020**  
**6:30 PM**

1. ROLL CALL
2. READING OF MINUTES
3. REPORTS & COMMUNICATIONS FROM MAYOR & HEADS OF DEPARTMENTS AND INTERESTED PARTIES AND CITY CLERK'S NOTES
- 3.A MINUTES OF THE SCRANTON MUNICIPAL RECREATION AUTHORITY BOARD OF DIRECTORS MEETING HELD JULY 3, 2020.

[Scranton Municipal Recreation Authority Meeting Minutes 07-03-2020.pdf](#)

- 3.B CORRESPONDENCE RECEIVED FROM U.S. DEPARTMENT OF HOMELAND SECURITY'S FEDERAL EMERGENCY MANAGEMENT AGENCY DATED JULY 1, 2020 REGARDING NATIONAL FLOOD INSURANCE PROGRAM REGULATIONS.

[Correspondence received from FEMA dated 7-1-2020.pdf](#)

- 3.C MINUTES OF THE SCRANTON REDEVELOPMENT AUTHORITY MEETING HELD MARCH 4, 2020.

[Scranton Redevelopment Authority Meeting Minutes 03-04-2020.pdf](#)

- 3.D CORRESPONDENCE SENT TO LACKAWANNA COUNTY COMMISSIONERS DATED JULY 8, 2020 REGARDING LACKAWANNA COUNTY RECYCLING CENTER.

[Correspondence sent to Lackawanna County Commissioners July 8, 2020.pdf](#)

- 3.E MINUTES OF THE HISTORICAL ARCHITECTURE REVIEW BOARD MEETING HELD JUNE 11, 2020.

[HARB Meeting Minutes 06-11-2020.pdf](#)

4. CITIZENS PARTICIPATION

5. INTRODUCTION OF ORDINANCES, RESOLUTIONS, APPOINTMENT AND/OR RE-APPOINTMENTS TO BOARDS & COMMISSIONS MOTIONS & REPORTS OF COMMITTEES

- 5.A MOTIONS.

- 5.B FOR INTRODUCTION – AN ORDINANCE – AMENDING FILE OF THE COUNCIL NO. 29, 2018 ENTITLED “ACKNOWLEDGING THE ADOPTION BY THE COMMONWEALTH OF PENNSYLVANIA OF THE PENNSYLVANIA FIREWORKS LAW, ACT 43 OF 2017, ACKNOWLEDGING THAT THE FIREWORKS LAW PROHIBITS THE IGNITING OR DISCHARGE OF CONSUMER FIREWORKS ON PUBLIC OR PRIVATE PROPERTY WITHOUT THE EXPRESS PERMISSION OF THE OWNER, PROVIDING THAT THE CITY OF SCRANTON DOES NOT GRANT PERMISSION FOR ANYONE TO IGNITE OR DISCHARGE CONSUMER FIREWORKS ON THE STREETS OR SIDEWALKS OF THE CITY OF SCRANTON OR PROPERTY OWNED BY THE CITY OF SCRANTON INCLUDING, WITHOUT LIMITATION, ALL OF THE CITY OWNED PARKS AND PUBLIC BUILDINGS; DIRECTING THAT THE CITY OF SCRANTON PROVIDE CERTIFIED COPIES OF THE ORDINANCE TO ALL MAGISTERIAL DISTRICT JUDGES WITHIN THE CITY; PROVIDING FOR A REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT IN ACCORDANCE WITH PENNSYLVANIA LAW” TO INCLUDE TIME RESTRICTIONS FOR THE USE OF FIREWORKS TO BE IN COMPLIANCE WITH THE CITY OF SCRANTON’S ZONING ORDINANCE FOR NOISE LEVELS.

[Ordinance-2020 Amending the Fireworks Law.pdf](#)

- 5.C FOR INTRODUCTION – AN ORDINANCE – REGULATING THE SALE AND DISTRIBUTION OF GASOLINE DIRECTLY INTO THOSE VEHICLES THAT FALL UNDER THE CLASS OF VEHICLES DEFINED BY 75 PA.C.S.A. 7702 AS BEING AN “ALL-TERRAIN VEHICLE” OR “ATV” OR A “SNOWMOBILE” WHILE

SAID VEHICLES ARE RUNNING AND PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.

[Ordinance-2020 Regulating the Sale and Distribution of Gasoline.pdf](#)

- 5.D FOR INTRODUCTION – AN ORDINANCE – AMENDING FILE OF THE COUNCIL NO. 74, 1993, (AS AMENDED), ENTITLED “THE ZONING ORDINANCE FOR THE CITY OF SCRANTON” BY REPEALING SECTION 516 ENTITLED FLOOD-PRONE AREAS AND ENACTING SECTION 516 ENTITLED FLOODPLAIN MANAGEMENT REGULATIONS.

[Ordinance-2020 Amending the Zoning Ordinance.pdf](#)

- 5.E FOR INTRODUCTION – AN ORDINANCE – AMENDING FILE OF THE COUNCIL NO. 11, 2018 ENTITLED “ESTABLISHING A “NO PARKING ZONE” ALONG THE WEST SIDE OF WYOMING AVENUE (SR 3025) FROM A POINT 175 FEET SOUTH OF THE INTERSECTION WITH EAST GIBSON STREET TO A POINT 325 FEET SOUTH OF THE INTERSECTION WITH EAST GIBSON STREET TO ALLOW FOR DRIVEWAY SIGHT DISTANCE PURPOSES AS SHOWN ON THE ATTACHED HIGHWAY OCCUPANCY PERMIT FOR THE PENNSYLVANIA NORTHEAST REGIONAL RAILROAD AUTHORITY (“PNRRA”) TO EXTEND THE NO PARKING ZONE ALONG THE WEST SIDE OF WYOMING AVENUE (SR 3025) TO A POINT 160 FEET SOUTH OF THE CENTER LINE OF EAST GIBSON STREET TO A POINT 415 FEET SOUTH OF THE CENTER LINE OF EAST GIBSON STREET TO ALLOW FOR DRIVEWAY SIGHT DISTANCE PURPOSES AS SHOWN ON THE ATTACHED HIGHWAY OCCUPANY PERMIT FOR THE PENNSYLVANIA NORTHEAST REGIONAL RAILROAD AUTHORITY (PNRRA).

[Ordinance-2020 Extend No Parking Wyoming Ave for PNRRA.pdf](#)

- 5.F FOR INTRODUCTION – AN ORDINANCE – AUTHORIZING THE MAYOR AND OTHER APPROPRIATE CITY OFFICIALS TO APPLY FOR AND EXECUTE A GRANT APPLICATION BY THE CITY OF SCRANTON OFFICE OF ECONOMIC AND COMMUNITY DEVELOPMENT TO THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT ARC PROGRAM IN THE AMOUNT OF \$50,000.00 TO BE USED TO DEVELOP AN ECONOMIC DEVELOPMENT STRATEGIC PLAN FOR THE CITY.

[Ordinance-2020 Grant Application OECD \\$50,000.pdf](#)

- 5.G FOR INTRODUCTION – A RESOLUTION – AUTHORIZING AN ADMENDMENT TO THE MULTI-BRIDGE (BRIDGE BUNDLING) PROJECT AGREEMENT ENTERED INTO BETWEEN THE CITY OF SCRANTON AND THE COMMONWEALTH OF PENNSYLVANIA, WHICH AMENDMENT INCREASES THE TOTAL PROJECT AS SET FORTH HEREIN.

[Resolution-2020 Amendment to Multi Bridge Project.pdf](#)

## 6. CONSIDERATION OF ORDINANCES - READING BY TITLE

- 6.A READING BY TITLE - FILE OF THE COUNCIL NO. 12, 2020 – AN ORDINANCE – AMENDING FILE OF THE COUNCIL NO. 111, 2017 OF THE CITY OF SCRANTON ADOPTING AND IMPLEMENTING THE ACT 47 EXIT PLAN FOR THE CITY OF SCRANTON PURSUANT TO THE FINANCIALLY DISTRESSED MUNICIPALITIES ACT; AND AUTHORIZING THE MAYOR OF THE CITY OF SCRANTON TO ISSUE AN ORDER DIRECTING THE IMPLEMENTATION OF THE ACT 47 EXIT PLAN AMENDMENT WHICH WILL BECOME EFFECTIVE UPON ADOPTION ATTACHED HERETO AS EXHIBIT “A” IN ACCORDANCE WITH THE PROVISIONS OF 53 PA. C.S.A. §11701.249, THE MUNICIPALITIES FINANCIAL RECOVERY ACT.

[Ordinance-2020 Directing the Implementation of the Act 47 Exit Plan.pdf](#)

- 6.B READING BY TITLE - FILE OF THE COUNCIL NO. 13, 2020 – AN ORDINANCE – AMENDING FILE OF THE COUNCIL NO. 22, 2014, AN ORDINANCE, ENTITLED AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 26, 2013, AN ORDINANCE, ENTITLED AMENDING FILE OF THE COUNCIL NO. 22, 2006, ENTITLED “AUTHORIZING AND APPROVING THE DESIGNATION OF PARKING SPACES FOR CERTAIN CITY OF SCRANTON PERSONNEL IN AND ALONG DIX COURT, THE PARKING AREA IN THE REAR OF CITY OF SCRANTON MUNICIPAL BUILDING AND A PARKING LOT ALONG MULBERRY STREET ADJACENT TO SCRANTON FIRE HEADQUARTERS, AND AUTHORIZING THE CITY OF SCRANTON POLICE DEPARTMENT TO ENFORCE THE PARKING DESIGNATIONS AS REFLECTED IN THE ATTACHED SCHEMATIC” BY REDESIGNATING CERTAIN EMPLOYEE PARKING SPACES FROM INDIVIDUAL NAMES TO LETTERS FROM A-Z AS REFLECTED IN THE ATTACHED SCHEMATIC.

[Ordinance-2020 Dix Court Parking Space Designations.pdf](#)

## 7. FINAL READING OF RESOLUTIONS AND ORDINANCES

- 7.A FOR CONSIDERATION BY THE COMMITTEE ON RULES - FOR ADOPTION - FILE OF THE COUNCIL NO. 11, 2020 - APPROVING THE TRANSFER OF A RESTAURANT LIQUOR LICENSE OWNED BY OAK STREET EXPRESS, LLC, 610 NORTH MAIN STREET, TAYLOR, LACKAWANNA COUNTY, PENNSYLVANIA, 18517 RESTAURANT LIQUOR LICENSE NO. R-3114 TO ARADHY BEV BEER, LLC, (THE "MINI MART"), 401 WYOMING AVENUE, SCRANTON, LACKAWANNA COUNTY, PENNSYLVANIA, 18503, AS REQUIRED BY THE PENNSYLVANIA LIQUOR CONTROL BOARD.

[Ordinance-2020 Transfer Liquor License to Aradhy Bev Beer.pdf](#)

- 7.B FOR CONSIDERATION BY THE COMMITTEE ON RULES - FOR ADOPTION - RESOLUTION NO. 46, 2020 - CALLING ON THE COMMONWEALTH OF PENNSYLVANIA TO REINSTATE THE FIREWORKS ACT OF 1939.

[Resolution-2020 Reinstate Fireworks Act of 1939.pdf](#)

## 8. ADJOURNMENT

Scranton Municipal Recreation Authority  
Board of Directors Meeting  
Schimelfenig Pavilion  
Thursday, July 3, 2020 at 6PM

RECEIVED

JUL 06 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

**Pledge of Allegiance:**

**Roll Call:** Bob Gattens suggested solicitor Paul Kelly to take roll call.  
Present: Bob, Gattens, Jerry Smurl, Bob Shumaker, Tim Woody and Paul DeAntona. Excused absence: Mike Williams

Bob Gattens took a moment to recognize Paul DeAntona for his years of service on the Scranton Municipal Recreation Authority. All members expressed their thanks to Paul for his service. Mr. DeAntona who resigned from the board expressed his thanks and gratitude to the directors and wished the board well in their future endeavors.

**Treasurer:** No Treasurer's Report due to the excused absence of Mike Williams

**Motions:**

Jerry Smurl made a motion to accept Paul Kelly's invoice for his work as solicitor of the Scranton Municipal Recreation Authority. Tim Woody Seconded the motion. No objections. Motion carries 5-0

Invoices for purchases made by Jerry Smurl were presented to the board for payment approval. Bob Shumaker made a motion to approve. Tim Woody seconded the motion. No objections. Motion carries 5-0

Bob Shumaker made a motion to purchase a stump grinder for Nay Aug Park. Tim Woody seconded the motion. No objections. Motion carries 5-0

Bob Shumaker made a motion to purchase a leaf blower. Tim Woody seconded the motion. No objections. Motion carries 5-0

Solicitor Paul Kelly requested permission from the board to reconnect with the past bidders on the pool liners and pool work to see if the estimates provided are

still valid. Jerry Smurl made the motion. Bob Shumaker seconded. No objections. Motion carries 5-0

Solicitor Paul Kelly requested permission from the board to obtain two separate Request for Proposals (RFP). One RFP for the sidewalks around the pool and one RFP for the concrete work in the pool. Jerry Smurl made the motion. Bob Shumaker seconded the motion. No objections. Motion carries 5-0

**New Business:** Bob Gattens reported he ordered 5 port-a lavs for the BLM event held in the park in June. Invoice to be submitted at August meeting.

Bob Gattens reported he, along with Tim Woody and Paul Kelly met with Mayor Paige Cagnetti to discuss the pools and street signage.

Bob Shumaker talked about the tree and bench memorial projects. The trees are \$300.00 per tree and benches is \$600.00 per bench.

Bob Gattens recognized Ed Davis, Jerry Smurl and Bob Shumaker for their tireless volunteer efforts.

**Citizens Participation:**

Linda Lyons asked what kind of plaques will be used for the trees and benches. A decision has not been made at this time. We are exploring options for plaques. Linda Lyons asked, can weeping willow trees can be an option for tree planting? Bob Shumaker replied a dwarf weeping willow tree is a possibility. Linda asked, "Why are the chestnut trees planted so close to one another?" Bob Shumaker explained the reason and process for planting Chestnut trees.

Mike Popic commented about how nice the park looks but, would like to see the area behind the rose garden cleaned up like the rest of the park. Mike Popic commented about a boat parked on the street on Arthur Avenue in front of the rose garden area. Jerry Smurl said the most effective way to deal with the issue is to go online and submit your complaint to the zoning commission.

Norma Jeffers inquired about the possibility of constructing an ice rink at the park. Bob Gattens said he will table the discussion until the pool issues are resolved.

Thom Welby expressed his thanks and appreciation to the Recreational Authority and asked if the board plans to submit a grant to repair the Davis Trail. Bob Gattens said the timeline to submit a grant application for the Davis Trail is too short and cannot meet the deadline for submission however, the Authority will get estimates to repair the platform on the Davis Trail.

Mary Beth Mickolayczak made an inquiry as to who is in charge of sidewalk signage and stops signs?" Bob Gattens said, "In the park, the Authority is responsible for signage. On Mulberry Street by the hospital, it is the City's responsibility."

Jerry Smurl made a motion to adjourn the meeting. Tim Woody seconded. No objections. Motion carries 5-0

Minutes respectfully submitted by

Tim Woody





**FEMA**

July 1, 2020

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

RECEIVED

JUL 08 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

William Gaughan  
Council President  
City of Scranton  
340 North Washington Avenue  
Scranton, Pennsylvania 18503

Dear Mr. Gaughan:

I am writing this letter as an official reminder that the City of Scranton, Pennsylvania, has until August 5, 2020, to adopt and have the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office approve floodplain management measures that satisfy 44 Code of Federal Regulations (CFR) Section 60.3(d) of the National Flood Insurance Program (NFIP) regulations.

The City of Scranton must adopt floodplain management measures, such as a floodplain management ordinance, that meet or exceed the minimum NFIP requirements (copy enclosed) by August 5, 2020, to avoid suspension from the NFIP. If suspended, your community becomes ineligible for flood insurance through the NFIP, new insurance policies cannot be sold, and existing policies cannot be renewed.

The NFIP State Coordinating Office for your State has verified that Pennsylvania communities may include language in their floodplain management measures that automatically adopt the most recently available flood elevation data provided by FEMA. Your community's floodplain management measures may already be sufficient if the measures include suitable automatic adoption language and are otherwise in accordance with the minimum requirements of the NFIP. The NFIP State Coordinator can assist you further in clarifying questions you may have about automatic adoption.

Under the Flood Disaster Protection Act of 1973, as amended, flood insurance must be purchased by property owners seeking any Federal financial assistance for construction or acquisition of buildings in Special Flood Hazard Areas (SFHAs). This financial assistance includes certain federally guaranteed mortgages and direct loans, federal disaster relief loans and grants, as well as other similarly described assistance from FEMA and other agencies.

In addition, all loans individuals obtain from Federally regulated, supervised, or insured lending institutions that are secured by improved real estate located in SFHAs are also contingent upon the borrower obtaining flood insurance coverage on the building. However, purchasing and maintaining flood insurance coverage on a voluntary basis is frequently recommended for properties located outside SFHAs.

William Gaughan  
July 1, 2020  
Page 2

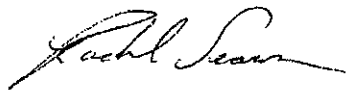
Your NFIP State Coordinator and FEMA would like to assist the City of Scranton to ensure it remains in good standing with the NFIP and avoids suspension from the Program. If your community is suspended, it may regain its eligibility in the NFIP by enacting the floodplain management measures established in 44 CFR Section 60.3 of the NFIP regulations. As stated in my previous correspondence, I recommend you contact your NFIP State Coordinator or the FEMA Regional Office if the City of Scranton is encountering difficulties in enacting its measures.

I recognize that your community may be in the final adoption process or may have recently adopted the appropriate floodplain management measures. Please submit these measures to the Floodplain Management Program at the Pennsylvania Department of Community and Economic Development. Ted S. Martin, the NFIP State Coordinator, is accessible by telephone at (717) 525-5796, in writing at the Center for Local Government Services, Commonwealth Keystone Building, 400 North Street, Fourth Floor, Harrisburg, Pennsylvania 17120-0225, or by electronic mail at [themartin@pa.gov](mailto:themartin@pa.gov).

The FEMA Regional staff in Philadelphia, Pennsylvania, is also available to assist you with your floodplain management measures. The FEMA Regional Office may be contacted by telephone at (215) 931-5500 or in writing. Please send your written inquiries to the Director, Mitigation Division, FEMA Region III, at 615 Chestnut Street, One Independence Mall, Sixth Floor, Philadelphia, Pennsylvania 19106-4404.

In the event your community does not adopt and/or submit the necessary floodplain management measures that meet or exceed the minimum NFIP requirements, I must take the necessary steps to suspend your community from the NFIP. This letter is FEMA's final notification before your community is suspended from the Program.

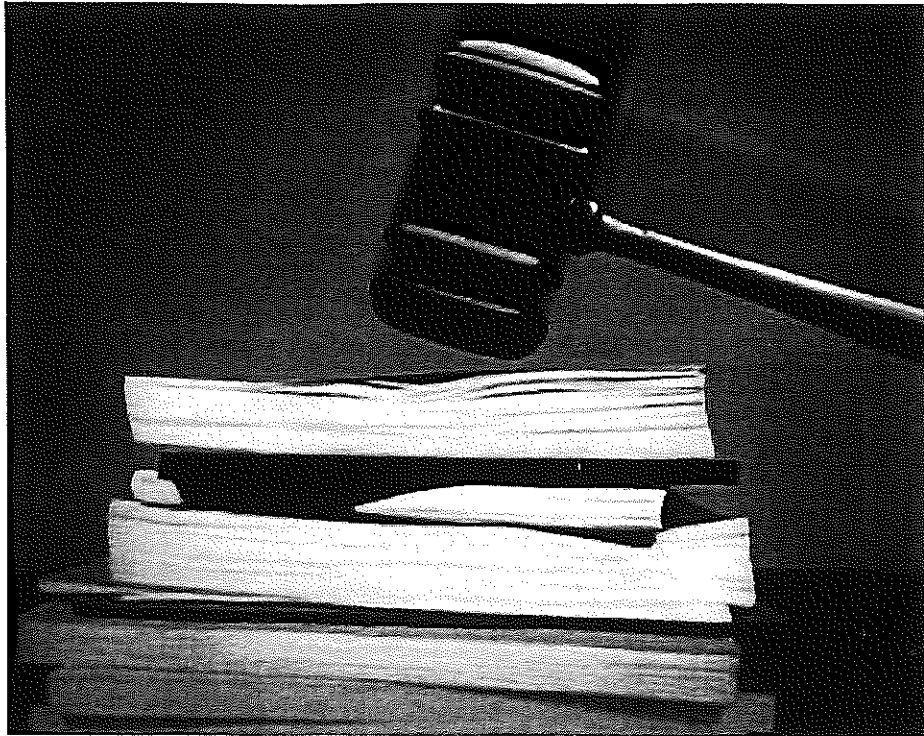
Sincerely,



Rachel Sears, Director  
Floodplain Management Division  
Mitigation Directorate | FEMA

Enclosure

cc: MaryAnn Tierney, Regional Administrator, FEMA Region III  
Ted S. Martin, NFIP State Coordinator, Pennsylvania Department of Community  
and Economic Development  
Joseph Borgia, Floodplain Administrator, City of Scranton



# National Flood Insurance Program Regulations

FEMA F-775 / June 2009

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OFFICE OF CITY  
COUNCIL/CITY CLERK



FEMA

# FEMA Laws and Regulations and the National Flood Insurance Program

## 1. Flood Insurance related laws and regulations

The FEMA regulations are set forth in 44 Code of Federal Regulations (CFR). This book of Federal regulations is updated yearly, the FEMA regulations are updated every October 1. A good link to find the full set of regulations and parts thereof, is:

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>.

Once you are in the 44 CFR, go to the specific chapter title you are looking for (links to each chapter are listed below).

The National Flood Insurance Program (NFIP) regulations, a part of the FEMA Regulations, begins at 44 CFR 59, and runs through 44 CFR 80. Keep in mind that many of these parts are mitigation-related as well as being Flood insurance-related since much of the programs are intertwined, as you can see from the titles of each chapter below. The main area for flood insurance and the Standard Flood Insurance Policies are Chapter, or Part, 61 through 63.

44	CFR SUBCHAPTER B--INSURANCE AND HAZARD MITIGATION
59	59.1 To 59.30 General Provisions
60	60.1 To 60.26 Criteria For Land Management And Use
61	61.1 To 61.17 Insurance Coverage And Rates
62	62.1 To 62.24 Sale Of Insurance And Adjustment Of Claims
63	63.1 To 63.18 Implementation Of Section 1306(C) Of The National Flood Insurance Act Of 1968
64	64.1 To 64.6 Communities Eligible For The Sale Of Insurance
65	65.1 To 65.17 Identification And Mapping Of Special Hazard Areas

*National Flood Insurance Program Regulations*

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66	66.1 To 66.5	Consultation With Local Officials
67	67.1 To 67.12	Appeals From Proposed Flood Elevation Determinations
68	68.1 To 68.12	Administrative Hearing Procedures
69	[Reserved]	
70	70.1 To 70.9	Procedure For Map Correction
71	71.1 To 71.5	Implementation Of Coastal Barrier Legislation
72	72.1 To 72.7	Procedures And Fees For Processing Map Changes
73	73.1 To 73.4	Implementation Of Section 1316 Of The National Flood Insurance Act Of 1968
74	[Reserved]	
75	75.1 To 75.14	Exemption Of State-Owned Properties Under Self-Insurance Plan
76-77	[Reserved]	
78	78.1 To 78.14	Flood Mitigation Assistance
79	79.1 To 79.9	Flood Mitigation Grants
80	80.1 To 80.21	Property Acquisition And Relocation For Open Space

Then National Flood Insurance Program began in 1968 following a series of large hurricanes and storms, as noted in the initial law and those that followed. (42 U.S.C. 4001 et seq.). These laws became the regulations set forth above. The National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, can be found at this site; [http://www.fema.gov/pdf/fhm/fhm\\_acts.pdf](http://www.fema.gov/pdf/fhm/fhm_acts.pdf); or [http://www.law.cornell.edu/uscode/html/uscode42/usc\\_sup\\_01\\_42\\_10\\_50.html](http://www.law.cornell.edu/uscode/html/uscode42/usc_sup_01_42_10_50.html).

**National Flood Insurance Reform Act of 1994** resulted in major changes to the National Flood Insurance Program (NFIP). The law amended the Flood Disaster Protection Act of 1973. It provides tools to make the NFIP more effective in achieving its goals of reducing the risk of flood damage

to properties and reducing Federal expenditures for uninsured properties that are damaged by floods. <http://www.fema.gov/pdf/nfip/riegle.pdf>. This Act can also be found through the FEMA Library. <http://www.fema.gov/library/viewRecord.do?id=2217>.

In 2004, Congress amended the above laws by enacting the Flood Insurance Reform Act (FIRA) 2004 - <http://www.fema.gov/pdf/nfip/fira2004.pdf>

## **2. Disaster Relief and Emergency Management**

Other laws and related material you may hear about include some of the mitigation laws, including the following:

The Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288) (Stafford Act) amended the Disaster Relief Act of 1974, PL 93-288. This Act constitutes the statutory authority for most Federal disaster response activities especially as they pertain to FEMA and FEMA programs. <http://www.fema.gov/about/stafact.shtm>.

The Pre-disaster Mitigation Grant program is authorized through the Disaster Mitigation Act (DMA) which amends the Stafford Act; [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106\\_cong\\_public\\_laws&docid=f:publ390.106.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ390.106.pdf)

The Mitigation Directorate has a regulations development page; [http://online.fema.net/res\\_regulation.htm](http://online.fema.net/res_regulation.htm)

## **3. Other useful sites**

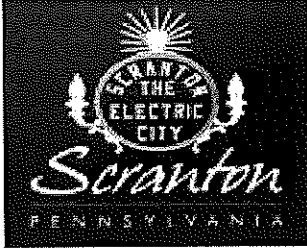
The site to find all regulations is at the National Archives, Federal Register site; <http://www.archives.gov/federal-register/cfr/>

If you are looking for daily Federal registers you can begin your search here - <http://www.archives.gov/federal-register/the-federal-register/>

ie Government Accounting Office (GAO) site - <http://www.gao.gov/>

ie FEMA Federal Register Notices and Rules Archives - [http://www.fema.gov/help/lib\\_arch.shtm](http://www.fema.gov/help/lib_arch.shtm)

MA acronyms, Abbreviations and Terms (FAAT) - [http://www.fema.gov/pdf/plan/prepare/faatlist03\\_05.pdf](http://www.fema.gov/pdf/plan/prepare/faatlist03_05.pdf)



**City of Scranton**

*Scranton Redevelopment Authority*

*340 N. Washington Avenue*

*Scranton, PA 18503*

*SOLICITOR: Paul A. Kelly, Esquire*

*Chairman: Robert Timlin*

*Members of Authority: Mario Savinelli, Burt Schwartz, Gene Teserovich, Michael Cummings*

RECEIVED

JUL 08 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

Approved Minutes  
Regular Meeting  
Wednesday, March 4, 2020  
12:15 P.M.

Olympus Digital Voice Recorder VN-7200, File A, Track 55

**I. Roll call:**

- Burt Schwartz made a motion to make Michael Cummings Chairman for today's meeting.
- Mario Savinelli seconded the motion.

Roll Call Vote

- Mr. Schwartz.....YES
- Mr. Savinelli.....YES
- Mr. Cummings.....YES

Present: Mr. Schwartz, Mr. Savinelli, Mr. Cummings

SRA Coordinator: Denise Nytch

Solicitor: Paul Kelly

Absent: Mr. Teserovich, Mr. Timlin

**II. Reading and approval of minutes:**

February 2020 minutes approved:

- Mr. Savinelli made the motion to approve the minutes.
- Mr. Schwartz seconded.

Roll Call Vote

- Mr. Schwartz.....YES
- Mr. Savinelli.....YES
- Mr. Cummings.....YES



**III. Bills and Communications:**

Attorney Paul Kelly Legal Bills - \$1,140.00

- Mr. Savinelli made the motion to approve payment of legal invoice.
- Mr. Schwartz seconded.

Roll Call Vote

- o Mr. Schwartz.....YES
- o Mr. Savinelli.....YES
- o Mr. Cummings.....YES

Report of the Secretary:

Mr. Savinelli - No report at this time.

**IV. Reports of Committees:**

Property Committee: No report at this time.

Audit Committee: No report at this time.

**V. Financial Statements:**

Financial Statements Approved – January 2020

February 2020 statements to defer so that the SRA can review them.

- Mr. Schwartz made the motion to approve Financial Statement.
- Mr. Savinelli seconded.

Roll Call Vote

- o Mr. Schwartz.....YES
- o Mr. Savinelli.....YES
- o Mr. Cummings.....YES

**VI. New Business/Unfinished Business:**

- The following checks were received and deposited:

Cooper's Check #1426 \$500.00

The Lamar Company check #91296576 \$1,000.00

Kenmarque check \$877.70

- A letter was drafted to Mr. Bill Kcenich with PA DEP – Waterways Engineer for work completed on Mary Street and Masters Street payment in the amount of \$57,722.50 was sent.
- Update of the Fidelity and Community Bank accounts – during caucus today it was approved for Disha Patel from OECD to attend the meeting at Fidelity next week to discuss the account. Also, at the meeting with Fidelity Chairman Timlin will request bank statements to be sent to Denise Nytch in the Law Department to provide to members of the SRA. Atty. Kelly spoke with Mr. [REDACTED] at Community Bank to see what the SRA needs to do to be removed from the account. The account shows that there are no SRA funds in this account – it is believed the SRA name was added in error. There is an audit trail showing is that the money is for OECD use.
- Update on the SRA owned properties and the response from John Foley – a listing of properties were given to John Foley – Lackawanna County Chief Assessor 10 properties are to be voided by the tax assessor’s office. Atty. Kelly will revise the list – the list was sent to Don King, City Planner, to review as some of the properties are in flood area (i.e. John St., Paul St., Union Ave.) that are owned by SRA and would like to deed the properties to the City of Scranton.
- Marquis Parking lot update Atty. Kelly recommended that the SRA get estimates for paving the lot – there is a 99 year lease to Marquis. Atty. Kelly believes that in speaking to Marquis’s attorney they would pay a portion of fixing the lot.

**VII. Adjournment:**

Mr. Savinelli made the motion to adjourn.  
Mr. Schwartz seconded.

Next meeting is scheduled for April 1, 2020 at 12:15pm

Roll Call Vote

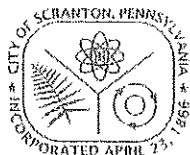
- Mr. Schwartz.....YES
- Mr. Savinelli.....YES
- Mr. Cummings.....YES

# Council of the City of Scranton

340 No. Washington Avenue • Scranton, Pennsylvania 18503 • Telephone 570-348-4113 • Fax 570-348-4207

Lori Reed  
City Clerk

Kevin C. Hayes, Esq.  
Counsel



William Gaughan, President  
Kyle Donahue, Vice President  
Jessica Rothchild, PT, DPT  
Mark McAndrew  
Thomas S. Schuster

July 8, 2020

## Via Electronic Mail

The Honorable Jerry Notarianni  
Lackawanna County Commissioner  
123 Wyoming Avenue  
Scranton, PA 18503

The Honorable Debi Domenick  
Lackawanna County Commissioner  
123 Wyoming Avenue  
Scranton, PA 18503

The Honorable Chris Chermak  
Lackawanna County Commissioner  
123 Wyoming Avenue  
Scranton, PA 18503

## **Re: Lackawanna County Recycling Center**

Dear Commissioners Notarianni, Domenick and Chermak:

I write to you at the request of the Council of the City of Scranton ("City Council"). As you may know, Lackawanna County officials hosted a meeting yesterday at the County's Emergency Communications Center where representatives from the municipalities were provided with correspondence from Lackawanna Recycling Center, Inc. (the "Operator") which is dated July 6, 2020 and attached hereto. Specifically, the correspondence is addressed to the Lackawanna County Solid Waste Management Authority (the "Authority") and indicates that the Authority had agreed to a resolution with the Operator relating to "the commingled recycling issue."

At yesterday's meeting, County officials reported that in order to have commingled recyclables processed at the County's Recycling Center after July 20, 2020, the municipalities will be required to pay a fee of \$40.00 per ton for comingled recyclables which include glass; and \$20.00 per ton for comingled recyclables which exclude glass. It was further reported that

if the City of Scranton elects to participate in this revised recycling program, then it should expect to pay the Operator annual fees of \$52,560.00 with glass and \$26,280.00 without glass. These fee estimates may require the City to implement a formal bidding process for these services.

It was City Council's understanding that the Authority's current relationship with the Operator was governed by a "Professional Service Operating Agreement" which was entered on May 3, 2006 (the "Agreement"). It was reported at yesterday's meeting that the Agreement was terminated and/or rendered "null and void" because the Authority had failed to supply the Operator with inmates from the County's prison to work at the Recycling Center. It was further reported that this lack of inmate labor at the Recycling Center precipitated the Operator's request that the municipalities begin making payments for the delivery of commingled recyclables.

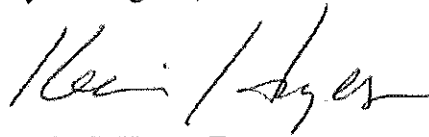
Prior to yesterday's announcement, City Council was not aware that the City would be required to pay a fee for the delivery of commingled recyclables to the Recycling Center. As the deadline for implementing this revised program is twelve (12) days away, City Council wants to be certain that it has a clear understanding of the Authority's basis for this decision. Specifically, City Council respectfully requests that the County provide responses to the following questions which will assist City Council in making a decision with regard to the above-described proposal relating to commingled recyclables:

1. Section 3(b)(3) of the Agreement provides that "the Authority shall *use its best efforts* to.... to provide Operator with the same number of Prisoners from the Lackawanna County Prison that have historically worked at the [Recycling] Center as part of their work release program as security requirement dictate..." Has the Authority obtained the legal opinion that the Authority has breached the Agreement by its failure to supply inmates from the County's prison to serve as workers at the Recycling Center?
2. Section 4(i) of the Agreement provides: "Operator warrants and agrees that during the term of this agreement, and any renewal or extension thereof, the [Recycling Center] shall continue to accept the recyclable commodities currently being accepted, at the pricing structure in affect on March 24, 2005, or as modified by the Authority." If the Agreement has not been terminated, then why would the Authority agree to limit the type of recyclables being delivered and the pricing of said deliveries?
3. Who are the Authority's current members and solicitor?

4. When did the Authority vote to approve this revised recycling program?
5. Can City Council be provided with copies of the excel spreadsheets which are referenced in the enclosed correspondence from the Operator?

As you can understand, the City is facing a substantial budget shortfall and City Council must scrutinize every decision which will affect the City's finances. City Council appreciates your attention to the above requests. Please feel free to call me with any questions you may have regarding this request.

My best regards,



Kevin C. Hayes, Esq.  
Solicitor

KCH/gb  
Enclosure

CC: The Honorable William Gaughan  
The Honorable Kyle Donahue  
The Honorable Jessica Rothchild, PT DPT  
The Honorable Mark McAndrew  
The Honorable Thomas Schuster



# LACKAWANNA RECYCLING CENTER, INC.

July 6, 2020

To: The Lackawanna County Solid Waste Management Authority,

Thank you for your participation in resolving the commingled recycling issue in Lackawanna County. As we discussed, the market for comingled recyclables has collapsed the processing and marketing problems for comingled and were compounded by the Covid19 pandemic.

Thankfully, our joint input and cooperative efforts will help alleviate these problems.

Excel Spreadsheets provided by the Authority comparing the cost of various options, including the costs to process comingled recyclables at the Lackawanna Recycling Center provide a detailed database for the decision makers and stakeholders.

In this light, please accept this correspondence as verification that Lackawanna Recycling, Inc., will accept the following, at the Lackawanna Recycling Center:

Commencing on July 20, 2020, comingled recyclables, collected from Lackawanna County Municipalities, as were accepted prior to the Covid19 shut down, (clean, non-contaminated bi-metal cans, aluminum cans, PET, LDPE and HDPE plastic and glass bottles and jars) at the rate of \$40.00 per ton. The tonnage will be calculated and billed to the municipality monthly.

Commencing on June 20, 2020 comingled recyclables, collected from Lackawanna County Municipalities, consisting of clean, non-contaminated bi-metal cans, aluminum cans, and PET, LDPE and HDPE plastic bottles and jars, at the rate of \$20.00 per ton. The tonnage will be calculated and billed to the municipality monthly.

Each municipality will be afforded the opportunity to have a representative of the municipality on site to observe the material being tipped at the Center by the respective municipality.

Individual residents of Lackawanna county in non-commercial vehicles will be allowed to deliver their own comingled recyclables, free of glass or contamination, to the Lackawanna County Recycling Center at no cost. Quantity and acceptance will be at the discretion of the employee on site.

Lackawanna Recycling, Inc., will honor this price and performance schedule for a minimum of one year, commencing on July 20, 2020.

This does not oblige the municipalities to utilize the Lackawanna Recycling Center for comingled recycling but does offer the opportunity to do so. Please note that we will continue to accept newsprint, office paper and cardboard at no charge.

Very truly yours,

  
Andrew Wascura

Lackawanna Recycling, Inc.

Business Office  
400 Mill Street  
Dunmore, PA 18512  
Phone: (570) 346-7673  
Fax: (570) 963-8830

Operations Office  
3400 Boulevard Avenue  
Scranton, PA 18512  
Phone: (570) 963-8868  
Fax: (570) 963-6553



## City of Scranton

Historic Architectural Review Board

340 N. Washington Avenue

Scranton, PA 18503

SOLICITOR: Timothy Corbett, Esquire

Chairman: Richard Leonori, AIA

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JUL 10 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

June 11, 2020 HARB  
Monthly Meeting via Zoom & ECTV  
5:30 p.m.  
Approved Minutes

### I. Roll Call

**Present:** Chairman - Rich Leonori, Nell O'Boyle, Lee Borthwick, Mike Muller,  
Katie Gilmartin, Katherine Kearney, Bill Lesniak

**Solicitor:** Tim Corbett

**Coordinator:** Denise Nytech

**Absent:** Jennifer Davis

#### Review of Minutes

Motion made by Lee Borthwick to approve the May 14, 2020 Monthly Meeting Minutes,  
Seconded by Katie Kearney. All in favor.

### II. Review of Application(s) for Certificates of Appropriateness –

- A. Review of Certificate of Appropriateness for Bank of America signage – 417 Lackawanna Ave. – Approved as stated on Application  
Motion was made by Mike Muller for approval of the plans.  
Seconded by Nell O'Boyle. All in favor.

### III. Topics of Discussion

- A. Motion made by Katie Kearney to pay Invoice for Scranton Times \$64.15 seconded by Katie Gilmartin. – All in favor.
- B. Solicitor Corbett received a letter the City Council regarding 316 Penn Ave. – The Salad Shop. Due to untimely response from HARB Council granted signage for The Salad Shop in favor of Sam Parlopiano – owner. Mike Muller asked that Solicitor Corbett send them the documentation for process of this Certificate of Appropriateness.

### IV. Miscellaneous

- A. Chairman Lenori reported that HARB received an email regarding 224 Adams Ave. the work that was being performed was masonry in the back of the building. It was decided that since no work to be done to the façade it didn't need to come before HARB.

**V. Date of Next Regularly Scheduled Meeting**

Thursday, July 9, 2020 at 5:30pm

**VI. Adjournment**

Motion was made to adjourn by Mike Muller and seconded by Katie Kearney; all in favor.



FILE OF THE COUNCIL NO. \_\_\_\_\_

2020

AN ORDINANCE

AMENDING FILE OF THE COUNCIL NO. 29, 2018 ENTITLED "ACKNOWLEDGING THE ADOPTION BY THE COMMONWEALTH OF PENNSYLVANIA OF THE PENNSYLVANIA FIREWORKS LAW, ACT 43 OF 2017, ACKNOWLEDGING THAT THE FIREWORKS LAW PROHIBITS THE IGNITING OR DISCHARGE OF CONSUMER FIREWORKS ON PUBLIC OR PRIVATE PROPERTY WITHOUT THE EXPRESS PERMISSION OF THE OWNER, PROVIDING THAT THE CITY OF SCRANTON DOES NOT GRANT PERMISSION FOR ANYONE TO IGNITE OR DISCHARGE CONSUMER FIREWORKS ON THE STREETS OR SIDEWALKS OF THE CITY OF SCRANTON OR PROPERTY OWNED BY THE CITY OF SCRANTON INCLUDING, WITHOUT LIMITATION, ALL OF THE CITY OWNED PARKS AND PUBLIC BUILDINGS; DIRECTING THAT THE CITY OF SCRANTON PROVIDE CERTIFIED COPIES OF THE ORDINANCE TO ALL MAGISTERIAL DISTRICT JUDGES WITHIN THE CITY; PROVIDING FOR A REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT IN ACCORDANCE WITH PENNSYLVANIA LAW" TO INCLUDE TIME RESTRICTIONS FOR THE USE OF FIREWORKS TO BE IN COMPLIANCE WITH THE CITY OF SCRANTON'S ZONING ORDINANCE FOR NOISE LEVELS.

WHEREAS, the City of Scranton enacted File of Council No. 29 of 2018 on September 25, 2018 in order to address concerns regarding the Pennsylvania Fireworks Law, Act 43 of 2017; and

WHEREAS, it is necessary to amend File of Council No. 29 of 2018 in order to better protect the public health, comfort, convenience, safety and welfare of the City and its residents; and

WHEREAS, Section 317-7 of the City's General Code defines a "Noise Disturbance" as being "[a] sound which:

- (1) Disrupts or injures the comfort, repose, health, hearing, peace or safety of persons or animals;
  - (2) Annoys, disturbs or perturbs a reasonable person with normal sensitivities;
  - (3) Endangers or injures personal or real property; or
  - (4) Is in excess of the sound levels by zoning districts established by this chapter;
- and

WHEREAS, fireworks have proven to be a Noise Disturbance, especially when ignited during night-time hours; and

WHEREAS, the City of Scranton and its residents have the right to the quiet and beneficial use and enjoyment of their property.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON** that File of the Council No. 29 of 2018 is hereby amended to include the following:

**SECTION 1.** It is hereby ordained and enacted that no permission is granted by the City to any person to ignite or discharge consumer fireworks on the streets of the City of Scranton, the sidewalks of the City of Scranton or any property owned by the City of Scranton, including, without limitation, all of the City's parks and public buildings.

**SECTION 2.** No person or persons shall intentionally ignite or discharge consumer fireworks between the hours of 9:00 P.M. to 7:00 A.M. other than New Year's Eve, Fourth of July, Labor Day and Memorial Day in any area of the City.

**SECTION 3.** A person deemed to have violated any section of this Ordinance shall be subjected to citation and up to a three hundred (\$300.00) dollar fine to be issued by the proper magistrate district in which the violation occurred.

**SECTION 4.** The City hereby directs that certified copies of this Ordinance be provided to all magisterial judges within the City of Scranton to provide judicial notice that no permission has been granted by the City for any person to intentionally ignite or discharge consumer fireworks on the City streets and sidewalks or on any real estate owned by the City of Scranton.

**SECTION 5.** All Ordinances or Resolutions or parts of Ordinances or Resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

**SECTION 6.** If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

**SECTION 7.** This Ordinance shall become effective immediately upon approval.

**SECTION 8.** This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Optional Plans Law" and any other applicable law arising under the laws of the State of Pennsylvania.



## OFFICE OF THE MAYOR

City Hall | 340 North Washington Avenue | Scranton, PA 18503 | 570.348.4101

July 8, 2020

### Legislative Cover Sheet

**AN ORDINANCE AMENDING FILE OF COUNCIL NO. 29 OF 2018 TO PROHIBIT THE USE OF CONSUMER FIREWORKS BETWEEN THE HOURS OF 9:00 P.M. AND 7:00 A.M. WITH EXCEPTIONS MADE FOR THE FOLLOWING HOLIDAYS: NEW YEAR'S EVE, FOURTH OF JULY, LABOR DAY AND MEMORIAL DAY**

Although presently legal in the City of Scranton and throughout the Commonwealth, the use of consumer grade fireworks has begun to take its toll on both the citizens of Scranton, who are denied the quiet and beneficial use and enjoyment of their residence, as well as the Scranton Police Department, who are having to respond to an influx of fireworks centric complaints.

In an effort to lessen the above-mentioned problems, the administration is proposing an amendment to File of Council No. 28 of 2018, more commonly known as the Fireworks Ordinance. The amendment would prohibit the use of consumer grade fireworks between the hours of 9:00 P.M. and 7:00 A.M. with exceptions made for certain holidays: New Year's Eve, Fourth of July, Labor Day and Memorial Day. The proposed amendment further creates a three hundred (\$300.00) fine for individuals found to have violated this, and any other section of the Fireworks Ordinance.

It is our belief that these proposed amendments strike an appropriate balance between individuals' right to legally use consumer grade fireworks and individuals' rights to enjoy the quiet and beneficial use of their property. Further, we believe that this will lessen the Police force's burden by lowering the amount of complaints to which they need to respond.

Attachments:

\_\_\_\_\_ Ordinance



## DEPARTMENT OF LAW

City Hall | 340 North Washington Avenue | Scranton, PA 18503 | 570.348.4105

July 8, 2020

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JUL 08 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

Dear Honorable Council Members:

ATTACHED IS AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 29, 2018 ENTITLED "ACKNOWLEDGING THE ADOPTION BY THE COMMONWEALTH OF PENNSYLVANIA OF THE PENNSYLVANIA FIREWORKS LAW, ACT 43 OF 2017, ACKNOWLEDGING THAT THE FIREWORKS LAW PROHIBITS THE IGNITING OR DISCHARGE OF CONSUMER FIREWORKS ON PUBLIC OR PRIVATE PROPERTY WITHOUT THE EXPRESS PERMISSION OF THE OWNER, PROVIDING THAT THE CITY OF SCRANTON DOES NOT GRANT PERMISSION FOR ANYONE TO IGNITE OR DISCHARGE CONSUMER FIREWORKS ON THE STREETS OR SIDEWALKS OF THE CITY OF SCRANTON OR PROPERTY OWNED BY THE CITY OF SCRANTON INCLUDING, WITHOUT LIMITATION, ALL OF THE CITY OWNED PARKS AND PUBLIC BUILDINGS; DIRECTING THAT THE CITY OF SCRANTON PROVIDE CERTIFIED COPIES OF THE ORDINANCE TO ALL MAGISTERIAL DISTRICT JUDGES WITHIN THE CITY; PROVIDING FOR A REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT IN ACCORDANCE WITH PENNSYLVANIA LAW" TO INCLUDE TIME RESTRICTIONS FOR THE USE OF FIREWORKS TO BE IN COMPLIANCE WITH THE CITY OF SCRANTON'S ZONING ORDINANCE FOR NOISE LEVELS.

Very truly yours,

A handwritten signature in cursive script that reads "Joseph A. O'Brien".

Joseph A. O'Brien, Esquire  
Acting City Solicitor

JAB/sl

FILE OF THE COUNCIL NO. \_\_\_\_\_

2020

AN ORDINANCE

**REGULATING THE SALE AND DISTRIBUTION OF GASOLINE DIRECTLY INTO THOSE VEHICLES THAT FALL UNDER THE CLASS OF VEHICLES DEFINED BY 75 Pa.C.S.A. 7702 AS BEING AN "ALL-TERRAIN VEHICLE" OR "ATV" OR A "SNOWMOBILE" WHILE SAID VEHICLES ARE RUNNING AND PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.**

WHEREAS, 75 Pa.C.S.A. 7702 defines those class of vehicles that fall under the category of "All-Terrain Vehicles" or "ATVs" and "Snowmobiles; and

WHEREAS, the City of Scranton adopts those definitions for the purpose of this Ordinance; and

WHEREAS, 75 Pa.C.S.A. 7721 makes it unlawful to operate a snowmobile or an ATV on any street or highway which is not designated and posted as a snowmobile or an ATV road by the governmental agency having jurisdiction; and

WHEREAS, in order to better protect the public health, comfort, convenience, safety and welfare of the City and its residents, the City looks to further enforce 75 Pa.C.S.A. 7721, *et seq.* by restricting ATVs and Snowmobiles ability to purchase gasoline at gas stations within the City of Scranton; and

WHEREAS, it has been determined that the best way to do this is to prohibit the Gas Station's from distributing gasoline directly into ATVs and Snowmobiles that are operating on highways in the City of Scranton in violation of 75 Pa.C.S.A. 7721, *et seq.*

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON** that the following Ordinance is hereby adopted.

**SECTION 1.** The terms and definitions of "All-Terrain Vehicle" or "ATV" and "Snowmobile" as defined by 75 Pa.C.S.A. 7702 are incorporated and hereby apply to this Ordinance. A copy of 75 Pa.C.S.A. 7702 is attached hereto as Exhibit "A".

**SECTION 2.** Any person owning a gas station in the City of Scranton disbursing gas from gas pumps located on said property to the general public is hereby prohibited from disbursing or allowing to be disbursed gasoline directly into any All-Terrain Vehicle or ATV and Snowmobile that is operating on a highway located in the City of Scranton in violation of 75 Pa.C.S.A. 7721, *et seq.*

**SECTION 3.** Any person owning a gas station in the City of Scranton disbursing gas to the general public is hereby prohibited from allowing any person, including customers, to disburse gasoline from gas pumps located on said property directly into any All-Terrain Vehicle or ATV and Snowmobile that is operating on a highway located in the City of Scranton in violation of 75 Pa.C.S.A. 7721, *et seq.*

**SECTION 4.** All persons are hereby prohibited from disbursing gasoline from gas pumps located at gas stations directly into any All-Terrain Vehicle or ATV and Snowmobile that is operating on a highway located in the City of Scranton in violation of 75 Pa.C.S.A. 7721, *et seq.*

**SECTION 5.** The City of Scranton Police Department are authorized to enforce and cite any individual or gas station owner found to be in violation of any Section of this ordinance.

**SECTION 6.** Any individual or gas station owner found to be in violation of any section of this Ordinance shall be issued a Non-Traffic Citation and a fine not to exceed three hundred (\$300.00) dollars.

**SECTION 7.** The City hereby directs that certified copies of this Ordinance be provided to all magisterial judges within the City of Scranton to provide judicial notice that no person shall be permitted to purchase or disburse gasoline directly into any All-Terrain Vehicle or ATV and Snowmobile that is operating on a highway located in the City of Scranton in violation of 75 Pa.C.S.A. 7721, *et seq.*

**SECTION 8.** All Ordinances or Resolutions or parts of Ordinances or Resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

**SECTION 9.** If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

**SECTION 10.** This Ordinance shall become effective immediately upon approval.

**SECTION 11.** This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule

Charter and Optional Plans Law” and any other applicable law arising under the laws of the State of Pennsylvania.



## OFFICE OF THE MAYOR

City Hall | 340 North Washington Avenue | Scranton, PA 18503 | 570.348.4101

July 8, 2020

### Legislative Cover Sheet

**AN ORDINANCE REGULATING THE SALE AND DISTRIBUTION OF GASOLINE DIRECTLY INTO THOSE VEHICLES THAT FALL UNDER THE CLASS OF VEHICLES DEFINED BY 75 Pa.C.S.A. 7702 AS BEING AN "ALL-TERRAIN VEHICLE" OR "ATV" OR A "SNOWMOBILE" WHILE SAID VEHICLES ARE RUNNING AND PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.**

Commonwealth Statute 75 Pa.C.S.A. 7701, *et seq.* presently outlaws the use of All-Terrain Vehicles, "ATVs", and Snowmobiles on City of Scranton streets and highways. This prohibition has done little to deter those vehicles being used on City highways.

It is commonly understood that the use of these vehicles on public highways creates a danger to both the vehicle's operator and others using the highway. In an effort to aide in the enforcement of the Commonwealth's regulations and further deter the use and operation of these vehicles on City highways, we seek to enact an Ordinance that would prohibit the sale and distribution of gasoline to these vehicles while they are operating in violation of 75 Pa.C.S.A. 7701, *et seq.*

Gas station owners would be allowed to distribute gasoline to individuals who have these vehicles on a trailer, however, would be prohibited from distributing gasoline to those presently operating the vehicles on the City's public highways: would be impossible to get the vehicle on its own to the gas station without using a public highway in violation of 75 Pa.C.S.A. 7701, *et seq.*

Individuals caught in violation of this Ordinance AND the gas station owner who allows for the distribution of gasoline into the vehicle would be subjected to a non-traffic citation and up to a three hundred (\$300.00) fine.

Enacting this Ordinance would better protect the public health, comfort, convenience, safety and welfare of the City and its residents.

Attachments:

\_\_\_ Ordinance

\_\_\_ Exhibit "A"



## EXHIBIT A

### 75 Pa.C.S.A. 7702

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

**“All-terrain vehicle” or “ATV.”** A motorized off-highway vehicle which travels on three or more off-highway tires and which has:

- (1) a maximum width of 50 inches and a maximum dry weight of 1,200 pounds; or
- (2) a width which exceeds 50 inches or a dry weight which exceeds 1,200 pounds.

ATV's described in paragraph (1) may be referred to as Class I ATV's, and ATV's described in paragraph (2) may be referred to as Class II ATV's. This term does not include snowmobiles, trail bikes, motorboats, golf carts, aircraft, dune buggies, automobiles, construction machines, trucks or home utility machines; military, fire, emergency and law enforcement vehicles; implements of husbandry; multipurpose agricultural vehicles; vehicles used by the department; or any vehicle that is or is required to be registered under Chapter 13 (relating to registration of vehicles). In addition, this term does not include off-road motor vehicles used exclusively as utility vehicles for agricultural or business operations and incidentally operated or moved upon the highway.

**“Snowmobile.”** An engine-driven vehicle which is all of the following:

- (1) Is designed to travel over snow or ice.
- (2) Has an endless belt track or tracks.
- (3) Is steered by a ski or skis.
- (4) Has an overall width of 48 inches or less.

The term does not include a farm tractor, construction equipment, military vehicle, vehicle with inflatable tires or machinery used strictly for the grooming of snowmobile trails. The term includes vintage snowmobiles.



## DEPARTMENT OF LAW

City Hall | 340 North Washington Avenue | Scranton, PA 18503 | 570.348.4105

July 8, 2020

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

Dear Honorable Council Members:

ATTACHED IS AN ORDINANCE REGULATING THE SALE AND DISTRIBUTION OF GASOLINE DIRECTLY INTO THOSE VEHICLES THAT FALL UNDER THE CLASS OF VEHICLES DEFINED BY 75 Pa.C.S.A. 7702 AS BEING AN "ALL-TERRAIN VEHICLE" OR "ATV" OR A "SNOWMOBILE" WHILE SAID VEHICLES ARE RUNNING AND PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.

Very truly yours,

Joseph A. O'Brien, Esquire  
Acting City Solicitor

JAB/sl

RECEIVED

JUL 08 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

FILE OF THE COUNCIL NO. \_\_\_\_\_  
2020

AN ORDINANCE

AMENDING FILE OF THE COUNCIL NO. 74, 1993, (AS AMENDED), ENTITLED "THE ZONING ORDINANCE FOR THE CITY OF SCRANTON" BY REPEALING SECTION 516 ENTITLED FLOOD-PRONE AREAS AND ENACTING SECTION 516 ENTITLED FLOODPLAIN MANAGEMENT REGULATIONS.

WHEREAS, The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry; and

WHEREAS, The Planning Commission of the City of Scranton has recommended such amendments; and

WHEREAS, FEMA has produced a updated Flood Insurance Study Report and Flood Insurance Rate Map for Lackawanna County set to become effective 08/05/2020; and

WHEREAS, In order to remain compliant with the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act, the City of Scranton must adopt Floodplain Management regulations recognizing the updated Flood Insurance Study Report and Flood Insurance Rate Map and current regulations.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON AND IT IS HEREBY ORDAINED BY AND WITH THE AUTHORITY OF THE SAME THAT File of the Council No. 74, 1993, as amended, is further amended as follows:

Section 516 FLOODPLAIN MANAGEMENT REQUIREMENTS is hereby repealed and the following is hereby enacted:

**Section 516 FLOODPLAIN MANAGEMENT REQUIREMENTS**

**516.A GENERAL PROVISIONS**

**516.A.1 Intent**

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

**516.A.2 Applicability**

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the City of Scranton unless a Permit has been obtained from the Floodplain Administrator.

516.A.3 Abrogation and Greater Restrictions

This ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

516.A.4 Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain areas or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the City of Scranton or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

516.B ADMINISTRATION

516.B.1 Designation of the Floodplain Administrator

The City Planner within the Department of Licensing, Inspections and Permits is hereby appointed to administer and enforce this section (516 **FLOODPLAIN MANAGEMENT REQUIREMENTS**) of City of Scranton Zoning Ordinance, File of Council #74, 1993, (as amended) and is referred to herein as the Floodplain Administrator.

516.B.2 Permits Required

A Permit shall be required before any construction or development is undertaken within any area of the City of Scranton.

516.B.3 Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

- A. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- B. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
- C. In the discharge of his/her duties, the Floodplain Administrator shall have the

authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.

- D. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Director of Licensing, Inspections and Permits for whatever action it considers necessary.
- E. The Floodplain Administrator shall maintain all records associated with the requirements of this ordinance including, but not limited to, permitting, inspection and enforcement in perpetuity, or for the lifetime of the structure.
- F. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or later revisions adopted by the City of Scranton.

#### 516.B.4 Application Procedures and Requirements

- A. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the City of Scranton. Such application shall contain the following:
  - 1. Name and address of applicant.
  - 2. Name and address of owner of land on which proposed construction is to occur.
  - 3. Name and address of contractor.
  - 4. Site location including address.
  - 5. Listing of other permits required.
  - 6. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
  - 7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
  - 1. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
  - 2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
  - 3. adequate drainage is provided so as to reduce exposure to flood hazards.
  - 4. structures will be anchored to prevent floatation, collapse, or lateral movement.
  - 5. building materials are flood-resistant.
  - 6. appropriate practices that minimize flood damage have been used.

7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.

C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:

1. A completed Permit Application Form.
2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:

north arrow, scale, and date;

- a. topographic contour lines, if available;
- b. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
- c. the location of all existing streets, drives, and other access ways; and
- d. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.

3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:

- a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
- b. the elevation of the base flood;
- c. supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC or later revisions adopted by the City of Scranton..

4. The following data and documentation:

- a. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood; and
- b. detailed information concerning any proposed floodproofing measures and corresponding elevations.
- c. documentation, certified by a registered professional engineer

or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (See section 516.C.2.B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point.

- d. documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a Floodway Area (See section 516.C.2.A) will not increase the base flood elevation at any point.
- e. a document, certified by a registered professional engineer or architect, which states that the proposed construction or

development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.

Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.

- f. detailed information needed to determine compliance with Section 516.D.3.F., Storage, and Section 516.E, Development Which May Endanger Human Life, including:
  - i. the amount, location and purpose of any materials or substances referred to in Sections 516.D.3.F. and 516.E which are intended to be used, produced, stored or otherwise maintained on site.
  - ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 516.E during a base flood.
- g. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
- h. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

5. Applications for Permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

#### 516.B.5 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, city engineer, etc.) for review and comment.

#### 516.B.6 Changes

After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

#### 516.B.7 Placards

In addition to the Permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit the date of its issuance and be signed by the Floodplain Administrator.

#### 516.B.8 Start of Construction

Work on the proposed construction or development shall begin within 180 days



after the date of issuance and shall be completed within twelve (12) months after the date of issuance of the Permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not refer to the zoning approval.

The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance and FIRM/FIS in effect at the time the extension is granted.

#### 516.B.9 Enforcement

##### A. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

be in writing;

1. include a statement of the reasons for its issuance;
2. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
3. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
4. contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance.

##### B. Penalties

See Section 103 of the City of Scranton Zoning Ordinance, File of Council #74, 1993, (as amended).

#### 516.B.10 Appeals

A. Any person aggrieved by any action or decision of the Floodplain

Administrator concerning the administration of the provisions of this Ordinance, may appeal to the *Zoning Hearing Board*. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.

B. Upon receipt of such appeal the *Zoning Hearing Board* shall set a time and place and conduct a hearing in accordance with section 112 of the City of Scranton Zoning Ordinance, File of Council #74, 1993, (as amended).

C. Any person aggrieved by any decision of the *Zoning Hearing Board* may seek relief there from by appeal to court, as provided by Section 113 of the City of Scranton Zoning Ordinance, File of Council #74, 1993 (as amended) and the Pennsylvania Flood Plain Management Act.

#### §16.C. IDENTIFICATION OF FLOODPLAIN AREAS

##### §16.C.1 Identification

The identified floodplain area shall be:

- A. Any areas of *City of Scranton*, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated 8/05/2020 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study and,

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by *City of Scranton* and declared to be a part of this ordinance.

##### §16.C.2 Description and Special Requirements of Identified Floodplain Areas

The identified floodplain area shall consist of the following specific areas:

- A. The Floodway Area/District shall be those areas identified as Floodway on the FIRM as well as those floodway areas which have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS. The floodway represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.

1. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. Within the floodway area, no new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection (DEP) Regional Office.

- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood

elevations have been provided

1. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
  2. AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined:
    - i. No permit shall be granted within any AE Zone without floodway, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development together with all other existing and anticipated development, would not result in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood discharge.
    - ii. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- C. The A Area/District shall be those areas identified as Zones A or A99 on the FIRM included in the FIS prepared by FEMA and for which no one-percent (1%) annual chance flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

In lieu of the above, the City of Scranton may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.

- D. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

#### 516.C.3 Changes in Identification of Area

The identified floodplain area may be revised or modified by the City of Scranton where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall

notify the FEMA of the changes by submitting technical or scientific data.

#### 516.C.4 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the City of Scranton Planning Commission and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant.

#### 516.C.5 Jurisdictional Boundary Changes

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.

### 516.D TECHNICAL PROVISIONS

#### 516.D.1 General

##### A. Alteration or Relocation of Watercourse

No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
2. In addition, the FEMA and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

##### B. When the City of Scranton proposes to permit the following encroachments:

- any development that causes a rise in the base flood elevations within the floodway; or

- any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or

- alteration or relocation of a stream (including but not limited to installing culverts and bridges) the or applicant shall (as per 44 CFR Part 65.12):

1. apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
2. Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.
3. Upon completion of the proposed encroachments, the applicant shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.

- C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.
- D. Within any Identified Floodplain Area (See Section 516.C.2), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the PA Department of Environmental Protection.

#### 516.D.2 Elevation and Floodproofing Requirements

##### A. Residential Structures

In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.

1. In A and A99 Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with Section 516.C.2.C of this ordinance.
2. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
3. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or later revisions adopted by the City of Scranton thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

##### B. Non-residential Structures

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:

- a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
- b. has structural components with the capability of resisting

hydrostatic and hydrodynamic loads and effects of buoyancy:

2. In A and A99 Zones, where there no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with Section 516.C.2.C of this ordinance.
3. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.

4. Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.
5. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or later revisions adopted by the City of Scranton thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

#### C. Space below the lowest floor

Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

1. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  - b. the bottom of all openings shall be no higher than one (1) foot above grade.
  - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

#### D. Historic Structures

See Section 516H.2.D for requirements for the substantial improvement of any historic structures.

#### E. Accessory structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.

1. floor area shall not exceed 200 square feet.
2. The structure will have a low damage potential.
3. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
4. power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
5. permanently affixed utility equipment and appliances such as

furnaces, heaters, washers, dryers, etc. are prohibited.

6. sanitary facilities are prohibited.
7. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  - b. the bottom of all openings shall be no higher than one (1) foot above grade.
  - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
8. For accessory structures that are 200 square feet or larger in area (footprint) and that are below the base flood elevation, a variance is required as set forth in Article VIII. If a variance is granted, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.

#### 516.D.3 Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

##### Fill

If fill is used, it shall:

- a. extend laterally at least fifteen (15) feet beyond the building line from all points;
  - b. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
  - c. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
  - d. be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Floodplain Administrator;
- and
- e. be used to the extent to which it does not adversely affect adjacent properties.

#### B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

#### C. Water and Sanitary Sewer Facilities and Systems

All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

1. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
2. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
3. The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code shall be utilized.

#### D. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

#### E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

#### F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 516.E, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or flood proofed to the maximum extent possible.

#### G. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

#### H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

#### I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
4. Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-



resistant" material.

J. Paints and Adhesives

1. Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

1. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

M. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

N. Uniform Construction Code Coordination

The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this ordinance, to the extent that they are more restrictive and supplement the requirements of this ordinance.

International Building Code (IBC) 2009 or later revisions adopted by the City of Scranton thereof: Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G. International Residential Building Code (IRC) 2009 or later revisions adopted by the City of Scranton thereof: Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

§16.E Development Which May Endanger Human Life

In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved

structure which:

- A. will be used for the production or storage of any of the following dangerous materials or substances; or,
- B. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
- C. will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other

applicable provisions. The following list of materials and substances are considered dangerous to human life:

Acetone

- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

2. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited.

3. Within any Identified Floodplain Area, any new or substantially improved structure of the kind described in Subsection 1, above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

4. Where permitted within any Identified Floodplain Area, any new or substantially improved structure of the kind described in Subsection 1., above, shall be:

- A. elevated, or in the case of a non-residential structure elevated or designed, and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation,
- B. designed to prevent pollution from the structure or activity during the course of a base flood.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

516.F Special Requirements for Subdivisions

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

516.G Special Requirements for Manufactured Homes

1. Where permitted within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:

- a. placed on a permanent foundation.
- b. elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation.
- c. anchored to resist flotation, collapse, or lateral movement.

2 Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.

3 Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or later revisions adopted by the City of Scranton thereto and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units(s) proposed installation.

#### 516.H Special Requirements for Recreational Vehicles

Recreational vehicles in Zones A, A1-30, A99, AH and AE must either:

- 1. be on the site for fewer than 180 consecutive days,
- 2. be fully licensed and ready for highway use, or
- 3. meet the permit requirements for manufactured homes in Section 516.G

#### 516.I ACTIVITIES REQUIRING SPECIAL PERMITS

##### 516.I.1 General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area unless a Special Permit has been issued by the City of Scranton:

- A. The commencement of any of the following activities; or the construction enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
  - 1. Hospitals
  - 2. nursing homes
  - 3. jails or prisons
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

##### 516.I.2 Application Requirements for Special Permits

Applicants for Special Permits shall provide five copies of the following items:

- A. A written request including a completed Permit Application Form.
- B. A small scale map showing the vicinity in which the proposed site is located.

C. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:

1. north arrow, scale and date;
2. topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two (2) feet;
3. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
4. the location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
5. the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
6. the location of the floodplain boundary line, information and spot elevations concerning the base flood elevation, and information concerning the flow of water including direction and velocities;
7. the location of all proposed buildings, structures, utilities, and any other improvements; and
8. any other information which the municipality considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

1. sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
2. for any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
3. complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood;
4. detailed information concerning any proposed floodproofing measures;
5. cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
6. profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
7. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

1. certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
2. certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood;

3. a statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood, including a statement concerning the effects such pollution may have on human life;
4. a statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on base flood elevation and flows;
5. a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation and flows;
6. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"
7. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;
8. any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and
9. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

#### 516.1.3 Application Review Procedures

- A. Upon receipt of an application for a Special Permit by the City of Scranton the following procedures shall apply in addition to those of Article III:
  - B. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the City of Scranton Planning commission and City of Scranton engineer for review and comment.
  - C. If an application is received that is incomplete, the City of Scranton shall notify the applicant in writing, stating in what respect the application is deficient.
  - D. If the City of Scranton decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
  - E. If the City of Scranton approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.
  - F. Before issuing the Special Permit, the City of Scranton shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the City of Scranton.
  - G. If the City of Scranton does not receive any communication from the Department of Community and Economic Development during the thirty (30) day review period, it may issue a Special Permit to the applicant.

H. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the City of Scranton and the applicant, in writing, of the reasons for the disapproval, and the City of Scranton shall not issue the Special Permit.

516.I.4 Special Technical Requirements

- A. In addition to the requirements of 516.D of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in 516.D of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
    - a) any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.
    - b) the lowest floor (including basement) will be elevated to at least one and one half (1 ½) feet the structure will survive inundation by waters of the base flood without above base flood elevation.
    - c) the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.
  2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the City of Scranton and the Department of Community and Economic Development.

516.H EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

516.H.1 Existing Structures

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 516.H.2 shall apply.

516.H.2 Improvements

- A. The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:
- B. No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
- C. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- D. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of

its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.

- E. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC or later revisions adopted by the City of Scranton.
- F. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

## 516.1 VARIANCES

### 516.1.1 General

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the City of Scranton may, upon request, grant relief from the strict application of the requirements.

### 516.1.2 Variance Procedures and Conditions

Requests for variances shall be considered by the City of Scranton in accordance with the procedures contained in Section 111.E.3 of the City of Scranton Zoning Ordinance, File of Council #74, 1993, (as amended) and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
- B. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE than one (1) foot at any point.
- C. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit or to Development Which May Endanger Human Life (Section 516.E).
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the City of Scranton shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.
- F. Whenever a variance is granted, the City of Scranton shall notify the applicant in writing that:
  - 1. The granting of the variance may result in increased premium rates for flood insurance.
  - 2. Such variances may increase the risks to life and property.
- G. In reviewing any request for a variance, the City of Scranton shall consider,

at a minimum, the following:

1. That there is good and sufficient cause.
2. That failure to grant the variance would result in exceptional hardship to the applicant.
3. That the granting of the variance will
  - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
  - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

H. A complete record of all variance requests and related actions shall be maintained by the City of Scranton. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

#### 516.J DEFINITIONS

##### 516.J.1 General

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its' most reasonable application.

##### 516.J.2 Specific Definitions

- A. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- B. Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).
- C. Base flood discharge - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
- D. Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
- E. Basement - any area of the building having its floor below ground level on all sides.
- F. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
- G. Development - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
- H. Existing manufactured home park or subdivision - a manufactured home park or subdivision for which the



construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

- I. Existing structure - means a structure for which the "start of construction" commenced 08/15/1980 or before January 1, 1975 for FIRMs effective before that date. "Existing structure" may also be referred to as "existing construction."
- J. Expansion to an existing manufactured home park or subdivision - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- K. Flood - a temporary inundation of normally dry land areas.
- L. Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- M. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
- N. Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
- O. Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- P. Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- Q. Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- R. Historic structures - any structure that is:
  - 1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - 3. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
  - 4. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
    - i. By an approved state program as determined by the Secretary of the Interior

- or
- ii. Directly by the Secretary of the Interior in states without approved programs.
- S. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.
- T. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
- U. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- V. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
- W. New construction - structures for which the start of construction commenced on or after the effective start date of this floodplain management regulation amendment adopted by the City of Scranton and includes any subsequent improvements to such structures. Any construction started after 08/15/1980 is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.
- X. New manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- Y. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
- Z. Post-FIRM Structure - is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated 08/15/1980, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.
- AA. Pre-FIRM Structure - is a structure for which construction or

substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated 08/15/1980, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

- BB. Recreational vehicle - a vehicle which is:
1. built on a single chassis;
  2. not more than 400 square feet, measured at the largest horizontal projections;
  3. designed to be self-propelled or permanently towable by a light-duty truck,
  4. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- CC. Regulatory flood elevation - the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet.
- DD. Repetitive loss (or Cumulative Substantial Damage) – flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
- EE. Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
- FF. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
- GG. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction

means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- HH. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- II. Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
- JJ. Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
- KK. Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- LL. Uniform Construction Code (UCC) – The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
- MM. Violation - means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

SECTION 1. In all other respects, File of Council No. 74, 1993, as amended, shall remain in full force and effect.

SECTION 2. If any section, clause, provision or portion of this ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision

shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this ordinance or any portion thereof from time to time as it shall deem advisable in the best interests of the promotion of the purposes & intent of this ordinance, & the effective administration thereof.

SECTION 3. This Ordinance will take effect immediately upon passage.

SECTION 4. This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Optional Plans Law", Act 247 of 1968, as reenacted and amended, known as the "Pennsylvania Municipalities Planning Code", Act 166 of 1978, known as the "Pennsylvania Flood Plain Management Act" and any other applicable law arising under the laws of the State of Pennsylvania.



**BUREAU OF CITY PLANNING**

CITY HALL : 340 NORTH WASHINGTON AVENUE : SCRANTON, PENNSYLVANIA 18503 : PHONE 570-348-4280 : FAX 570-

July 1, 2020

Jessica Eskra, Esq.  
City Solicitor  
City Hall  
Scranton, PA 18503

Re: Proposed amendment to the Zoning Ordinance, Floodplain Management Regulations

Dear Atty. Eskra:

Enclosed please find a proposed amendment to our Zoning Ordinance, specifically the Floodplain Management Section.

FEMA has prepared a new Flood Insurance Study and Flood Insurance Rate Maps for Lackawanna County. The new study and maps are set to become effect on August 8, 2020. In order to remain in compliance with the National Flood Insurance Program regulations the City of Scranton must amend its Floodplain Management regulations to reference the revised study and maps as well as some minor changes in regulations themselves.

As our Floodplain Management regulations are contained in our Zoning Ordinance we must follow the regulations regarding Zoning Ordinance amendments contained in the Pennsylvania Municipalities Planning Code at Section 609. As such by copy of this letter I am referring the proposed amendment to both the City Planning Commission and Lackawanna County Regional Planning Commission for their review.

Would you please review this information and forward to City Council the proper legislation for their consideration.

If you have any further questions regarding this matter please call me at 570-348-4280.

Sincerely,

Donald J. King, AICP, CFM  
City Planner

cc: Lori Reed, City Clerk  
Steve Pitoniak, Transportation Planning Manager  
James Thomas, Chairman, City Planning Commission



**DEPARTMENT OF LAW**

City Hall | 340 North Washington Avenue | Scranton, PA 18503 | 570.348.4105

July 8, 2020

RECEIVED

JUL 08 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

Dear Honorable Council Members:

ATTACHED IS AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 74, 1993, (AS AMENDED), ENTITLED "THE ZONING ORDINANCE FOR THE CITY OF SCRANTON" BY REPEALING SECTION 516 ENTITLED FLOOD-PRONE AREAS AND ENACTING SECTION 516 ENTITLED FLOODPLAIN MANAGEMENT REGULATIONS.

Very truly yours,

Joseph A. O'Brien, Esquire  
Acting City Solicitor

JAB/sl

FILE OF THE COUNCIL NO. \_\_\_\_\_

2020

AN ORDINANCE

AMENDING FILE OF THE COUNCIL NO. 11, 2018 ENTITLED "ESTABLISHING A "NO PARKING ZONE" ALONG THE WEST SIDE OF WYOMING AVENUE (SR 3025) FROM A POINT 175 FEET SOUTH OF THE INTERSECTION WITH EAST GIBSON STREET TO A POINT 325 FEET SOUTH OF THE INTERSECTION WITH EAST GIBSON STREET TO ALLOW FOR DRIVEWAY SIGHT DISTANCE PURPOSES AS SHOWN ON THE ATTACHED HIGHWAY OCCUPANCY PERMIT FOR THE PENNSYLVANIA NORTHEAST REGIONAL RAILROAD AUTHORITY (PNRRA)" TO EXTEND THE NO PARKING ZONE ALONG THE WEST SIDE OF WYOMING AVENUE (SR 3025) TO A POINT 160 FEET SOUTH OF THE CENTER LINE OF EAST GIBSON STREET TO A POINT 415 FEET SOUTH OF THE CENTER LINE OF EAST GIBSON STREET TO ALLOW FOR DRIVEWAY SIGHT DISTANCE PURPOSES AS SHOWN ON THE ATTACHED HIGHWAY OCCUPANCY PERMIT FOR THE PENNSYLVANIA NORTHEAST REGIONAL RAILROAD AUTHORITY (PNRRA).

WHEREAS, parking along the west side of Wyoming Avenue (SR 3025) from a point 160 feet south of the center line of East Gibson Street to a point 415 feet south of the center line of East Gibson Street shall be restricted and/or prohibited; and

WHEREAS, Pennsylvania Department of Transportation's ("PennDOT's") minimum safe site distance for driveways requirements mandate certain parking restrictions be implemented.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON that File of the Council No. 11, 2018 is hereby amended to extend the no parking zone along the West Side of Wyoming Avenue (SR 3025) to a point 160 feet south of the center line of East Gibson Street to a point 415 feet south of the center line of East Gibson Street to allow for driveway sight distance purposes for the Pennsylvania Northeast Regional Railroad Authority (PRRNA).

**SECTION 1.** If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

**SECTION 2.** This Ordinance shall become effective immediately upon approval.



**SECTION 3.** This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Option Plans Law" and any other applicable law arising under the laws of the State of Pennsylvania.



**pennsylvania**  
DEPARTMENT OF TRANSPORTATION

**Date:** 06/11/2018  
**Subject:** Highway Occupancy Permit Application No. 154353, Cycle No.2 - Returned For Revisions  
**To:** Pennsylvania Northeast Regional Railroad Authority  
280 Cliff Street  
Scranton, PA 18503  
**From:** PennDOT Engineering District 4-0  
55 Keystone Industrial Park  
Dunmore, PA 18512

Dear Applicant,

PennDOT has reviewed your application for completeness, consistency and compliance with applicable Department Regulations. This review has identified issues that must be addressed in order for our review to continue.

The Department's review comments are attached.

Once the comments have been addressed, please resubmit the application and associated material for further review.

Upon resubmission, the applicant's engineer should put together a letter that describes how each comment has been addressed and where each can be found. This will help expedite the review. For guidance on HOP applications refer to 67 PA Code, Chapter 441, Chapter 459 and PennDOT Publication 282, "Highway Occupancy Permit Guidelines". Additional comments may follow upon review of the resubmitted application.

If you have any questions regarding this matter, you may contact Bob Kretschmer, District Permit Manager, at (570) 963-4067.

**Response Comments**

**Date:** 06/11/2018

**Application Number:** 154353, Cycle No.2

**General**

- (1) \* Upon resubmission, the applicant's engineer should put together a letter that describes how each comment has been addressed and where each can be found in the plan set.

\* Additional comments may follow upon review of the resubmitted application. If you have any questions pertaining to the technical aspects of this review, please contact the Department's representative, Kevin Miluszusky at (570) 963-3311.

\* For guidance on Highway Occupancy Permit applications refer to PA Code Title 67, Chapter 441, Chapter 459 and PennDOT Publication 282. This will help expedite the review.

- (2) Explain why the estimate is for "Evergreen Scranton" and the HOP application is for "Pennsylvania Northeast Regional Railroad Authority", the estimate needs to be provided for the later.
- (3) You provided a deed which seems to be mostly for the rails and some support buildings. You must provide some type of legal document that indicates that Pennsylvania Northeast Regional Railroad Authority physically owns the property where the existing access is being removed and the new access is proposed.
- (4) The provided engineer's line item unit cost estimate was reviewed for the amounts. The quantity and cost of the estimate are acceptable, pending there are no other changes require from addressing these comments, the applicant will need to provided the approved amount, currently \$37,004.00 in the form of a Letter-of-Credit Security (in a form acceptable to the Department) prior to the HOP being issued.
- (5) Due to the extent of these comments and the lack of information supplied, the Department reserves the right to make additional comments on future submissions.

**Application**

- (1) Repeat Comment, not addressed. It is required by the Central Permit Office in Harrisburg that all applicants of Low, Medium, or High Volume driveways or utility lines must obtain their own Business Partner Identification (BPID) Number which must be provided on the Application Information screen of the application. This will aid in the billing and invoicing of all costs associated with the Highway Occupancy Permit.

## **Plan Presentation**

- (1) You need to call out the curbing radius along the exit lane of the driveway.
- (2) The turning template of the design vehicle exiting and turning right utilizes the Center lane TWLTL, the vehicle exiting cannot utilize the TWLTL for exiting to the right, there may be a vehicle occupying that area, so this cannot occur, adjust the exiting radius to accommodate the Design vehicle.
- (3) For the curb radius along the entrance lane you call out a 75' radius, if this is only a 75' radius (not a compound radius)it needs to extend full quadrant to tie into the existing curbing.

## **Sight Distance- Driveways/Local Roads**

- (1) The sight distance at the proposed access location is restricted by parking adjacent to the driveway. Access driveways must be located at a point within the property frontage limits which provides at least the minimum sight distances listed in the regulations. Please address with your resubmission. Pa Code, Title 67, Chapter 441.8.h. In accordance with the attached parking ordinance enacted April 16, 2018, I measured exactly 175 feet from the centerline(not specified in ordinance) of East Gibson Street and put the front bumper of my car at that point. The maximum length of roadway along which a driver at the driveway location can continuously see another vehicle approaching from the north is 121' and 147' is the minimum required. The ordinance needs to read 'from a point 160' south of the centerline of East Gibson Street' to achieve the minimum 147' of required sight distance.

**PENNSYLVANIA NORTHEAST REGIONAL RAILROAD AUTHORITY AND  
CITY OF SCRANTON AGREEMENT**

**FOR**

**WYOMING AVENUE DRIVEWAY IN CITY OF SCRANTON**

THIS AGREEMENT entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019 by and between the **Pennsylvania Northeast Regional Railroad Authority**, 280 Cliff Street, Scranton, Pennsylvania 18503 (hereinafter called the "Authority"), and the **CITY OF SCRANTON**, a municipality, with offices at 340 North Washington Avenue, Scranton, Pennsylvania 18503 (hereinafter called the "City").

WITNESSETH:

WHEREAS, the Authority is applying to the Pennsylvania Department of Transportation (PennDOT) for a Highway Occupancy Permit (HOP) to relocate the access driveway off of Wyoming Avenue (SR 3025) on property under its ownership. The property is located on the east side of Wyoming Avenue south of its intersection with East Gibson Street.

WHEREAS, parallel parking is currently allowed on the east side of Wyoming Avenue in the area of the driveway, and parked cars could inhibit the sight distance for vehicles egressing from the new driveway.

WHEREAS, PennDOT, as a condition of issuing the HOP, will require parking be prohibited along the east side of Wyoming Avenue for a distance as required to allow adequate sight distance for vehicles egressing from the new driveway, and the Authority has requested the City to pass an Ordinance prohibiting the parking as required by PennDOT and will provide signs to adequately delineate the limits of the No Parking zone.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows, to wit:

**1. Construction of Driveway Improvements.**

The Authority agrees to furnish and install all materials and to construct in a workmanlike manner, at its own cost and expense, in accordance with the plans and specifications as approved by PennDOT through issuance of the HOP, the driveway improvements including installation of the No Parking signs.

**2. Maintenance of No Parking Signs**

The Authority will be responsible for maintenance and repair and/or replacement of the No Parking signs constructed by the Authority.

**3. No Assignment**

The Authority shall not assign, transfer, sublease, pledge, hypothecate, surrender, or otherwise dispose of this Agreement, or of any rights created by this Agreement, or permit any other person or persons, company or corporation to assume its obligations hereunder without prior written consent of City Council of the City of Scranton.

**4. Invalidity Clause**

Should any article or sub-article of this Agreement be declared by a court of competent jurisdiction to be invalid, such judgment shall not affect the validity of the Agreement as a whole or any part or provision thereof other than the part so declared to be invalid.

**5. Notices**

Notices required hereunder, or any correspondence concerning this Agreement shall be directed to the following addresses and shall be deemed properly given (a) if delivered by hand; (b) if sent by certified mail, return receipt requested, postage prepaid, or by recognized overnight courier service (including, without limitation, Federal Express or United Parcel Service overnight service), charges prepaid; or if sent by facsimile, with a copy sent by first class U.S. Mail, postage prepaid:

If to Authority:  
Pennsylvania Northeast Regional Railroad Authority  
280 Cliff Street  
Scranton, PA 18503  
Attention: Charlene Wagner Doyle, Director of Administration  
Email: [cdoyle@pmra.org](mailto:cdoyle@pmra.org)  
Fax: 570-963-6718

If to City:  
Lori Reed, City Clerk  
340 North Washington Avenue  
Scranton, PA 18503  
Email: [lreed@scrantonpa.gov](mailto:lreed@scrantonpa.gov)  
Fax: 570-348-4207

Notices and communications hereunder shall be deemed sufficiently given when dispatched pursuant to the foregoing provisions. Notices and communications delivered by hand shall be effective upon receipt; notices and communications sent by fax, with a copy by first class U.S. Mail, shall be effective upon dispatch; notices and communications sent by recognized overnight courier service shall be effective on the business day following dispatch; and notices sent by certified mail shall be effective on the third business day following dispatch. The parties hereto may, by a notice given

hereunder, designate any further or different addresses to which any subsequent notice or communication hereunder shall be sent.

6. **Binding Agreement**

This agreement shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written, intending thereby to be legally bound.

**Pennsylvania Northeast Regional Railroad  
Authority**

By: Larry C. Malachuk

**City of Scranton**

By: \_\_\_\_\_

CITY OF SCRANTON

ATTEST:

BY: \_\_\_\_\_  
Lori Reed, City Clerk

BY: \_\_\_\_\_  
Paige G. Cagnetti, Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

BY: \_\_\_\_\_  
John Murray, City Controller

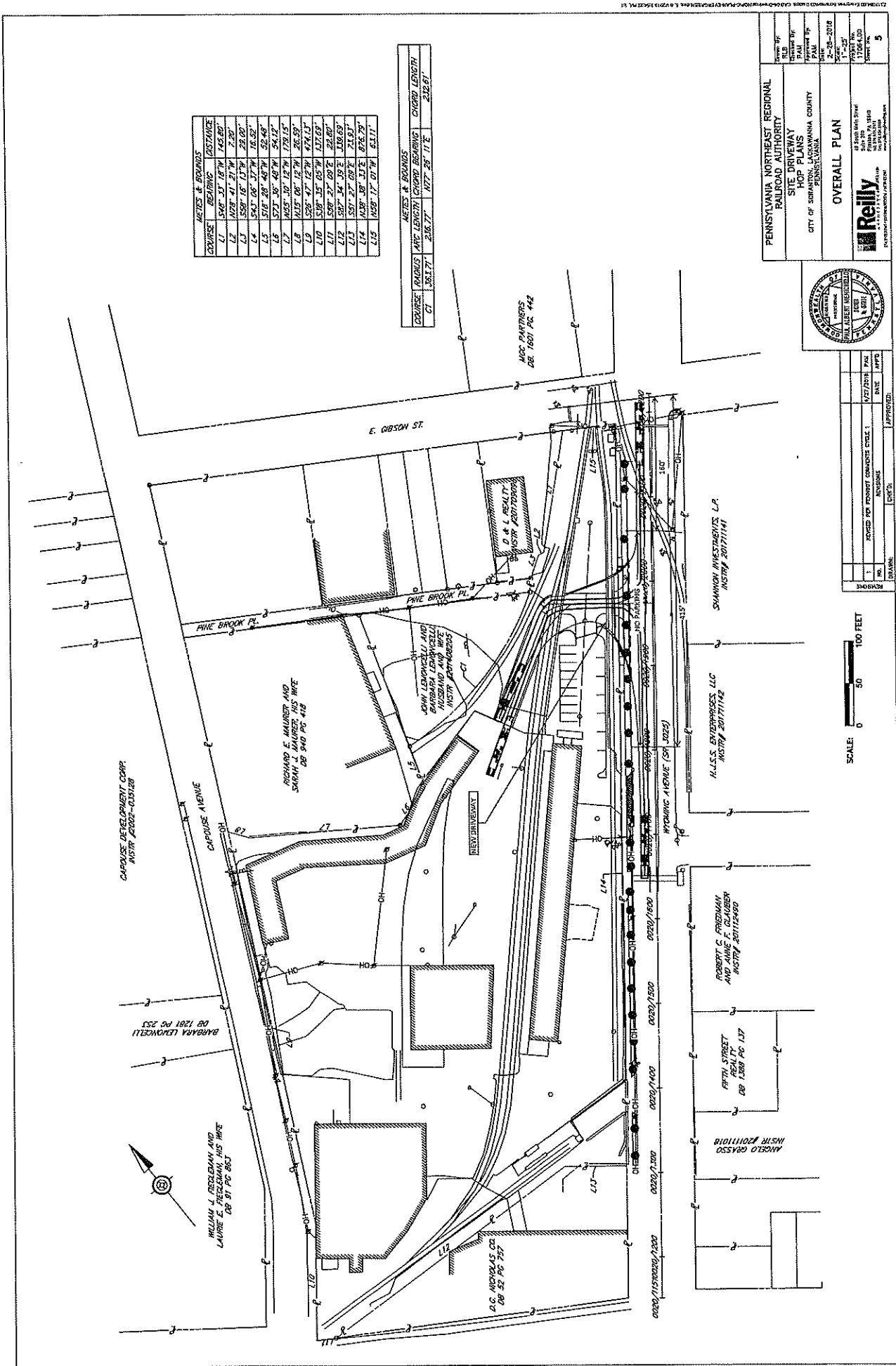
Date: \_\_\_\_\_

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Joseph A. O'Brien, Esq., Acting City Solicitor

Date: \_\_\_\_\_





METES & BOUNDS		
COURSE	BEARING	DISTANCE
L1	S40° 33' 18" W	145.80'
L2	N28° 41' 21" W	7.20'
L3	S58° 16' 13" W	23.00'
L4	S43° 06' 37" W	16.52'
L5	S18° 28' 45" W	22.48'
L6	S73° 36' 49" W	34.12'
L7	N65° 30' 12" W	178.15'
L8	N15° 06' 12" W	26.55'
L9	S28° 47' 12" W	874.15'
L10	S38° 35' 05" W	137.69'
L11	S88° 27' 02" E	22.89'
L12	S87° 34' 38" E	106.69'
L13	S57° 57' 02" E	21.93'
L14	N38° 08' 31" E	876.79'
L15	N59° 17' 07" W	63.17'

METES & BOUNDS		
COURSE	RADIUS	ARC LENGTH
CT	381.77'	238.77'
		N07° 28' 11" E
		232.81'

PENNSYLVANIA NORTHEAST REGIONAL RAILROAD AUTHORITY  
 SITE DRIVEWAY  
 HOP PLANS  
 CITY OF PENNSYLVANIA COUNTY  
 PENNSYLVANIA

**OVERALL PLAN**

**Reilly**  
 ENGINEERS AND ARCHITECTS  
 1000 Locust Street  
 Philadelphia, PA 19106-3300  
 PHILADELPHIA, PA  
 TEL: 215-593-1200  
 FAX: 215-593-1201  
 WWW: REILLYENR.COM

DATE: 05-20-2018  
 SCALE: 1" = 50'-0"

DATE: 05-20-2018  
 SHEET NO. 5

NO.	REVISION	DATE	BY	APPR.
1	ISSUED FOR PERMIT	4/27/2018	PAW	APP
2	REVISED FOR PERMIT	05/10/2018	PAW	APP
3	REVISED FOR PERMIT	05/10/2018	PAW	APP

DATE: 05-20-2018  
 SHEET NO. 5

SCALE: 0 50 100 FEET



## DEPARTMENT OF LAW

City Hall | 340 North Washington Avenue | Scranton, PA 18503 | 570.348.4105

July 8, 2020

RECEIVED

JUL 09 2020

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

OFFICE OF CITY  
COUNCIL/CITY CLERK

Dear Honorable Council Members:

ATTACHED IS AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 11, 2018 ENTITLED "ESTABLISHING A "NO PARKING ZONE" ALONG THE WEST SIDE OF WYOMING AVENUE (SR 3025) FROM A POINT 175 FEET SOUTH OF THE INTERSECTION WITH EAST GIBSON STREET TO A POINT 325 FEET SOUTH OF THE INTERSECTION WITH EAST GIBSON STREET TO ALLOW FOR DRIVEWAY SIGHT DISTANCE PURPOSES AS SHOWN ON THE ATTACHED HIGHWAY OCCUPANCY PERMIT FOR THE PENNSYLVANIA NORTHEAST REGIONAL RAILROAD AUTHORITY (PNRRA)" TO EXTEND THE NO PARKING ZONE ALONG THE WEST SIDE OF WYOMING AVENUE (SR 3025) TO A POINT 160 FEET SOUTH OF THE CENTER LINE OF EAST GIBSON STREET TO A POINT 415 FEET SOUTH OF THE CENTER LINE OF EAST GIBSON STREET TO ALLOW FOR DRIVEWAY SIGHT DISTANCE PURPOSES AS SHOWN ON THE ATTACHED HIGHWAY OCCUPANCY PERMIT FOR THE PENNSYLVANIA NORTHEAST REGIONAL RAILROAD AUTHORITY (PNRRA).

Very truly yours,

Joseph A. O'Brien, Esquire  
Acting City Solicitor

JAB/sl

+  
FILE OF THE COUNCIL NO. \_\_\_\_\_

2020

AN ORDINANCE

**AUTHORIZING THE MAYOR AND OTHER APPROPRIATE CITY OFFICIALS TO APPLY FOR AND EXECUTE A GRANT APPLICATION BY THE CITY OF SCRANTON OFFICE OF ECONOMIC AND COMMUNITY DEVELOPMENT TO THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT ARC PROGRAM IN THE AMOUNT OF \$50,000.00 TO BE USED TO DEVELOP AN ECONOMIC DEVELOPMENT STRATEGIC PLAN FOR THE CITY.**

WHEREAS, the City of Scranton is desirous of obtaining funds from the Pennsylvania Department of Community and Economic Development ARC Program in the amount of \$50,000.00. The Grant funding will cover 50% of the cost, the City has committed \$25,000.00 to the project and the Greater Scranton Chamber of Commerce will commit a \$25,000.00 funding match; total project cost \$100,000.00. A copy of the ARC Project Summary is attached hereto as Exhibit "A" and incorporated herein as if set forth at length; and

WHEREAS, Scranton will develop a Strategic Plan that will focus on local impact but with sustained economic development will benefit the county and the entire geographic region. The City of Scranton's proposed plan will be consistent with the Northeastern Pennsylvania Alliance Comprehensive Economic Development Strategy (CEDS) and the Commonwealth of Pennsylvania ARC Development Plan by focusing on the same goals of building capacity and leadership as well as stimulating economic growth; and

WHEREAS, the City of Scranton seeks to develop a Strategic Plan that focuses community and economic development strategies that will engage community leaders, leverage the involvement of the private sector, and establish a strategic blueprint for inter-collaboration to create the environment for economic prosperity in around the City of Scranton.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON** that the Mayor and other appropriate city officials are hereby authorized to apply for and execute a Grant Application, and if successful, a Grant Agreement, and any and all related documentation which may be necessary to complete the grant application including but not limited to the Grant Application.

**SECTION 1.** If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

**SECTION 2.** This Ordinance shall become effective immediately upon approval.

**SECTION 3.** This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Optional Plans Law" and any other applicable law arising under the laws of the State of Pennsylvania.

Legislative Cover Sheet – Scranton City Council

What Department is this legislation originating from? Where did the initiative for this legislation originate?

Office of Economic and Community Development

Summary and Facts of the legislation

OECD is requesting legislation to apply for and execute a grant application through DCEC ARC Program.

Purpose – please include the following in the explanation:

What does the legislation do – what are the specific goals/tasks the legislation seek to accomplish

What are the benefits of doing this/Down-side of doing this

How does this legislation relate to the City's Vision/Mission/Priorities

This legislation will be included as part of the City's grant application to the DCED ARC Program. The funding will be used to develop a Economic Development Strategic Plan for the City.

Financial Impact – please include the following in the explanation:

Cost (initial and ongoing)

Benefits (initial and ongoing)

The estimated cost for the Strategic Plan is \$100,000. There will be no ongoing cost as the plan will be completed by the end of the grant term. The benefits for this plan will be tremendous. The City will be more competitive for federal grant funding, additionally it will strengthen our relationship with public and private stakeholders throughout the region as well as encourage economic development and job growth in the area.

Funding Sources – please include the following in the explanation:

If transferring funds, please ensure specific accounts are noted; if appropriating funds from a grant, list the agency awarding the grant.

The estimated cost for the CEDS is \$100,000. The City is requesting \$50,000 in grant funding from the DCED ARC Program. The City will contribute \$25,000 through OECD Administrative federal funding and the City is pursuing financial contributions for the remaining \$25,000 from the Greater Scranton Chamber of Commerce and a Scranton Area Foundation grant.

Priority Status/Deadlines, if any

This grant application is a high priority and is due July 31, 2020

Why should the Council unanimously support this legislation?

Legislative Cover Sheet – Scranton City Council

The Strategic Plan is something that the City is severely lacking. This plan will provide structure and a clear path forward on encouraging economic, community, and workforce development in our area.

Include any other pertinent details and/or relevant information that the Council should be aware of:

If you should have any questions please feel free to reach out to Maggie Perry, Grant Manager at [mamclane@scrantonpa.gov](mailto:mamclane@scrantonpa.gov) or 570-313-7764

**Pennsylvania Department of Community & Economic Development  
ARC Project Summary**

**Project Title:** *City of Scranton Community & Economic Development Strategic Plan*

**Project Applicant:** City of Scranton

*Point of Contact (Name, Title):* Maggie Perry, Grant Manager  
*Agency Address:* 340 N. Washington Avenue Scranton, Pa 18503  
*Telephone Number:* 570-558-8335  
*Email Address:* [mamclane@scrantonpa.gov](mailto:mamclane@scrantonpa.gov)

**County(ies) to be served:** Lackawanna County, transitional economic status, the service area is the City of Scranton: Census Tracts: *Lackawanna County: 1002, 1003, 1004, 1005, 1006, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1025, 1026, 1027, 1028, 1029, 1030, 1031;*(Yellow =Distressed)

**Basic Federal Agency:** N/A

**Goals/Strategies:** *Primary ARC goal, objective and state strategy the project will address*  
*ARC Goals to be addressed:*

ARC Goal 5: Leadership and Community Capacity- Build the capacity and skills of current and next-generation leaders and organizations to innovate, collaborate, and advance community and economic development. Action Objective 4: Support visioning, strategic planning and implementation, and resident-engagement approaches to foster increased community resilience and generate positive economic impacts.

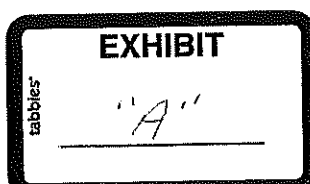
Commonwealth of Pennsylvania ARC Development Plan- PA Strategy Objective to be addressed: Goal 5; Objective 5; PA Strategy (5.2.1) Support local and regionally-based leadership development programs to encourage cooperation and collaboration as well as strategic planning and information sharing.

**Purpose:**

The City of Scranton seeks to develop a Strategic Plan to that focuses community and economic development strategies that will engage community leaders, leverage the involvement of the private sector, and establish a strategic blueprint for inter-collaboration to create the environment for economic prosperity in and around the City of Scranton.

**Funding:** The City of Scranton is requesting \$50,000 from ARC for the proposed project. The City has committed \$25,000 to the project and the Greater Scranton Chamber of Commerce will commit a \$25,000 funding match.

Source	Non-Construction Activity	Equipment	Construction	Total	Percent	Status of Funds
ARC:	50,000			50,000	50%	Requested
Other Federal Funds:						
State:						



Local:	25,000			25,000	25%	Secured
Other:	25,000			25,000	25%	Commitment from Greater Scranton Area Chamber of Commerce and the Scranton Area Foundation
<b>TOTAL</b>					<b>100%</b>	

**Project Description:**

The City of Scranton's Strategic Plan will be develop goal, objectives and strategies that capitalize on local assets to assist and ensures the most efficient and effective use of OECD resources. The plan will also target industries for local investment to encourage economic growth and revitalization. The City will work with the private and public partners to guide the development of the CEDS. These stakeholders will work with the City of Scranton to develop an action plan that identifies potential economic and community development goals, objectives and initiatives that will benefit the City and the region.

- The major activity is the creation of a Comprehensive Economic Development Strategy
  - Develop partnership with public and private stakeholders to form a Committee to guide the development of a plan
  - Develop a Scope of Work and an RFP (or RFQ) to assist in identifying and choosing a consultant to lead the process, facilitate discussions and develop the plan.

Timeline:

October 2020-Janaury 2021

- Finalize Scope of Work & RFP/RFQ
- Release Public Notice
- Form Full Streeting Committee and Consultant Selection Committee
- Choose Consultant

February 2021-May 2021

- Kickoff meeting
- Data gathering and survey
- Focus group formation and kickoff
- SWOT Analysis

June 2021-September 2021

- Goals & objectives development
- Evaluation criteria development
- Finalize plan

**Period of Performance:** list the start and end date of the project

October 1, 2020- September 30, 2021



**Strategic Rationale:**

Scranton, once a booming industrial city and railway hub with over 140,000 residents, was the capital of the anthracite coal and silk textile industries. However, after oil replaced coal and textile industries moved overseas, Scranton went into an economic spiral and has been designated a financially distressed local government by the Pennsylvania Department of Community and Economic Development Act 47 since 1992. A major issue that has prevented Scranton from shedding its finally distressed status and moving toward economic security is the lack of a Strategic Plan specific to Scranton that would identify and target industries for local and regional investment in order to encourage economic growth and prosperity.

Scranton is the largest city in Northeastern Pennsylvania, with a population of 76,000. In many ways a leader of Northeastern Pennsylvania with some of the best institutes of higher education, hospitals and small businesses in the commonwealth, Scranton's poverty and unemployment rates are significantly higher than the state and national averages.

Data	Scranton	Pennsylvania	National
Unemployment Rate January 2020	6.3	4.7	3.6
Unemployment Rate April 2020	17.8	15.1	14.7
Poverty Rate	23.7%	12.5%	12.3%
Median Household Income	\$39,066	\$60,905	\$61,937
Education- bachelor's degree or higher	21.5%	30.8%	31.5%

Scranton will develop a Strategic Plan that will focus on local impact but with sustained economic development will benefit the county and the entire geographic region. The City of Scranton's proposed plan will be consistent with the Northeastern Pennsylvania Alliance Comprehensive Economic Development Strategy (CEDS) and the Commonwealth of Pennsylvania ARC Development Plan by focusing on the same goals of building capacity and leadership as well as stimulating economic growth. The project is also The Greater Scranton Chamber of Commerce's "The Scranton Plan" and City's Act 47 Recovery Plan. The goal of the Strategic Plan is to support community development and economic prosperity; the long-range outcome of this initiative is decreased unemployment and poverty rates in the area.

**Collaborative Partnerships:** *Identify local, regional, state and/or federal partnerships that will support the project.*

The City of Scranton will be working closely with private and public stakeholders, including:

- The Greater Scranton Chamber of Commerce (Match Funding and Program Partner)
- The Scranton Area Community Foundation (Match Funding)
- Scranton Tomorrow (Committee Partner)
- University of Scranton Small Business Development Center (Committee Partner)
- Lackawanna College (Committee Partner)
- Johnson College (Committee Partner)
- University of Scranton (Committee Partner)
- Northeastern Pennsylvania Alliance (Business Finance Support)

- NeighborWorks (Committee Partner)
- United Neighborhood Centers (Committee Partner)
- Scranton School District (Committee Partner)
- Governor Action Team (GAT)
- Lackawanna County OECD (Committee Partner)
- PA DCED (Program Partner)
- Senator John Blake (Supporter)
- Representative Marty Flynn (Supporter)
- Representative Kyle Mullen (Supporter)

**Project Sustainability & Capacity:**

*What is your agency's previous experience in managing federal funds for a similar activity?*

*Explain how the project will be sustained once ARC funding is no longer available.*

The City of Scranton Office of Economic and Community Development manages and distributes over \$3.6 million in federal funds annually. This funding is distributed through three programs: Community Development Block Grant, Emergency Shelter Grant and the HOME grant. Additionally, this office develops a comprehensive plan annually for the disbursement of the federal funds.

Regarding sustainability, the proposed project will be complete once ARC funding is expanded. The City of Scranton will work closely with partners to utilize the completed Comprehensive Economic Development Strategy to pursue grant funding, stimulate economic development and encourage business growth. Furthermore, we will commit to updating the plan every 3-5 years to assure we are following plan with input from partners and stakeholders.

**Impact Measures:** It is estimated that the following impacts will be achieved within three years of the completion of the grant.

<u>Output Measure</u>	<u>Outcome Measure</u>
Strategic Plan	Increased grants applications, programming, internal office efficiencies and stakeholder partnerships

**Congressional and Legislative Districts of:**

House of Representatives

- Representative Matthew Cartwright, 8<sup>th</sup> District of Pennsylvania

PA State Senators

- Senator John P. Blake, 22<sup>nd</sup> District of Pennsylvania

PA State Representatives

- Representative Kyle Mullins, 112<sup>th</sup> District of Pennsylvania
- Representative Marty Flynn, 113<sup>th</sup> District of Pennsylvania
- Representative Bridget Malloy Kosierowski, 114<sup>th</sup> District of Pennsylvania
- Representative Maureen E. Madden, 115<sup>th</sup> District of Pennsylvania



## DEPARTMENT OF LAW

City Hall | 340 North Washington Avenue | Scranton, PA 18503 | 570.348.4105

July 10, 2020

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

Dear Honorable Council Members:

ATTACHED IS AN ORDINANCE AUTHORIZING THE MAYOR AND OTHER APPROPRIATE CITY OFFICIALS TO APPLY FOR AND EXECUTE A GRANT APPLICATION BY THE CITY OF SCRANTON OFFICE OF ECONOMIC AND COMMUNITY DEVELOPMENT TO THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT ARC PROGRAM IN THE AMOUNT OF \$50,000.00 TO BE USED TO DEVELOP AN ECONOMIC DEVELOPMENT STRATEGIC PLAN FOR THE CITY.

Very truly yours,

A handwritten signature in cursive script that reads "Joseph A. O'Brien (S)".

Joseph A. O'Brien, Esquire  
Acting City Solicitor

JAB/sl

RECEIVED

JUL 10 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

RESOLUTION NO. \_\_\_\_\_

2020

**AUTHORIZING AN AMENDMENT TO THE MULTI-BRIDGE (BRIDGE BUNDLING) PROJECT AGREEMENT ENTERED INTO BETWEEN THE CITY OF SCRANTON AND THE COMMONWEALTH OF PENNSYLVANIA, WHICH AMENDMENT INCREASES THE TOTAL PROJECT AS SET FORTH HEREIN.**

WHEREAS, the City of Scranton and the Commonwealth of Pennsylvania, Department of Transportation, have coordinated through appropriate officials a multi-bridge project in the City of Scranton; and

WHEREAS, the Bridges included in the Multi-Bridge Project are the West Lackawanna Avenue Bridge over the railroad, Elm Street Bridge over Lackawanna River, North Main Avenue Bridge over Leggetts Creek, and Parker Street over Lackawanna River; and

WHEREAS, by Resolution No. 89 of 2018, adopted November 27, 2018, Scranton City Council authorized the Mayor and other appropriate City officials to execute for and on behalf of the City of Scranton an agreement for the Commonwealth's performance of the multi-bridge project; and

WHEREAS, pursuant to Resolution No. 89 of 2018, the Mayor and City Officials of the City of Scranton entered into a Multi-Bridge (Bridge Bundling) Project Agreement with the Commonwealth of Pennsylvania, effective March 13, 2019, the date of signature by the Attorney General of Pennsylvania; and

WHEREAS, said Multi-Bridge (Bridge Bundling) Project Agreement entered into on March 13, 2019 set forth in an Exhibit A attached hereto and attached to this Resolution, the Project costs for said Agreement; and

WHEREAS, the City of Scranton and the Commonwealth of Pennsylvania have agreed to amend said Multi-Bridge (Bride Bundling) Project Agreement to increase the project costs for said Agreement as set forth in Exhibit "AA" attached to this Resolution; and

**NOW THEREFORE BE IT RESOLVED AS FOLLOWS:**

The Mayor and other appropriate officials of the City of Scranton are hereby authorized to enter into, execute and submit any documents necessary to amend the

Multi-Bridge (Bridge Bundling) Project Agreement to affect the increased project costs set forth in Exhibit "AA" attached hereto.

**SECTION 1.** If any section, clause, provision or portion of this Resolution shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decisions shall not affect any other section, clause, provision or portion of this Resolution so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Resolution of any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Resolution, and the effective administration thereof.

**SECTION 2.** This Resolution shall become effective immediately upon approval.

**SECTION 3.** This Resolution is enacted by the Council of the City of Scranton under the authority of the Act of the Legislature, April 13, 1971, Act No. 62, known as the "Home Rule Charter and Optional Plans Law", and any other applicable law arising under the laws of the State and Pennsylvania.

**EXHIBIT A**  
**PROJECT COSTS**  
 Design, Right-of-Way, Utilities and Construction

	Municipality Incurred Costs	Commonwealth Incurred Costs	Phase Totals
DESIGN	\$ 3,371,000.00	\$ 430,000.00	\$ 4,730,000.00
CON	\$ 10,100,000.00	\$ 1,010,000.00	\$ 11,010,000.00
ROW	\$ -	\$ -	\$ -
UTL	\$ -	\$ -	\$ -
<b>SUBTOTALS</b>	<b>\$ 23,400,000.00</b>	<b>\$ 2,340,000.00</b>	<b>\$ 25,740,000.00</b>

**COST SHARING**  
 (Municipality Incurred Costs)

	Federal	State	Municipality	Act 26 Municipality	Phase Totals
DESIGN	\$ 3,440,000.00	\$ 846,000.00	\$ 210,000.00	\$ -	\$ 4,300,000.00
CON	\$ 16,280,000.00	\$ 2,805,000.00	\$ 955,000.00	\$ -	\$ 19,100,000.00
ROW	\$ -	\$ -	\$ -	\$ -	\$ -
UTL	\$ -	\$ -	\$ -	\$ -	\$ -
<b>TOTALS</b>	<b>\$ 19,720,000.00</b>	<b>\$ 3,810,000.00</b>	<b>\$ 1,170,000.00</b>	<b>\$ -</b>	<b>\$ 23,400,000.00</b>

**COST SHARING**  
 (Commonwealth Incurred Costs)

	Federal	State	Municipality	Act 26 Municipality	Phase Totals
DESIGN	\$ 344,000.00	\$ 84,800.00	\$ 21,800.00	\$ -	\$ 430,000.00
CON	\$ 1,528,000.00	\$ 206,000.00	\$ 85,600.00	\$ -	\$ 1,810,000.00
ROW	\$ -	\$ -	\$ -	\$ -	\$ -
UTL	\$ -	\$ -	\$ -	\$ -	\$ -
<b>TOTALS</b>	<b>\$ 1,872,000.00</b>	<b>\$ 354,000.00</b>	<b>\$ 117,000.00</b>	<b>\$ -</b>	<b>\$ 2,340,000.00</b>

**TOTAL COST**

Federal	State	Municipality	Act 26	Totals
\$ 20,792,000.00	\$ 3,881,000.00	\$ 1,287,000.00	\$ -	\$ 25,740,000.00

TOTAL REIMBURSEMENT AMOUNT = \$ 22,230,000.00

COUNTY: LACKAWANNA  
 MUNICIPALITY: CITY OF SCRANTON  
 PROJECT NAME: WEST LACKAWANNA AVE, ELM ST BRIDGE OVER LACKAWANNA RIVER, NORTH MAIN AVE BRIDGE, and PARKER ST BRIDGE  
 REIMBURSEMENT AGREEMENT NO. 04M173

**EXHIBIT AA**  
**PROJECT COSTS**  
 Design, Right-of-Way, Utilities and Construction

	Municipality Incurred Costs	Commonwealth Incurred Costs	Phase Totals
DESIGN	\$ 7,000,000.00	\$ 831,559.00	\$ 7,831,559.00
CON	\$ 19,100,000.00	\$ 1,910,000.00	\$ 21,010,000.00
ROW	\$ 182,035.00	\$ -	\$ 182,035.00
UTL	\$ -	\$ -	\$ -
SUBTOTALS	\$ 26,282,035.00	\$ 2,741,559.00	\$ 29,023,594.00

COST SHARING  
 (Municipality Incurred Costs)

	Federal	State	Municipality	Act 26 Municipality	Phase Totals
DESIGN	\$ 5,600,000.00	\$ 1,050,000.00	\$ 350,000.00	\$ -	\$ 7,000,000.00
CON	\$ 15,280,000.00	\$ 2,865,000.00	\$ 955,000.00	\$ -	\$ 19,100,000.00
ROW	\$ 145,628.00	\$ 27,305.25	\$ 9,101.75	\$ -	\$ 182,035.00
UTL	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	\$ 21,025,628.00	\$ 3,942,305.25	\$ 1,314,101.75	\$ -	\$ 26,282,035.00

COST SHARING  
 (Commonwealth Incurred Costs)

	Federal	State	Municipality	Act 26 Municipality	Phase Totals
DESIGN	\$ 665,247.20	\$ 124,733.85	\$ 41,577.95	\$ -	\$ 831,559.00
CON	\$ 1,528,000.00	\$ 286,500.00	\$ 95,500.00	\$ -	\$ 1,910,000.00
ROW	\$ -	\$ -	\$ -	\$ -	\$ -
UTL	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	\$ 2,193,247.20	\$ 411,233.85	\$ 137,077.95	\$ -	\$ 2,741,559.00

TOTAL COST

	Federal	State	Municipality	Act 26	Totals
	\$ 23,218,875.20	\$ 4,353,539.10	\$ 1,451,179.70	\$ -	\$ 29,023,594.00

TOTAL REIMBURSEMENT AMOUNT = \$ 24,967,933.25

COUNTY: LACKAWANNA  
 MUNICIPALITY: CITY OF SCRANTON  
 PROJECT NAME: WEST LACKAWANNA AVE, ELM ST BRIDGE OVER LACKAWANNA RIVER, NORTH MAIN AVE BRIDGE, and PARKER ST BRIDGE  
 REIMBURSEMENT AGREEMENT NO. 04M173

EXHIBIT "AA" TO RESOLUTION NO. 89



## DEPARTMENT OF LAW

City Hall | 340 North Washington Avenue | Scranton, PA 18503 | 570.348.4105

July 8, 2020

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

Dear Honorable Council Members:

ATTACHED IS A RESOLUTION AUTHORIZING AN AMENDMENT TO THE MULTI-BRIDGE (BRIDGE BUNDLING) PROJECT AGREEMENT ENTERED INTO BETWEEN THE CITY OF SCRANTON AND THE COMMONWEALTH OF PENNSYLVANIA, WHICH AMENDMENT INCREASES THE TOTAL PROJECT AS SET FORTH HEREIN.

Very truly yours,

A handwritten signature in cursive script that reads "Joseph A. O'Brien (s)".

Joseph A. O'Brien, Esquire  
Acting City Solicitor

JAB/sl

RECEIVED

JUL 08 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK



FILE OF THE COUNCIL NO. \_\_\_\_\_

2020

AN ORDINANCE

AMENDING FILE OF THE COUNCIL NO. 111, 2017 OF THE CITY OF SCRANTON ADOPTING AND IMPLEMENTING THE ACT 47 EXIT PLAN FOR THE CITY OF SCRANTON PURSUANT TO THE FINANCIALLY DISTRESSED MUNICIPALITIES ACT; AND AUTHORIZING THE MAYOR OF THE CITY OF SCRANTON TO ISSUE AN ORDER DIRECTING THE IMPLEMENTATION OF THE ACT 47 EXIT PLAN AMENDMENT WHICH WILL BECOME EFFECTIVE UPON ADOPTION ATTACHED HERETO AS EXHIBIT "A" IN ACCORDANCE WITH THE PROVISIONS OF 53 Pa. C.S.A. §11701.249, THE MUNICIPALITIES FINANCIAL RECOVERY ACT.

WHEREAS, the City of Scranton has been declared a Distressed Municipality by the Secretary of the Department of Community and Economic Development ("DCED") of the Commonwealth of Pennsylvania in accordance with Public Law 246, July 10, 1987, Act 47, the Distressed Municipalities Act, ("Act 47"); and

WHEREAS, pursuant to Ordinance No. 111 of 2017, the City of Scranton approved an Act 47 Exit Plan commissioned and prepared by the by the Pennsylvania Economy League, the City of Scranton's Act 47 Recovery Plan Coordinator, with the assistance of the City of Scranton; and

WHEREAS, the Pennsylvania Economy League, with the assistance of the City of Scranton, have prepared an Act 47 Exit Plan Amendment which will become effective upon adoption of said Act 47 Exit Plan Amendment hereby amending any and all previous Exit Plans, which is hereby submitted; and

WHEREAS, the Municipalities Financial Recovery Act, 53 Pa. C.S.A. §11701.245 and §11701.249 provide that the Chief Executive Officer (the Mayor of Scranton) in a Home Rule Municipality, may issue an Order directing the implementation of the Act 47 Exit Plan Amendment no later than seven (7) days following the enactment of an Ordinance approving the Plan Amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SCRANTON COUNCIL that the Act 47 Exit Plan Amendment attached hereto as Exhibit "A" submitted by the Pennsylvania Economy League is hereby approved and adopted in accordance with the provisions of the Financially Distressed Municipalities Act, and Exhibit "A" provisions shall supersede and control any conflicts with the prior Exit Plan which it amends and the Mayor and other appropriate

Officials of the City of Scranton are hereby authorized to execute any and all documents necessary to implement the Act 47 Exit Plan Amendment attached hereto as Exhibit "A".

SECTION 1. If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of Competent Jurisdiction such decision shall not affect any other section, clause, provision or portion of this Ordinance, so long as it remains legally enforceable, minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 2. This Ordinance shall become effective immediately upon approval.

SECTION 3. This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Option Plans Law" and any other applicable law arising under the laws of the State of Pennsylvania.



## OFFICE OF THE MAYOR

City Hall | 340 North Washington Avenue | Scranton, PA 18503 | 570.348.4101

July 1, 2020

### Legislative Cover Sheet

AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 111, 2017 OF THE CITY OF SCRANTON ADOPTING AND IMPLEMENTING THE ACT 47 EXIT PLAN FOR THE CITY OF SCRANTON PURSUANT TO THE FINANCIALLY DISTRESSED MUNICIPALITIES ACT; AND AUTHORIZING THE MAYOR OF THE CITY OF SCRANTON TO ISSUE AN ORDER DIRECTING THE IMPLEMENTATION OF THE ACT 47 EXIT PLAN AMENDMENT WHICH WILL BECOME EFFECTIVE UPON ADOPTION ATTACHED HERETO AS EXHIBIT "A" IN ACCORDANCE WITH THE PROVISIONS OF 53 Pa. C.S.A. §11701.249, THE MUNICIPALITIES FINANCIAL RECOVERY ACT.

Before City Council is a proposed ordinance drafted in coordination with the Pennsylvania Department of Community and Economic Development to amend the City's Act 47 Exit Plan by extending the Plan for 18 months until January 2022. Scranton was designated as a distressed municipality under Act 47 in 1992. Since that time, Scranton has adopted several ordinances approving an Act 47 recovery plan, followed by the adoption of an Exit Plan in 2017. Scranton continues to work with a DCED-appointed recovery coordinator, the Pennsylvania Economy League, who assists in addressing Scranton's financial problems with the goal of allowing Scranton to exit distressed status in 2020. However, the State Legislature has extended the time in which distressed cities exit Act 47 by 18 months because of the ongoing COVID-19 pandemic. DCED has concluded that the newly enacted bill includes Scranton and accordingly amended Scranton's Exit Plan as attached to this draft ordinance.

As more fully discussed at the Act 47 Hearing on exiting distressed status, prior to the State legislature passing the bill, Scranton's projected future revenues and expenditures will not yield a balanced budget; all claims and judgments that imperil Scranton have not been resolved, and Scranton's revenues may be insufficient to fund ongoing expenditures. Mayor Cognetti, President Gaughan, and Gerald Cross, Scranton's Act 47 coordinator, all gave testimony and detailed why Scranton should stay in Act 47 for the time being.

The City was faced with a \$50 million adverse ruling in litigation involving its ability to levy taxes pursuant to Act 511, otherwise known as the Local Tax Enabling Act, followed shortly after by the COVID-19 global pandemic that has impacted public health and the economy across the Commonwealth of Pennsylvania and the City. However, the decisions the City faces in the coming months will have a lasting impact, and exiting distressed status prematurely will only serve to exacerbate the fallout. In addition to a crippling \$50 million order currently pending appeal, the full financial impact of COVID-19 will be devastating—the extent to which is still unknown but could be between 6 and 10 million dollars. Importantly, premature exit would also prohibit the City from being able to convert its Business Privilege and Mercantile Tax to the more efficient Payroll Preparation Tax. It remains a real possibility that if the City were to leave



## OFFICE OF THE MAYOR

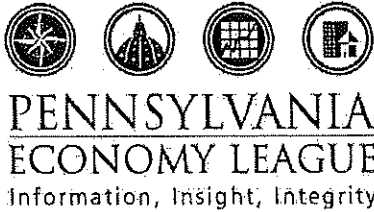
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distressed status, it may quickly be eligible for reentry based upon the economic impact of COVID-19 and a potential loss of the current Act 511 appeal pending before the Pennsylvania Commonwealth Court. In the meantime, the City will have lost the benefits of Act 47 and will be at square one once again.

Ratifying DCED's amended Exit Plan and remaining in Act 47 is the prudent and right decision for the City. It will enable Scranton to convert to Payroll Preparation Tax and continue receiving guidance through the PEL. It also allows Scranton to exit Act 47 when the uncertainty of Act 511 appeal is over and when there is a clearer picture of the economic impact of COVID-19, which prevents a premature exit that could lead to Scranton entering into distressed status once again.

### Attachments:

- \_\_\_\_\_ Ordinance
- \_\_\_\_\_ Amended Act 47 Exit Plan
- \_\_\_\_\_ Act 47 Testimony of Hon. Mayor Paige G. Cagnetti
- \_\_\_\_\_ Act 47 Testimony of Hon. City Council President William Gaughan
- \_\_\_\_\_ Act 47 Testimony of Act 47 Coordinator Gerald Cross



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OFFICE OF CITY  
COUNCIL/CITY CLERK

July 1, 2020

Mayor Paige Gebhardt Cognetti  
City of Scranton  
340 North Washington Avenue  
Scranton, PA 18503

Mr. William Gaughan  
Council President  
City of Scranton  
340 North Washington Avenue  
Scranton, PA 18503

Mr. Carl Deeley  
Business Administrator  
City of Scranton  
340 North Washington Avenue  
Scranton, PA 18503

Dear Mayor Cognetti, Council President Gaughan, and Mr. Deeley:

The COVID-19 pandemic is negatively impacting most, if not all, of the commonwealth's municipalities. This includes the City of Scranton. On May 29, 2020, the Governor of Pennsylvania signed into law Fiscal Code-Omnibus Amendments, P.L. 158, No. 23 ("Act 23 of 2020"). Section §2.1 of Act 23 of 2020 added a new Section §1604-D.1 to the Fiscal Code. Section §1604-D.1 provides as follows:

Section 1604-D.1. Emergency plan extension.

A municipality operating pursuant to a recovery plan under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, shall be eligible for an 18-month extension beyond the time limit imposed under section 254 of the Municipalities Financial Recovery Act.

The City adopted its current three-year Act 47 Exit Plan on July 27, 2017 ("2017 Exit Plan"). As you are aware, the three-year time limit of the City's adopted 2017 Exit Plan expires on July 27, 2020. Pursuant to Act 23 of 2020, the City is eligible for an 18-month extension beyond the July 27, 2020, time limit imposed by section 254 of Act 47.

In light of the enactment of Act 23 of 2020, the Pennsylvania Economy League, the City's Act 47 Coordinator ("Coordinator"), in consultation with the PA Department of Community and Economic Development ("DCED"), has prepared the enclosed *Act 47 Exit Plan Amendment for the City of Scranton* ("Exit Plan Amendment"). Section 249 of Act 47 authorizes the Coordinator to initiate an amendment to an adopted plan which must be adopted by City ordinance. The following is a review of the amendments included in the Exit Plan Amendment.

- A. The Coordinator amended the entire Chapter 2 of the 2017 Exit Plan to update the text and baseline general fund projections. The Coordinator has revised the underlying assumptions used in the *Act 47 Coordinator's Recommendation to the Secretary of the Department of Community and Economic Development for the City of Scranton*,

delivered by the Coordinator to DCED on March 31, 2020, and distributed to City officials on the same day. The Coordinator's revision of the underlying assumptions used in this Exit Plan Amendment have significantly increased the City's projected general fund operating fund deficits in the years 2020 – 2023.

As the City begins to receive 2020 second quarter tax revenue from its tax collectors and economic activity resumes in late summer 2020, the Coordinator will commence updating the 2020 – 2023 baseline financial projects included in this Exit Plan Amendment. In this vein, the Coordinator intends to continue its working relationship with the City administration and City Council with the preparation of the City's 2021 budget to project as reasonably as possible the City's general fund revenues and expenditures for 2021.

- B. In Chapter 3, the Coordinator amended the text and tables on pages 3-1 through 3-5. The remainder of Chapter 3 in the 2017 Exit Plan remains unchanged.
- C. The Coordinator amended the entire Chapter 10 of the 2017 Exit Plan to update the text and baseline general fund projection table. The Coordinator also amended the Deficit Abatement Initiatives in Chapter 10.
- D. The Coordinator added a new Chapter 11 to reflect the permitted 18-month extension of the 2017 Exit Plan. The new expiration of the 2017 Exit Plan will be January 27, 2022.

All other terms and conditions of the City's adopted 2017 Exit Plan remain valid and enforceable.

As mentioned previously, the City is required to enact an ordinance adopting the proposed amendments to the City's 2017 Exit Plan prior to the expiration of its three-year time limit—July 27, 2020. The included Exit Plan Amendment is the complete and final document for the City's consideration. The Coordinator is available to discuss with City officials, both executive and legislative, any concerns or issues they may have regarding this letter or the proposed amendments.

Sincerely,



LeeAnne Clayberger  
Chief Executive Officer

cc: Members of City Council  
DCED

**ACT 47 EXIT PLAN  
AMENDMENT  
FOR THE  
CITY OF SCRANTON**

**Prepared For:**

The City of Scranton

**Date Amendment Filed:**

July 1, 2020

Effective Upon Adoption by Ordinance

**Prepared By:**

Pennsylvania Economy League, Central PA Division, LLC  
88 North Franklin Street, Suite 200  
Wilkes-Barre, PA 18701

## INTRODUCTION

On February 17, 2017, the Pennsylvania Economy League, the City of Scranton's appointed Act 47 Coordinator ("Coordinator"), filed with the City a *Report Stating the Financial Condition of the City of Scranton* ("Financial Condition Report"). The Coordinator's Financial Condition Report recommended, pursuant to §255 of Act 47, that a three-year exit plan be prepared for the City. On June 30, 2017, the Coordinator filed with the City the *Act 47 Exit Plan for the City of Scranton*, as revised ("2017 Exit Plan"). The City subsequently adopted the 2017 Exit Plan on July 27, 2017. The three-year time limit of the City's adopted 2017 Exit Plan expires on July 27, 2020.

On May 29, 2020, the Governor of Pennsylvania signed into law Fiscal Code-Omnibus Amendments, P.L. 158, No. 23 ("Act 23 of 2020"). Section §2.1 of Act 23 of 2020 added a new Section §1604-D.1 to the Fiscal Code. Section §1604-D.1 provides as follows:

### Section 1604-D.1. Emergency plan extension.

A municipality operating pursuant to a recovery plan under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, shall be eligible for an 18-month extension beyond the time limit imposed under section 254 of the Municipalities Financial Recovery Act.

Pursuant to Act 23 of 2020, the City is eligible for an 18-month extension beyond the July 27, 2020, time limit imposed by section 254 of Act 47.

The Coordinator, in consultation with the PA Department of Community and Economic Development ("DCED"), has prepared this *Act 47 Exit Plan Amendment for the City of Scranton* ("Exit Plan Amendment"). Section 249 of Act 47 authorizes the Coordinator to initiate an amendment of a plan prepared by the Coordinator. Such plan amendment must be adopted by ordinance by the City to become effective.

The primary purpose of this Exit Plan Amendment is to extend the term of the 2017 Exit Plan by the 18 months authorized by Act 23 of 2020. However, due the fact that the financial projections and cost containment provisions included in the 2017 Exit Plan are only through 2020, the Coordinator is obligated to update the financial projections and cost containment



provisions included in the 2017 Exit Plan. The pages that follow include the terms and provisions of the 2017 Exit Plan that are amended by this Exit Plan Amendment. The remaining chapters, sections, tables and initiatives included in the 2017 Exit Plan shall remain valid and in effect. The terms and provisions included in this Exit Plan Amendment shall become effective immediately upon the adoption by ordinance by the City of Scranton.

### Summary of Exit Plan Amendments

Section of 2017 Exit Plan	Amendment Action
Chapter 2	The entire Chapter 2 of the 2017 Exit Plan is hereby replaced by the Chapter 2 included in this Exit Plan Amendment.
Chapter 3 pages 3-1 through 3-5	Pages 3-1 through 3-5 of Chapter 3 of the 2017 Exit Plan are hereby amended. This includes all text and tables in the introduction section of Chapter 3 and all text and tables in the section titled Exit Plan Compliance with Act 133 of 2012. The remainder of Chapter 3 beginning with the section titled Workforce Cost Containment Provisions remains valid and in effect.
Chapter 10	The entire Chapter 10 of the 2017 Exit Plan is hereby replaced by the Chapter 10 included in this Exit Plan Amendment.
Chapter 11	Chapter 11 in the Exit Plan Amendment is a new chapter incorporated into and made a part of the 2017 Exit Plan.

CHAPTER 2  
BASELINE GENERAL FUND PROJECTIONS  
2020 - 2023

The 2017 Exit Plan contained baseline projections for the years 2017 - 2020. The extension of the City's Act 47 termination date beyond July 27, 2020, pursuant to Act 23 of 2020 obligates the Coordinator to correspondingly update the City's baseline financial projections. In the Coordinator's March 31, 2020, *Act 47 Coordinator's Recommendation to the Secretary of the Department of Community and Economic Development for the City of Scranton (2020 Recommendation)*, the Coordinator provided updated City baseline projections for the years 2021 - 2025.<sup>1</sup> However, the Coordinator noted that the 2020 Recommendation's baseline projections were prepared *before* the outbreak of the COVID-19 pandemic. The Coordinator also cautioned that the baseline projections included in the 2020 Recommendation were subject to revision based on the progression of the pandemic's effect on the U.S. economy. Even though the U.S. and City economy has experienced over 3 months of the effect of the COVID-19 pandemic, the magnitude of the potential loss of revenue to the City in 2020 and beyond still remains uncertain at this time. Thus, the Coordinator realizes that several of the revenue assumptions used to develop the 2017 Exit Plan and 2020 Recommendation baseline projections are now moot until an equilibrium is established in several City revenue line items.

Act 23 of 2020 has placed the Coordinator in the unenviable position of having to make long-term financial projections as the financial ground upon which such projections are made is undergoing a major financial shift. Nonetheless, the Coordinator has reviewed the underlying assumptions used to make past baseline financial projections in the 2017 Exit Plan and the 2020 Recommendation. The Coordinator, in consultation with DCED and City officials, has revised the underlying assumptions of certain City revenue line items that the Coordinator reasonably believes reflects, to the extent possible at this time, adjustments to the underlying assumptions based on events over the past 3 months. It is the Coordinator's hope that over the next 3-6 months that the nadir of some City revenue line items will occur and then the Coordinator, in conjunction with the City, can begin the process of building more reliable baseline financial

---

<sup>1</sup> See Appendix A, *Act 47 Coordinator's Recommendation to the Secretary of the Department of Community and Economic Development for the City of Scranton*, Table 4, page 13.

projections for the City. In this vein, the Coordinator intends to continue its working relationship with the City administration and City Council with the preparation of the City's 2021 general fund operating budget over the coming months to project as reasonably as possible the City's general fund revenues and expenditures for 2021.

The assumptions below were used by the Coordinator to develop the City's 2020 – 2023 baseline financial projections in this Exit Plan Amendment.

#### Revenue Assumptions:

- All 2020 tax rates and fees were held constant through 2023.
- The following revenue items were reviewed on a line-by-line basis by the Coordinator and were adjusted accordingly, if necessary.
  - The City's real estate tax revenues will steady decline during the period due mostly to historical trends in assessment as a result of the lack of a countywide reassessment. It is uncertain whether the City's annual property tax collections will experience a decrease in 2020 and beyond due to the COVID-19 pandemic. Thus, the Coordinator has left unchanged the real estate tax revenues assumptions used in the 2020 Recommendation.
  - The City's earned income tax (EIT) revenue is projected to decrease by 7.5 % in 2020. City EIT revenue is thereafter increased annually by 1.0 percent.
  - The City's local services tax (LST) revenue is maintained at the Court approved Act 47 rate through the period. LST revenues are projected to decrease by 5% in 2020. LST revenue is thereafter increased annually by 0.1 percent.
  - Revenue from the City's business privilege and mercantile tax (BPMT) are projected at this time to remain the same as budgeted for 2020. The 2020 BPMT revenue projection is based on 2019 business gross receipts which were pre-COVID-19. However, BPMT revenue is decreased by 5% in 2021 and held at 2021 levels for 2022 and 2023.
  - The City's real estate transfer tax is projected to decrease by 5% in 2020. City real estate transfer tax revenue is held constant at the 2020 decreased projection for the years 2021 - 2023.

- The City's refuse fee revenue is decreased by 5% for 2020. City refuse fee revenue is held constant at the 2020 decreased projection for the years 2021 - 2023.
- Supplemental State Aid for pension was increased 2.0 percent annually.
- Other revenues are held constant over the period based upon the Act 47 Coordinator's historical data and trend analysis.

### General Fund Revenue Projections—2020 – 2023

As shown in Table 2-1, the City's General Fund operating revenues are projected to decrease by \$2.6 million or 2.6 percent from \$99.7 million in 2020 to \$97.1 million in 2023.

Tax revenue is anticipated to increase from \$72.7 million in 2020 to \$73.3 million in 2023, an increase of \$589,866 or 0.8 percent.

Table 2-1  
General Fund Baseline Revenue Projections  
2020 – 2023

	2020	2021	2022	2023	Change	
<b>Revenue</b>	Estimated	Projected	Projected	Projected	\$	%
Real Estate Taxes	\$35,832,840	\$35,797,007	\$35,761,210	\$35,725,449	(\$107,391)	(0.3)
EIT	26,711,516	26,978,631	27,248,418	27,520,902	809,386	3.0
LST	1,567,500	1,569,068	1,570,637	1,572,207	4,707	0.3
LST Act 47	3,135,000	3,138,135	3,141,273	3,144,414	9,414	0.3
Merc/BPT/Payroll Prep	2,575,000	2,448,750	2,448,750	2,448,750	(126,250)	(4.9)
RE Transfer Tax	2,613,500	2,613,500	2,613,500	2,613,500	0	0.0
Other Taxes	295,000	295,000	295,000	295,000	0	0.0
<b>Total Tax Revenue</b>	<b>\$72,730,357</b>	<b>\$72,840,091</b>	<b>\$73,078,788</b>	<b>\$73,320,223</b>	<b>\$589,866</b>	<b>0.8</b>
Refuse Revenue	6,456,438	6,456,438	6,456,438	6,456,438	0	0.0
Licenses & Permits	2,038,164	2,038,164	2,038,164	2,038,164	0	0.0
Intergovernmental	4,459,266	4,429,618	4,516,758	4,605,619	146,352	3.3
Transfers	9,398,901	8,339,451	8,339,451	7,539,451	(1,859,450)	(19.8)
Other Non-tax revenue	4,654,324	3,131,726	3,130,954	3,130,184	(1,524,140)	(32.7)
<b>Non-Tax Revenue</b>	<b>\$27,007,093</b>	<b>\$24,395,397</b>	<b>\$24,481,765</b>	<b>\$23,769,855</b>	<b>(\$3,237,237)</b>	<b>(12.0)</b>
<b>Total Revenue</b>	<b>\$99,737,449</b>	<b>\$97,235,489</b>	<b>\$97,560,553</b>	<b>\$97,090,078</b>	<b>(\$2,647,371)</b>	<b>(2.7)</b>

#### Expenditure Assumptions:

- The number of personnel is held constant at the 2020 general fund operating budget workforce level.
- Current wages have been increased as specified in collective bargaining agreements, interest arbitration awards or court orders. At the conclusion of the current collective bargaining agreements or arbitration awards, wage increases are anticipated at two percent for all bargaining units. Salaries for non-represented City employees are held constant.
- Employee/retiree medical insurance expenditures were increased annually by 5.5 percent from 2020 through 2023 in conformance with recently observed City experience and similar annual increases projected for other local government entities.
- Other major insurance costs have been projected on a line-by-line basis.
- No new or increased capital expenditures are included.
- Municipal pension obligations for 2020 are at the City's budgeted level. For 2021 – 2023 the projected MMO, as provided to the Coordinator by the City's Actuary, is based on a 7.25 percent return rate and the annual retiree COLAs suspended.
- Other expenditures were increased at various levels based on the Coordinator's historical data and trend analysis.
- No further increases in the costs of any other benefits were included.

#### **General Fund Expenditure Projections—2020 - 2023**

As illustrated in Table 2-2, the City's total operating expenditures are projected to increase from \$103.3 million in 2020 to \$105.2 million in 2023. Increases are noted in employee expenditures by \$5.2 million or 7.5 percent. Pension and workers compensation expenditures were held constant at the 2020 budget level.

Table 2-2  
General Fund Baseline Expenditure Projections  
2020 - 2023

<u>Expenditures</u>	2020	2021	2022	2023	Change	
	Estimated	Projected	Projected	Projected	\$	%
Direct Compensation	\$34,509,898	\$35,179,137	\$35,832,273	\$36,467,645	\$1,957,746	5.7
Benefits	19,580,792	20,606,215	21,688,037	22,829,359	3,248,567	16.6
Pension	11,789,532	11,789,532	11,789,532	11,789,532	0	0.0
Workers Comp	3,109,811	3,109,811	3,109,811	3,109,811	0	0.0
<b>Employee Expenditures</b>	<b>\$68,990,033</b>	<b>\$70,684,695</b>	<b>\$72,419,653</b>	<b>\$74,196,347</b>	<b>\$5,206,314</b>	<b>7.5</b>
Capital Expenditures	3,682,750	1,412,750	1,412,750	1,412,750	(2,270,000)	(61.6)
Other Departmental Expenditures	8,985,223	9,171,898	9,354,008	9,531,088	545,865	6.1
Non-Departmental Expenditures	3,042,420	1,342,537	1,349,772	1,356,807	(1,685,613)	(55.4)
Debt Service	18,648,096	18,702,380	18,629,708	18,692,754	44,658	0.2
<b>Total Expenditures</b>	<b>\$103,348,522</b>	<b>\$101,314,261</b>	<b>\$103,165,892</b>	<b>\$105,189,747</b>	<b>\$1,841,224</b>	<b>1.8</b>

Other Departmental Expenditures are projected to increase slightly from \$9.0 million in 2020 to \$9.5 million in 2023 or 6.1 percent. Decreases are projected in non-departmental expenses at \$1.7 million or 55.4 percent and in capital expenses, \$2.27 million.

### General Fund Projections—2020 – 2023

As based upon the above revenue and expenditure assumptions, Table 2-3 illustrates that the City's projected baseline deficit is expected to grow from \$3.6 million in 2020 to \$8.1 million in 2023.

Table 2-3  
Baseline General Fund Projections  
2020 – 2023  
Excludes TRAN Principal

	2020	2021	2022	2023
	<u>Estimated</u>	<u>Projected</u>	<u>Projected</u>	<u>Projected</u>
Revenues	\$99,737,449	\$97,235,489	\$97,560,553	\$97,090,078
Expenditures	\$103,348,522	\$101,314,261	\$103,165,892	\$105,189,747
<b>Surplus/(Deficit)</b>	<b>(\$3,611,073)</b>	<b>(\$4,078,772)</b>	<b>(\$5,605,339)</b>	<b>(\$8,099,669)</b>

Note: Totals may not add due to rounding.

### **Conclusion**

The baseline projections for the period 2020 – 2023 project that the City will have operating budget deficits throughout the period. The negative impact on several of the City’s revenue line items in 2020 will take months and, depending on the strength of the recovery of the U.S. economy, maybe years to return to pre-COVID-19 levels. Meanwhile, the Coordinator stresses that the City’s operating expenditures will continue to increase annually being driven by contracted wage increases and increases in employee benefit expenses, in particular employee health care. As the City begins to receive 2020 second quarter tax revenue from its tax collectors and economic activity resumes in late summer 2020, the Coordinator will commence updating the 2020 – 2023 baseline financial projects included in this Exit Plan Amendment. The Coordinator intends to continue its working relationship with the City administration and City Council with the preparation of the City’s 2021 budget to project as reasonably as possible the City’s general fund revenues and expenditures for 2021. The Coordinator has included initiatives in this Exit Plan Amendment to guide the City through the remainder of fiscal year 2020 and beyond.

CHAPTER 3  
WORKFORCE

While the cash compensation and benefits provided to City employees varies greatly by individual, the Coordinator’s financial review of City personnel expenditures presented within the 2017 Exit Plan exhibit a very clear conclusion – the City must control its future personnel expenditures (wages, health benefits, workers compensation and pensions) to sustain its long-term operations. Personnel expenditures, for active employees *and* retirees, represent the majority of the City’s General Fund operating expenses and rise annually during the review period. In addition to direct compensation, additional opportunities for employee cash compensation and benefits are available to eligible employees through: longevity; overtime compensation; a health plan with a high level of medical coverage and a lower employee cost than found in private or other public sector employers; retiree health care coverage; a taxpayer guaranteed level of retirement benefits through a defined benefit pension plan; increased costs to the pension plan due to excessive awarding of disability pensions historically, and the inability to collect offsets on the foregoing even when the employee obtains other gainful employment. This level of cash compensation and benefits is offered within the context of the City’s weak tax base and the stagnation or even reduction of major City revenue sources absent tax increases.

The City’s fiscal health cannot be achieved without controlling its future personnel expenses, especially direct compensation, overtime, health care expenses, workers’ compensation and pension benefits.

**Number of Budgeted Employees by Category and Year**

<b>Category</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Administrative	32	22	29	28	28	30	27	29	32	31
Clerical	60	57	59	59	60	59	55	56	57	57
Firefighter	137	131	134	131	125	125	135	134	137	136
Legislative	7	7	7	7	7	7	7	7	7	7
Police	148	139	141	141	142	142	146	146	146	146
Public Works	93	84	84	84	84	86	93	94	95	96
Single Tax Office	27	19	19	17	17	17	17	17	18	18
<b>Total</b>	<b>504</b>	<b>459</b>	<b>473</b>	<b>467</b>	<b>463</b>	<b>466</b>	<b>480</b>	<b>483</b>	<b>492</b>	<b>491</b>



Control over personnel expenses is essential to the City's fiscal survival. Without it, the City will eventually have to make dramatic workforce reductions that will limit its ability to provide the most basic municipal services to its residents. In the past, the City has resorted to layoffs or not filling vacant positions because it was unable to reduce or contain other components of compensation. However, complement reductions must also be balanced with the City's need to provide necessary and vital services to its businesses and residents. While reductions in the City's employee complement temporarily reduces City operating expenditures, the City cannot adequately address its structural operating deficits without diligently managing the entire employee compensation package it offers its employees so that the growth in employee compensation and employee benefits more closely tracks the City's revenue growth.

It is the Coordinator's intent to maintain an open and cooperative dialog between the City and its represented employees. Over 90 percent of the City's employees are represented by a collective bargaining unit.

Employee Group	Description	Term of CBA	Current Covered Positions
International Association of Machinists and Aerospace Workers Local 2462	All non-uniformed, non-management employees (Clerical)	Expiration Date 12/31/2020	57
International Association of Machinists and Aerospace Workers Local 2305*	Departments of Public Works, Parks and Recreation	Expiration Date 12/31/2021	96
Fraternal Order of Police (FOP), Lodge No. 2	All sworn Police Officers including all ranking Police Department officers who are covered by the FOP Collective Bargaining Agreement	Expiration Date 12/31/2021	146
International Association of Fire Fighters (IAFF), Local Union No. 669	All Fire Fighters including Fire Department officers who are covered by the IAFF Collective Bargaining Agreement	Expiration Date 12/31/2021	136
Management and Non-Collective Bargaining Positions	Management and Non-Collective Bargaining Positions		31

These employees provide essential services to the City's residents from police and fire protection to the collection of refuse and the maintenance of City streets and parks. The Coordinator encourages the City and its represented employees to be ever mindful of the fact that the ultimate purse from which the funds used to provide these services are the hardworking citizens of the City. A financially insolvent City benefits no one.

### **Exit Plan Compliance with Act 133 of 2012**

As required by Act 133 of 2012 (Act 133), which amended the Act 47, the Coordinator is required to provide an aggregate limit on expenditures for each individual collective bargaining unit for the current fiscal year and the next three years. The Coordinator has updated the aggregate expenditure limits for each individual collective bargaining unit in this Exit Plan Amendment. The expenditure limits were developed to offer each collective bargaining unit and the City an opportunity to actively participate in collective bargaining negotiations that produce an outcome consistent with the purpose of Act 47 and the amendments thereto. With limited exceptions for arbitration settlements rendered pursuant to Act 111 of 1968 (the Policemen and Firemen Collective Bargaining Act), any future collective bargaining agreement or memorandum of understanding or any amendment to any current collective bargaining agreement or memorandum of understanding agreed to by the City and any of its collective bargain units or any future arbitration settlement or adjustment rendered shall not exceed the expenditure limits provided in the 2017 Exit Plan and this Exit Plan Amendment. The expenditure limits contained herein shall become applicable upon the City's adoption of this Exit Plan Amendment.

The expenditure limits include the following assumptions which may be changed through collective bargaining but the total expenditures are not to exceed the total limits for each bargaining unit as provided in this Exit Plan Amendment. The individual expenditure categories are included within the "baseline" total with the following assumptions used to calculate the yearly amounts.

- The number of personnel is held constant at the 2020 Operating Budget workforce level.
- Current wages have been increased as specified in collective bargaining agreements, memorandum of understanding, interest arbitration awards or court orders. At the conclusion of the current collective bargaining agreement, memorandum of

understanding or arbitration award, wages are anticipated to increase two percent annually for all bargaining units.

- Category of “Other Salary” is held constant at the 2020 budget amount.
- Longevity salary has been increased as specified in any current collective bargaining agreement, memorandum of agreement, interest arbitration award or court orders.
- Overtime salary is held constant at the 2020 budget amount.
- Uniform allowances are held at the 2020 budget amount.
- Employee medical insurance expenditures were increased annually by 5.5 percent from 2020 through 2021 in conformance with recently observed City experience and similar annual increases projected for other local government entities.
- Life and short-term disability insurance (non-pension disability benefit) is increased at 3.0 percent annually based on recent premium experience.
- Social Security costs have been increased by the rate of any increase in underlying salaries and wages.

The following maximum expenditure limits for each City collective bargaining unit and group of employees shall be effective upon adoption of this Exit Plan Amendment and shall remain in effect until the 2017 Exit Plan is further amended, is replaced by an emergency action plan pursuant to Chapter 6 of Act 47 or the City’s distress determination is terminated.

**Act 133 Aggregate Limits by Collective Bargaining Unit**

<b>International Association of Machinists and Aerospace Workers Local 2305</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>
Standard Salary	\$4,523,209	\$4,622,720	\$4,719,797
Other Salary (Misc)	185,000	185,000	185,000
Longevity Salary	185,843	189,932	193,920
Overtime Salary	440,750	440,750	440,750
Uniform Allowance	37,020	37,020	37,020
Health Insurance - DPW Union Active	2,118,394	2,234,906	2,357,826
Social Security	<u>408,112</u>	<u>416,038</u>	<u>423,769</u>
<b>Total Public Works</b>	<b>\$7,898,329</b>	<b>\$8,126,365</b>	<b>\$8,358,082</b>

<b>International Association of Machinists and Aerospace Workers Local 2462</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Clerical</b>	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>
Standard Salary	\$2,198,775	\$2,247,148	\$2,294,338
Other Salary (Misc)	13,000	13,000	13,000
Longevity Salary	41,084	41,988	42,869
Overtime Salary	8,000	8,000	8,000
Uniform Allowance	1,500	1,500	1,500
Health Insurance - Clerical Union Active	1,608,200	1,696,651	1,789,966
Social Security	<u>172,956</u>	<u>176,725</u>	<u>180,403</u>
<b>Total Clerical</b>	<b>\$4,043,514</b>	<b>\$4,185,012</b>	<b>\$4,330,077</b>

	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Police</b>	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>
Standard Salary	\$10,188,969	\$10,413,126	\$10,631,802
Other Salary (Misc)	350,000	350,000	350,000
Longevity Salary	872,919	892,123	910,858
Overtime Salary	700,000	700,000	700,000
Court Appearance Salary	174,400	174,400	174,400
Uniform Allowance	115,850	115,850	115,850
Health Ins-Police Union Active	6,525,933	6,884,860	7,263,527
Life/Disability Insurance	150,634	150,634	150,634
Police Education Allowance	50,000	50,000	50,000
Social Security	<u>178,151</u>	<u>181,680</u>	<u>185,122</u>
<b>Total Police</b>	<b>\$19,306,856</b>	<b>\$19,912,673</b>	<b>\$20,532,193</b>

	2020	2021	2022
Fire	Projected	Projected	Projected
Standard Salary	\$10,184,989	\$10,409,058	\$10,627,649
Other Salary (Misc)	205,000	205,000	205,000
Longevity Salary	736,942	753,155	768,971
Overtime Salary	325,000	325,000	325,000
Uniform Allowance	98,550	98,550	98,550
Health Insurance - Fire Union Active	5,964,788	6,292,852	6,638,958
Life/Disability Insurance	141,521	141,521	141,521
Social Security	<u>166,053</u>	<u>169,537</u>	<u>172,936</u>
<b>Total Fire</b>	<b>\$17,822,843</b>	<b>\$18,394,673</b>	<b>\$18,978,585</b>

CHAPTER 10  
ACHIEVING BALANCED GENERAL FUND BUDGETS 2020 – 2023

The COVID-19 pandemic gripping the United States and the world is negatively impacting the U.S. and global economy in ways not seen since the Great Depression. The negative economic impact of the COVID-19 pandemic is also affecting the economy of the Commonwealth of Pennsylvania and its municipalities. Scranton is no exception. The Coordinator’s baseline projections for the years 2020 – 2023 as outlined in Chapter 2 of this Exit Plan Amendment project the City to incur increasing general fund operating budget deficits during this time period. (See Table 10-1.)

Table 10-1  
Baseline General Fund Projections  
2020 – 2023  
Excludes TRAN Principal

	2020 Estimated	2021 Projected	2022 Projected	2023 Projected
Revenues	\$99,737,449	\$97,235,489	\$97,560,553	\$97,090,078
Expenditures	\$103,348,522	\$101,314,261	\$103,165,892	\$105,189,747
Surplus/(Deficit)	(\$3,611,073)	(\$4,078,772)	(\$5,605,339)	(\$8,099,669)

**Deficit Abatement Initiatives**

As previously mentioned, the Coordinator will continue to monitor the City’s 2020 operating budget’s performance with special attention on the operating budget’s revenue line items. The Coordinator will update the 2020 – 2023 baseline financial projections and initiatives as warranted. It is the Coordinator’s opinion that the implementation of the following initiatives will assist the City in eliminating the operating budget deficits projected in the years 2020 - 2023 and will help ensure that the City maintains a cash surplus to meet its expenditure obligations as they come due.

DA1 The Coordinator recommends that City officials pursue any state or federal financial assistance that becomes available for which the City is eligible to help offset the loss of City anticipated revenue due to the COVID-19 pandemic. This includes utilizing any new legislation that will assist the City with revenue enhancements or expenditure controls.

DA2 The Coordinator recommends that City officials continue to lobby their local state and federal legislative representatives for the introduction and passage of legislation that will be of assistance to the City and other municipalities. The City shall coordinate its

lobbying efforts with other similarly situated commonwealth municipal officials and statewide organizations of which it is a member such as the Pennsylvania Municipal League.

- DA3 The Coordinator recommends that the City continue to monitor its monthly cash flow projections through the end of 2020 and evaluate the necessity of a potential unfunded debt obligation as authorized by the Local Government Unit Debt Act, Act 177 of 1996, in the 4<sup>th</sup> quarter of 2020 to prevent a cash flow deficit during 2020.
- DA4 The Coordinator recommends that the City not exceed the employee count by department beyond those budgeted in the 2020 general fund budget throughout the term of this Exit Plan Amendment, unless the addition of employees beyond those budgeted in the 2020 general fund budget complies with the Act 133 aggregate limits.
- DA5 The Coordinator recommends that to the extent that the aforementioned deficit abatement initiatives do not entirely reduce the projected operating deficits, the City shall increase the tax rates on property to eliminate yearly operating deficits and/or reduce expenditures. The City may consider increases in other rates of taxation to reduce the impact of relying solely on property taxes for deficit reduction.

## CHAPTER 11

### EXTENSION OF EXIT PLAN TERMINATION DATE

The COVID-19 pandemic is negatively impacting most, if not all, of the commonwealth's municipalities. This includes the City of Scranton. On May 29, 2020, the Governor of Pennsylvania signed into law Fiscal Code-Omnibus Amendments, P.L. 158, No. 23 ("Act 23 of 2020"). Section §2.1 of Act 23 of 2020 added a new Section §1604-D.1 to the Fiscal Code. Section §1604-D.1 provides as follows:

Section 1604-D.1. Emergency plan extension.

A municipality operating pursuant to a recovery plan under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, shall be eligible for an 18-month extension beyond the time limit imposed under section 254 of the Municipalities Financial Recovery Act.

The City adopted its current three-year Act 47 Exit Plan on July 27, 2017 ("2017 Exit Plan"). The three-year time limit under the City's adopted 2017 Exit Plan expires on July 27, 2020.

Pursuant to Act 23 of 2020, the City is eligible for an 18-month extension beyond the July 27, 2020, time limit imposed by section 254 of Act 47. Section 249 of Act 47 authorizes a coordinator to initiate an amendment to a plan developed by a coordinator. A coordinator's amendment to a plan must be adopted by ordinance. The Coordinator recommends that the City extend the time limit imposed by §254 of Act 47 by 18 months to January 27, 2022. The City's adoption by ordinance of this Exit Plan Amendment will extend the time limit through January 27, 2022.

All other terms and conditions of the City's adopted 2017 Exit Plan remain valid and enforceable. If there is any conflict between any of the terms of this Exit Plan Amendment and the 2017 Exit Plan, the terms of this Exit Plan Amendment shall control.



# APPENDIX

## A

**ACT 47 COORDINATOR'S RECOMMENDATION TO THE  
SECRETARY OF THE  
DEPARTMENT OF COMMUNITY AND ECONOMIC  
DEVELOPMENT  
FOR THE  
CITY OF SCRANTON**

Prepared By:

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March 2020

## BACKGROUND

Scranton was incorporated as a city on April 23, 1866 with a population of 35,000. The City of Scranton (City) is located in Lackawanna County and is the largest municipality in northeastern Pennsylvania. It became a major commercial city—a center of mining, railroads and industry—and attracted thousands of new immigrants. By the mid-1930s, Scranton's population had swelled beyond 140,000 due to growth in the mining and industry. After World War II coal lost favor to oil and gas as heating fuel and manufacturing moved to lower labor cost areas of the United States and overseas. The City's population began a downward trend to an estimated 2015 population of 77,118.

The City is currently governed by a home rule charter adopted by the City's voters in a referendum on May 21, 1974. The Home Rule Charter of Scranton (Home Rule Charter) became effective on January 5, 1976. Under the Home Rule Charter, the Mayor and Council, jointly, are the governing body of the City. The governing powers are divided between executive and legislative branches. The executive branch is headed by a Mayor elected at large for a four-year term. The Mayor has, among other powers, the power to veto ordinances and resolutions passed by Council, negotiate contracts, and draft and propose to Council an annual operating budget and an annual capital budget. The Mayor appoints a Business Administrator with the advice and consent of Council. The Business Administrator is responsible for supervising the administration of the City's adopted operating budget, and all operating department supervisors report to the Business Administrator.

The legislative branch is a Council that consists of five members elected at large for four-year terms. City Council appoints a City Clerk who is responsible for giving notice of Council meetings and keeping a journal of its proceedings. Council is required to meet once a week in regular session. All official and final action is taken by a majority vote. Ordinances or resolutions only become effective upon being signed by the Mayor or when passed by an extraordinary majority over the Mayor's veto. Council may adopt the Mayor's proposed budgets with or without amendments. If Council does not adopt a budget by December 15<sup>th</sup> the Mayor's proposed budget becomes the City's official budget for the ensuing year. The City's fiscal year commences on January 1 and ends on December 31.

The voters of the City also elect a City Controller for a four-year term. The City Controller is responsible for maintaining accounting systems for the City government and for examining and approving all contracts, purchase orders and other financial obligations against the City.

Pursuant to the Commonwealth of Pennsylvania's Municipalities Financial Recovery Act, Act 47 of 1987, as amended, (Act 47) the City was declared a financially distressed municipality by a Departmental Order of the Secretary of the then Department of Community Affairs (now Department of Community and Economic Development) (DCED) on January 10, 1992. See Appendix A. The Pennsylvania Economy League, Central PA Division, Wilkes-Barre, Pennsylvania was subsequently appointed the Act 47 Coordinator (Coordinator) for the City. The Coordinator prepared and the City adopted its original Act 47 Recovery Plan in 1992 and adopted subsequent Recovery Plan amendments prepared by the Coordinator in 1995, 2002, 2012 and 2015. The City has been in the Commonwealth's Act 47 program for over twenty-eight years.

Act 199 of 2014 (Act 199) amended Act 47 to provide a timeline and process for municipalities to exit from their distressed determination. For the City, the *Revised and Updated Act 47 Recovery Plan For the City of Scranton*, adopted by Scranton City Council on August 23, 2012, started the Act 199 timeline for the City to exit from the Act 47 program. As part of the Act 199 exit process, the Coordinator was required to prepare and file a report stating the financial condition of the City. On February 17, 2017, the Coordinator filed with the City a *Report Stating the Financial Condition of the City of Scranton* (Financial Condition Report). The Coordinator's finding in the Financial Condition Report noted that although the City had made "noteworthy progress" on a number of fronts, the Coordinator recommended that a three-year exit plan be prepared for the City.

The Coordinator, in conjunction with City officials, prepared a three-year exit plan for the City. On July 27, 2017 the City adopted the *Act 47 Exit Plan for the City of Scranton* (2017 Exit Plan). City officials have cooperated with the Coordinator in implementing many of the initiatives included in the City's 2017 Exit Plan.

Act 199 provides that after a municipality adopts a three-year exit plan the Secretary of DCED may, upon written recommendation from the coordinator, issue an administrative determination to rescind the order declaring the municipality distressed, thereby terminating the

distressed status of the municipality, or request the Governor to make a determination of a fiscal emergency in the municipality. If the coordinator does not provide a written recommendation to the Secretary of DCED and three-years elapse since the adoption of an exit plan, then the Secretary of DCED is required to terminate the distressed status of the municipality. See 53 P.S. §11701.257(b) and (c). The City adopted its Exit Plan on July 27, 2017.

DCED and the Coordinator have concluded that the Coordinator shall issue a written recommendation to the Secretary of DCED of whether to issue a determination to rescind the order declaring the City a distressed municipality or whether to request the Governor to make a determination of fiscal emergency in the City. The remainder of this Act 47 Coordinator's Recommendation will analyze the relevant facts in the City upon which the Coordinator's recommendation will be established.

#### **FACTORS TO CONSIDER TO RESCIND A DISTRESS DETERMINATION**

Section 11701.255.1(c) of Act 47 enumerates four factors for the Secretary of DCED to consider in making a determination on whether to rescind the distressed status of a municipality. The full language of §255.1(c) is as follows:

- (c) **Factors to Consider.** — If the secretary concludes that *substantial evidence* supports an affirmative determination for each of the following factors, the determination shall be that the distressed status will be rescinded. The secretary shall consider whether:
- (1) Operational deficits of the municipality have been eliminated and the financial condition of the municipality, as evidenced by audited financial statements prepared in accordance with generally accepted accounting principles and projections of future revenues and expenditures demonstrates a reasonable probability of future balanced budgets absent participation in this act.
  - (2) Obligations issued to finance the municipality's debt have been retired, reduced or reissued in a manner that has adequately refinanced outstanding principle [*sic*] and interest and has permitted timely debt service and reasonable probability of continued timely debt service absent participation in this act.
  - (3) The municipality has negotiated and resolved all claims or judgments that would have placed the municipality in imminent jeopardy of financial default.
  - (4) The reasonably projected revenues of the municipality are sufficient to fund ongoing necessary expenditures, including pension and debt

obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services. Projections of revenues shall include any anticipated tax or fee increases to fund ongoing expenditures for the first five years after a termination of distressed status.

53 P.S. §11701.255.1(c). (Emphasis added.)

“Substantial evidence” is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. See *Republic Steel Corporation v. Workmen’s Compensation Appeal Board*, 492 Pa. 1 (Pa. 1980), 421 A.2d. 1060, at 1062. Appellate review is focused on whether there is rational support in the record, when reviewed as a whole, for an agency’s action. *Id.* at 1063. Findings of fact will be overturned only if they are arbitrary and capricious. *Id.* Using the statutory language above as guidance, the Coordinator will examine the relevant facts as they exist in the City for each factor enumerated in §11701.255.1(c).

**Factor (1)**

Operational deficits of the municipality have been eliminated and the financial condition of the municipality, as evidenced by audited financial statements prepared in accordance with generally accepted accounting principles and projections of future revenues and expenditures demonstrates a reasonable probability of future balanced budgets absent participation in this act.

The City provided the Coordinator with completed annual audits for the years 2016-2018. For 2019, the Coordinator utilized restated financial statements provided by the City. For 2020, the Coordinator will analyze the City’s adopted 2020 operating budget and the Coordinator’s database of City financials to create 2020 estimates.

During the period 2016 – 2019 the City experienced a mix of surpluses and deficits. The City’s audited financial statements show that the City experienced an excess of revenues over expenditures of \$3,972,101 in 2016. In 2016, the City received over \$74,000,000 in proceeds from bonds. The principal 2016 bond financings consisted of \$29,810,000 in bond financing to pay the police and fire judgment resulting from a 2011 Pennsylvania Supreme Court ruling; \$7,720,000 refinancing a letter of credit that backed a 2008 taxable variable rate demand note; and \$32,850,000 in bonds to generate the funds needed to defease the remaining outstanding debt

of the Scranton Parking Authority (SPA) as part of the 2016 monetization of the SPA. The City also received \$66,519,986 in proceeds from the sale of the Scranton Sewer Authority to a third party in December 2016 (2016 Sewer Sale Proceeds). This sale transaction significantly increased the City's fund balance from \$5,050,411 to \$75,542,498.

The City's 2017 audited financial statements evidence that the City experienced an excess of expenditures over revenues resulting in a deficit of (\$42,262,695). However, this deficit occurred during 2017 due to the City's utilization of a portion of the 2016 Sewer Sale Proceeds in the fund balance to defease seven outstanding general obligation bonds and notes. The total long-term debt defeased by the City in 2017 was approximately \$42,411,312. (See **Factor 2** for defeased 2017 debt details). The defeasance of the general obligation bonds and notes reduced the City's long-term debt general obligation notes and notes from \$154,893,540 in 2016 to \$113,463,684 in 2017. After accounting for the unbudgeted defeasance expenditure, the City's deficit in 2017 was (\$148,617). The defeasance of these general obligation bonds and notes decreased the City's fund balance from \$75,542,498 to \$33,279,803.

The City's 2018 audited financial statements evidence that the City experienced an excess of expenditures over revenues resulting in a deficit of (\$1,241,138). In 2018, the City issued a five-year Series of 2018 general obligation note of \$22,990,000. The note was secured by \$22,990,000 of 2016 Sewer Sale Proceeds which were deposited in an account with Webster Bank of Waterbury, Connecticut. The \$22,990,000 general obligation note proceeds received by the City were distributed to partially fund the City's pensions—10% was distributed to the City's non-uniformed pension plans and 45% was distributed to the police pension plan and fire pension plan, respectively. The City's fund balance decreased in 2018 from \$33,279,803 to \$32,038,665.

For 2019, the City's 2019 unaudited financial statements were examined for this analysis. In 2019, the City experienced an excess of revenues over expenditures resulting in a \$1,412,341 surplus. Unlike the prior three years, the City did not undertake any long-term debt obligations nor defease any long-term debt. The City's fund balance increased from \$32,038,665 to \$33,451,006.

Based upon the City's adopted 2020 budget and the Coordinator's financial database, the City is estimated to incur a slight deficit of (\$124,290) in 2020. In 2020, the City will make its first principal payment of \$6,000,000 on the Series of 2018 general obligation note thereby

increasing the City's 2020 debt service payments. The City will transfer \$6.0 million from the Webster Bank account to make this payment in 2020. The estimated 2020 deficit of (\$124,290) will slightly reduce the City's fund balance to \$33,326,716. (See Table 1.)

Table 1  
CITY OF SCRANTON  
General Fund Revenues and Expenditures  
2016 to 2020

	2016 Audit	2017 Audit	2018 Audit	2019 Restated	2020 Estimated
Taxes	70,548,681	72,648,050	72,925,885	73,350,942	75,584,728
Intergovernmental	3,768,628	4,963,928	4,761,305	4,419,309	4,459,266
Departmental Earnings	1,410,012	281,014	554,483	307,639	447,000
Refuse Disposal Fee	7,440,667	6,637,754	6,970,633	7,268,069	7,111,678
Licenses & Permits	1,332,642	2,295,187	2,396,375	2,452,580	2,105,664
Cable Television Franchise Revenue	1,016,420	1,071,698	1,022,958	771,904	975,000
Payments In Lieu of Taxes	60,791	271,559	71,456	245,338	350,000
Investment Income	0	0	0	0	0
Other Revenues	904,101	3,073,037	881,339	1,161,203	967,300
Rents & Concessions	6,500	5,500	5,500	5,000	5,000
Program Income	0	0	432,088	0	0
<b>Total Revenues</b>	<b>86,488,442</b>	<b>91,247,727</b>	<b>90,022,022</b>	<b>89,981,984</b>	<b>92,005,636</b>
General Government	13,045,312	14,539,547	17,687,403	15,127,080	18,405,585
Public Safety	48,284,517	53,625,673	67,310,714	47,480,091	49,130,303
Public Works	10,889,714	12,384,073	13,074,685	13,044,460	13,601,452
Community Development	0	0	0	0	0
Culture & Recreation	649,603	685,201	725,924	949,953	872,015
Debt Service	12,420,110	8,943,290	10,688,041	12,212,524	18,201,846
Capital Outlay	0	1,975,936	3,912,713	1,876,768	1,893,300
<b>Total Expenditures</b>	<b>85,289,256</b>	<b>92,153,720</b>	<b>113,399,480</b>	<b>90,690,876</b>	<b>102,104,501</b>
<b>Operating Surplus/(Deficit)</b>	<b>1,199,186</b>	<b>(905,993)</b>	<b>(23,377,458)</b>	<b>(708,892)</b>	<b>(10,098,865)</b>
Transfers	1,016,976	2,930,526	169,391	2,741,550	9,398,901
Sale of Assets	0	2,570,139	0	0	1,520,824
Proceeds from Leases	0	0	1,944,539	106	100
Proceeds from Bonds	74,018,961	24,620,000	22,990,000	0	1,000
Premium of Issuance of Bonds	0	1,539,054			
TRAN	12,750,000	12,750,000	12,750,000	12,700,000	12,750,000
Transfers Out	-8,823,003	-175,000	-2,132,397	0	0
TRAN	-13,014,162	-12,964,896	-13,101,263	-12,946,598	-13,196,250
Payment to escrow Agent for Refunding/Retirements	0	-72,437,410	0	0	0
Parking Authority Debt Payments	-31,864,978				
Court Award Payment	-31,310,879	-189,115	-483,951	-373,824	-500,000
<b>Total Other Financing Sources</b>	<b>2,772,915</b>	<b>(41,356,702)</b>	<b>22,136,320</b>	<b>2,121,234</b>	<b>9,974,575</b>
<b>Excess of Revenues &amp; Other Financing Sources over Expenditures and Other Financing Uses</b>	<b>3,972,101</b>	<b>(42,262,695)</b>	<b>(1,241,138)</b>	<b>1,412,341</b>	<b>(124,290)</b>
Sale of Sewer Authority	66,519,986				
Fund Balance Beginning of Year	5,050,411	75,542,498	33,279,803	32,038,665	33,451,006
<b>Fund Balance End of Year</b>	<b>75,542,498</b>	<b>33,279,803</b>	<b>32,038,665</b>	<b>33,451,006</b>	<b>33,326,716</b>



Note that the Coordinator will analyze the probability of future City revenues and expenditures producing future balanced budgets absent participation in this act in the **Factor 4** projections of City revenues and expenditures.

**Factor (2)**

Obligations issued to finance the municipality's debt have been retired, reduced or reissued in a manner that has adequately refinanced outstanding principle [*sic*] and interest and has permitted timely debt service and reasonable probability of continued timely debt service absent participation in this act.

As mentioned in **Factor (1)** above, the City used a large portion of the 2016 Sewer Sale Proceeds to defease a significant amount of long-term, high-interest debt in 2017. As a result, from 2016 to 2017 the City's outstanding long-term debt decreased from \$158,893,540 to \$113,463,684.

In 2018, the City issued a \$22.9 million general obligation note to fund the City's three defined benefit pension plans. As previously mentioned, this note was secured by \$22,990,000 of 2016 Sewer Sale Proceeds which are currently deposited in an account with Webster Bank. The City did not undertake any major issuances of general obligation bonds or notes in 2019.

During the period 2016 – 2019 the City timely made all of its debt service payments. The City's total outstanding debt decreased from \$158,893,540 in 2016 to 117,634, 814 in 2019. (See Table 2.)

Table 2  
CITY OF SCRANTON  
Outstanding Debt Principal  
2016 to 2019  
(Outstanding as of December 31<sup>st</sup> each year)

	2016 Audit	2017 Audit	2018 Audit	2019 Estimated	Maturity Date
<b>General Obligation Bonds</b>					
Emmaus General Authority Series 2002	4,405,000	4,105,000	3,795,000	3,470,000	2028
Series B of 2003	25,195,000	0	0	0	
Series C of 2003	13,270,000	0	0	0	
Series D of 2003	6,135,000	0	0	0	
Series A of 2012	6,075,000	0	0	0	
Series C of 2012	6,655,000	0	0	0	
Series A and AA of 2016	39,278,595	37,175,000	34,570,000	31,815,000	2028/2025
Series of 2017	0	24,620,000	22,620,000	20,520,000	2029
<b>Total GO Bonds</b>	<b>101,013,595</b>	<b>65,900,000</b>	<b>60,985,000</b>	<b>55,805,000</b>	
<b>General Obligation Notes</b>					
Series B of 2012	800,000	0	0		
Series A of 2013	3,774,025	0	0		
Series of 2016	35,563,692	32,840,000	32,605,000	32,360,000	2032
Series of 2018	0	0	22,620,000	22,990,000	2023
<b>Total GO Notes</b>	<b>40,137,717</b>	<b>32,840,000</b>	<b>55,225,000</b>	<b>55,350,000</b>	
<b>Lease Obligations Payable</b>					
2006 Capitalized Lease Equip Energy System	700,428	0	0		
2006 Capitalized Buildings	8,820,000	7,705,000	0		2024
2016 Capitalized Lease Equipment	1,587,346	1,017,687	0		
2016 Street Light Lease	4,000,000	3,678,203	3,395,681	3,094,979	2027
Capitalized Lease Equipment	0	0	2,310,712	2,310,712	2023
<b>Total Lease Obligations</b>	<b>15,107,774</b>	<b>12,400,890</b>	<b>5,706,393</b>	<b>4,791,109</b>	
<b>Notes Payable</b>					
DCED Act 47 Loan	600,000	500,000	400,000	300,000	2022
PIB Loan	2,034,454	1,822,794	1,607,352	1,388,705	2025
<b>Total Notes Payable</b>	<b>2,634,454</b>	<b>2,322,794</b>	<b>2,007,352</b>	<b>1,688,705</b>	
<b>Total Outstanding Debt</b>	<b>158,893,540</b>	<b>113,463,684</b>	<b>123,923,745</b>	<b>117,634,814</b>	

The City has not notified the Coordinator nor is the Coordinator aware as of the writing of this Act 47 Coordinator's Recommendation of any new City debt obligations to be incurred in 2020. The City's 2020 debt service is projected to be \$17,858,079, of which \$6,000,000 will be transferred from the Webster Bank account for a principal payment on the 2018 general obligation note. Notwithstanding any borrowing which may be incurred in 2020, the Coordinator projects the City's debt service obligations for the years 2020-2025 as stated in Table 3.

Table 3  
CITY OF SCRANTON  
Debt Service  
2020 to 2025

	2020 Debt Service	2021 Debt Service	2022 Debt Service	2023 Debt Service	2024 Debt Service	2025 Debt Service
<b>General Obligation Bonds</b>						
Emmaus General Authority Series 2002	456,450	454,725	457,650	455,050	457,100	457,100
Series A and AA of 2016	4,508,513	4,531,713	4,686,325	4,795,350	5,170,288	5,267,125
Series of 2017	3,231,000	3,230,750	3,225,000	3,233,750	2,296,000	868,750
<b>Total GO Bonds</b>	<b>8,195,963</b>	<b>8,217,188</b>	<b>8,368,975</b>	<b>8,484,150</b>	<b>7,923,388</b>	<b>6,592,975</b>
<b>General Obligation Notes</b>						
Series of 2016	1,878,000	1,875,000	1,876,500	1,872,250	2,442,500	3,783,500
Series of 2018	6,559,450	6,558,225	6,561,050	6,556,825	0	0
<b>Total GO Notes</b>	<b>8,437,450</b>	<b>8,433,225</b>	<b>8,437,550</b>	<b>8,429,075</b>	<b>2,442,500</b>	<b>3,783,500</b>
<b>Lease Obligations Payable</b>						
2016 Street Light Lease	429,767	438,218	446,379	455,150	464,090	473,206
Capitalized Lease Equipment	449,930	464,168	464,168	464,168	102,157	102,157
<b>Total Lease Obligations</b>	<b>879,697</b>	<b>902,386</b>	<b>910,547</b>	<b>919,318</b>	<b>566,247</b>	<b>575,363</b>
<b>Notes Payable</b>						
DCED Act 47 Loan	100,000	100,000	100,000	0	0	0
PIB Loan	244,969	244,969	244,968	244,811	244,991	244,991
<b>Total Notes Payable</b>	<b>344,969</b>	<b>344,969</b>	<b>344,968</b>	<b>244,811</b>	<b>244,991</b>	<b>244,991</b>
<b>Total Debt Service</b>	<b>17,858,079</b>	<b>17,897,768</b>	<b>18,062,040</b>	<b>18,077,354</b>	<b>11,177,125</b>	<b>11,196,828</b>

The Coordinator deems it worthy to note that in 2015 the City appointed a local bank as the City's paying agent for the City's debt service. The paying agent serves as a single point for paying the City's debt service obligations and is required by two City bond issues. The City designates 33% of annually collected real estate taxes to go directly to the paying agent. The paying agent structure created by the City has served the City well in meeting its annual debt service obligations over the past five-years. The Coordinator anticipates that the City will continue this process into the future.

**Factor (3)**

The municipality has negotiated and resolved all claims or judgments that would have placed the municipality in imminent jeopardy of financial default.

Over the past 28 years the City, with a population of over 77,000 people, has had a fair share of litigation. During the 2017 Exit Plan period, the City has settled or fully adjudicated several outstanding lawsuits. However, as of the writing of this Act 47 Coordinator's Recommendation there remains several outstanding lawsuits that the City is defending, with one lawsuit in particular that involves a significant sum of money. The following is a review of the settled and active lawsuits involving the City.

Settled lawsuits:

- 1) In July 2019, the City settled a lawsuit filed by UGI Utilities, Inc., in 2015 that challenged a June 2015 City ordinance imposing new rules and fees on pavement cuts and inspections in the City. The City agreed to reduce the pavement cut and inspection fees to PennDOT standards and to provide UGI with a \$100,000 credit against future pavement cut and inspections fees to be allocated over five years.
- 2) In April 2019, the City agreed to pay \$245,000 to settle a federal lawsuit filed by a building contractor who alleged that the City Director of Licensing, Inspections and Permits improperly revoked his contracting licenses. The settlement will be paid from City general funds because insurance coverage of the claim was denied.
- 3) In March 2019, the City agreed to settle a class-action lawsuit filed in 2015 challenging the City's rental registration program. The City will pay a total of \$71,100 to 544 property owners, lower the rental registration fee from \$150 to \$45 in 2020 and pay plaintiff's legal fees.

Outstanding lawsuits:

- 1) A class action lawsuit filed in December 2016 challenges the City's annual \$300 trash fee as excessive. About 6,000 City property owners signed on as co-plaintiffs in June 2019.

In October 2019, the City appointed the law firm of Fox Rothschild LLP to provide legal services. Litigation is ongoing.

- 2) A potential class-action lawsuit filed in September 2018 alleges that Northeast Revenue Services, the City appointed collector of delinquent trash fees, has charged and collected interest on both delinquent garbage fees and on penalties that were not authorized by City ordinance. The City was ordered to be included as a defendant in the lawsuit. Litigation is ongoing.
- 3) The City is defending a 2017 Action in Mandamus alleging that the City is annually collecting Act 511 tax revenue in excess of the aggregate amount permitted in 53 P.S. §6924.320. The plaintiffs sought a judicial order to have the City modify their Act 511 tax rates to conform with §6924.320 and to escrow any Act 511 tax collection dollars that exceed the statutory limit. The City argued that the §6924.320 aggregate revenue limit does not apply to the City because as a home rule municipality the Home Rule Charter and Optional Plans Law, Act 62 of 1972, as amended, (Home Rule Law) permits the City to exceed the Act 511 tax rate limits and, consequently, the §6924.320 aggregate collection limits.

On December 16, 2019, Judge James Gibbons of the Lackawanna County Court of Common Pleas agreed with the plaintiffs and ordered the City to set aside and sequester excess Act 511 taxes for the years 2015, 2016, 2017 (2019 Lackawanna Common Pleas Order). The 2019 Lackawanna Common Pleas Order also requires the City to determine, set aside and sequester excess Act 511 taxes received for fiscal year 2018 forthwith. Finally, the 2019 Lackawanna Common Pleas Order directs the City to reduce the rates of their Act 511 tax rates so that the total revenues collected for its Act 511 taxes going forward more closely approximate the Act 511 aggregate revenue limit.

The City has informed the Coordinator that the estimated amount of money the City will need to set aside to comply with the 2019 Lackawanna Common Pleas Order is approximately \$50 million. In addition, the City will be required to reduce its Act 511 tax rates to comply with the 2019 Lackawanna Common Pleas Order. To offset the reduced Act 511 tax revenue the City will have to increase its real property tax rates

and/or impose significant expenditure reductions to comply with the 2019 Lackawanna Common Pleas Order.

On January 13, 2020, the City filed a Notice of Appeal of the 2019 Lackawanna Common Pleas Order with the Commonwealth Court of Pennsylvania. The City also filed, on February 25, 2020, a Petition for Extraordinary Jurisdiction or in the Alternative King's Bench Jurisdiction with the Supreme Court of Pennsylvania. The City's appeal filings has, by law, superseded enforcement of the 2019 Lackawanna Common Pleas Order.

The Coordinator understands that the City is currently in the legal process of appealing the 2019 Lackawanna Common Pleas Order and that at this time, the City's exercise of their appellate rights have not been finalized. With the supersedeas in place, it is the Coordinator's opinion that, at the time of the writing of this Act 47 Coordinator's Recommendation, the City's financial condition and public service provisions have not been immediately impacted by the 2019 Lackawanna Common Pleas Order. However, should the City not prevail in its appeal efforts, it is the Coordinator's opinion that, at that time, an evaluation of the City's fiscal condition and the options available would be warranted to determine the City's fiscal capacity to satisfy the 2019 Lackawanna Common Pleas Order or any modification that may be made to the 2019 Lackawanna Common Pleas Order by an appellate court.

**Factor (4)**

The reasonably projected revenues of the municipality are sufficient to fund ongoing necessary expenditures, including pension and debt obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services. Projections of revenues shall include any anticipated tax or fee increases to fund ongoing expenditures for the first five years after a termination of distressed status.

The Coordinator projects that the City will incur operating deficits throughout the 2021-2025 projection period. The lack of inherent growth in the City's real property tax revenue and only slight growth in the City's earned income tax revenue coupled with annual projected

expenditure growth of 2.0% will cause the City to realize operating budget deficits throughout the projection period. (See Table 4.)

Table 4  
CITY OF SCRANTON  
General Fund Revenue and Expenditure  
Baseline Projections  
2021 to 2025

	2021	2022	2023	2024	2025
	Projected	Projected	Projected	Projected	Projected
<u>Revenue</u>					
Real Estate Taxes	\$35,797,007	\$35,761,210	\$35,725,449	\$35,689,724	\$35,654,034
EIT	29,408,633	29,967,397	30,536,778	31,116,977	31,708,199
LST	4,954,950	4,959,905	4,964,865	4,969,830	4,974,800
Merc/BPT/Payroll Prep	2,587,875	2,600,814	2,613,818	2,626,888	2,640,022
RE Transfer Tax	2,751,000	2,751,000	2,751,000	2,751,000	2,751,000
Other Taxes	295,000	295,000	295,000	295,000	295,000
Refuse Revenue	7,111,678	7,111,678	7,111,678	7,111,678	7,111,678
Licenses & Permits	2,038,164	2,038,164	2,038,164	2,038,164	2,038,164
Intergovernmental Revenues	4,429,618	4,516,758	4,605,619	4,696,234	4,788,640
Transfers	8,339,451	8,339,451	7,539,451	2,339,451	2,339,451
Other Non tax revenue	<u>3,131,726</u>	<u>3,130,954</u>	<u>3,130,184</u>	<u>3,129,416</u>	<u>3,128,649</u>
<b>Operating Revenue</b>	<b>\$100,845,103</b>	<b>\$101,472,332</b>	<b>\$101,312,006</b>	<b>\$96,764,360</b>	<b>\$97,429,636</b>
<u>Expenditures</u>					
Direct Compensation	\$35,213,505	\$35,900,182	\$36,568,182	\$37,249,628	\$37,944,790
Benefits	20,606,215	21,688,037	22,829,359	24,033,454	25,303,774
Pension	11,789,532	11,789,532	11,789,532	11,789,532	11,789,532
Workers Comp	3,109,811	3,109,811	3,109,811	3,109,811	3,109,811
Capital Expenditures	1,412,750	1,412,750	1,412,750	1,412,750	1,412,750
Departmental Expenditures	8,671,898	8,854,008	9,031,088	9,211,710	9,395,944
Nondepartmental Expenditures	1,342,537	1,349,772	1,356,807	1,363,983	1,371,303
Debt Service exc TRAN	18,256,130	18,183,458	18,246,504	11,079,357	11,130,412
TRAN Interest	446,250	446,250	446,250	446,250	446,250
Court Awards	<u>500,000</u>	<u>500,000</u>	<u>500,000</u>	<u>500,000</u>	<u>500,000</u>
<b>Total Expenditures</b>	<b>\$101,348,628</b>	<b>\$103,233,801</b>	<b>\$105,290,284</b>	<b>\$100,196,476</b>	<b>\$102,404,567</b>
<b>Operating Surplus/(Deficit)</b>	<b>(\$503,525)</b>	<b>(\$1,761,469)</b>	<b>(\$3,978,278)</b>	<b>(\$3,432,116)</b>	<b>(\$4,974,931)</b>

As mentioned, the lack of inherent growth in the City's real property tax revenue is the main driver for the projected operating deficits. This lack of inherent grow is the result of annual flat or decreasing City real property assessed values. In nineteen years, the City's real property

assessed values increased from \$375,820,656 in 2000 to \$388,299,190 in 2018 or by 3.3%. By contrast, the City's real property market values increased from \$1,370,292,100 in 2000 to \$2,378,758,636 in 2018 or by 73.6%. The result of flat or decreasing real property assessed values is that the City receives the same or less real property tax revenue year after year even though the City's real property tax rates remain constant. As the largest revenue source for City operations, this lack of inherent growth in the City's real property assessed values will force the City's elected officials to seek additional revenues to maintain pace with the City's expenditure growth. (See Table 5.)

Table 5  
CITY OF SCRANTON  
Real Property Market Value and Assessed Value  
2000 to 2018

Year	Market Value	MV Change	MV % Change	Assessed Value	AV Change	AV % Change	Ratio of Assessed to Market Value
2000	1,370,292,100	79,514,000	6.2	375,820,656	3,968,214	1.1	27.4%
2001	1,369,567,700	-724,400	-0.1	375,864,398	43,742	0.0	27.4%
2002	1,465,214,700	95,647,000	7.0	383,853,757	7,989,359	2.1	26.2%
2003	1,452,676,700	-12,538,000	-0.9	380,284,275	-3,569,482	-0.9	26.2%
2004	1,553,485,600	100,808,900	6.9	384,921,429	4,637,154	1.2	24.8%
2005	1,559,719,200	6,233,600	0.4	385,911,174	989,745	0.3	24.7%
2006	1,779,411,700	219,692,500	14.1	389,095,126	3,183,952	0.8	21.9%
2007	1,777,575,800	-1,835,900	-0.1	388,605,450	-489,676	-0.1	21.9%
2008	1,991,479,725	213,903,925	12.0	384,341,025	-4,264,425	-1.1	19.3%
2009	2,047,335,159	55,855,433	2.8	390,510,794	6,169,769	1.6	19.1%
2010	2,211,703,424	164,368,265	8.0	382,752,940	-7,757,854	-2.0	17.3%
2011	2,197,521,550	-14,181,874	-0.6	380,485,130	-2,267,810	-0.6	17.3%
2012	2,263,828,875	66,307,325	3.0	390,752,934	10,267,804	2.7	17.3%
2013	2,265,824,782	1,995,907	0.1	390,860,289	107,355	0.0	17.3%
2014	2,282,430,414	16,605,632	0.7	397,321,682	6,461,393	1.7	17.4%
2015	2,273,875,550	-8,554,864	-0.4	395,717,763	-1,603,919	-0.4	17.4%
2016	2,304,080,217	30,204,667	1.3	392,363,291	-3,354,472	-0.8	17.0%
2017	2,286,978,457	-17,101,760	-0.7	388,299,190	-4,064,101	-1.0	17.0%
2018	2,378,758,636	-17,101,760	-0.7	388,299,190	-4,064,101	-1.0	17.0%

For the City to mitigate the effects of its annual flat or decreasing real property assessed values, the City will have to make incremental property tax rate increases and/or reduce expenditures over the next five years to avoid the projected operating budget deficits. The Coordinator recommends that the City increase its property tax millage rate by 1.4%, 3.5% and



6.2% in the years 2021 – 2023, respectively, to eliminate the projected operating deficits in those years. In 2024, the City’s debt service obligations will be reduced by approximately \$6,000,000 as the City’s Series of 2018 general obligation note is satisfied in 2023. Although the Coordinator projects the City will incur a 2024 operating budget deficit of (\$3,432,116), no tax increase is recommended in 2024. The accruing of City property tax revenue generated by the prior 2021 – 2023 property tax increases will generate \$3,978,278 of additional revenue by 2024 leaving the City with a projected operating budget surplus of \$546,162 in 2024. In 2025, the Coordinator recommends a 2.8% property tax millage increase to eliminate the projected (\$4,974,931) operating budget deficit. The total property tax rate percentage increase over the five-year period of 2021 – 2025 is 13.9%. Any expenditure reductions implemented by the City during this period may reduce the percentage property tax millage rates recommended by the Coordinator in this Act 47 Coordinator’s Recommendation. (See Table 6.)

Table 6  
CITY OF SCRANTON  
General Fund Revenue and Expenditure  
Recommended Property Tax Increases  
2021 to 2025

	2021	2022	2023	2024	2025
	Projected	Projected	Projected	Projected	Projected
Revenues	\$100,845,103	\$101,472,332	\$101,312,006	\$96,764,360	\$97,429,636
Expenditures	<u>\$101,348,628</u>	<u>\$103,233,801</u>	<u>\$105,290,284</u>	<u>\$100,196,476</u>	<u>\$102,404,567</u>
<b>Operating Surplus/(Deficit)</b>	<b>(\$503,525)</b>	<b>(\$1,761,469)</b>	<b>(\$3,978,278)</b>	<b>(\$3,432,116)</b>	<b>(\$4,974,931)</b>
RE Tax Revenue Projection	\$35,797,007	\$35,761,210	\$35,725,449	\$35,689,724	\$35,654,034
Annual RE Tax % Increase	1.4%	3.5%	6.2%	0.0%	2.8%
Additional RE Tax Revenue	\$503,525	\$1,257,943	\$2,216,810	\$0	\$996,652
Accrument of RE Tax Revenue	<u>\$503,525</u>	<u>\$1,761,469</u>	<u>\$3,978,278</u>	<u>\$3,978,278</u>	<u>\$4,974,931</u>
<b>Operating Surplus/(Deficit)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$546,162</b>	<b>\$0</b>
Accrument of RE Tax % Increase	1.4%	4.9%	11.1%	11.1%	13.9%

While real property tax rate increases and expenditure reductions are unpalatable political options, the incremental real property tax increases recommended by the Coordinator will prevent the City from having to make punitive double-digit real estate tax increases in the future. More importantly, the Coordinator’s recommended annual tax increases will ensure that the City

has sufficient cash available throughout a fiscal year to meet its debt obligations and its financial obligations to its employees, vendors and suppliers as they come due.

As previously mentioned in this Act 47 Coordinator's Recommendation, the City is a home rule municipality. Thus, according to §2962(b) of the Home Rule Law, the City is not subject to tax rate limits on real property or Act 511 taxes. If the 2019 Lackawanna Common Pleas Order noted above in **Factor (3)** is upheld as a limit on the aggregate amount of Act 511 revenue the City may collect in a fiscal year, which in turn would force the City to reduce its Act 511 tax rates, primarily its earned income tax rate, as a home rule municipality there is no statutory limit on the real property tax rate the City may impose to offset any reduction in City Act 511 tax rates.

**At the time of the writing this Act 47 Coordinator's Recommendation, the City, along with the nation, is in the midst of the Coronavirus (COVID-19) pandemic. The future impact of the COVID-19 pandemic on the City's financial projections as presented by the Coordinator in this Act 47 Coordinator's Recommendation is unknown at this time. The Coordinator will continue to monitor the City's fiscal condition as the City progresses through the COVID-19 pandemic.**

### **FISCAL EMERGENCY**

As previously mentioned, DCED has charged the Coordinator with examining the conditions of the City to determine whether a fiscal emergency exists in the City. According to the relevant section of Act 47, the Governor determines a fiscal emergency exists if the distressed municipality:

- (a) **FISCAL EMERGENCY.**—The Governor determines a fiscal emergency exists if the distressed municipality:
  - (1) (i) is insolvent or is projected to be insolvent within 180 days or less; or
  - (ii) is unable to ensure the continued provision of vital and necessary services.

53 P.S. §11701.602(a)(1).

A distressed municipality is “insolvent” if it is unable to meet all financial obligations as they become due, including payment of debt obligations. 53 P.S. §11701.601. “Vital and necessary services” is defined as “basic and fundamental municipal services, including any of the following: (1) Police and fire services (2) Ambulance and rescue services (3) Water supply and distribution (4) Wastewater services (5) Refuse collection and disposal (6) Snow removal (7) Payroll and pension obligations (8) Fulfillment of payment of debt obligations or any other financial obligations.” *Id.*

The Coordinator’s analysis in the Factors to Consider to Rescind a Distress Determination of this Act 47 Coordinator’s Recommendation has determined that the City has been able to meet all of its financial obligations, including debt service, since the City’s adoption of the 2017 Exit Plan. In addition, the Coordinator’s cash flow projections project that the City will remain solvent throughout 2020, enabling the City to meet its financial obligations as they come due, including its 2020 debt service. (See Table 7.)

Table 7  
CITY OF SCRANTON  
Cash Flow Projections—Quarterly  
2020

	1st Qtr Budget	2nd Qtr Budget	3rd Qtr Budget	4th Qtr Budget	2020 Total
<b>Cash Beginning of Quarter</b>	1,267,530	13,672,037	13,331,966	8,105,933	
Surplus/Deficit	7,987,863	3,776,261	36,406	-11,354,279	
Other Financing Sources/(Uses)	11,416,644	-4,116,332	-5,262,439	-2,484,123	
Increase/(Decrease) in Payables	0	0	0	0	
(Increase)/Decrease in Other Cash Accounts	-7,000,000	0	0	7,000,000	
Other Balance Sheet Items Affecting Cash	0	0	0	0	
<b>Cash End of Quarter</b>	<b>13,672,037</b>	<b>13,331,966</b>	<b>8,105,933</b>	<b>1,267,531</b>	
<hr/>					
Revenues	29,324,773	31,520,223	20,795,406	21,410,350	103,050,751
<b>Total Revenues</b>	<b>29,324,773</b>	<b>31,520,223</b>	<b>20,795,406</b>	<b>21,410,350</b>	<b>103,050,751</b>
Expenditures	19,742,254	19,172,227	18,018,121	27,470,053	84,402,655
Debt Service	1,594,657	8,571,735	2,740,879	5,294,576	18,201,846
<b>Total Expenditures</b>	<b>21,336,910</b>	<b>27,743,962</b>	<b>20,759,000</b>	<b>32,764,629</b>	<b>102,604,501</b>
<b>Surplus/(Deficit)</b>	<b>7,987,863</b>	<b>3,776,261</b>	<b>36,406</b>	<b>(11,354,279)</b>	<b>446,250</b>
<hr/>					
<u>Other Financing Sources/(Uses)</u>					
TRAN	11,416,644	-4,116,332	-5,262,439	-2,484,123	-446,250
Debt Proceeds	0	0	0	0	0
Debt Defeasance	0	0	0	0	0
<b>Net Other Financing Sources/(Uses)</b>	<b>11,416,644</b>	<b>(4,116,332)</b>	<b>(5,262,439)</b>	<b>(2,484,123)</b>	<b>(446,250)</b>

AP Current Year at Prior Month	-375,387	-375,387	-375,387	-375,387
AP Current Year at Current Month	-375,387	-375,387	-375,387	-375,387
Change in AP Balance	0	0	0	0

In its adopted 2020 operating budget, the City has appropriated funds to provide many of the vital and necessary services enumerated in §11701.601 such as police and fire services, refuse collection and disposal, snow removal, payroll and pension obligations and the fulfillment of debt and other financial obligations. There is no evidence from the City or otherwise available to the Coordinator that as of the writing of this Act 47 Coordinator’s Recommendation that the City is unable to ensure the continued provision of vital and necessary services.

Although the specter of a failed appeal on the City’s behalf of the 2019 Lackawanna Common Pleas Order looms sometime in the future, it is not certain at this time whether this Order will be overturned by an appellate court ruling, that the City’s exhaustion of its appellate rights will occur within 180 days or if the 2019 Lackawanna Common Pleas Order is upheld on appeal at some future date that it would render the City “insolvent” or “unable to ensure the continued provision of vital and necessary services.” As mentioned previously in this Act 47 Coordinator’s Recommendation, the Coordinator deems it necessary that a full evaluation of the City’s financial condition and the options available to it would be warranted at the time such negative judgement is made final through the City’s exhaustion of its appellate rights.

### RECOMMENDATION

The Coordinator has reviewed the statutory factors necessary to make a determination of whether to request a rescission of the order declaring the City a distressed municipality and also the statutory criteria of whether to issue a determination of fiscal emergency in the City. It is the recommendation of the Coordinator that based upon a review of the totality of the factors included in §11701.255.1(c), substantial evidence supports an affirmative determination by the Secretary to issue a determination to rescind the order declaring the City of Scranton a distressed municipality. **However, the Coordinator is mindful that the City, along with the nation, is experiencing the effects of confronting the COVID-19 pandemic as of the time of this recommendation. The mutability of the circumstances created by the COVID-19 pandemic makes it impracticable at this time to project the extent of the negative impact on the City’s**

**future financial condition. Any such projection would be mere conjecture. The Coordinator will continue to monitor the fiscal impact of the COVID-19 pandemic on the City's fiscal condition over the next several weeks and months and provide its findings to DCED. Although not statutorily required, the Coordinator supports the Secretary of DCED's consideration of the extenuating circumstances facing the City as he evaluates the Coordinator's recommendation and the approaching July 27, 2020, statutory deadline for terminating the City's financially distressed status.**

Although the City has experienced a mix of operating budget surpluses and deficits over the past four years, the City has achieved many successes that will assist in sustaining the City's financial condition into the future. The City efficiently utilized the \$66.9 million of the 2016 Sewer Sale Proceeds to alleviate two outstanding issues. First, the City defeased over \$42.0 million in high yield, long-term general obligation bonds and notes. By defeasing these long-term debt obligations, the City has reduced the cost of its future debt service. In addition, the City has established a practice of utilizing a paying agent to aid the City in meeting its annual debt service obligations. Under this arrangement, the City escrows approximately 32% of its annual collected real property taxes for debt service obligations. It is the Coordinator's opinion that this arrangement has ensured that the City has sufficient cash available to make its debt obligation payments when due and recommends that the City maintain this arrangement in the future.

Second, the City deposited \$22.9 million of the 2016 Sewer Sale Proceeds into the City's aggregate pension fund. This infusion of cash into the City's pension funds, along with past market performance, has increased the funding ratio of all three City defined benefit pension funds. The aggregate pension fund reached a market value of over \$100 million in November 2019 from a market value of \$43.7 million in 2013.

The Coordinator projects that the City will experience operating deficits in the future as rate of the City's expenditure growth outpaces the rate of the City's revenue growth. As previously mentioned, the main driver for the projected operating deficits is the lack of growth in the City's real property assessed valuations. The real property assessed value decline in the City appears to be part of the systemic application of the state law governing assessment of real property for purposes of taxation. The City's continued participation in the Act 47 program cannot directly reverse this trend. In order to counter this lack of growth in real property

assessed values, the City will have to generate new revenue through tax increases, institute expenditure reductions and/or increase employee productivity. The Coordinator has continuously apprised the City of managing this issue through small annual tax increases for the past fifteen years. This advice has not always been heeded by the City's elected representatives, which in turn left the City with insufficient cash available in a fiscal year to satisfy their financial obligations when they were due and ultimately resulted in unavoidable, punitive, double-digit tax rate increases on City residents. It remains the Coordinator's opinion that the City can manage the projected operating budget deficits and sustain a sufficient cash flow throughout future fiscal years by incrementally increasing City property tax rates as recommended by the Coordinator in this Act 47 Coordinator's Recommendation.

The Coordinator is cognizant of the negative order issued by the Lackawanna County Court of Common Pleas in December 2019. Presently, the City is vigorously exercising its appellate rights seeking a reversal of this order. Hopefully, the City's appointed legal team will be successful. Until the City exhausts its appellate rights concluding the legal process of this litigation, the Coordinator can only conjecture several outcomes that may or may not occur in the future. The impact of this litigation will become much clearer upon the City's exhaustion of its appellate rights.

Act 47 provides specific guidance for the Coordinator to evaluate when making its recommendation to the Secretary of DCED. It does not permit the Coordinator to entertain the evaluation of all potential scenarios the City may encounter in the near or distant future. At this time, it is the Coordinator's opinion that the City of Scranton is able to meet all of its financial obligations as they come due. It is also the Coordinator's opinion that the City is presently able to provide vital and necessary services to its residents. Therefore, for the reasons stated above, it is the recommendation of the Coordinator that the Secretary of DCED may issue a determination to rescind the order declaring the City of Scranton a distressed municipality as defined by Act 47 of 1987, as amended.

# APPENDIX

## A

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF COMMUNITY AFFAIRS

IN RE: . PETITION UNDER SECTION 201  
CITY OF SCRANTON . AND 203 OF THE FINANCIALLY  
DISTRESSED MUNICIPALITIES ACT


\*\*\*\*\*

CITY OF SCRANTON .  
DOCKET NO. FDMA - 12  
. .  
. .

DEPARTMENTAL ORDER

AND NOW, this *10th* day of January 1992, the above-captioned petition is granted.

IT IS ORDERED that the City of Scranton shall be deemed to be a distressed municipality under the Financially Distressed Municipalities Act, Act 47 of 1987.

  
Karen A. Miller  
Secretary  
Department of Community Affairs



**ACT 47 COORDINATOR'S TESTIMONY REGARDING THE  
RECOMMENDATION TO THE SECRETARY OF THE  
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
FOR THE  
CITY OF SCRANTON**

Prepared By:

Pennsylvania Economy League, Central PA Division, LLC  
88 North Franklin Street, Suite 200  
Wilkes-Barre, PA 18701

April 2020

I am Gerald Cross of the Pennsylvania Economy League, Central PA. Our principal office is located in Wilkes-Barre, PA. Joining me in these remarks is Matthew Domines of our staff. PEL is the DCED-appointed Act 47 Coordinator for the City of Scranton. Thank you for the opportunity to present our testimony regarding our written *Act 47 Coordinator's Recommendation to the Secretary of the Department of Community and Economic Development for the City of Scranton* (Recommendation to the Secretary), dated March 31, 2020.

As you are aware, Act 199 of 2014 (Act 199) amended Act 47 to provide a timeline and process for municipalities to exit from the Act 47 program. For the City, the *Revised and Updated Act 47 Recovery Plan For the City of Scranton*, adopted by Scranton City Council on August 23, 2012 started the Act 199 five-year timeline for the City to exit from the Act 47 program. As part of the Act 199 exit process, PEL, as the Coordinator, was required to prepare and file a report stating the financial condition of the City. On February 17, 2017, we filed with the City a *Report Stating the Financial Condition of the City of Scranton* (Financial Condition Report). Our findings in the Financial Condition Report recommended a three-year exit plan.

PEL, in conjunction with City officials, prepared a three-year exit plan for the City. On July 27, 2017 the City adopted the *Act 47 Exit Plan for the City of Scranton* (Exit Plan). City officials have implemented many, but not all, of the initiatives included in the City's 2017 Exit Plan.

Act 199 provides that after a municipality adopts a three-year exit plan the Secretary of DCED may, upon written recommendation from the coordinator, (1) issue an administrative determination to rescind the order declaring the municipality distressed, thereby terminating the distressed status of the municipality or (2) request a determination of a fiscal emergency be made by the Governor.

On March 31, 2020, PEL as the Coordinator submitted to DCED the Recommendation to the Secretary. The Recommendation to the Secretary included an evaluation of the Act 199 enumerated four factors for the Secretary of DCED to consider in making a determination on whether to rescind the distressed status of a municipality. The four factors are as follows:

- (1) Operational deficits of the municipality have been eliminated and the financial condition of the municipality, as evidenced by audited financial statements prepared in accordance with generally accepted accounting principles and projections of future revenues and expenditures demonstrates a reasonable probability of future balanced budgets absent participation in this act.
- (2) Obligations issued to finance the municipality's debt have been retired, reduced or reissued in a manner that has adequately refinanced outstanding principle [sic] and interest and has permitted timely debt service and reasonable probability of continued timely debt service absent participation in this act.
- (3) The municipality has negotiated and resolved all claims or judgments that would have placed the municipality in imminent jeopardy of financial default.
- (4) The reasonably projected revenues of the municipality are sufficient to fund ongoing necessary expenditures, including pension and debt obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services. Projections of revenues shall include any anticipated tax

or fee increases to fund ongoing expenditures for the first five years after a termination of distressed status.

Our Recommendation to the Secretary outlined the City's progress and circumstances under each of these statutory factors. For factor 1, we found that the City has experienced a mix of operating budget surpluses and deficits over the past four years. For example, in 2018 the City had an audited \$1.2 million or 1% operating deficit but is showing a restated \$1.4 million operating surplus in 2019. Both the 2018 operating deficit and the 2019 operating surplus are approximately 1% of the City's revenues.

Under factor 2, we determined that the City efficiently utilized a portion of the \$66.9 million of the 2016 Sewer Sale Proceeds over the three-year term of the Exit Plan to defease over \$42.0 million in high yield, long-term general obligation bonds and notes. The City's total outstanding debt decreased from \$158,893,540 in 2016 to \$117,634, 814 in 2019. By defeasing these long-term debt obligations, the City has reduced the cost of its future debt service. During the period 2016 – 2019 the City timely made all of its debt service payments. It is also worth noting that the City also utilized \$22.9 million of the 2016 Sewer Sale Proceeds for a deposit into the City's aggregate pension fund. This infusion of cash into the City's pension funds has increased the funding ratio of all three City defined benefit pension funds.

For factor 3, we found that during the 2017 Exit Plan period, the City settled or fully adjudicated several outstanding lawsuits. However, we also noted that there remains several outstanding lawsuits that the City is defending, with one lawsuit in particular, the Act 511 litigation, involving a significant sum of money and poses some liability in the future for the City. As Coordinator, we concluded that the extent of any liability from this litigation is not possible to know until the

litigation has completed the appellate process which will most likely occur after the July 27, 2020, Act 199 statutory deadline for terminating the City's distressed status.

For factor 4, our baseline projections projected that the City will incur operating deficits throughout the 2021-2025 projection period if no action is taken by the City. The lack of inherent growth in the City's real property tax revenue and only slight growth in the City's earned income tax revenue, coupled with annual projected expenditure growth of 2.0%, will cause the City to realize operating budget deficits throughout the projection period. This lack of inherent growth in the City's largest revenue source is the result of annual flat or decreasing City assessed values of real property, upon which the City's property tax revenue is based. In nineteen years, the City's real property assessed values increased by only 3.3%. By contrast, the City's real property market values increased more than twenty times that amount to 73.6%. The result of flat or decreasing real property assessed values is that the City receives the same or less real property tax revenue year after year even though the City's real property tax rates remain constant.

In order to prevent future budget deficits and to counter this lack of growth in real property assessed values, the City will have to generate new revenue through tax increases, institute expenditure reductions and/or increase employee productivity. As required by Act 199, PEL in its role as Coordinator recommended that the City increase its property tax millage rate by 1.4%, 3.5% and 6.2% in the years 2021 – 2023, respectively, no tax increase in 2024 and a 2.8% increase in 2020 to eliminate the projected operating deficits. The total property tax rate percentage increase over the five-year period of 2021 – 2025 is 13.9%.

Additionally, we also examined the Act 199 factors to determine whether the conditions of a fiscal emergency are present in the City. A fiscal emergency exists if a distressed municipality is: (i) insolvent or is projected to be insolvent within 180

days or less; or (ii) is unable to ensure the continued provision of vital and necessary services—police, fire, ambulance, refuse collection and meet payroll and debt service obligations.

We noted in our report that the City's adopted 2020 operating budget appropriated funds to provide many of the vital and necessary services such as police and fire services, refuse collection and disposal, snow removal, payroll and pension obligations and the fulfillment of debt and other financial obligations. Our analysis also determined that the City was projected to be able to meet all of its financial obligations, including debt service and payroll. Mindful that our cash flow projections were completed and included in the Recommendation to the Secretary prior to the progression of the impact of Covid-19 pandemic, the Coordinator's cash flow projections in March 2020 projected that the City will remain solvent throughout 2020. At the time of the writing of that Recommendation to the Secretary in March 2020, there was no evidence from the City or otherwise that the City was insolvent or would be within 180 days or that the City would be unable to ensure the continued provision of vital and necessary services.

As mentioned previously, the City has implemented most of the initiatives of its 2017 Exit Plan. One initiative that remains outstanding is the implementation of the payroll preparation tax initiative to replace the City's current business privilege and licensing tax. This is an important step to modernize a component of the City's revenue base. Absent this modernization initiative, the City will have to maintain its current business and licensing tax; continuing to levy an inefficient tax that is an impediment to economic development. Separate business privilege and licensing taxes are also levied by the Scranton School District. The School District has indicated that they will adopt a payroll preparation tax concurrent with the City's change.

Since adopting the Exit Plan, the City has reviewed its required steps to implement the payroll preparation tax which include petitioning Lackawanna County Court for approval of the change from business privilege and licensing tax revenue to the payroll preparation tax. Complicating the City's implementation beyond its Act 47 requirements, the City is in the somewhat unique position in that the Scranton School District also has different legal requirements to switch to a payroll preparation tax. The District's ability to levy the payroll tax is the result of legislative action separate from Act 47 statutory language applicable to the City. The District does not have to seek Court approval to enact the payroll tax but is subject to the Department of Education and Act 1 limits on changes to its tax structure. Additionally, the enabling legislation allowing the District to swap taxes requires that the change may only occur while the City is under Act 47. The City therefore has multiple tax implementation hurdles to jump beyond those contained in Act 47.

We recognize these hurdles and also acknowledge the City's continuing efforts toward implementing a payroll tax under the Exit Plan. Those actions include tightening enforcement of delinquent business privilege and licensing taxes and hiring outside agencies to evaluate the tax base to ensure compliance. The City has also studied the impact of implementing the payroll preparation tax on taxpayers and future budgets. In summer of 2019, the City and School District began a joint committee to start the process with implementation before the expected end of distressed status in July 2020.

However, the inherent conflict of different statutory schemes required to implement the payroll tax by the City and District caused significant delays. The Department of Education required a public referendum on the tax question in November 2019. The referendum was overwhelmingly approved by the electorate. The Department of Education also required the District to not implement the

payroll preparation tax prior to January 1, 2021. That requirement would make a School District payroll preparation tax a practical impossibility as the City will have its distressed status rescinded before that. Therefore, the City is faced with a difficult situation and will need extra time beyond July 2020 to fully implement an important part of its Exit Plan.

The COVID-19 situation has suspended many county Court hearings and the City is not assured of a Court Hearing prior to July 2020 through no fault of its own. The School District must also satisfy different laws and different agency mandates again causing the city impediments to implementation through no fault of its own.

PEL has reviewed the statutory factors necessary to make a determination of whether to request a rescission of the order declaring the City a distressed municipality or whether the conditions of a fiscal emergency exists in the City. It *was* the recommendation of the Coordinator that based upon a review of the totality of the factors, substantial evidence supports an affirmative determination by the Secretary to issue a determination to rescind the order declaring the City of Scranton a distressed municipality.

However, COVID-19 presents a global pandemic with wide-ranging, still not fully understood financial impacts. Act 47 and subsequent legislation did not anticipate a global pandemic or the impact of such an event on the City's financial outlook. Also not anticipated in Act 47 is the impact of a governmental suspension of public and private activities that make implementation of actions required by Act 47 a practical impossibility. **The City, along with the nation, is experiencing just such a government ordered shutdown in confronting the COVID-19 pandemic. The pandemic has caused the City to concentrate on providing necessary and vital services while at the same time facing uncertain fiscal impacts on its most important revenue sources. The pandemic has made**



public meetings, including this extraordinary internet only public hearing, and in-depth discussion of important policy issues difficult if not completely impractical. The final scheduling and implementation of an important Exit Plan initiative has been affected by the pandemic response. The volatility of the circumstances created by the COVID-19 pandemic makes it impracticable at this time to project when the City will be able to implement an important component of the Exit Plan and an important modernization of its tax structure. PEL, as Coordinator, recommends that the City's financial circumstances be re-evaluated after the impacts of COVID-19 can be better projected. These circumstances make a pre-ordained statutory date for rescission of the City's distressed status problematic at best.

As of today, any such scheduling projection would be mere conjecture. Although not statutorily required, PEL strongly supports the Secretary of DCED's consideration of the extenuating circumstances regarding the City's implementation of the Exit Plan as he evaluates the schedule for a rescission of distressed status, the Coordinator's recommendation and the approaching July 27, 2020, statutory deadline for terminating the City's financially distressed status.

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**City of Scranton's Statement in Support of Request to Remain in Act 47 Distressed Status**

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**Background**

Scranton was designated as a distressed municipality under Act 47 in 1992. Since that time, Scranton has adopted several ordinances approving an Act 47 recovery plan, followed by the adoption of an Exit Plan in 2017. Scranton continues to work with a DCED-appointed recovery coordinator, the Pennsylvania Economy League, who assists in addressing Scranton's financial problems with the goal of allowing Scranton to exit distressed status in 2020.

However, DCED may conclude that Scranton should not exit Act 47 distressed status under any of the following circumstances: Scranton's projected future revenues and expenditures will not yield a balanced budget, 53 P.S. § 11701.255.1(c)(1); all claims and judgments that imperil Scranton have not been resolved, *id.* § 11701.255.1(c)(3); or Scranton's revenues are not sufficient to fund ongoing expenditures. *Id.* § 11701.255.1(c)(4).

The City was faced with a \$50 million adverse ruling in litigation involving its ability to levy taxes pursuant to Act 511, otherwise known as the Local Tax Enabling Act, followed shortly after by the COVID-19 global pandemic that has impacted public health and the economy across the Commonwealth of Pennsylvania and the City. However, the decisions the City faces in the coming weeks and months will have a lasting impact, and exiting distressed status prematurely will only serve to exacerbate the fallout. In addition to a crippling \$50 million order currently pending appeal, the full financial impact of COVID-19 will be devastating—the extent to which is still unknown. Premature exit would also prohibit the City from being able to convert its Business Privilege and Mercantile Tax to the more efficient Payroll Preparation Tax. It

remains a real possibility that if the City were to leave distressed status, it may quickly be eligible for reentry based upon the economic impact of COVID-19 and a potential loss of the current Act 511 appeal pending before the Pennsylvania Commonwealth Court. In the meantime, the City will have lost the benefits of Act 47 and will be at square one once again.

### **Legal Standard of Review**

Following the adoption of an Exit Plan for the City three (3) years ago, the City's Act 47 Coordinator recommended that the Secretary of the Department of Community and Economic Development (DCED) may rescind the order declaring the City of Scranton distressed.

Following current law, in making such a determination, the Secretary shall consider the following factors:

- (1) Operational deficits of the municipality have been eliminated and the financial condition of the municipality, as evidenced by audited financial statements prepared in accordance with generally accepted accounting principles and projections of future revenues and expenditures demonstrates a reasonable probability of future balanced budgets absent participation in this act.
- (2) Obligations issued to finance the municipality's debt have been retired, reduced or reissued in a manner that has adequately refinanced outstanding principle [sic] and interest and has permitted timely debt service and reasonable probability of continued timely debt service absent participation in this act.
- (3) The municipality has negotiated and resolved all claims or judgments that would have placed the municipality in imminent jeopardy of financial default.
- (4) The reasonably projected revenues of the municipality are sufficient to fund ongoing necessary expenditures, including pension and debt obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services. Projections of revenues shall include any anticipated tax or fee increases to fund ongoing expenditures for the first five years after a termination of distressed status.

## Application

First, in considering whether operational deficits of the municipality have been eliminated and the financial condition of the municipality, along with the probability of future balanced budgets absent participation in Act 47, the Secretary must consider the devastating economic impacts that the COVID-19 virus will have on the City's financial outlook and operations. It is simply unknown the extent to which the City's finances will suffer because of the ongoing pandemic and nascent economic crisis, which is likely to worsen before it improves. However, some factors indicate that it will be devastatingly negative. Such factors to consider in projecting how this event will disrupt the City's fiscal situation include:

- Over 26 million Americans have filed for unemployment and numbers keep rising each week. This is unprecedented in American history. Wage tax revenue will have significant declines and could continue to worsen as more residents lose their employment and as local businesses face continued shutdowns, curtailed hours, and modified operations;
- Federal, state and local tax deadlines have been pushed out to July 15, impacting cash flow as well as income and business privilege mercantile tax receipts. See the City's Proclamation extending such deadlines, attached hereto as Exhibit "A";
- Decreased employment and sales for 2020 will have a severe impact on tax revenue in 2020, 2021 and potentially beyond;
- Real estate tax collections may suffer as property owners struggle to make ends meet and residential and commercial tenants are unable to keep up on rent;
- Income from licenses and permits is already showing decline due to mandated business closures;
- Already low fee collection rates could decline given household economic circumstances;
- Healthcare costs may increase substantially in the event that City employees contract COVID-19 and require long-term and/or intensive care;
- The losses suffered by the City's pensions are significant, and may impact future funding requirements in later years;
- State funding streams like those from gaming may suffer; and
- Federal relief funds remain theoretical for cities and counties under 500,000 in population.

These conditions are still developing. It is unknown what the impacts of the global pandemic will be overall on the City's finances. Any one of these—and especially all combined—would hinder Scranton's ability to stay on a path of financial improvement.

Coupled with this potential decline in revenue is also the unknown magnitude of additional expenditures that may result from increased public safety overtime and/or PPE equipment. The City will submit documentation for reimbursement of emergency expenditures related to the pandemic and seek all grant funding possible, however, it cannot rely on these reimbursements when analyzing our cash flow in the coming months. To this extent, exit from Act 47 status at this time would be premature.

Furthermore, COVID-19 has not only adversely impacted financial conditions across the country, but it has also disrupted day-to-day life and government operations. Of the Coordinator's recommendations, the City has yet to convert its Business Privilege and Mercantile Taxes to the more efficient Payroll Preparation Tax. Failure to fulfill this conversion before the City exits distressed status means the City loses this benefit permanently. While the City has made strides to undertake this conversion, the current realities have made this impossible. The City still needs to work with the Scranton School District in a concerted effort to simplify and make more efficient the taxing of its businesses. Right now, the City and School District are bombarded with a host of unforeseen challenges as a result of the pandemic that have consumed their time; the focus has had to shift to how to keep personnel on the frontlines safe while still providing public services, how to protect the health, welfare, and safety of the public and children of our community, and how to continue to educate our children without in-person class time. To complicate matters further, the City needs court approval to make this conversion, and court systems have been immensely disrupted, with closures and backlogs that make it impossible to jump over this hurdle in the near future.

Shifting guidance from the Pennsylvania Department of Education is an additional factor which impacts not just the School District but the City as well. The City cannot move forward

with a tax change of this magnitude without the School District following suit. This was true before the pandemic, but it is especially true now during this attempt to modernize our City's tax system, building a foundation for economic growth and attract new business.

Added to this is a major financial initiative that the City hoped to undertake in 2020 which will likely remain unresolved. In its current budget, the City projected revenues from the collection of delinquent refuse fees, either by the adoption of an amnesty program or the potential sale of its receivables. This has now become unlikely in the face of current economic conditions and the timing needed to execute such an endeavor as a result of COVID-19.

Second, the Secretary must consider whether Scranton has negotiated and resolved all claims or judgments that would have placed the municipality in imminent jeopardy of financial default. On December 16, 2019, Judge James Gibbons of the Lackawanna County Court of Common Pleas granted Plaintiffs' request for Preemptory Judgment in the case of Gary St. Fleur, et al v. the City of Scranton (Lackawanna County Court of Common Pleas Docket No: 2017-01403). In January 2020, the City filed a notice of appeal to the Commonwealth Court from the trial court's adverse ruling. Thereafter, the City filed with the Commonwealth Court a motion for expedited, en banc consideration of the City's appeal. None of these activities were impacted by the shutdown of appellate courts due to the pandemic. However, the Commonwealth Court reached out to advise that arguments have been delayed by COVID-19. As a condition of receiving expedited attention, the Court requested the parties agree to waive oral argument. Such waiver has been agreed to, and the appeal remains pending before the Commonwealth Court. The City will be joined in this appeal by amici participants the Pennsylvania Municipal League (PML), Pennsylvania's Department of Community and Economic Development (DCED), the City of Pittsburgh, and Senators Blake and Costa. Parties have filed their appellate briefs on or before

May 8, the date on which Scranton's principal brief is due to be filed. Besides the errors that Scranton will assert about the improvidence of the trial judge's ruling, we will all focus on the harm to numerous municipalities throughout the Commonwealth if the trial court's order stands. Thereafter, Plaintiffs have an opportunity to file a Brief in support of their position. Any party will thereafter have the opportunity to request an appeal to the PA Supreme Court. During the pendency of this appeal, the trial court's ruling is suspended by an automatic supersedeas in favor of Scranton.

The City also filed an application with the Pennsylvania Supreme Court for Extraordinary/King's Bench jurisdiction, which if granted allows the Supreme Court to leapfrog over the Commonwealth Court to assume appellate jurisdiction. If the Court grants Scranton's application, it can either dispense with the appeal without briefs or it can establish its own briefing deadlines. If the Supreme Court denies the application or does not rule, the City will continue to move ahead with our Commonwealth Court appellate activities. In the event that the Commonwealth Court affirms the trial court's ruling, the City may seek permission to appeal to the Supreme Court, asking it to reverse the Commonwealth Court decision. The timing of all of this is uncertain. Activities before the Supreme Court could last a few more weeks or into 2021 depending upon how the Supreme Court responds to Scranton's application. Scranton will receive appellate support in the Supreme Court from DCED and PML, both with respect to Scranton's Application for Extraordinary/Kings' Bench Jurisdiction and on the merits.

DCED's application to file an amicus brief and its decision to support the City's efforts in our appeal highlights the impact that the appellate court's final decision on this matter will have on the City. Whether the City's efforts on appeal are successful or will not be known until the

appeal process has reached its conclusion; a conclusion that will more than likely occur after July 27, 2020, the Act 199 statutory deadline for terminating the City's distressed status.

Third, the final factor calls for a determination of whether the reasonably projected revenues of the municipality are sufficient to fund ongoing necessary expenditures, including pension and debt obligations. Projections of revenues shall include any anticipated tax or fee increases to fund ongoing expenditures for the first five (5) years after a termination of distressed status. As outlined previously herein, the City's ability to meet its projected revenues remains unseen in light of the economic conditions resulting from the COVID-19 virus. Additionally, expenditures may be altered by emergency response necessities, such as additional overtime and PPE equipment. It simply cannot be quantified at this time what revenue shortfalls and expenditure increases the City will experience while the pandemic rages on and the economic fallout that has been developing since its onset continues.

While the sweeping economic effects of the pandemic on the City's overall revenues remain unknown, the near-term impact on its municipal pension fund is evident. While the City endeavored to increase its pension funding over past years, many of the gains have disappeared as the pandemic has hit financial markets. To illustrate, the pension fund was valued at \$106.7 million as of February 1, 2020. Following the economic fallout of state closures across the country and declines in the market, these investments dropped to \$92.8 million; a loss of \$13.9 million in just a two month period. Copies of applicable pension statements for February and March of 2020 are attached hereto as Exhibits "B" and "C," respectively. While this may not have an immediate impact on the City's annual minimum municipal obligation, the effects of such losses will materialize in the near future, as early as 2021. Any increase in the City's minimum municipal obligation will frustrate its ability to ensure that its projected revenues are



sufficient to fund pension obligations and expenditures. Since the overall impact of the pandemic on the City's pension fund remains unknown, any resulting tax or fee increases at this time would be speculative and arbitrary, leading to greater financial uncertainty for the City.

**Additional Considerations**

Critical outstanding items from the City's Exit Plans that are not addressed in the termination criteria include, but are not limited to: regular, gradual tax increases which past administration and city councils did not enact; stormwater management plans; economic development staff in City government as point persons for pushing forward initiatives and obtaining funding; and crafting debt management policies.

**Conclusion**

Based upon the foregoing, the City hereby respectfully requests that its designation as a Distressed Municipality pursuant to Act 47 be extended on an ongoing basis through the end of 2020 and on an ongoing basis subject to future evaluation.

The City has had DCED and PEL by its side for decades now, and we ask that we remain in partnership as we face our greatest set of challenges yet.

**TESTIMONY OF THE PRESIDENT OF SCRANTON CITY COUNCIL TO  
THE SECRETARY OF THE DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT**

April 30, 2020

Good afternoon. My name is Bill Gaughan and I am currently the President of Scranton City Council. Thank you for the opportunity to provide a written statement regarding the recommendation of the City's ACT 47 Coordinator to rescind the cities distressed determination pursuant to the Municipalities Financial Recovery Act, Act 47 of 1987 as amended. There are several reasons why I do not believe it is appropriate at this time to rescind the cities distressed determination. One of the major recommendations in the city's 3 year exit plan was the transition to a payroll preparation tax and the elimination of the business privilege/mercantile tax. This recommendation was put to referendum in the fall of November, 2019 and the people of Scranton overwhelmingly voted in favor of the measure. The transition to a payroll preparation tax would encourage additional small business development; enable a more predictable efficient collection of taxes; and expand the city's tax base to businesses that are currently exempt from the business privilege and mercantile tax. To be certain, the city's long standing business privilege and mercantile tax has driven existing businesses out of the city and served as a strong deterrent from new business coming into Scranton. This tax has had a completely chilling effect on economic development and private investment in our city. Unfortunately the City and School District have encountered several hurdles in attempting to implement this recommendation. If the city were to have its distressed status rescinded then the conversion to a payroll preparation tax would no longer be an option. Eliminating the city's ability to convert to a payroll preparation tax would negate the votes of the roughly 70 percent of Scranton voters who expressed support for the conversion, and sets up an unnecessary, additional road block on the path to modernizing our tax system.

Secondly, the COVID-19 pandemic may have a negative effect financially on the city hindering our ability to fully realize various sources of revenue. The full extent of the financial

fallout from the pandemic is still unknown. Accordingly, right now seems to be the most inopportune time to make a determination on the long term financial position of the city as we are in the midst of this pandemic and all of its adverse effects. For these reasons I would request that the cities distressed status be re-evaluated at a future date when conditions have stabilized.

Finally, I've stated numerous times in the past the system in which distressed municipalities operate in is broken. If the rescission of the city's distressed status is delayed for the reasons I cited above and others that have been cited here today, I would call on DCED, PEL and our State Legislature to work together to actually repair the system itself. Otherwise it won't really matter whether we or other distressed cities throughout Pennsylvania have emerged from distressed status because we'll still be distressed. ACT 47 as written and amended is and always was inadequate to meet the challenges that cities face in 2020. In a 2017 report issued by the Pennsylvania Economy League titled "Communities in Crisis: The Truth and Consequences of Municipal Fiscal Distress in Pennsylvania, 1970-2014" states that "Of the 14 cities and boroughs that have been in the state's Act 47 distressed municipalities program for at least five years, only **one** had a 2014 tax base that was at least on par with the average for those that had never been in Act 47. This finding occurs despite the **extensive** state assistance that has been given to these municipalities, in some cases for decades." The report goes on to state that "a growing number of municipalities throughout the Commonwealth were falling into fiscal distress as a consequence of state laws that mandate out-of-date and often expensive rules-of-the-road, fail to offer compelling incentives for municipalities to work together as a way to increase efficiency and save money, and provide local governments with revenue streams that are largely inelastic, capped and out of sync with budget needs." All of you on this call today are aware of this, everyone in the State Legislature is aware of this... so what is the solution that was put forward?

– To force municipalities out of distressed status and then claim *Mission Accomplished*. And on the way out, to recommend increased property taxes on our citizens who are already barely getting by living paycheck to paycheck. We all recognize that Pennsylvania cities serve as the regional hubs for county and state government along with healthcare and higher education. As such the burden of saving our cities cannot be placed solely on the backs of the city’s residents. It’s time for our state officials to step up and actually help our cities. Instead of continually putting band aids on our problems, the state needs to reform the distressed cities program and push for actual systemic change. Until that happens, Scranton and cities like ours will continue to try to repair damage with rusty tools and languish under the flawed systems and structures that failed them in the first place.

While the system is flawed and I feel it’s important to call that out, I cannot discount the efforts of our colleagues at DCED and PEL. I want to thank Gerry Cross in particular, and his team at PEL, for assisting the city for all of these years. Some leaders have not had the will to make the changes that PEL has suggested, and we would be in a better place had their recommendations been implemented throughout these years under Act 47. Thank you for your time and attention in this matter.



DEPARTMENT OF LAW

CITY HALL • 340 NORTH WASHINGTON AVENUE • SCRANTON, PENNSYLVANIA 18503 • PHONE: 570-348-4105 • FAX: 570-348-4263

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JUL 01 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

July 1, 2020

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

Dear Honorable Council Members:

ATTACHED IS AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 111, 2017 OF THE CITY OF SCRANTON ADOPTING AND IMPLEMENTING THE ACT 47 EXIT PLAN FOR THE CITY OF SCRANTON PURSUANT TO THE FINANCIALLY DISTRESSED MUNICIPALITIES ACT; AND AUTHORIZING THE MAYOR OF THE CITY OF SCRANTON TO ISSUE AN ORDER DIRECTING THE IMPLEMENTATION OF THE ACT 47 EXIT PLAN AMENDMENT WHICH WILL BECOME EFFECTIVE UPON ADOPTION ATTACHED HERETO AS EXHIBIT "A" IN ACCORDANCE WITH THE PROVISIONS OF 53 Pa. C.S.A. §11701.249, THE MUNICIPALITIES FINANCIAL RECOVERY ACT.

Very truly yours,

Joseph O'Brien, Esquire  
Acting City Solicitor

JAB/sap

FILE OF THE COUNCIL NO. \_\_\_\_\_

2020

AN ORDINANCE

AMENDING FILE OF THE COUNCIL NO. 22, 2014, AN ORDINANCE, ENTITLED AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 26, 2013, AN ORDINANCE, ENTITLED AMENDING FILE OF THE COUNCIL NO. 22, 2006, ENTITLED "AUTHORIZING AND APPROVING THE DESIGNATION OF PARKING SPACES FOR CERTAIN CITY OF SCRANTON PERSONNEL IN AND ALONG DIX COURT, THE PARKING AREA IN THE REAR OF CITY OF SCRANTON MUNICIPAL BUILDING AND A PARKING LOT ALONG MULBERRY STREET ADJACENT TO SCRANTON FIRE HEADQUARTERS, AND AUTHORIZING THE CITY OF SCRANTON POLICE DEPARTMENT TO ENFORCE THE PARKING DESIGNATIONS AS REFLECTED IN THE ATTACHED SCHEMATIC" BY RE-DESIGNATING CERTAIN EMPLOYEE PARKING SPACES FROM INDIVIDUAL NAMES TO LETTERS FROM A-Z AS REFLECTED IN THE ATTACHED SCHEMATIC.

WHEREAS, the City of Scranton has previously designated parking spaces along Dix Court, in the rear of the City of Scranton Municipal Building, and behind the Fire Station ("Employee Parking Spaces"); and

WHEREAS, the City wishes to change the previous designation of Employee Parking Spaces from individual names to lettered spaces from A-Z to be assigned individually.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON that the Employee Parking Spaces be retitled to A-Z as reflected in the attached schematic attached hereto as Exhibit "A" and made a part hereof.

IT IS FURTHER RESOLVED that the Mayor shall have the discretion, with the advice of Department Heads, to designate individual Employee Parking Spaces to City employees as needed for operations of the City of Scranton Municipal Building.

**SECTION 1.** In all other respects, File of the Council No. 26, 2013 shall remain in full force and effect.

**SECTION 2.** If any section, clause, provision or portion of this ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this ordinance or any portion thereof from time to time as it shall deem advisable in the best interests of the promotion of the purposes & intent of this ordinance, & the effective administration thereof.

**SECTION 3.** This Ordinance will take effect immediately upon passage.

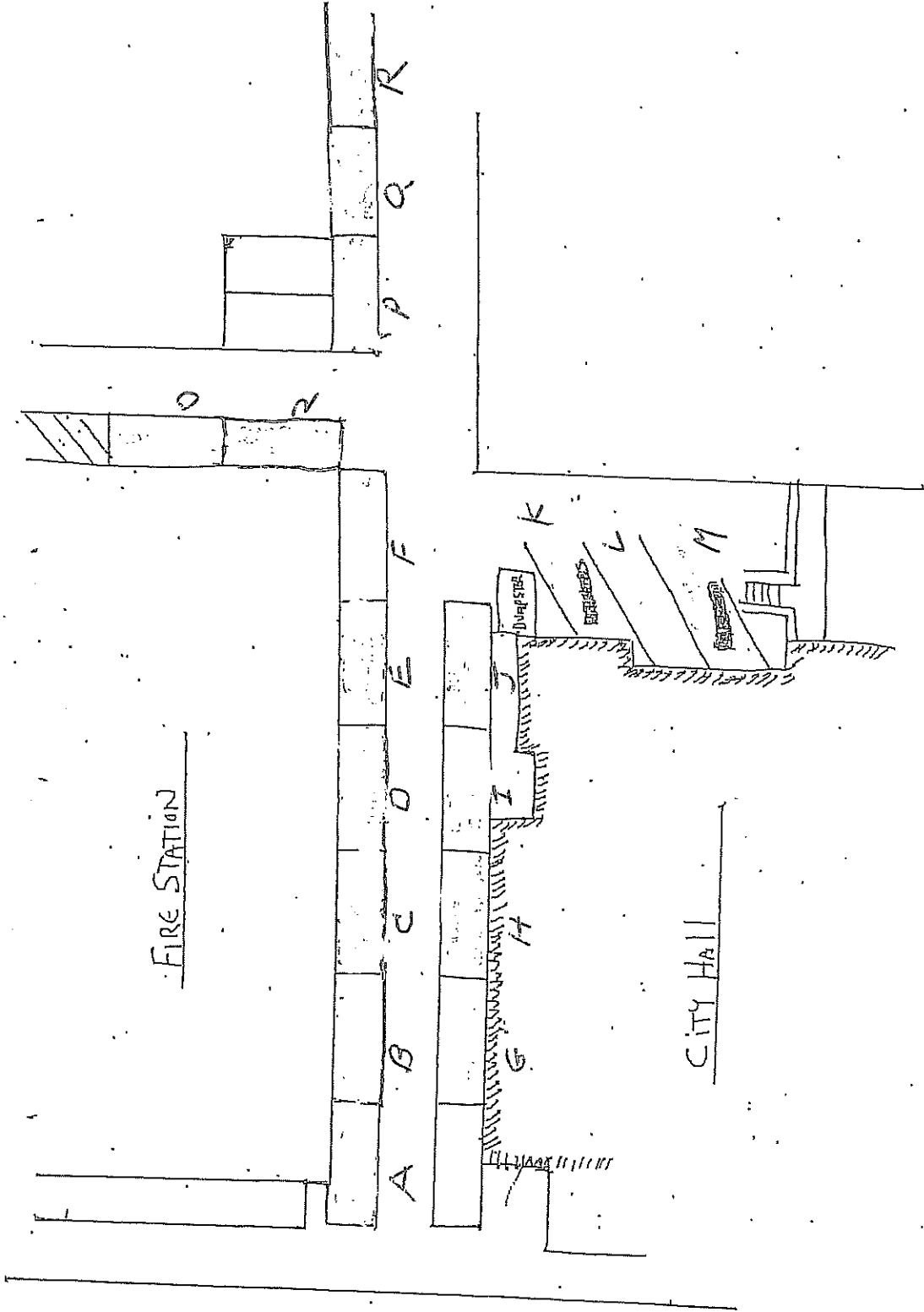


EXHIBIT A PAGE 1.

TG 6-15-2080



PARKING LOT

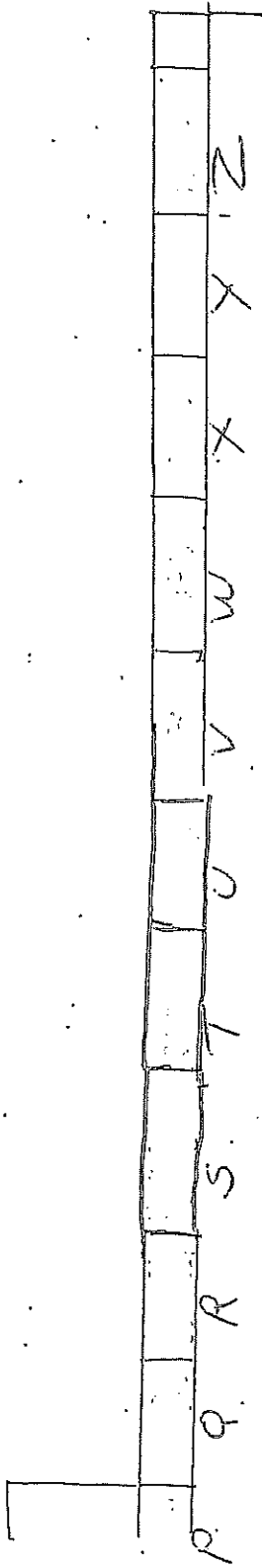


EXHIBIT A



DEPARTMENT OF LAW

CITY HALL • 340 NORTH WASHINGTON AVENUE • SCRANTON, PENNSYLVANIA 18503 • PHONE: 570-348-4105 • FAX: 570-348-4263

July 1, 2020

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

RECEIVED  
JUL 01 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

Dear Honorable Council Members:

ATTACHED IS AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 22, 2014, AN ORDINANCE, ENTITLED AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 26, 2013, AN ORDINANCE, ENTITLED AMENDING FILE OF THE COUNCIL NO. 22, 2006, ENTITLED "AUTHORIZING AND APPROVING THE DESIGNATION OF PARKING SPACES FOR CERTAIN CITY OF SCRANTON PERSONNEL IN AND ALONG DIX COURT, THE PARKING AREA IN THE REAR OF CITY OF SCRANTON MUNICIPAL BUILDING AND A PARKING LOT ALONG MULBERRY STREET ADJACENT TO SCRANTON FIRE HEADQUARTERS, AND AUTHORIZING THE CITY OF SCRANTON POLICE DEPARTMENT TO ENFORCE THE PARKING DESIGNATIONS AS REFLECTED IN THE ATTACHED SCHEMATIC" BY RE-DESIGNATING CERTAIN EMPLOYEE PARKING SPACES FROM INDIVIDUAL NAMES TO LETTERS FROM A-Z AS REFLECTED IN THE ATTACHED SCHEMATIC.

Very truly yours,

Joseph O'Brien, Esquire  
Acting City Solicitor

JAB/sap

FILE OF THE COUNCIL NO. \_\_\_\_\_

2020

AN ORDINANCE

**APPROVING THE TRANSFER OF A RESTAURANT LIQUOR LICENSE OWNED BY OAK STREET EXPRESS, LLC, 610 NORTH MAIN STREET, TAYLOR, LACKAWANNA COUNTY, PENNSYLVANIA, 18517 RESTAURANT LIQUOR LICENSE NO. R-3114 TO ARADHY BEV BEER, LLC, (THE "MINI MART"), 401 WYOMING AVENUE, SCRANTON, LACKAWANNA COUNTY, PENNSYLVANIA, 18503, AS REQUIRED BY THE PENNSYLVANIA LIQUOR CONTROL BOARD.**

WHEREAS, the Pennsylvania Liquor Control Board ("PLCB") requires that the governing body of a municipality pass legislation approving an inter-municipal transfer of a liquor license when a municipality has met its quota of liquor licenses; and

WHEREAS, Aradhy Bev Beer, LLC (the "Mini Mart") wishes to transfer Restaurant Liquor License No. R-3114 owned by Oak Street Express, LLC to the City of Scranton to be used by the Aradhy Bev Beer, LLC (The "Mini Mart") located at 401 Wyoming Avenue, Scranton, Lackawanna County, Pennsylvania. The Mini Mart is scheduled for remodel which will add a sit down restaurant area and would like to sell beer and wine for on premises consumption and to go as permitted under PLCB regulations; and

WHEREAS, the Council of the City of Scranton approves the transfer of this license subject to its authority regarding inter-municipal transfers and subject to public comment on the same.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON** that the inter-municipal transfer request of Aradhy Bev Beer, LLC (The "Mini Mart") wishes to transfer Restaurant Liquor License No. R-3114 owned by Oak Street Express, LLC, 610 North Main Street, Taylor, Lackawanna County, Pennsylvania to the City of Scranton for use at 401 Wyoming Avenue, Scranton, Pennsylvania is hereby approved.

**SECTION 1.** If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

**SECTION 2.** This Ordinance shall become effective immediately upon approval.

**SECTION 3.** This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Option Plans Law" and any other applicable law arising under the laws of the State of Pennsylvania.



Tressler Law, LLC  
220 Penn Avenue  
Scranton, PA 18503  
Telephone 570.346.1900  
Fax 570.346.1909

James M. Tressler, Esquire

[jtressler@tresslerlawllc.com](mailto:jtressler@tresslerlawllc.com)

March 26, 2020

Kevin C. Hayes, Esquire  
Scanlon, Howley & Doherty  
217 Wyoming Avenue  
Scranton, PA 18503

**RE: Request by Aradhy Bev Beer, LLC for Approval of Inter-Municipal  
Transfer of Restaurant Liquor License**

Dear Kevin:

We represent Aradhy Bev Beer, LLC (the "Mini Mart"). The Mini Mart operates a convenient store at the corner of Wyoming Avenue and Mulberry Street, Scranton, PA. This store is scheduled for remodel which will add a sit down restaurant area for at least 30 customers. As such, the store will qualify for a Restaurant Liquor License pursuant to the Pennsylvania Liquor Code. The Mini Mart would like to sell beer and wine for on premises consumption and to go, as permitted under the PLCB regulations. I believe the mini mart is in a general commercial zone.

In order to open and operate its restaurant in Scranton, the Mini Mart must secure a restaurant liquor license. The Mini Mart entered into an Agreement of Sale with a Liquor License presently located in Taylor. The Mini Mart would like to move the License into the City of Scranton with the approval of the City of Scranton, pursuant to the Inter-Municipal Transfer Provisions of the Liquor Code (47 P.S. §461).

The Mini Mart hereby requests that, pursuant to 47 P.S. §461, the City schedule a hearing as required by the Liquor Code on the issuance of a Resolution approving the

transfer by the Mini Mart of a Restaurant Liquor License from outside the City within the City limits.

Kevin C. Hayes, Esquire  
March 16, 2020  
Page 2

Pursuant to the Liquor Code, the purpose of the hearing is to allow the Mini Mart to described its proposed business and to allow the residents of the City to voice their opinions on the proposed inter-municipal transfer by the Mini Mart. Pursuant to 47 P.S. §461, the City must approve or deny the request to transfer by way of a Resolution or Ordinance within 45 days of this request.

For your convenience and reference, enclosed is a form Resolution which I am aware other municipalities have used responding to requests for inter-municipal transfers. The Pennsylvania Liquor Control Board requires a Resolution approving inter-municipal transfer include the name of the applicant (Aradhy Bev Beer, LLC), the address to which the License is being transferred (401 Wyoming Avenue, Scranton, PA 18503), the Liquor License No. (R-3114), the name and address of the Seller (Oak Street Express, LLC) and must state that the public hearing is held.

The Liquor Code requires that notice of public hearing must be published once each week for two successive weeks in a newspaper of general circulation within the municipality. Further, such notices must state the time and place of the hearing and the matter to be considered at the hearing. Amended Section 102 also provides that the first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

At the time of the hearing, we will present complete information on the operation of the Mini Mart and its proposed restaurant and answer any questions the residents our counsel may have. Initially, by way of background, the Mini Mart is owned and operated by a husband and wife and will be expanding their Mini Mart to become a restaurant in a convenience type store setting.

The City's approval of an inter-municipal transfer of the Liquor License, the Mini Mart will permit the operation of the restaurant within the City and will be a positive attribute to the City, its residents and surrounding areas. The Mini Mart endeavors to offer as many product lines as possible to continue servicing residents and visitors while in the City.

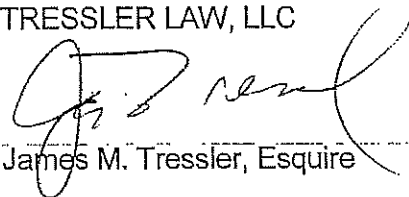
The Mini Mart asks for a public hearing on its request for an inter-municipal transfer to be held as soon as possible. Please advise when this hearing is scheduled.

Kevin C. Hayes, Esquire  
March 26, 2020  
Page 3

In the event you have any questions or need any additional information, please feel free to call me.

Sincerely yours,

TRESSLER LAW, LLC

A handwritten signature in black ink, appearing to read "James M. Tressler", written over a horizontal dashed line.

James M. Tressler, Esquire

JMT/mag  
Enclosure



DEPARTMENT OF LAW

P E N N S Y L V A N I A

CITY HALL • 340 NORTH WASHINGTON AVENUE • SCRANTON, PENNSYLVANIA 18503 • PHONE: 570-348-4105 • FAX: 570-348-4263

June 23, 2020

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

Dear Honorable Council Members:

ATTACHED IS AN ORDINANCE APPROVING THE TRANSFER OF A RESTAURANT LIQUOR LICENSE OWNED BY OAK STREET EXPRESS, LLC, 610 NORTH MAIN STREET, TAYLOR, LACKAWANNA COUNTY, PENNSYLVANIA, 18517 RESTAURANT LIQUOR LICENSE NO. R-3114 TO ARADHY BEV BEER, LLC, (THE "MINI MART"), 401 WYOMING AVENUE, SCRANTON, LACKAWANNA COUNTY, PENNSYLVANIA, 18503 AS REQUIRED BY THE PENNSYLVANIA LIQUOR CONTROL BOARD.

RECEIVED

JUN 24 2020

OFFICE OF CITY  
COUNCIL/CITY CLERK

JLE/sl

Respectfully,

*Jessica Eskra (s)*  
Jessica L. Eskra, Esquire  
City Solicitor



RESOLUTION NO. \_\_\_\_\_

2020

**CALLING ON THE COMMONWEALTH OF PENNSYLVANIA TO REINSTATE THE FIREWORKS ACT OF 1939**

**WHEREAS**, In October 2017, the PA House and Senate approved and Governor Wolf signed into law Act 43 of 2017 (House Bill 542), which repealed the Fireworks Act of 1939; and

**WHEREAS**, This action left cities like Scranton vulnerable to the dangers of consumer-grade fireworks; and

**WHEREAS**, Cities like Scranton do not enjoy the benefits of tax revenue from sales of fireworks but are left to enforce laws around their use and attend to fires and injuries caused by misuse or accidents; and

**WHEREAS**, City of Scranton resolution restricts the use of fireworks on public property or within 150 feet of an occupied structure, but given the density of the City there are few places where it is legal to set off fireworks; and

**WHEREAS**, The Scranton Police and Fire Departments have received increased complaints and calls since and the use of fireworks is a danger to the public and a nuisance; and

**WHEREAS**, The Scranton Police Department does not have the ability to enforce illegal use of fireworks to the extent that they are being used during the summer months in the City; and

**WHEREAS**, The Commonwealth and PA House and Senate acted in 2017 and must be held accountable for the laws they impose on cities like Scranton; now therefore be it

**JOINTLY RESOLVED, BY THE MAYOR AND COUNCIL OF THE CITY OF SCRANTON**, that the Mayor and Council do hereby call on local legislators to support legislation to provide relief to city public safety departments, and prevent bodily harm to residents and property, by repealing House Bill 542 to end the sale of consumer-grade fireworks in Pennsylvania.

**SECTION 1.** If any section, clause, provision or portion of this Resolution shall be held invalid or unconstitutional by any Court of competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Resolution so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Resolution or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Resolution, and the effective administration thereof.

**SECTION 2.** This Resolution shall become effective immediately upon approval.

**SECTION 3.** This Resolution is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Optional Plans Law" and any other applicable law arising under the laws of the State of Pennsylvania.



## OFFICE OF THE MAYOR

City Hall | 340 North Washington Avenue | Scranton, PA 18503 | 570.348.4101

July 1, 2020

### Legislative Cover Sheet

#### **A RESOLUTION CALLING ON THE COMMONWEALTH OF PENNSYLVANIA TO REINSTATE THE FIREWORKS ACT OF 1939**

Since October 2017, when the Pennsylvania House and Senate approved and Governor Wolf signed into law Act 43 of 2017 (House Bill 542), which repealed the Fireworks Act of 1939, the use of consumer-grade fireworks has been legal and the effect has been increasing nuisance in the City caused by use of fireworks. Additionally, the use of consumer-grade fireworks within City limits poses serious safety risk to citizens, both users and bystanders. Our Police and Fire Departments have seen increased use of fireworks in the last several years and the complaints about fireworks drain valuable resources responding to calls and attempting to enforce current restrictions.

On June 30, 2020, the Pennsylvania Senate passed Senate Bill 932, which would allow Scranton, along with other municipalities, to ban consumer-grade fireworks. While a positive step, the Mayor and City Council jointly resolve to call on the Pennsylvania Legislature and Governor Wolf to repeal the law in its entirety.

Repealing House Bill 542 would not only ban the use of consumer-grade fireworks, but also decrease the number of professional-grade fireworks being sold in the State and reduce risk of non-professional use. Repeal of House Bill 542 is in the best interest of the safety and welfare of our City residents.

Attachments:

\_\_\_ Resolution



DEPARTMENT OF LAW

CITY HALL • 340 NORTH WASHINGTON AVENUE • SCRANTON, PENNSYLVANIA 18503 • PHONE: 570-348-4105 • FAX: 570-348-4263

July 1, 2020

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

RECEIVED  
JUL 01 2020  
OFFICE OF CITY  
COUNCIL/CITY CLERK

Dear Honorable Council Members:

ATTACHED IS A RESOLUTION CALLING ON THE COMMONWEALTH OF PENNSYLVANIA TO REINSTATE THE FIREWORKS ACT OF 1939.

Very truly yours,

Joseph O'Brien, Esquire  
Acting City Solicitor

JAB/sap