

ORDINANCE 8-01 of 2020

Approving the Agreement and Participation  
of the Police Department of Pittston Twp  
with the Luzerne County Driving Under the Influence (DUI) Task Force  
and Luzerne County District Attorney's Office

**WHEREAS**, the common threat of driving under the influence of alcohol, controlled substances or a combination thereof presents substantial risks and danger to the residents, visitors and travelers within and throughout each municipality of Luzerne County; and

**WHEREAS**, the mobile nature of vehicles utilized in the commission of these offenses renders municipal boundary lines a hindrance to the effective enforcement of the laws prohibiting such offenses as well as investigation of offenders and protection of society related thereto; and

**WHEREAS**, the constant evolution of the Courts' interpretation of the DUI laws and the recent relinquishment of the Luzerne County DUI Processing Center by its former administration have led to the District Attorney assuming administration of the Center; and

**WHEREAS**, an urgent need for integration, uniformity, and consistency in the investigation and enforcement of DUI laws throughout Luzerne County are of paramount importance for the protection of our community; and

**WHEREAS**, the prevalence of DUI offenses and the need for centralized enforcement, testing and processing frustrate the limits put upon municipal police departments by jurisdictional boundaries; and

**WHEREAS**, the General Assembly has provided a means for Intergovernmental Cooperation among municipalities and Luzerne County; and

**WHEREAS**, the above Municipality has determined that the provision of mutual police aid across jurisdictional lines will increase its ability to enforce the provisions of DUI laws, and will preserve the safety and welfare of the Municipality in Luzerne County; and

**WHEREAS**, the Office of the Luzerne County District Attorney has requested the aid and assistance of the Municipality's Police Department to implement the DUI Task Force activities in compliance with the Municipal Police Jurisdiction Act (MPJA), 42 Pa.C.S. §8953(a)(3); and

**WHEREAS**, the Municipality desires to enter into an agreement for the purpose of having available for use throughout its territorial limits, the services of police participating in the DUI Task Force under the conditions set forth and in compliance with the Municipal Police Jurisdiction Act, 42 Pa.C.S. §8953; and

**WHEREAS**, cooperation among municipalities in the exercise and performance of their governmental powers, duties and functions is authorized by the various acts of the General Assembly to wit: 53 Pa.C.S. §2303 (formerly 53 P.S. §483) and ratified by ordinance pursuant to 53 Pa.C.S. §2305 (formerly 53 P.S. §485); and

**WHEREAS**, the Office of the Luzerne County District Attorney is establishing a DUI Task Force program to coordinate investigations, processing, enforcement, and prosecution efforts; and

**WHEREAS**, the Municipality intends to participate in the DUI Task Force activities; and

**WHEREAS**, the Municipality wishes to establish the administrative framework for carrying out their activities under this program in Luzerne County.

**NOW, THEREFORE, BE IT ORDAINED** by the government of the undersigned Municipality:

**THAT**, this Ordinance shall memorialize the approval of the Intergovernmental Cooperation Agreement (ICA) among the DUI Task Force, the Luzerne County District Attorney and our Police Department, the powers of which are, and always have been, intended to be conferred by the MPJA; and

**THAT**, the undersigned Municipality, by this act of its governing body, hereby agrees to cooperate in the exercise of any and every function, power or responsibility with or delegate or transfer any function, power or responsibility to all other local governments' officers and agents and the Office of the Luzerne County District Attorney participating in the DUI Task Force in accordance with the Intergovernmental Cooperation Act (53 Pa.C.S.A. § 2301, et seq); and

**THAT**, consistent with the Intergovernmental Cooperation Act,<sup>1</sup> we hereby Ordain as follows:

(1) *The conditions of the agreement between and among the agencies involved in the DUI Task Force shall permit the exercise of jurisdiction for any participating member of thereof in this Municipality's jurisdiction, the terms of said agreement may be amended from time to time by separate agreement of the parties.*

(2) *The duration of the term of the agreement shall be ongoing unless or until duly modified, in writing, and signed by this Municipality and the Luzerne County District Attorney.*

(3) *The purpose and objective of this Ordinance and associated Agreement(s) is to combat the scourge of Driving Under the Influence throughout Luzerne County, and crimes related in any way thereto, and to confer and coordinate jurisdiction to the DUI Task Force and its members working to combat such crime.*

(4) *The manner and extent of financing for the purposes stated herein permit for the payment/reimbursement of wages at the rate set by the Pennsylvania Department of Transportation grant and necessary costs for the officers, DUI TF and operations, as well as equipment from DUI Task Force funds with other adjustments at the sole discretion of the District Attorney, which may be amended from time to time by separate agreement of the parties.*

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<sup>1</sup> 53 Pa.C.S.A. § 2307.

(5) *The organizational structure necessary to implement the agreement approved by the Ordinance requires that the DUI Task Force be supervised by the District Attorney and his/her designee at the sole discretion of the District Attorney for the purposes stated herein.*

(6) *Real or personal property shall be acquired, managed, licensed or disposed of by action of the District Attorney or his/her designee at the sole discretion of the District Attorney. In the event such property is taken by forfeiture/seizure, the requirement of the Commonwealth's Forfeiture Act, 42 Pa.C.S.A. § 5801, et seq., and/or related Acts shall apply.*

(7) *If deemed necessary, and as required by the ICA, the entity created under this section shall be empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for its employees.*

THAT, this Ordinance was duly advertised in a newspaper of general circulation in the Municipality; and

THAT, any other prior Ordinances and Resolutions of the Municipality in irreconcilable conflict herewith are hereby repealed; and

THAT, if any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise illegal or unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance; and

THAT, this Ordinance is intended to and shall apply retroactively to the DUI Task Force Agreement already in place or being put in place contemporaneously herewith of following the passage hereof and shall take full force and effect upon the execution of said Agreement or upon the date of passage of this Ordinance, which is: Aug. 17, 2020, whichever date is earlier.

