

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

2.04 Municipal Court

2.08 Planning Board

2.12 Environmental Commission

2.16 Indemnification of Township Employees

2.20 Zoning Administration and Enforcement

Chapter 2.04

MUNICIPAL COURT

Sections:

2.04.010 Purpose.

2.04.020 Definitions.

2.04.030 Municipal court.

2.04.040 Consolidation of municipal court accommodations, supplies and personnel.

2.04.050 Municipal public defender--Application fee.

2.04.010 Purpose.

All ordinances or parts thereof of the township pertaining to the municipal court in the township shall be and are repealed; in lieu and instead thereof, a new municipal court ordinance shall be enacted as set forth in this chapter.

This chapter is enacted pursuant to N.J.S.A. 2B:12-1 et seq. entitled Municipal Courts.
(Ord. 2001-2(1); Ord. 91-7 § 1)

2.04.020 Definitions.

For the purposes of this chapter, the words and terms used herein shall be deemed to have the meanings accorded to them by N.J.S.A. 2B:12-1 et seq., and the rules and regulations from time to time promulgated by the Director of the Administrative Office of the Courts of the State of New Jersey.
(Ord. 2001-2(2); Ord. 91-7 § 2)

2.04.030 Municipal court.

A. Establishment. There shall be a municipal court of the township pursuant to the provisions of N.J.S.A. 2B:12-1 et seq., as amended and supplemented, to be known as the municipal court of the township.

The court shall have a seal which shall bear the impress of the name of the court.

B. Municipal Court Judge--Powers and Duties.

1. There shall be a municipal court judge of the municipal court of the township who shall be appointed by the board of commissioners. The municipal court judge shall be appointed for a period of three years from the date of the appointment and until his or her successor is appointed and qualified.
2. The municipal court and the municipal court judge thereof shall have, possess and exercise all of the functions, powers, duties and jurisdiction confirmed by the provisions of N.J.S.A. 2B:12-1 et seq., as amended and supplemented, or by any other general law or ordinance.

C. Municipal Court Administrator. Pursuant to N.J.S.A. 2B:12-10, there shall be a municipal court administrator, formally known as a municipal court clerk, who shall be appointed by the board of commissioners for a term of one year from the date of appointment and until a successor is appointed and qualified, who shall perform the functions and duties prescribed by law, by the rules applicable to municipal courts and by the municipal court judge. The administrator's duties shall include, but are not limited to:

1. Carrying out the rules, regulations, policies and procedures relating to the operation of the municipal court;
2. Interviewing and speaking to prospective complainants, receiving complaints and dispensing information relating to municipal court matters;
3. Maintaining the financial records of the municipal court;
4. Attending municipal court, taking minutes of trials and entering them in the docket; arranging trial calendars; signing court documents; preparing and issuing warrants and commitments according to law;
5. Taking and preparing bail bonds and making inquiry as to their sufficiency and equity; receiving and accounting for fines and costs;
6. Interviewing persons on informal municipal court matters to determine whether there is a basis for formal action and, if necessary, issuing summons requiring municipal court appearances in this regard; maintaining and classifying records and files;
7. Insuring the implementation and/or compliance with all other rules and regulations as required by N.J.S.A. 2B:12-1, the municipal court judge and the Director of the Administrative Office of the Courts of the State of New Jersey.

D. Deputy Municipal Court Administrator--Other Personnel. The board of commissioners may, upon recommendation by the municipal court judge, appoint a deputy municipal court administrator and other personnel necessary to assist in the day to day municipal court operations and municipal court sessions, and perform only those functions and duties delegable as provided by law. Any appointment made pursuant to this

provision shall be for a one year term beginning from the date of appointment and continuing until a successor is appointed and qualified.

E. Compensation. The compensation for the municipal court judge, municipal court administrator, deputy municipal court administrator and other personnel appointed by pursuant to this section shall be fixed and determined by the board of commissioners prior to an appointment or re-appointment, as the case may be, and may be changed from time to time.

(Ord. 2001-2(3); Ord. 91-7 § 3)

2.04.040 Consolidation of municipal court accommodations, supplies and personnel.

Pursuant to N.J.S.A. 2B:12-1 there shall be a consolidation of Municipal Court accommodations, supplies and personnel between the townships of Bass River and Washington, county of Burlington and state of New Jersey based on the following terms and conditions:

- A. Location of Facilities. Pursuant to N.J.S.A. 2A:8-18.2 the townships of Bass River and Washington agree that the consolidated municipal court shall be located at the Municipal Court, Municipal Building, North Maple Avenue, Mew Gretna, New Jersey.
- B. Municipal Court Scheduling. The townships of Bass River and Washington agree that the scheduling of the consolidated municipal court office hours, court sessions and the like shall be subject to the approval of the board of commissioners of the township of Bass River, upon recommendations by the municipal court judges far each township.
- C. Municipal Court Accommodations, Supplies and Personnel. The township agrees to permit the township of Washington the use of the township of Bass River's municipal accommodations, supplies, and personnel including the municipal court administrator deputy municipal court administrator, if any, and other personnel appointed by the board of commissioners of the township. The hours for the consolidation, including regular municipal court hours, court sessions and the like shall be at the same time and times in which the township of municipal court operates, subject to the proceeding provision upon approval by the board of commissioners.
- D. Municipal Court Judge, Prosecutor and Other Personnel. Both the township of Bass River and the township of Washington shall retain the power to appoint a municipal court judge, a prosecutor and other personnel of its own choice except as may be provided in the agreement referred to in subsection E.
- E. Consolidation Agreement. The governing body of the township is authorized to enter into an agreement with the township of Washington by resolution, which agreement and any renewals thereof shall set forth all of the terms and conditions of consolidating using and sharing the Bass River township municipal court facilities, accommodations, supplies and personnel, and effective retroactively as the agreement may provide.
- F. Effective Date. The ordinance codified in this chapter shall take effect no sooner than as provided by law upon final passage and publication. This chapter shall take effect no later than

the final passage and publication of a similar ordinance of the township of Washington as provided by law and the entering into the consolidation agreement authorized by this chapter. Should the township of Washington fail or refuse to pass a similar ordinance and enter into the consolidation agreement, then and in that event this chapter creating the sole Bass River township municipal court shall take effect upon the resolution of the governing body of the township of Bass River upon reasonable notice as required by law to the township of Washington.

- G. Termination. Pursuant to N.J.S.A. 2B:12-1, the agreement to consolidate pursuant to this chapter may be terminated by either consolidating municipality upon written notice given six months in advance of the proposed termination.

(Ord. 2001-2(4); Ord. 91-7 § 4)

2.04.050 Municipal public defender--Application fee.

Any person applying for representation by the municipal public defender shall pay an application fee not to exceed two hundred dollars (\$200.00) for such representation. The municipal judge, upon considering the application may waive any portion of the application fee if, in his or her discretion he or she finds the same to be an unreasonable burden on the person seeking representation.

(Ord. 98-3 § 1; Ord. 94-3 § 1)

Chapter 2.08

PLANNING BOARD

Sections:

2.08.010 Policy and purpose.

2.08.020 Establishment of nine member planning board.

2.08.030 Abolish existing boards.

2.08.040 Name designation of new board.

2.08.050 Membership--Alternatives.

2.08.060 Modification of existing ordinances.

2.08.070 Effective date.

2.08.080 Pending development applications.

2.08.010 Policy and purpose.

The Municipal Land Use Law, specifically N.J.S.A. 40:55D-25c. permits a municipality having a population of two thousand five hundred (2,500) or less to establish a nine member planning board in lieu of a separate planning board and zoning board of adjustment, to exercise all of the powers of a planning board and zoning board of adjustment as provided in Municipal Land Use Law, N.J.S.A. 40:55D et seq. The population of the township is substantially less than two thousand five hundred (2,500) people. The policy and purpose of the ordinance codified in this chapter is to create a consolidated board, as the governing body deems it in the best interests of the township for various reasons, including, without limitation, cost efficiency, streamlined administration of land use control and development application determinations and establishment of more readily understood access to development determinations. This chapter serves to simultaneously abolish the existing township planning board and zoning board of adjustment and create and establish a nine member planning board, with two alternates, to exercise all of the powers of both a planning board and zoning board of

adjustment as set forth in Municipal Land Use Law. As this chapter may be deemed to be a development regulation pursuant to the Municipal Land Use Law, specifically N.J.S.A. 40:55D-4, this chapter has been transmitted to and reviewed by the existing planning board pursuant to N.J.S.A. 40:55D-26 and a report has been received by the planning board pursuant to that statute indicating that this chapter is not inconsistent with the township master plan and recommending its adoption.
(Ord. 92-5 § 1)

2.08.020 Establishment of nine member planning board.

There is established and created a nine member planning board which shall exercise, to the same extent and subject to the same restrictions all of the powers of a zoning board of adjustment.
(Ord. 92-5 § 2)

2.08.030 Abolish existing boards.

Simultaneously with the establishment and creation of the consolidated nine member planning board set forth in Section 2.08.020 hereof, the existing planning board and zoning board of adjustment of the township shall be abolished and cease to exist.
(Ord. 92-5 § 3)

2.08.040 Name designation of new board.

The new nine member planning board created shall be known as the Bass River township planning board.
(Ord. 92-5 § 4)

2.08.050 Membership--Alternatives.

The township planning board shall consist of nine members as provided by N.J.S.A. 40:55D-25c and shall consist of the four classes of members set forth in N.J.S.A. 40:55D-23 and two alternate members as set forth in N.J.S.A. 40:55D-23.1
(Ord. 92-5 § 5)

2.08.060 Modification of existing ordinances.

Any reference to the planning board or zoning board of adjustment in any existing township ordinances shall be deemed to refer to the planning board created.
(Ord. 92-5 § 6)

2.08.070 Effective date.

This chapter shall take effect after final adoption according to law upon appointment of the members to the planning board created pursuant to the Municipal Land Use Law.
(Ord. 92-5 § 7)

2.08.080 Pending development applications.

Any pending development applications currently before the old planning board or zoning board of adjustment upon effective date of the ordinance codified in this chapter shall be transferred to and be under the sole jurisdiction of the new planning board created.
(Ord. 92-5 § 8)

Chapter 2.12

ENVIRONMENTAL COMMISSION

Sections:

2.12.010 Creation.

2.12.020 Members.

2.12.025 Alternates.

2.12.030 Powers and duties of commission.

2.12.040 Commission's advisory capacity--Limitations on spending power.

2.12.050 Records and annual report.

2.12.060 Appropriations.

2.12.010 Creation.

The township environmental commission is established pursuant to Chapter 245 of the Laws of New Jersey, 1968 (N.J.S.A. 40:56A-1 to 40:56A-5).
(Ord. 73-WA-2 § 1)

2.12.020 Members.

The township's environmental commission shall consist of not less than five nor more than seven members, appointed by the mayor, one of whom shall also be a member of the municipal planning board and all of whom shall be residents of the municipality. The members shall serve without compensation, except as hereinafter provided. The mayor shall designate one of the members to serve as chairperson and presiding officer of the commission. The terms of office of the first commissioner shall be for one, two or three years, to be designated by the mayor in making his appointments so that the terms of approximately one-third of the members will expire each year, and their successor shall be appointed for terms of three years and until the appointment and qualification of their successors. The mayor or governing body of the municipality may remove any member of the commission for cause, on written charges served upon the member, and after a hearing thereon at which the member shall be entitled to be heard in person, or by counsel. A vacancy on the commission occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.
(Ord. 90-5 § 1: Ord. 73-WA-2 § 2)

2.12.025 Alternates.

Two alternates shall be appointed to the Environmental Commission. Alternates shall be appointed by the mayor of the municipality. They shall be designated "Alternate Number 1" and "Alternate Number 2." Alternate Number 1 shall be appointed to a term which shall expire on August 21, 2004. The term of Alternate Number 2 shall expire on August 21, 2003.
(Ord. 2002-04 §1, 2002)

2.12.030 Powers and duties of commission.

- A. The environmental commission established is for the purpose of protection, development, or use of natural resources, including water resources, located within the territorial limits of the township.
- B. The commission shall have power to conduct research into the use and possible use of the open land areas of the municipality and may coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment are necessary for its purposes.
- C. The commission shall keep an index of all open areas, publicly or privately owned, including open marsh lands, swamps and other wetlands, in order to obtain information on the proper use of such areas.
- D. The commission may, from time to time, recommend to the planning board of the township plans and programs for inclusion in a municipal master plan and the development and use of such areas.
- E. The commission may, subject to the approval of the governing body, acquire property, both real and personal, in the name of the municipality by gift, purchase, grant, bequest, devise or lease for any of its purposes, and shall administer the same for such purposes subject to the terms of the conveyance or gift. Such an acquisition may be to acquire the fee or any lesser interest, development right, easement (including conservation easement), covenant or other contractual right (including a conveyance on conditions or with limitations reversions), as may be necessary to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve and properly utilize open spaces and other land and water areas in the township.
- F. The commission shall have the power to study and make recommendations concerning open space preservation, water resources management, air pollution control, solid waste management, noise control, soil and landscape protection, environmental appearance, marine resources and protection of flora and fauna. (Ord. 90-5 § 2: Ord. 73-WA-2 § 3)

2.12.040 Commission's advisory capacity--Limitations on spending power.

- A. The environmental commission of the township shall serve in an advisory capacity only and the mayor, board of commissioners and land use boards need not accept such advice or recommendations that the environmental commission may from time to time submit.
- B. Nothing in this chapter shall be construed to require the township to appropriate or otherwise expend any funds or compensate any members of the environmental commission or its employees.
- C. Any obligations incurred or funds expended in addition to any appropriations by the board of commissioners for the environmental commission shall be deemed to be the sole responsibility and obligation of the environmental commission and its individual members. (Ord. 90-5 § 3: Ord. 73-WA-2 § 4)

2.12.050 Records and annual report.

The environmental commission shall keep records of its meetings and activities and make an annual report to the board of commissioners.
(Ord. 73-WA-2 § 5)

2.12.060 Appropriations.

The environmental commission may appoint such clerks and other employees as it may from time to time require, providing the same shall be within the limits of funds appropriated to it by the board of commissioners.
(Ord. 73-WA-2 § 6)

Chapter 2.16

INDEMNIFICATION OF TOWNSHIP EMPLOYEES

Sections:

- 2.16.010 Purpose.**
- 2.16.020 Definitions.**
- 2.16.030 Indemnification authorized.**
- 2.16.040 Provision for indemnification of employees.**
- 2.16.050 Notification.**
- 2.16.060 Methods of defense.**
- 2.16.070 Township to counsel representation.**
- 2.16.080 Costs attributable to counteractions.**
- 2.16.090 Proceedings beyond trial court level.**
- 2.16.100 Disclaimer of coverage.**
- 2.16.110 Forfeiture of indemnification.**

2.16.010 Purpose.

The board of commissioners finds that it is appropriate to provide for the indemnification of township employees and officials in accordance with the provisions of N.J.S.A. 59:10-4 (New Jersey Tort Claims Act), which empowers local public entities to provide for such indemnification.
(Ord. 1995-10 § 1)

2.16.020 Definitions.

As used in this chapter, the following term shall have the meanings indicated:

"Employee" means and includes each person presently holding an office, position or employment, elective or appointive, whether or not such person holds a professional license or certification and irrespective of the number of hours worked per week or is being paid a fixed salary or hourly rate for the performance of his or her duties, but shall also include persons formerly holding office or employment; provided, however, that the events giving rise to a cause of action or claim or which indemnification is sought must have occurred after July 1, 1993, and any claim based on an event prior to the date shall not be covered by this chapter.
(Ord. 1995-10 § 2)

2.16.030 Indemnification authorized.

A. Pursuant to the authority granted by provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:10-4, the Township of Bass River, Burlington County does authorize and provide to its employees and officials in indemnification in accordance with the indemnification provision applicable to all state employees under the New Jersey Tort Claims Act.

B. The township does also authorize indemnification of any person formerly or presently holding any office, position or employment, elective or appointive, hereafter referred to as an "employee" in accordance with the provisions herein.
(Ord. 1995-10 § 3)

2.16.040 Provision for indemnification of employees.

A. Except as otherwise provided herein, the township shall indemnify and save harmless any employee from financial loss resulting from any civil action, suit or proceeding, including a cross-action, counterclaim or cross-complaint, against such employee on account of any act or omission done in the scope of his or her employment; provided, however, that the act or failure to act does not arise out of actual fraud, wilful misconduct or actual malice.

B. The township shall defray all costs of defending legal action against such employee, including attorney's fees court costs and expert or technical witness fees and any amount paid in settlement thereof and actually and reasonably incurred in connection therewith, to the extent permitted by general law. Expenses thus incurred may be paid in advance of final disposition of the action.

C. Nothing herein shall authorize the township to pay for damages resulting from the commission of a crime; however, the township shall indemnify and save harmless each employee from financial loss resulting from any action described above including punitive or exemplary damage, if, in the opinion of the governing body, the acts committed by the employee upon which the damages are based did not constitute actual fraud, actual malice, wilful misconduct or an intentional wrong.
(Ord. 1995-10 § 4)

2.16.050 Notification.

An employee shall not be entitled to indemnification or the cost of defense under this chapter unless, within seven days of the time such employee is served with any summons, order to show cause, complaint, process, notice, demand or pleading, he or she delivers the same or a copy thereof to the municipal clerk, who shall then forthwith notify the mayor and township solicitor of the pending action; provided, however, that this time period may be extended for good cause by the affirmative vote of a majority of the full membership of the governing body.
(Ord. 1995-10 § 5)

2.16.060 Methods of defense.

The township may provide any defense required of it under this chapter through an attorney from its own staff or by employing other counsel.
(Ord. 1995-10 § 6)

2.16.070 Township to counsel representation.

Whenever the township provides any defense required of it under this chapter, the township, through counsel, may assume exclusive control over the representation of the public employee, and such employee shall cooperate fully with the defense.

(Ord. 1995-10 § 7)

2.16.080 Costs attributable to counteractions.

If the municipal official files a counteraction or counterclaim in the legal proceedings, the municipality shall not be obligated to reimburse him or her for attorney's fees or court costs attributable to such counteraction.

(Ord. 1995-10 § 8)

2.16.090 Proceedings beyond trial court level.

It is within the sole discretion of the governing body to decide whether to pay for the costs of counsel beyond the trial court level.

(Ord. 1995-10 § 9)

2.16.100 Disclaimer of coverage.

A. The governing body shall disclaim liability for coverage of defense costs if any of the following conditions shall occur:

1. The employee is covered by insurance for the cost of his or her defense;
2. The township is a party complaining against the employee;
3. Any of the acts or omissions complained or was the product of actual fraud, actual malice or wilful misconduct;
4. Any of the acts or omissions complained of was not within the scope of the employee's duties powers or responsibilities;
5. The defense of the action or proceeding would create a conflict of interest between the township and the employee; or
6. Where the action is a criminal or disciplinary action.

B. The governing body shall determine not later than thirty (30) days following the termination of the case and submission by the employee's counsel to the township clerk an itemized bill (together with copies of all documents, pleading, exhibits, transcripts and other papers filed in the case) whether it will disclaim liability for coverage of defense costs.

C. The governing body shall consider in its determination the pleadings, evidence and arguments

brought out in the case, the verdict (if any) and any additional pertinent considerations; provided, however, that the township may not disclaim coverage under this chapter if there shall have been a specific determination by the trier of fact that the employee's actions or omissions complained of were within the employee's scope of employment, duties and responsibilities and, further, that the employee's actions or omissions complained of did not involve actual fraud, actual malice, or wilful misconduct.

D. The governing body's determination shall be subject to judicial review and, where provision of defense costs has been wrongfully withheld by the ruling body, the employee shall be reimbursed under this chapter.

(Ord. 1995-10 § 10)

2.16.110 Forfeiture of indemnification.

An employee claiming indemnification under this chapter shall cooperate fully and in good faith with the township and with any attorneys, adjusters, investigators or experts or technical personnel engaged by the employee for the preparation and presentation of a defense to such action or the settlement or other disposition thereof, including any counsel or other professionals engaged independently by the municipality, and if the employee neglects, fails or refuses to cooperate as herein required, the governing body, after a hearing on ten (10) days' written notice to the employee and for cause, may declare all rights created under this chapter for the benefit of such employee to be forfeited and terminated by the affirmative vote of a majority of the full membership of the board of commissioners.

(Ord. 1995-10 § 11)

Chapter 2.20

ZONING ADMINISTRATION AND ENFORCEMENT

Sections:

2.20.010 Zoning enforcement officer.

2.20.020 Duties of the zoning enforcement officer.

2.20.030 Deputy zoning enforcement officer.

2.20.040 Duties of the deputy zoning enforcement officer.

2.20.010 Zoning enforcement officer.

The board of commissioners shall appoint a zoning enforcement officer to administer and enforce the provisions of Title 17 of the municipal code except as otherwise provided by law. He or she shall be appointed for the term of one year, beginning the first day of January and shall receive compensation for his or her services as shall be fixed by resolution of the governing body.

(Ord. 2008-13 § 1 (part))

2.20.020 Duties of the zoning enforcement officer.

The zoning enforcement officer shall issue permits for such construction and uses as are in accordance with the terms and provisions of Title 17 of the municipal code or any lawful order of the planning board or governing body; record and file all applications for zoning permits, together with the plans, documents and other papers accompanying such application as well as all certificates of occupancy applied for and granted;

collect all fees that may be payable to the township under provisions of Title 17, unless otherwise specifically provided; prepare a monthly report for the governing body listing all zoning permits applied for and those granted, all certificates of occupancy granted, any fees paid in connection therewith, and all ordinance violations and actions taken by his or her office consequent thereto. A copy of each report shall be filed with the township tax assessor at the same time. The zoning officer shall institute and conduct lawful proceedings to prevent threatening violations of Title 37 and, in order to correct conditions resulting from the violations of Title 17, prosecute persons who shall have violated, or who shall be engaged in violating any of the terms or provisions of Title 17 and shall have recourse to any and all remedies including injunction, restraining order and writs of mandamus.

(Ord. 2008-13 § 1 (part))

2.20.030 Deputy zoning enforcement officer.

The board of commissioners may appoint a deputy zoning officer to assist the zoning enforcement officer to administer and enforce the provisions of this title except as otherwise provided by law or by this title. He or she shall be appointed for the term of one year, beginning the first day of January and shall receive such compensation for his or her services as shall be fixed by resolution of the governing body.

(Ord. 2008-13 § 2 (part))

2.20.040 Duties of the deputy zoning enforcement officer.

The deputy zoning enforcement officer shall:

- A. Assist the zoning enforcement officer to administer and enforce the zoning ordinances of the township of Bass River.
- B. Perform all of the duties of the zoning enforcement officer at his or her direction or in his or her absence.

(Ord. 2008-13 § 2 (part))