

**PROFESSIONAL MUNICIPAL MANAGEMENT
JOINT INSURANCE FUND
BYLAWS**

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JOINT INSURANCE FUND**

Organized April 1, 1987

as the

Burlington Municipal Joint Insurance Fund

BYLAWS

Adopted April 1, 1987

Revised July 24, 1989

PREAMBLE

WHEREAS: Municipalities throughout the State of New Jersey have been continuously subjected to the cycles which occur in the commercial insurance industry; and

WHEREAS: During these cycles, many municipalities cannot obtain adequate insurance or are faced with unaffordable premiums; and

WHEREAS: *N.J.S.A. 40A:10-36 et seq.* permits municipalities to join together to form a joint insurance fund; and

WHEREAS: The statute was designed to give municipalities an opportunity to use alternative risk management techniques, providing they are based on sound actuarial principles; and

WHEREAS: The municipalities forming the Professional Municipal Management Joint Insurance Fund have concluded that the formation of a "Municipal Joint Insurance Fund" will result in significant savings in insurance costs as well as accomplish the goal of providing stability in coverage and the ability to implement policies and procedures that will reduce the risks of liability.

NOW, THEREFORE, in consideration of the agreement between the participating municipalities and in order to govern the Fund to be known as the Professional Municipal Management Joint Insurance Fund, hereinafter called "Fund", it is mutually understood and agreed that the By-Laws of the Fund are established as follows:

ARTICLE I - DEFINITIONS

"ACTUARY" means a person who is a member of the American Academy of Actuaries qualified in loss reserves and rate making according to professional guides, recommendations, interpretations, and opinions of the Academy or a member of the Casualty Actuarial Society. (*N.J.A.C. 11:15.2.2*)

"ADMINISTRATOR" means a person, partnership, corporation or other legal entity engaged by the Fund to act as executive director, to carry out the policies established by the Fund and to otherwise administer and provide day-today management of the Fund.

"ALLOCATED CLAIMS EXPENSE" means attorney's fees, expert witness fees (i.e. engineering, physicians, etc.), medical reports, professional photographers' fees, police reports and other similar expenses. The exact definition of "allocated claims expense" or similar terms for any line of insurance coverage shall be the definition in the excess insurance policy purchased by the Fund.

"EMPLOYER'S LIABILITY" means the legal liability of an employer to pay damages because of bodily injury or death by accident or disease at any time resulting therefrom sustained by an employee arising out of and in the course of his employment by the employer, which is not covered by a workers' compensation law. The exact definition of "Employer's Liability" or similar terms shall be the definition used in the excess insurance policy purchased by the Fund.

"EXCESS INSURANCE" means insurance purchased from an insurance company authorized or admitted in the State of New Jersey or deemed eligible by the Commissioner of the Department of Insurance as a surplus lines insurer, covering losses in excess of an amount established between the Fund and the insurer up to the limits of coverage set forth in the insurance contract on a specific occurrence, or per accident or annual aggregate basis.

"FUND" means the Professional Municipal Management Joint Insurance Fund, formerly known as the Burlington Municipal Joint Insurance Fund, and hereinafter referred to as "Fund".

"FUND YEAR" means the Fund's fiscal year of January 1st through December 31st.

"GENERAL LIABILITY" means any and all liability which may be insured under the laws of the State of New Jersey, excluding worker's compensation, employer's liability, motor vehicular and equipment liability. The exact definition of a "general liability" or similar terms is the definition used in the excess insurance policy purchased by the Fund.

"INCURRED CLAIMS" means claims which occur during a Fund year including claims reported or paid during a later period. The exact definition of "incurred claims" or any similar term is the definition used in the excess insurance policy purchased by the Fund.

"INDEMNITY AND TRUST AGREEMENT" means a written contract signed by and duly adopted by the members of the Fund under which each agrees to jointly and severally assume and discharge the liabilities of each and every party to the agreement arising from participation in the Fund.

"MANUAL PREMIUM" means the premium computed according to the mandatory merit rating plan for workers' compensation and similar insurance industry rating plans for other lines of coverage.

"MOTOR VEHICULAR AND EQUIPMENT LIABILITY" means liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by the member municipality, or owned by or controlled by the member municipality, or owned by or under the control of any subdivision thereof, including its departments, boards, agencies or commissions. The exact definition of "motor vehicular and equipment liability" or any similar terms shall be the definition of the excess insurance policy purchased by the Fund.

"OCCURRENCE" means a single event. The exact definition of "occurrence" or any similar term shall be the definition used in the excess insurance policy purchased by the Fund.

"PROBABLE NET COST" means the estimated ultimate cost of claims incurred during a Fund year plus the cost of allocated claims expense and other costs of operating the Fund until all claims incurred during the Fund year are settled. For purposes of computing the probable net cost, losses within the deductible of member municipalities and future investment income on outstanding loss reserves held by the Fund shall not be taken into consideration.

"PROBABLE TOTAL COST" means the probable net cost plus the estimated ultimate cost of losses incurred within the deductible of member municipalities.

"PROPERTY DAMAGE" means any loss or damage, however caused, on property, motor vehicles or apparatus owned by the member municipality or owned by or under the control of any of its departments, boards, or agency. The exact definition of "property damage" or similar terms shall be the definition in the excess insurance policy purchased by the Fund.

"SERVICING ORGANIZATION" means an individual, partnership or corporation which provides services to the Fund not provided by the administrator, including but not limited to:

- Actuarial services
- Claims administration
- Claims adjusting
- Compilation of statistics and the preparation of assessment, loss and expense reports
- Development of members assessments and fees
- Preparation of reports required by law or under any regulations and/or rules of the New Jersey Department of Insurance including but not limited to *N.J.A.C. 11:15-2*.
- Safety engineering

"SURPLUS" means that amount of monies in a trust fund that is in excess of the probable net cost for that Fund year.

"WORKER'S COMPENSATION" means the provisions of *N.J.S.A. 34:15-7* et seq. The exact definition of "worker's compensation" or other similar terms shall be the definition in the excess insurance policy purchased by the Fund.

ARTICLE II - MEMBERSHIP

Agreement To Join The Fund:

Membership in the Fund shall consist of those municipalities that have agreed to join together as member municipalities in accordance with the following provisions:

1. The governing body of a qualified municipality shall by resolution or ordinance, as appropriate, agree to join the Fund.
 - a. The resolution or ordinance shall provide for the execution of a written agreement specifically providing for acceptance of the Fund's By-Laws as approved and adopted pursuant to law.
 - b. The agreement shall specify the extent of the municipalities participation in the Fund with respect to the type of insurance coverage to be provided by the fund and shall include the duration of Fund membership, which in no event shall exceed the time permitted pursuant to *N.J.S.A. 40A:11-15 (6)*.

2. Any applicant wishing to avail itself of Excess coverage available through the Municipal Excess Liability Joint Insurance Fund shall by resolution or ordinance, as appropriate, make application to that Excess Fund for membership to run concurrently with its membership in this Fund.
3. The agreement shall include an executed Indemnity and Trust agreement.
4. All applicants to the Fund shall also include a certification issued by the Chief Executive Officer and the Chief Financial Officer of the municipality that the municipality has never defaulted on claims if self-insured; and has not been canceled for non-payment of insurance premiums for a period of at least two years prior to the application.

Initial Membership:

Any municipality which participated in the initial feasibility study may be a part of the Fund's initial application of approval by the Commissioner of the Department of Insurance and the Commissioner of the Department of Community Affairs.

Subsequent Membership:

1. Any municipality seeking membership after the Fund's initial approval by the Commissioner of the Department of Insurance and the Commissioner of the Department of Community Affairs shall submit an application for membership to the Fund on a form approved by the Commissioner of the Department of Insurance. The application shall include an executed Indemnity and Trust agreement and other documentation required under Section A above.
2. The Fund may approve the application by two-thirds vote of the full authorized membership based on the following criteria.
 - a. The applicant's five (5) year claims history shows safety performance consistent with the Fund's objectives and the applicant's physical location and makeup indicates a prospective likelihood of satisfactory future claim performance.
 - b. A safety inspection and evaluation conducted by the Fund's safety consultant at the expense of the applicant which shows the applicant has the ability to meet the Fund's safety standards.
 - c. The Fund has the administrative capability to absorb additional memberships without undue inconvenience or strain.
 - d. Other criteria adopted by the Fund Commissioners.

3. If the application is approved by the fund, it shall be concurrently filed with the Department of Insurance and the Department of Community Affairs and shall be accompanied by any amendments to the Fund's By-Laws, budget and plan of risk management as may be appropriate.
4. No new membership in the Fund shall become effective until the application and accompanying amendments to the Fund's By-Laws and Plan of Risk Management are approved by the Commissioner of the Department of Insurance and the Commissioner of the Department of Community Affairs.

Conditions Of Membership:

As a condition of membership, each municipality shall:

1. Form a safety committee and actively participate in all Fund sponsored safety programs.
2. Participate in all of the major lines of coverage offered by the Fund.

Membership Renewals:

1. Members may renew their participation by execution of a new agreement to join the Fund as provided for in Section "A" above which shall be filed with the Fund Administrator at least ninety (90) days prior to the expiration of the term period.
2. A member of the Fund that does not desire to continue as a member after the expiration of its membership term shall give written notice of its intent at least ninety (90) days before the expiration of the term period.
3. The Fund Administrator shall immediately bring the renewal or notice of non-renewal to the attention of the Fund Commissioners, or the Executive Committee, as appropriate.
4. Non-renewal of a Fund member shall not relieve the member of responsibility for claims incurred during the period of membership.
5. The Fund shall immediately notify the Commissioner of the New Jersey Department of Insurance and the Commissioner of the New Jersey Department of Community Affairs of all members that have given notice of withdrawal from the Fund.

Termination And/Or Withdrawal Of Fund Members

1. A member municipality must remain in the Fund for the full term of membership unless earlier terminated by a majority vote of the Fund Commissioners or a two-thirds vote of the Executive Committee for continued non-compliance with the By-Laws, policies or procedures of the Fund after written notice to comply with By-Laws or other obligations or for non-payment of assessments. However, the member municipality shall not be deemed terminated until:
 - a. The Fund gives written notice to the member of intention to terminate the membership which notice shall be either (1) personally served or (2) mailed by certified mail, return receipt requested, at least ten (10) days prior to the effective date of membership termination; and
 - b. A copy of this notice shall be filed with the Department of Insurance and Department of Community Affairs, together with a certification that the notice provided for above has been given; and
 - c. Ten (10) days have elapsed after the filing required by "b" above.
2. A member of the Fund that does not desire to continue as a member after the expiration of its membership term shall give written notice of its intent at least ninety (90) days before the expiration of the term period. The Fund shall immediately notify the Department of Insurance and the Department of Community Affairs that the member has given notice of intention to leave the Fund.
3. A member that has been terminated or does not continue as a member of the Fund shall remain jointly and severally liable for claims incurred by the fund and its members during the period of its membership, including, but not limited to being subject to and liable for supplemental assessments.
4. The Fund shall immediately notify the Department of Insurance and the Department of Community Affairs if the termination or withdrawal of a member causes the Fund to fail to meet any of the requirements imposed by law or regulation on the Fund. Within fifteen (15) days of the filing of any such notice, the Fund shall advise the Department of Insurance and the Department of Community Affairs of its plan to bring the Fund into compliance.
5. A Fund member is not relieved of the claims incurred during its period of membership except through payment by the Fund or member of those claims.

ARTICLE III - ORGANIZATION

Commissioners:

1. Appointment:

- a. Commissioners: In the manner generally prescribed by law, each member municipality shall appoint one (1) Commissioner to the Fund. Each member municipality shall select either a member of its governing body or one of its municipal employees.
- b. Special Commissioner: In the event that the number of member municipalities is an even number, one (1) additional commissioner shall be appointed annually by a member municipality on a rotating basis determined alphabetically.
- c. The special commissioner shall remain with that Municipality for one entire Fund year and the subsequent admission to the fund of a Municipality with a preceding alphabetical prefix shall not deprive any Municipality already a member of the Fund of its prerogative to appoint a special commissioner during a current Fund year.

2. Terms of Office and Vacancy:

- a. All terms of office, except as otherwise provided by law or in these By-Laws, shall run from January 1st, or the date of appointment if after January 1st, until the subsequent December 31st or until a successor is duly appointed and qualified.
- b. A Commissioner, other than the special commissioner, who is a member of the appointing municipality's governing body shall hold office for two years or for the remainder of his/her term of office as a member of the governing body, whichever shall be less.
- c. Commissioners who are employees of the appointing municipality shall hold office at the pleasure of the municipality and may be removed by the municipality at any time without cause.
- d. The special commissioner, if any, shall serve until the conclusion of the current Fund year provided, however, that if the special commissioner is an employee of the appointing municipality, the special commissioner may be removed by the appointment municipality at any time without cause.

- e. The unexpired term of a commissioner, other than the special commissioner, shall be filed by the appointing municipality in the manner generally prescribed by law.
- f. In the event of a vacancy of the special commissioner caused by reason other than the expiration of the term of office, the municipality which appointed the commissioner shall appoint the replacement for the unexpired term.
- g. Any commissioner may be removed from office for cause for two-thirds vote of the full membership of the Fund commissioners. Upon such a vote it shall be incumbent upon the member municipality to replace the commissioner.

3. Powers, Duties and Responsibilities:

- a. The commissioners are hereby authorized and empowered to operate the Fund in accordance with these By-Laws and applicable laws and regulations.
- b. Each commissioner shall have one vote provided, however, that the special commissioner, if any, shall only vote in the event of a tie.
- c. Whenever an action is to be taken by the fund, that action shall be by majority vote of the Fund Commissioners, unless an Executive Committee shall exist in accordance with Article III, Section D of these By-Laws in which case the action shall be by majority vote of the Executive Committee, unless these By-Laws shall require a different vote for action.

Officers:

- 1. As soon as possible after the beginning of each year, the commissioners shall meet to elect the officers of the Fund from their own membership. Fund officers shall serve until January 1st of the following year, or until a successor is duly elected and qualified.
 - a. Chairperson: The Chairperson shall preside at all meetings of the commissioners and shall perform such other duties provided for in these By-Laws and the laws and regulations of the State of New Jersey.
 - b. Secretary: The Secretary shall preside over the meetings of the commissioners in the absence of the Chairperson, maintain minutes of the meetings, retain all books, records, files and other documents of the Fund, these By-Laws and the laws and regulations of the State of New Jersey.

The Secretary shall have the responsibility to maintain the books and records of the Fund at the Office of the Fund as from time to time designated by the Fund commissioners to which office the Secretary shall have free access.

2. In the event of a vacancy in any of the officer positions caused by other than the expiration of the term of office, the Fund shall fill the vacancy for the unexpired term.
3. Any officer may be removed without cause at any time by a two-thirds vote of the full membership of the Fund Commissioners. In this event, the full membership of the Fund commissioners shall fill the vacancy for the unexpired term.
4. The Chairperson and the Secretary shall serve without compensation from the Fund.

Appointed Officials:

As soon as possible after the beginning of each year, the commissioners or the executive committee shall meet and select individuals to serve in appointed positions. These individuals shall serve until the conclusion of the Fund year, or until a successor is duly elected and qualified. The appointed officials shall include, but are not limited to, the following:

1. Treasurer:

The Treasurer shall not be a commissioner. The Treasurer shall have the following duties and responsibilities:

- a. The Treasurer shall be the custodian of the Fund's assets and shall maintain the various trust funds.
- b. The Treasurer shall approve all receipts, payments and financial records.
- c. The Treasurer shall prepare the Fund's cash management plan and shall invest all balances.
- d. The Treasurer shall perform such other duties as provided for by the fund commissioners, these By-Laws and in the laws and regulations of the State of New Jersey.

2. Administrator:

- a. The Administrator shall be experienced in risk management matters and shall not be a commissioner of the Fund.
- b. Except with the approval of the Commissioner of the Department of Insurance, the Administrator and the employees, officers or directors of the Administrator shall not be an employee, officer or director of, or have either a direct or indirect financial interest in a servicing organization.

- c. The Administrator shall have the following duties and responsibilities:
- 1) The Administrator shall act as the executive director to carry out the policies established by the Fund and to otherwise administer and provide for the day-to-day management of the Fund.
 - 2) The Administrator shall advise the commissioners on risk management matters and shall prepare a draft risk management plan.
 - 3) The Administrator shall maintain underwriting data and assist the Fund in the purchase of insurance or excess insurance.
 - 4) The Administrator shall prepare draft bid specifications for services such as claims administration, safety engineering and actuarial projections.
 - 5) The Administrator shall monitor the performance of the service companies.
 - 6) The Administrator shall prepare a draft budget for review by the Fund.
 - 7) The Administrator shall perform such other duties as provided for by the Fund.
- d. The Administrator shall be bonded in a form and amount acceptable to the Fund and to the Commissioner of the Department of Insurance. The Administrator shall also be covered by Errors and Omissions insurance as provided by law unless the requirement is waived by the Commissioner of the Department of Insurance.

3. Auditor:

The Auditor shall be an independent certified public accountant (CPA) or a registered municipal accountant (RMA) but shall not be a commissioner. The Auditor shall conduct the semi-annual audit of the Fund and shall perform such other duties as provided for by the Fund commissioners, these By-Laws and in the laws and regulations of the State of New Jersey.

4. Attorney:

The Attorney shall have the following responsibilities:

- a. The Attorney shall advise the Fund on legal matters and the appropriateness of claim settlements recommended by the claims administrator.

- b. The Attorney shall advise the Commissioners on the selection of counsel to represent the Fund in the defense of claims. Except where specifically authorized by the Commissioners, neither the Attorney nor any member of the Attorney's law firm shall defend any claim which is the responsibility of the Fund.
 - c. The Attorney shall perform such other duties as provided by law or by direction of the Fund commissioners, or these By-Laws.
- 5. Service Agent: The fund shall designate and appoint an agent in New Jersey to receive service and process on behalf of the Fund.
 - 6. In the event of a vacancy in any one of the appointed positions caused by other than the expiration of the term of office, the Fund shall fill the vacancy for the unexpired term. In the event that any of the appointed officials is incapacitated, the Fund shall appoint an acting official.
 - 7. All appointed officials shall be retained on a contractual basis which shall be approved by the Fund and submitted to the Commissioner of the Department of Insurance and the Commissioner of the Department of Community Affairs.
 - 8. Appointed officials shall be compensated for their services pursuant to written fee guidelines submitted annually and approved by the Fund. The written fee schedule shall be part of the official's contract.

Executive Committee:

- 1. If the total number of commissioners exceeds seven (7), as soon as reasonably possible after the beginning of the year the Commissioners shall meet and elect five (5) commissioners to serve with the Chairperson and the Secretary as the executive committee of the Fund. During their terms of office, members of the executive committee shall exercise the full power and authority of the commissioners except as otherwise provided in these By-Laws. Decisions of the executive committee shall be by majority vote unless these By-Laws shall provide for a different vote for action to be taken.
- 2. The executive committee shall serve until the conclusion of the Fund year, or until their successors are duly elected and qualified.
- 3. Vacancies on the executive committee caused by a reason other than the expiration of the term of office shall be filled by a majority vote of the full remaining membership of the Fund commissioners.

Indemnification Of Officers And Employees:

1. The Service Company and Administrator, unless waived in accordance with Subsection 3, below, shall provide Errors & Omissions coverage in a form satisfactory to the Commissioner of the Department of Insurance.
2. The executive committee, in its discretion may, but shall not be required to have the Auditor, Treasurer, Fund Attorney or Defense Attorneys produce evidence of Errors and Omissions coverage, and such other coverages as they deem advisable, as a condition of employment.
3. In the event that, as a consequence of factors generally existing within the insurance industry, the Administrator and/or Service Company is unable to procure Errors and Omissions coverage, or is only able to procure coverage at a cost which the Fund deems to be unreasonable then and in that event, the Fund with the concurrence of the Commissioner of the department of Insurance may waive the requirements for the Administrator's and/or Service Company's Errors and Omissions coverage. Any such waiver shall be effective for a period not to exceed one(1) year and may be reconsidered more frequently if circumstances warrant. The Fund, prior to granting any waiver, shall have made specific findings of fact, with regard to the availability of Errors and Omissions insurance at a reasonable cost and cause the findings of fact to be set forth in detail in the Minutes.
4. Except to the extent covered by any Errors and Omissions insurance as may be required, the Fund shall indemnify any past, present or future Fund commissioner, official or employee of the Fund for claims arising from an act or omission of that Fund commissioner, official or employee which is within the scope of performance of the individual's duties as Fund commissioner, officials or employee. The indemnification shall include reasonable cost and expenses incurred in defending claims. Nothing contained herein shall require the Fund to pay punitive damages or exemplary damages or damages arising from the commission of a crime by an individual and the Fund shall not be required to provide for the defense or indemnification of an individual when the act or omission which caused the injury was the result of actual fraud, actual malice, gross negligence or willful misconduct of the individual or in the event of a claim against an individual by the State of New Jersey or as the Fund commissioner, official or employee is either covered, or required to be covered by Errors & Omissions liability insurance. The determination as to whether an individual's conduct falls within any of the above exceptions shall be made by the Fund's commissioners, or executive committee, where applicable. Nothing herein contained is intended to shield any employee or appointed official from liability for any act, omission or wrongdoing which would not customarily be covered by Errors & Omissions insurance if same had been required of the employee or appointed official.

5. A present, past or future Fund commissioner, official or employee of the Fund shall not be entitled to a defense or indemnification from the Fund unless:
 - a. Within ten (10) calendar days of the time he or she is served with the Summons, Complaint, process, notice or pleading, he or she delivers the original or exact copy to the Fund attorney, together with a request that the Fund provide for his or her defense.
 - b. He or she cooperates in the preparation and presentation of the defense with the attorney selected to defend the case; and
 - c. Except in those instances where a conflict of interest exists, as determined by an attorney selected by the Fund to handle such matters, the past, present or future Fund commissioner, official or employee shall agree that the Fund and its counsel shall have exclusive control over the handling of the litigation.
6. The right of indemnification shall not be exclusive of any other rights to which any Fund commissioner, official or employee may be entitled as a matter of law or which may be lawfully granted to him or her; and the right to indemnification hereby granted by this Fund shall be in addition to and not in restriction or limitation of any other privilege or power which the Fund may lawfully exercise with respect to the indemnification or reimbursement of a Fund commissioner, official or employee; except that in no event shall a Fund commissioner, official or employee receive compensation in excess of the full amount of a claim and reasonable costs and expense incurred in defending such claim.
7. Expenses incurred by any Fund commissioner, official or employee in defending an action, suit or proceeding may be paid by the Fund in advance of final determination of the action, suit or proceeding as authorized by the fund in a specific case upon receipt of an agreement by or on behalf of the member or officer to repay the amount in the event of an ultimate determination that his or her conduct was outside the scope of coverage under this indemnification provision.

Safety Committee:

1. Each member municipality shall appoint one of its management employees to serve as the Safety Coordinator for the municipality. The Safety Coordinator shall serve as the representative of the municipality on the Fund's Safety Committee. The municipality shall also designate a management employee to serve as alternate safety coordinator whenever the safety coordinator is unable to serve. The Safety Coordinator and the alternate shall serve at the pleasure of the municipality and shall perform those duties specified in the Fund's Loss Control Program.

2. The Fund's Safety Committee shall consist of the Fund's Safety Director and the Safety Coordinator from each member municipality. The alternate safety coordinator from each member municipality may also attend meetings of the Safety Committee.
3. At the beginning of each Fund year, the Safety Committee shall select a chairperson to preside over meetings of the committee.
4. The Safety Committee shall meet at least quarterly and shall have the following duties and responsibilities:
 - a. Confer with the Fund's Safety Director to develop a comprehensive safety and loss control program.
 - b. Monitor all accident trends and frequency of accidents in order to identify problem areas and municipal activities and programs requiring more frequent loss control surveys and evaluations.
 - c. Assist in the development of a safety educational program that will include visual aids, equipment, etc.
 - d. Make recommendations to the Fund for policies that will implement a comprehensive safety and loss control program for the Fund and the member municipalities.
 - e. Perform such other duties that assigned by the Fund Commissioners or required by law.

Ex-Officio Members Of Committees

All Commissioners, the Administrator and the Attorney shall be ex-officio members of all committees established by these By-Laws or by the Commissioners and shall be entitled, but are not required, to attend and participate in all committee meetings. The Commissioners may designate other individuals to serve on committees as the Commissioners may determine to be in the interest of the Fund.

ARTICLE IV - OPERATION OF THE FUND

General Operation:

1. The Fund shall be subject to and shall operate in compliance with the provisions of the "Local Fiscal Affairs Law", *N.J.S.A. 40A:5-1 et seq.*; the "Local Public Contracts Law", *N.J.S.A. 40A:11-1 et seq.* and the laws and regulations applicable to the investment of public funds, including but not limited to *N.J.S.A. 40A:10-10(b)*, *N.J.S.A. 17:12B-241* and *N.J.S.A. 17:9-4.1*.
2. The Fund shall be considered a local unit for purposes of the "Local Public Contracts Law", *N.J.S.A. 40A:11-1 et seq.*, and shall be governed by the provisions of that law in the purchase of any goods, materials, supplies and services.
3. The Fund shall be operated with sufficient aggregate financial strength and liquidity to assure that all obligations will be promptly met. The Fund shall prepare a financial statement on a form acceptable to the Commissioner of the Department of Insurance showing the financial ability of the Fund to meet its obligations. The Fund may request that the Commissioner of the Department of Insurance order an examination of any Fund member which the Fund's commissioners, or executive committee, where applicable, in good faith believes may be in a financial condition detrimental to other Fund members or to the public.
4. The minimum Workers' Compensation contribution of the members shall be at least \$250,000 for the Fund's first year and at least \$500,000 for each subsequent year of operation unless otherwise approved by the Commissioner of the Department of Insurance.

Risk Management Plan:

1. The commissioners shall prepare or cause to be prepared a Plan of Risk Management for the Fund. The plan shall include, but shall not be limited to:
 - a. The perils or liability to be insured against;
 - b. Limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier or re-insurance.
 - c. The amount of risk to be retained by the Fund.
 - d. The amount of reserves to be established.

- e. The proposed method of assessing contributions to be paid by each member of the Fund.
 - f. Procedures governing loss adjustment and legal fees.
 - g. Coverage to be purchased from a commercial insurer, if any.
 - h. Reinsurance to be purchased, if any, and the amount of premium therefor.
2. The Risk Management Plan and all amendments must be approved by the Commissioner of the Department of Insurance and the Commissioner of the Department of Community Affairs before it takes effect.

Servicing Organizations:

1. The Fund shall contract to have the following services performed:
- Claims administration
 - Safety engineering
 - Compilation of statistics and the preparation of assessments, loss and expense reports
 - Preparation of reports required by the New Jersey Department of Insurance.
 - Development of members assessments and fees
 - Actuarial Services
2. Except with the approval of the Commissioner of the Department of Insurance and the Fund, no servicing organizations or its employees, officers or directors shall have either a direct or indirect financial interest in an administrator or be an employee, officer or director of an administrator.
3. Each service contract shall include a clause stating "unless the Fund and the Commissioner of the Department of Insurance otherwise permits, the servicing organization shall handle to their conclusion all claims and other obligations incurred during the contract period.
4. Each Servicing Organization shall provide a surety bond and Errors and Omissions coverage and proof of General Liability coverage, Automobile Liability coverage and Workers's Compensation Coverage in a form and amount acceptable to the Fund and to the Commissioner of the Department of Insurance, and as provided in these bylaws.

Financial Statement And Reports

1. The Fund shall provide its members with periodic reports concerning the activities and status of the Fund for the reporting period. The reports shall be made at least semi-annually and may be required more frequently at the direction of the Fund.
2. A sworn annual report in a form prescribed by the Commissioner of the Department of Insurance shall be prepared by the Fund, and shall be filed concurrently with the Department of Insurance and the Department of Community Affairs and shall be made available to each Fund member on or before June 30th of each year. The report shall be accompanied by:
 - a. An annual audited statement of the financial condition of the Fund prepared by the auditor and performed in accordance with generally accepted accounting principles and applicable laws and regulations.
 - b. Reports of outstanding liabilities showing the number of claims, amounts paid to date and current reserves for losses, claims and unearned assessments as certified by an actuary.

Coverages:

The Fund shall offer the following coverages to the members:

1. Workers' Compensation and employer's liability. The workers' compensation benefits levels shall equal those required by applicable law. The Fund shall make payment to those entitled to receive payment in a timely fashion in accordance with the regulations of the Department of Insurance.
2. Liability other than Motor Vehicles
3. Property Damage other than Motor Vehicles
4. Motor Vehicles

The exact terms and conditions of coverage may be the same as the excess insurance policy purchased by the Fund.

ARTICLE V - MEETINGS, RULES OF ORDER AND BY-LAWS AMENDMENTS

Meetings:

1. Annual Organization Meeting:

During the month of January, the commissioners shall meet to elect officers and the executive committee, if any, to appoint officials and conduct such other business as is necessary. The time and place for the meeting shall be established by the Chairperson, and the Administrator shall send written notice to the clerks of member municipalities at least two weeks in advance.

2. Business Meetings:

The Fund's commissioners, or executive committee, where applicable, shall establish a schedule of meetings to conduct the business of the Fund. All commissioners may attend open or closed sessions of the executive committee.

3. Special Meetings:

The Chairperson may, and on the request of three (3) commissioners shall call a special meeting of the Commissioners or of the Executive Committee by notifying the Administrator at least three (3) days in advance. The Administrator shall notify the commissioners (or members of the executive committee) by telephone. If the Administrator is unable to reach a member as of forty-eight (48) hours before the meeting, the Administrator shall telephone another official of the municipality using the following order: Manager, Deputy Manager, Mayor, Clerk, or other official designated by the municipality to receive the notification.

4. Quorum:

- a. The quorum for a full commissioners meeting shall be as follows:
 - 1) A majority of the total commissioners unless the total number of members exceeds 25.
 - 2) If the total membership exceeds 25 in numbers, then a quorum shall be 13 plus a sum equal to 20% of the number of members in excess of 25 rounded to the next higher number.
- b. A quorum for executive committee meetings shall be a majority of the total committee.

Conduct Of Meetings:

1. All meetings of the Fund shall be subject to the Open Public Meetings Act.
2. Unless otherwise provided in these By-Laws, or in the laws or regulations of the State of New Jersey, "Robert's Rules of Order" shall govern the conduct of all meetings.

Amendment To The Bylaws:

1. Any commissioner may propose an amendment to the By-Laws by filing the proposed amendment in writing with the Administrator.
2. Upon receipt of a proposed amendment, the Administrator shall notify the Chairperson who shall schedule a hearing to be held not more than forty -five (45) days from the date the amendment was filed. The Administrator shall notify in writing all commissioners of the hearing date and shall send all commissioners a copy of the proposed amendment.
3. The amendment is adopted by the Fund when, pursuant to law, the governing body of each member municipality approves the amendment within six (6) months of the hearing on the amendment. If after six (6) months the Administrator has not received written notice of approval from each municipality, the Administrator shall notify the members that time has expired for the adoption of the amendment.
4. Upon adoption of the amendment, the Administrator shall submit the amendment to the Commissioner of the Department of Insurance and the Commissioner of the Department of Community Affairs for their approval. The amendment shall not take effect until that approval has been granted as required by law.

ARTICLE VI - BUDGETS

Budget Preparation:

1. In October of each year, the Fund shall prepare the budget for the upcoming fiscal year. The budget shall identify the proposed items and amounts of expenditure for its operations, the anticipated amounts and sources of assessments and other income to be received during the fiscal year and the status of the self-insurance or loss retention accounts.

2. The budget shall be reviewed by an actuary who shall comment on its adequacy and shall recommend changes as appropriate by October 15th.

Budget Adoption:

1. Not later than November 30th of each year the Fund's commissioners, or executive committee, where applicable, shall adopt the budget for the Fund's coming fiscal year.
2. A copy of the Fund's proposed budget as approved by the Fund's commissioners, or executive committee, where applicable, after consideration of the recommendations of the actuary shall be sent to each member municipality at least two (2) weeks prior to the date scheduled for its adoption. No budget or amendment shall be adopted until a hearing has been held giving all member municipalities the opportunity to present comments or objections.
3. An adopted budget may be amended by majority vote after giving the member municipalities two (2) weeks advance written notice and conducting a hearing on the proposed amendment.
4. A copy of the adopted budget and any amendment shall be filed within thirty (30) days of its adoption with the governing body of each member municipality, the Commissioner of the Department of Insurance, and the Commissioner of the Department of Community Affairs.

ARTICLE VII - ASSESSMENTS

Annual Assessment

1. By September 15th of each year, the actuary shall compute the probable net cost for the upcoming Fund year by line of coverage and for each prior Fund year. The actuary shall include all budget items in these computations.
2. The annual assessment of each member municipality shall be its pro rata share of the probable net cost for the upcoming year for each line of coverage as computed by the Actuary.
3. The calculation of pro rata shares shall be based on each municipalities' manual premium by Fund year for that line of coverage.

4. The total amount of each member's annual assessment shall be certified by the Fund's commissioners, or executive committee, where applicable, to the governing body of each member municipality at least one (1) month prior to the beginning of the next fiscal year.
5. The annual assessment shall be paid to the Fund in two (2) equal installments, to be determined by the Fund, which shall conform with *N.J.A.C. 11:15-2.15(a)*.
6. In the event the final budget necessitates changes after the annual assessment has been certified, the second installment shall be adjusted to reflect the difference.
7. The Treasurer shall deposit each member's assessment into the appropriate accounts, including the administrative account, and the claim or loss retention trust Fund account by Fund year for each type of coverage in which the member participates.

Supplemental Assessments:

1. The Fund shall levy upon the member municipalities additional assessments wherever needed or whenever so ordered by the Commissioner of the Department of Insurance to supplement the Fund's claim, loss retention or administrative accounts to assure the payment of the Fund's obligations.
 - a. All supplemental assessments shall be charged to the member municipalities by applicable Fund year, and shall be apportioned by that year's manual premium for the applicable line of coverage.
 - b. All municipalities shall be given thirty (30) days advance written notice of the Fund's intention to charge an additional assessment, other than an additional assessment resulting from a change in the member's coverage, and the Fund shall conduct a hearing before adopting the supplemental assessment.
 - c. Municipalities shall have thirty (30) days to pay the Fund from the date any supplemental assessment is adopted.
2. The Fund shall submit to the Commissioner of the Department of Insurance and the Commissioner of the Department of Community Affairs a report of the causes of the Fund's insufficiency, the assessments necessary to replenish it and the steps taken to prevent a reoccurrence of such circumstances.

Failure Or Refusal To Provide Required Assessment:

Should any member fail or refuse to pay its assessments or supplement assessments, or should the Fund fail to assess funds required to meet its obligations, the Chairperson or in the event of his or her failure to do so, the custodian of the Fund's assets, shall notify the

Commissioner of the Department of Insurance and the Commissioner of the Department of Community Affairs. Past due assessments shall bear interest at the rate of interest to be established annually by the Fund's commissioners, or executive committee, where applicable.

Insolvency And/Or Bankruptcy Of Fund Members:

The insolvency or bankruptcy of a member does not release the Fund, or any other member, of joint and several liability for the payment of any claim incurred by the member during the period of its membership, including, but not limited to, being subject to and liable for supplemental assessments.

ARTICLE VIII - REFUNDS

- A. Any monies for a Fund year in excess of the amount necessary to fund all obligations for that fiscal year as certified by an actuary may be declared to be refundable by the Fund not less than twelve (12) months after the end of the fiscal year and in accordance with applicable laws and regulations.
- B. The initial refund for any year from a Claim or Loss Retention Account shall not exceed thirty (30) percent of the surplus available for the year. The Fund may, however, seek annual approval for the payment of refunds from a Claim or Loss Retention Trust Fund Account remaining from any year which has been completed for at least thirty (30) months or longer and may include such refund payments with initial refund payments from the preceding year.
- C. A refund for any fiscal year shall be paid only in proportion to the member's participation in the Fund for that year. Payment of a refund on a previous year is not contingent on the member's continued membership in the Fund after that year.
- D. At the option of the member the refund may be retained by the Fund and applied towards the member's next annual assessment.
- E. It is the intent that refunds shall be made in accordance with the regulations issued by the New Jersey Department of Insurance and applicable law and any changes in the regulations or applicable law shall control over any conflicting provision of these By-Laws.

ARTICLE IX - EXCESS INSURANCE

- A. The Fund shall purchase excess insurance in a form, in an amount and from an insurance company approved by the Fund and acceptable to the Commissioner of the Department of Insurance.
- B. As soon as it is reasonably possible before the beginning of the fiscal year, the Fund shall notify all members of changes in the coming year's excess insurance policies. The Fund shall also notify the members of any changes in the policies which occur during the year.
- C. Certificates of excess insurance showing policy limits and other information shall be filed with each member and the Commissioner of the Department of Insurance. Copies of all policies shall be provided to the members.

ARTICLE X - DEDUCTIBLES

- A. In order to motivate and reward members to improve their safety program, each member municipality shall pay a per-occurrence deductible in an amount established by the commissioners at least one (1) month before the beginning of the fiscal year. Subject to the provision of this article, the Fund shall pay the cost of any claim including allocated claim expense which exceeds the deductible, subject to the terms, conditions and limits as provided for by the Fund's excess insurance coverages.
- B. The maximum amount that a municipality shall be responsible for in deductible claims and allocated claims expenses for a Fund year is 15% of its pro rata share of the Fund's budget for claims and allocated claims expense.
- C. To be counted against the limitations in subsection B. above all deductible claims shall be reported to the Fund and shall be adjusted by the servicing company contracted by the Fund. The Fund shall have full authority to defend or settle these claims as it deems appropriate to protect the interest of the Fund.

ARTICLE XI - DISBURSEMENTS

- A. Prior to any commitment or agreement requiring the expenditure of funds, the custodian of the Fund's assets shall certify as to the availability of sufficient unencumbered funds to fully pay all charges or commitments to be accepted.

- B. All disbursements, payments of claims or expenditure of funds must be approved by the Fund's commissioners, or executive committee, where applicable.
- C. Notwithstanding provisions Article XI, Sections A and B, the Fund may provide for the expeditious resolution of certain claims by designating the Fund's Administrator or claims service organization as a "certifying and approving officer" in accordance with *N.J.S.A. 40A-5-17*. The Fund may authorize the "certifying and approving officer" to approve for payment any or specified claims in an amount not to exceed \$5,000 per claim or payment. The Fund shall establish such other procedures and restrictions on the exercise of this authority as the Fund deems appropriate.
- D. Upon approval, the certifying and approving officer shall certify the amount and particulars of approved claims to the custodian of the Fund's assets, directing that a check for payment be prepared.
- E. Each month, the certifying and approving officer shall prepare a report of all claims approved since the last report, detailing the nature and the amount of the claim, the payee, the reasons supporting payment and any other pertinent information. This report shall be reviewed and approved or rejected by the fund's commissioners, or executive committee, where applicable, at the next regularly scheduled meeting. If any payment is not approved appropriate actions shall be taken.
- F. All requests for payments shall be accompanied by a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct, and must carry the certification of some officer or duly designated agent or employee of the Fund having knowledge of the facts that the goods have been received by, or the services rendered to the Fund. In the case of claims or losses to be charged against any loss fund, the Fund's claims administrator shall certify as to the claims correctness and validity.
- G. All claims shall be paid by check. The checks shall be signed by two persons so designated by the Fund.
- H. All claims or other disbursements approved for payment by the Fund shall be recorded in a claims register maintained by the custodian of the Fund's assets.

ARTICLE XII - CONFLICT OF INTEREST

- A. No official or employee of a member municipality or any members of the family of any official or employees, or any businesses in which those officials, employees or family members have a beneficial interest shall seek to obtain or participate in any contract to be entered into by the Fund for administration, loss control, investment or depository services, insurance coverage or any other service, commodity or material without first fully disclosing in writing the nature and extent of the interest, financial or otherwise, to the

Fund. It shall be the responsibility of the Fund to determine if the interest so disclosed will constitute an actual or potential conflict of such a degree as to impair the ability of the officer, employee, family member or business from fully and impartially performing the duties required by the Fund. If so, the officer, employee, family member or business shall be prohibited from entering into the contract until the conflict is removed.

- B. Any contract entered into between the Fund and any individual, firm, corporation or agency which fails to disclose an actual or potential conflict situation shall be void.
- C. There shall be no collusion, or evidence or appearance of collusion, between any official or employee of the members or employees of the fund and any official or employee of any contractor, vender, insurance company, bank, consultant, brokerage firm or any other profit making or non-profit firm attempting to solicit a contract with the Fund or awarded a contract by the Fund.

ARTICLE XIII - VOLUNTARY DISSOLUTION OF THE FUND

- A. If the Fund's commissioners, or executive committee, where applicable, deem it in the best interest of the members to dissolve the Fund, they shall direct that a written plan of dissolution be prepared.
- B. The plan of dissolution must provide for the payment of all incurred losses of the Fund and its members, including all incurred but not reported losses, as certified by an actuary, before any assets of the Fund or the trust fund accounts may be used for any other purpose.
- C. Upon completion of the plan, the Chairperson shall call a general meeting of the Fund commissioners, or the executive committee, where applicable, who shall review the plan and make any appropriate amendments. The Fund may recommend to the members that the Fund be dissolved in accordance with the Plan of Dissolution.
- D. The Plan of Dissolution shall be adopted only after it has been approved by the governing bodies of a majority of the member municipalities.
- E. The Plan of Dissolution and other such information as may be required, shall be filed with and approved in writing by the Commissioner of the Department of Insurance and the Commissioner of the Department of Community Affairs before the dissolution of the Fund shall be effective.

ARTICLE XIV - CLAIMS HANDLING PROCEDURE

Registration Of Claims:

Upon receipt of an initial notice of claim, whether by service of process, notice of claim or petition or otherwise, the claims administrator shall cause each claim to be numbered, and to be included on a monthly report to the Fund commissioners, or executive committee, where applicable. The report shall set forth the name of the claimant, the nature of the claim, the type insurance coverage claimed against, and to the extent known, an approximate estimate of the magnitude of the potential loss.

Claims Response:

Upon receipt of the initial notice of claim described above, the member municipality shall, in accordance with the policies established by the Fund Commissioners, immediately forward the notice of claim and any other information available to claims service agency and, where appropriate, to the Fund's defense attorneys for initial contract, investigation, court actions or other appropriate response.

Claims Acknowledgement And Initial Evaluation:

Upon receipt of an assignment of claim handling, the claims service agency and, where appropriate, the defense attorneys shall acknowledge receipt of the claim and within thirty (30) days of receipt, submit prepare a report indicating their initial assessment of the merits and exposure represented by the claim and a summary of the actions taken to date in response to said claim.

Periodic Review Of Claim Status:

Each claim shall be reviewed by the claims service agency at intervals of not greater than ninety (90) days as to their status. The Fund shall review claims on a semi-annual basis in order that the Commissioners, or the members of the Executive Committee, where applicable, will be familiar with the nature and extent of the outstanding claims and to determine whether the investigation and defense of the claim is adequate, and the adequacy of the reserves posted for the claim. Whenever the claims service agency determines that the reserves may not be sufficient seem respect to a particular claim, that information shall be immediately brought to the attention of the Fund Commissioners.

Notice Of Settled Claims:

Where permitted by the Bylaws, and where settlements have been concluded without action of the Fund's commissioners, or executive committee, where applicable, a complete report thereof as provided by the Bylaws shall be furnished to the fund by the claims service agency.

Notice Of Intended Settlement In Excess Of \$5,000:

Whenever an investigation discloses that the prompt fair and equitable settlement of a claim is appropriate and possible, the claims service agency shall submit to the administrator and Fund attorney for review, at least three business days prior to a Fund meeting, a notice of recommended settlement. This notice shall be on forms approved by the Fund and shall set forth identifying information concerning the claim, recommendations, where appropriate, concerning the legal liability of the Fund, a summary of investigative work concerning the merits of the claim and the reasons underlying the recommended settlement.

Approval Of Payments And Settlements In Excess Of \$5,000.

Whenever the Fund shall make any payment or settlement of any claim, a notation thereof identifying the claim, the amount paid and the reasons underlying the payment shall be approved by the Fund and entered upon a ledger of claims paid.

ARTICLE XV - COMPLAINT HANDLING PROCEDURE

- A. Whenever any interested party shall submit a complaint in writing to the "FUND", the administrator or any member of the Fund, a copy thereof shall be forthwith communicated to the Fund's commissioners, or executive committee, where applicable, for consideration at the next regularly scheduled meeting.
- B. At that meeting the Fund's commissioners, or executive committee, where applicable, shall consider the complaint, and by recorded vote take such action as they determine to be appropriate.
- C. The complaining party, and the Commissioner from the Municipality wherein the complaining party resides, if the complaining party is a resident of a member municipality, shall receive written notice of the determination and decision. The written notice to the complaining party may, where appropriate, provide for an opportunity for the complaining party to have a hearing concerning the complaint before the Fund's commissioners, or executive committee, where applicable.
- D. The Fund shall keep a separate record of all complaints received and the disposition of same.

ARTICLE XVI - OTHER CONDITIONS

Inspection And Audit:

The fund shall be permitted but shall not be obligated to inspect, at any reasonable time, the work places and operations of each member municipality covered by this agreement. Neither the right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the member municipality or others to determine or warrant that any work places or operations are safe or healthful or are in compliance with any law, rule or regulation.

The Fund shall be permitted to examine and audit the member municipality's payroll records, general ledger, disbursements, vouchers, contracts, tax reports and all other books, documents and records of a member municipality at any reasonable time as far as they show or tend to show or verify the amount of remuneration or other premium basis, or relate to the subject matter of this agreement.

Notice Of Injury:

When an injury occurs written notice shall be given by or on behalf of the member municipality to the Fund or any of its authorized agents as soon practicable. The notice shall contain particular sufficient to identify the member municipality and shall include reasonably obtainable information respecting the time, place and circumstances of the injury, the names and addresses of the injured and of available witnesses.

Notice Of Claim Or Suit:

If claim is made or formal petition or a suit or other proceedings are brought against the member municipality or its officers or employees, the member municipality shall immediately forward to the Fund, in accordance with the policies established by the fund, every demand, notice, summons or other process received.

Assistance And Cooperation Of The Member Municipality:

The member municipality shall cooperate with fund and upon the Fund's request, shall require its officials, employees and agents to attend hearings and trials and to assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits or proceedings. The member municipality shall not, except at its own cost, voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical and other services at the time of injury as are required by Law.

Action Against Fund:

No action shall lie against the Fund unless, as a condition precedent thereto, the member municipality shall have fully complied with all the terms of this agreement, not until the amount of the member municipality's obligation to pay shall have been finally determined either by judgment against the member municipality or its officers or employees after actual trial or by written agreement of the member municipality, the claimant and the Fund. Any person or organization or the legal representative thereof who has secured a judgment or written agreement shall thereafter be entitled to recover under this agreement to the extent of the protection afforded by this agreement. Nothing contained in this agreement shall give any person or organization any right to join the Fund as a co-defendant in any action against the member municipality to determine the liability of the member municipality.

Bankruptcy or insolvency of the member municipality shall not relieve the Fund of any of its obligations.

Subrogation:

In the event of any payment under this agreement, the Fund shall be subrogated to all rights of recovery therefore of the member municipality and any person entitled to the benefits of this agreement against any person or organization and the member municipality, its officers and employees shall execute and deliver instruments and papers and do whatever else is necessary to secure those rights. The member municipality, its officers and employees shall do nothing after a loss to prejudice those rights.

Conformance With Statute:

In the event any portion of these By-Laws conflict with any statute, rule or regulation covering joint insurance funds, the provision of the statute, rule or regulation shall control to the extent of the conflict.

Adopted and approved by the Commissioners of the Fund after a public hearing on July 24, 1989.

Adopted and approved by the governing bodies of the member municipalities on the dates herein set forth:

Township of Evesham

Township of Maple Shade

Township of Moorestown July 24, 1989

Township of Willingboro August 1, 1989

Approved by the Commissioner of the
Department of Community Affairs

Approved by the Commissioner of the
Department of Insurance