MASON, GRIFFIN & PIERSON
A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW

MEMORANDUM

To: Mayor and Council of Princeton

From: Lisa M. Maddox, Esq.
Assistant Princeton Attorney

Date: April 23, 2014

Re: **Proposed Ordinance for Introduction: Chapter 2, "Administration"**

Attached is Chapter 2, "Administration," proposed for introduction at the mayor and council's April 28, 2014 meeting.

Following the April 16, 2014 Code Review meeting, Chapter 2 has been revised as follows:

1. Sections 2-5 and 2-5.1 – Director of Finance

In the attached, the position of director of finance has been changed from a mandatory position (that must be filled) to a discretionary position that *may* be filled. As revised, this position may be filled in the Administrator's discretion. In the event there is no director of finance, then the CFO would be the head of the Division of Finance.

2. Section 2-7.3 – Director of Infrastructure and Operations

Subsection (d) of section 2-7.3 has been revised to reflect that the director of infrastructure and operations would not be responsible for the condition of all Princeton parks. Instead, when the chapter governing the Recreation Department is revised, appropriate changes will be made to reflect that the Recreation Department is responsible for the care and maintenance of all Princeton parks.

In addition to the above, Council President Bernie Miller inquired into certain language in Section 2-5.13 of proposed Chapter 2 which allowed the council to set weekly hours for the tax assessor's office, but not the specific work hours of the tax assessor. This language is from N.J.S.A. 40A:9-146, which specifically states that while the governing body may set weekly hours for the tax assessor's office, it may not set the assessor's specific work hours. This language is included in Section 2-5.13 because it is unique to the office of tax assessor, as dictated by state law.

Please do not hesitate to contact me should you have any questions or concerns.

Attach.
cc: Robert W. Bruschi, Administrator (w/attach.)
Kathy Monzo, Assistant Administrator (w/attach.)
Linda S. McDermott, Clerk (w/attach.)
Trishka W. Cecil, Esq., Attorney (w/attach.)
Edwin W. Schmierer, Esq. (w/attach.)

AN ORDINANCE BY PRINCETON CONCERNING ADMINISTRATION AND AMENDING THE "CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY, 1974" AND THE "CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968".

WHEREAS, the Borough of Princeton and Township of Princeton pursuant to the provisions of the New Jersey Municipal Consolidation Act, *N.J.S.A.* 40:43-66.35 consolidated as Princeton on January 1, 2013; and

WHEREAS, pursuant to *N.J.S.A.* 40:43-66.64, the Princeton Council on January 1, 2013 adopted a Resolution continuing in effect Ordinances of the former Borough of Princeton and the former Township of Princeton as a new Code for Princeton is prepared; and

WHEREAS, the Princeton Council's Code Subcommittee has reviewed and consolidated portions of Chapter 2 of the "Code of the Borough of Princeton, New Jersey, 1974" and portions of Chapter 2 of the "Code of the Township of Princeton, New Jersey, 1968" pertaining to Administration; and

WHEREAS, the Princeton Council wishes to adopt said Code revisions which will become a part of the new Princeton Code at a future date.

NOW, THEREFORE, BE IT ORDAINED by the Princeton Council as follows:

Section 1. Sections 2-1 through 2-50 within Articles I, II and III of Chapter 2 of the "Code of the Borough of Princeton, New Jersey, 1974," and Sections 2-1 through 2-19.2, 2-43 through 2-53.2, 2-60 through 2-68, and 2-74 through 2-80 within Articles I, II, III, IV, XI, XII, XIII, XVI and XVIII of Chapter 2 of the "Code of the Township of Princeton, New Jersey, 1968," are hereby repealed.

Section 2. Revisions to Chapter 2 of the "Code of the Borough of Princeton, New Jersey,

1974" as set forth on Exhibit A attached hereto and made a part hereof are hereby adopted to set forth provisions governing Administration generally and to replace the aforementioned sections of the "Code of the Borough of Princeton, New Jersey, 1974" and the "Code of the Township of Princeton, New Jersey, 1968".

Section 3. All ordinances and resolutions or parts thereof inconsistent with this Ordinance are repealed.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

Section 5. The provisions of the attached Chapter 2 shall be applicable within Princeton upon final adoption and shall become a part of the new Princeton Code once completed and adopted.

_____ _____

Linda S. McDermott, Clerk Liz Lempert, Mayor

Ordinance Introduced:

Ordinance Adopted:

EXHIBIT A

CHAPTER 2 – ADMINISTRATION

Article I. Municipal Governing Body.

Sec. 2-1A.1. Mayor and council.

The mayor is the executive head of the municipal government, and the council is the legislative body of the municipal government.

Sec. 2-1A.2. Powers and duties.

The mayor and council shall have such powers and duties as prescribed in N.J.S.A. 40A:60-1 *et seq.* and in the general laws of the State of New Jersey.

Article II. Municipal Departments and Offices.

Division 1. Department of Administration and Finance.

Sec. 2-1. Department created.

There is hereby created a Department of Administration and Finance, the department head of which shall be the Municipal Administrator.

Sec. 2-1.1. Administrator; residency.

The administrator shall be required to be a resident of Princeton; provided, however, that the council may waive this requirement if it determines, by resolution, that it is appropriate under the then current circumstances and is in the best interests of Princeton.

Sec. 2-1.2. Appointment; service at pleasure of council.

The administrator shall be appointed by the mayor, with the advice and consent of the council, and shall serve at the pleasure of the council.

Sec. 2-1.3. Removal from office.

The administrator may be removed by a two-thirds vote of the full council membership. The resolution of removal shall become effective three months after its adoption by the council. The council may provide that the resolution shall have immediate effect, provided, however, that council shall cause to be paid to the administrator forthwith any unpaid balance of the administrator's salary and the salary for the next three calendar months following adoption of the resolution.

Sec. 2-1.4. Authority to hold other appointive office.

The administrator shall devote full time to the duties of the office; except that nothing herein shall prevent the appointment of the administrator to any other appointive office in the municipality and the fulfillment of the duties thereof.

Sec. 2-1.5. Compensation.

The administrator shall receive such compensation as shall be prescribed by the council in the annual salary ordinance.

Sec. 2-1.6. Powers and duties.

The administrator shall, under the supervision and control of the mayor and council, to the extent not prohibited by law:

(a) Be responsible for the proper and efficient administration of all municipal business, except those duties and responsibilities conferred upon other officials by state statutes, other applicable laws, rules and regulations promulgated by state and county agencies, judicial authority or ordinances of the municipality. The administrator may delegate to the deputy administrator, or any department head or other Princeton employee such powers as the administrator may deem necessary for efficient administration. The administrator shall retain responsibility for all such work performed by others;

(b) Serve as the municipality's personnel officer, maintain sound personnel practices and policies, maintain appropriate records of all subordinate officers and employees, and have the authority to hire, promote, discipline, suspend or discharge any employee, provided that to the extent those employees are covered by applicable state statutes, rules and regulations, or another provision of this Code, they shall be hired, promoted, disciplined, suspended or discharged in a manner consistent with such statutes, rules, regulations and/or this Code. As required by law, the mayor shall nominate, and with the advice and consent of the council, appoint all subordinate officers (unless another procedure is specified by state law). The administrator shall be responsible for the operation and staffing of all departments and offices within the municipality, and all department heads and subordinate officers shall report to the administrator;

(c) Assign responsibility for departmental action and coordinate interdepartmental operations;

(d) Prepare the proposed annual municipal budget, by requiring and receiving appropriation requests from the heads of departments and reviewing such requests, transmitting a tentative budget and consulting with the mayor and council with respect thereto and submitting on or before the submittal date mandated by the state, the administrator's final recommendations in the form required by state law for municipal budgets, appending thereto a detailed analysis of the various items of expenditure and preliminary revenues and such explanatory comment or statement as may be desirable;

(e) Administer the budget after its adoption and implement the work programs contained therein, and enforce the financial procedures and policies of the municipality and its departments;

(f) Execute and enforce the laws of the state and ordinances and resolutions of the municipality, except where authority is granted to others by statutes or ordinances; see that all of the terms and conditions imposed in favor of the municipality or its inhabitants in any statute, public utility

franchise, performance bond, or other contractual undertaking are fulfilled;

(g) Keep the mayor and council informed as to the conduct of municipal affairs as well as the condition of municipal finances and make such recommendations to the mayor and council as the administrator deems necessary and advisable;

(h) Attend all regular and special meetings of the council or mayor and council, except where excused therefrom by the council, and, if directed, other meetings and events requiring attendance of a representative of Princeton;

(i) Recommend to the mayor and council the employment of professional service consultants to perform work and render advice;

(j) Negotiate contracts in accordance with law, in consultation with the municipal attorney as needed, oversee the performance and faithful execution of such contracts, except insofar as such duties are expressly imposed upon some other municipal officer or official by statute or ordinance, and make recommendations to the council regarding contract awards;

(k) Review and recommend all bills and vouchers for payment prior to final approval by the council;

(l) Maintain a continuing review and analysis of budget operations, work programs, and costs of municipal services;

(m) At the request of the council, study and analyze the duties and responsibilities of any appointed official, employee, or department, and submit a written report relating thereto to the council for such further action as the council may deem advisable;

(n) Study, recommend, implement and enforce procedures and policies of the municipality and in its departments for receipt, dissemination and collation of, and for responses to, communications and information;

(o) Oversee all purchasing activity of the municipality with authority as its contracting agent to prepare public advertising for bids and quotations as required by law and to review bids for the purchase of materials, supplies and services on behalf of the municipality in accordance with the provisions of the state statutes and sound purchasing practices; and, in compliance with the requirements of the New Jersey Local Public Contracts Law (N.J.S.A. 40A:11-1 *et seq.*) make or recommend awards of contracts in the name of the municipality for the various agencies, boards, departments and other offices of the municipality.

The administrator is specifically authorized to make awards of contracts, without public advertising for bids, when the cost or price of any contract in the aggregate does not exceed in a contract year the maximum bid threshold in effect pursuant to N.J.S.A. 40A:11-3a., as may be amended. If the administrator or designee is a Qualified Purchasing Agent, by resolution the council may increase the bid threshold up to the adjusted maximum amount permitted by the Legislature by N.J.S.A. 40A:11-3c., as may be amended.

The administrator or designee shall keep an account of all purchases and may, from time to time, or when directed, issue rules and regulations governing the requisition and purchase of all municipal supplies and equipment. For purposes of this section, during the absence, disqualification or disability of the administrator, the deputy administrator or other qualified designee, selected by the mayor or administrator, as appropriate under the circumstances, shall act in place of the administrator on a temporary basis.

To the extent authorized by law, the administrator may delegate some or all of the purchasing obligations set forth in this subsection (o) and below in subsection (p) to a purchasing agent, in which case said purchasing agent shall report to the Chief Financial Officer; and

(p) Oversee all emergency purchases. A contract may be negotiated or awarded without public advertising for bids and bidding therefor, notwithstanding that the contract price will exceed the bid threshold, when an emergency affecting the public health, safety or welfare requires the immediate delivery of goods or the performance of services, provided that the awarding of such contracts is made in accordance with N.J.S.A. 40:11-6 and rules promulgated thereunder, as may be amended, and this subsection.

The official in charge of the department wherein the emergency occurred shall notify the administrator of the need for the performance of a contract, the nature of the emergency, the time of its occurrence and the need for invoking these emergency purchase procedures. If the administrator is satisfied that an emergency exists, the administrator or designee shall be authorized to award a contract or contracts for such purposes as may be necessary to respond to the emergent needs. The notification shall be reduced to writing and filed with the administrator.

The administrator shall inform the mayor and council of the emergency and need for an emergency contract as soon as possible. The administrator shall see that the matter is placed on the agenda for discussion and/or action at the next or following meeting of the governing body.

Upon the furnishing of such goods or services, in accordance with the terms of the contract, the contractor furnishing such goods or services shall be entitled to be paid therefor and the governing body shall be obligated for said payment, and the governing body shall take such action as shall be required to provide for payment of the contract price.

Sec. 2-1.7. Deputy administrator; appointment; compensation; duties.

The administrator may appoint a deputy administrator whose compensation shall be fixed by the annual salary ordinance. The deputy administrator shall have a general knowledge of all aspects of municipal government and be qualified to serve as administrator. The deputy administrator shall have such other duties as may be delegated or assigned by the administrator. The deputy administrator may simultaneously hold another position with Princeton.

Division 2. Municipal Attorney.

Sec. 2-2. Creation of office; appointment; qualifications; term; compensation; residency.

There shall be a municipal attorney for the municipality, in but not of the Department of Administration and Finance, who need not be a resident of the municipality, who shall be appointed by the mayor with the advice and consent of the council for the term of one year, commencing on January 1 of the year of appointment. Said appointment shall be memorialized in a professional services resolution and agreement in accordance with the requirements of the New Jersey Local Public Contracts Law (N.J.S.A. 40A:11-1 *et seq.*). The municipal attorney shall be qualified and licensed as an attorney-at-law of the State of New Jersey in good standing, and shall receive such compensation as is established in the aforesaid professional services resolution and agreement, a portion of which, if appropriate, may be provided for by the council in the annual salary ordinance.

Sec. 2-2.1. Duties.

The municipal attorney shall perform all duties of a legal nature pertaining to the office of an attorney representing a municipal corporation, except in particular cases where for special reasons another attorney is employed.

Division 3. Municipal Prosecutor; Municipal Public Defender.

Sec. 2-3. Offices created.

The municipal prosecutor and municipal public defender shall be in but not of the Department of Administration and Finance.

Sec. 2-3.1. Municipal prosecutor; appointment.

There shall be a municipal prosecutor, who shall be appointed by the mayor with the advice and consent of the council for the term of one year from the date of appointment. Said appointment shall be memorialized in a professional services resolution and agreement in accordance with the requirements of the New Jersey Local Public Contracts Law (N.J.S.A. 40A:11-1 *et seq.*). The municipal prosecutor shall be qualified and licensed as an attorney-at-law of the State of New Jersey in good standing. The prosecutor shall receive such compensation as is established in the aforesaid professional services resolution and agreement, a portion of which, if appropriate, may be provided for by the council in the annual salary ordinance. The compensation of municipal prosecutors, including additional prosecutors, shall be in lieu of any and all other fees; provided, however that when a municipal prosecutor is assigned to prosecute a de novo appeal in the Superior Court, the prosecutor shall be entitled to additional compensation unless the municipality expressly provides otherwise at the same time as the adoption of the aforesaid professional services resolution. The duties of the prosecutor shall be as follows:

(a) Participate in and prosecute all cases when necessary or practical in the municipal court, including all criminal and quasi-criminal complaints; and all complaints by municipal officials, inspectors and directors, in conjunction with the municipal attorney, when appropriate; and

(b) Have the power and authority, to the extent not inconsistent with any statute of the State of New Jersey or applicable municipal ordinances, to settle, compromise, downgrade or dismiss any complaints when, in the prosecutor's judgment, the best interests of the municipality will be served.

Sec. 2-3.1.1. Additional prosecutors.

(a) In accordance with applicable laws, ordinances and resolutions, the mayor may appoint additional municipal prosecutors as necessary to administer justice in a timely and effective manner in municipal court. Such appointments shall be made in accordance with N.J.S.A. 2B:25-4, and shall be for a term of one year from the date of appointment and may continue pending reappointment or appointment of a successor. Said appointments shall be memorialized in professional services resolution(s) and agreement(s) in accordance with the requirements of the New Jersey Local Public Contracts Law (N.J.S.A. 40A:11-1 *et seq.*).

(b) If the municipal court has two or more municipal prosecutors there shall be a "chief municipal prosecutor" who shall be appointed by the mayor. The chief municipal prosecutor shall have authority over other prosecutors serving that court with respect to the performance of their duties.

Sec. 2-3.2. Municipal public defender.

Sec. 2-3.2.1. Appointment.

There shall be a municipal public defender who shall be appointed by the mayor, with the advice and consent of the council. The mayor may appoint such additional public defenders as may be determined to be necessary. In such case, the mayor shall appoint one of the public defenders as "chief public defender," in accordance with the provisions of N.J.S.A. 2B:24-3. Said appointments shall be memorialized in professional services resolution(s) and agreement(s) in accordance with the requirements of the New Jersey Local Public Contracts Law (N.J.S.A. 40A:11-1 *et seq.*).

Sec. 2-3.2.2. Qualifications.

In accordance with the provisions of N.J.S.A. 2B:24-4, the public defender and any additional (deputy) public defenders shall be qualified as attorney(s)-at-law of the State of New Jersey in good standing and shall represent those defendants appearing in municipal court who are determined by the court to be indigent and whose representation is assigned to the public defender by the court.

Sec. 2-3.2.3. Term.

The public defender(s) shall be appointed for a term of one year from the date of appointment and may continue to serve in office pending reappointment or appointment of a successor.

Sec. 2-3.2.4. Compensation.

The public defender(s) shall be compensated as set forth in the aforesaid professional services resolution(s) and agreement(s), a portion of which, if appropriate, may be provided for by the council in the annual salary ordinance.

Sec. 2-3.2.5. Chief public defender.

The chief public defender shall have all of the duties provided by N.J.S.A. 2B:24-6 in the representation of indigent defendants in proceedings over which the Princeton Municipal Court has jurisdiction and shall have authority over any deputy public defenders that may be appointed with respect to the performance of their duties.

Sec. 2-3.2.6. Deputy public defenders.

Deputy public defenders shall serve in the absence or disqualification of the chief public defender or when assigned by the chief public defender.

Sec. 2-3.2.7. Representation of private clients.

Municipal public defenders may represent private clients in the municipal court and before municipal agencies, subject to the Rules of Court Governing the Conduct of Lawyers, Judges and Court Personnel.

Sec. 2-3.2.8. Application for representation by the public defender.

A person applying for representation by the public defender shall pay an application fee of two hundred dollars. In accordance with N.J.S.A. 2B:24-17 and with guidelines promulgated by the New Jersey Supreme Court, the municipal court may waive any required application fee, in whole or in part, only if the court determines, in its discretion, upon a clear and convincing showing by the applicant that the application fee represents an unreasonable burden on the person seeking representation. The municipal court may permit a person to pay the application fee over a specific period of time not to exceed four months.

Sec. 2-3.2.9. Eligibility for services.

Eligibility for services of the public defender shall be determined by the municipal court on the basis of the need of the defendant. Need shall be measured as provided by law and in accordance with the guidelines promulgated by the New Jersey Supreme Court. In the event that a determination of eligibility cannot be made before the time when the first services are to be rendered, or if an initial determination is found to be erroneous, the municipal court shall refer the defendant to the public defender provisionally, and if subsequently it is determined that the defendant is ineligible the municipal court shall inform the defendant, and the defendant shall be obliged to engage his own counsel and to reimburse the municipality for the cost of the services rendered to that time.

Sec. 2-3.2.10. Investigation of financial status.

The municipal court shall undertake an investigation of the financial status of each defendant seeking representation and shall have the authority to require a defendant to execute and deliver written requests or authorizations required under applicable law to provide the court with access to records of public or private sources, otherwise confidential, as may be of aid in evaluating eligibility. As provided by law, the court is authorized to obtain information from any public record, office of the state, or any subdivision or agency thereof on request and without payment of fees ordinarily required by law.

Sec. 2-3.2.11. Financial obligations of parents or guardians.

As provided by N.J.S.A. 2B:24-11, whenever a person entitled to representation by a public defender pursuant to said act, is under the age of eighteen years, the eligibility for services shall be determined on the basis of the financial circumstances of the individual and the financial circumstances of the individual's parents or legal guardians.

Sec. 2-3.2.12. Reimbursement.

As provided by N.J.S.A. 2B:24-12, if the defendant has or reasonably expects to have means to meet some part, though not all, of the cost of the services rendered, the defendant shall be required to reimburse the municipality and the municipality shall have a lien on any property to which the defendant shall have or acquire an interest for the amount equal to the reasonable value of the services rendered to a defendant pursuant to this act as calculated at the same rate as the office of the public defender bills clients at that time.

Sec. 2-3.2.13. Collection and settlement of claims.

The municipal attorney may do all things necessary to collect any money due to the municipality by way of reimbursement for services rendered by a public defender. The municipal attorney may enter into arrangements with any state or county agency to handle collections on a cost basis. The municipal attorney shall have all of the remedies and proceedings available for collection which are available for or upon the recovery of a judgment in a civil action and shall also be permitted to collect counsel fees and costs from the defendant. The municipal attorney is authorized to compromise and settle any claims for services performed whenever the financial circumstances of the person receiving the services are such that, in the judgment of the municipal attorney, the best interest of the municipality will be served by compromise and settlement.

Sec. 2-3.2.14. Establishment of fund.

Funds collected from the application fee shall be deposited in a dedicated fund administered by the chief financial officer of the municipality. The fund shall be used exclusively to meet the costs incurred in providing the services of a public defender including, when required, expert and lay person investigation and testimony.

Division 4. Office of Municipal Clerk.

Sec. 2-4. Municipal clerk - Office created.

The office of municipal clerk of Princeton is hereby created in accordance with N.J.S.A. 40A:9-133 through 135, in the Department of Administration and Finance.

Sec. 2-4.1. Same - Appointment; term; vacancy.

The clerk shall be appointed by the council for a term of three years. For the purposes of tenure,

the term of the municipal clerk shall be deemed to have begun as of the actual date upon which a person serving as municipal clerk is appointed. In the event of a vacancy in the office of municipal clerk, an appointment shall be made for a new term and not for the unexpired term. A reappointment of an incumbent municipal clerk made within sixty days following the expiration of the prior term shall not be considered to be a new appointment and the effective date of the reappointment shall date back to the date of expiration of the initial term of the appointment. The council shall appoint a person to a three-year term as municipal clerk within six months after the previous municipal clerk has resigned or the office has otherwise become vacant. Should the office of municipal clerk become vacant, the council may appoint a person to serve as acting municipal clerk for a period of not more than six months.

Sec. 2-4.2. Same - Power and duties.

The municipal clerk shall have the following powers and duties:

(a) Act as secretary of the municipal corporation and custodian of the municipal seal and of all minutes, books, deeds, bonds, contracts, and archival records of the municipal corporation. The council may, however, provide by ordinance that any other specific officer shall have custody of any specific other class of record;

(b) Act as secretary to the governing body, prepare meeting agendas at the discretion of the council, be present at all meetings of the council, keep a journal of the proceedings of every meeting, retain the original copies of all ordinances and resolutions, and record the minutes of every meeting;

(c) Serve as the chief administrative officer in all elections held in the municipality, subject to the requirements of Title 19 of the Revised Statutes;

(d) Serve as chief registrar of voters in the municipality, subject to the requirements of Title 19 of the Revised Statutes;

(e) Serve as the administrative officer responsible for the acceptance of applications for licenses and permits and the issuance of licenses and permits, except where statute or municipal ordinance has delegated that responsibility to some other municipal officer;

(f) Serve as coordinator and records manager responsible for implementing local archives and records retention programs as mandated pursuant to Title 47 of the Revised Statutes; and

(g) Perform such other duties as are now or hereafter imposed by statute, regulation or by municipal ordinance or regulation.

Sec. 2-4.3. Same - Compensation.

The municipal clerk shall receive such compensation as shall be fixed by council in the annual salary ordinance.

Sec. 2-4.4. Deputy municipal clerk - Office created.

The office of deputy clerk of the municipality is hereby created.

Sec. 2-4.5. Same - Appointment; term; vacancy.

The deputy clerk shall be appointed by the council for a term of one year, calculated from the first day of January of the year in which the deputy clerk is appointed, and shall serve after the expiration of such term until a successor shall be appointed and shall qualify. Any vacancy in said office occurring other than by expiration of term shall be filled in like manner, but for the unexpired term only.

Sec. 2-4.6. Same - Powers and duties.

The deputy clerk shall have all of the powers and duties of the clerk during absence or disability of the latter and shall also have such other powers and duties as shall be prescribed from time to time by the clerk or by the council.

Sec. 2-4.7. Same - Compensation.

The deputy clerk shall receive such compensation as shall be fixed by the council in the annual salary ordinance.

Sec. 2-4.8. Assistant to the municipal clerk.

The administrator may appoint an Assistant to the Municipal Clerk, who shall receive such compensation as shall be fixed by the council in the annual salary ordinance. Said assistant shall be certified to perform the duties of the municipal clerk pursuant to N.J.S.A. 40A:9-133.2., and may simultaneously hold another position with Princeton.

Sec. 2-4.9. Defense and indemnification.

Princeton shall provide the clerk, deputy clerk and assistant to the clerk (if one is appointed) with defense and indemnification of any action or legal proceeding arising out of and directly related to the clerk's, deputy clerk's or assistant to the clerk's lawful exercise of authority in furtherance of their official duties pursuant to this Code and in accordance with the requirements and procedures set forth in N.J.S.A 40A:9-134.1.

Sec. 2-4.10. Clerk, deputy clerk; assistant to the clerk: temporary designee.

During the absence or disability of both the clerk and the deputy clerk, the assistant to the clerk

shall be appointed by the council or the clerk, as appropriate, in which case the assistant shall have all of the powers and duties of the clerk. In the absence or disability of all three, a temporary designee may be appointed by the council or the clerk, as appropriate, which designee shall have all of the powers and duties of the clerk, provided that said designee is certified to perform said duties pursuant to N.J.S.A. 40A:9-133.2.

Division 5. Division of Finance.

Sec. 2-5. Division created.

There is hereby established a Division of Finance, in the Department of Administration and Finance.

Sec. 2-5.1 Director of finance – appointment; compensation.

The administrator may appoint a director of finance to serve as the head of this division and who shall report to the administrator through the deputy administrator. If appointed, the director of finance shall supervise and oversee the chief financial officer, tax collector, tax assessor, human resources manager, chief information officer, and other employees in the Division, except as to functions for which such officers or employees have specific authority granted by New Jersey statute or regulation or this Code. The director of finance shall receive such compensation as is determined by the council in the annual salary ordinance. The director of finance may simultaneously hold another position in Princeton, and shall be qualified as provided in N.J.S.A. 40A:9-140.2 *et seq*.

Sec. 2-5.2. Chief financial officer.

A chief financial officer shall be appointed by the council pursuant to N.J.S.A. 40A:9-140.10. In the event there is no director of finance appointed, the chief financial officer shall serve as the head of the division of finance. The chief financial officer shall be a person qualified as provided in the above-referenced statute. The annual compensation for said officer shall be as established by the council in the annual salary ordinance.

Sec. 2-5.3. Same - Approval and payment of claims.

Pursuant to N.J.S.A. 40A:5-17, the chief financial officer is hereby authorized to approve and pay claims once same have been audited and found correct in accordance with the following provisions:

(a) The chief financial officer is hereby designated an approval officer with the title of certifying and approval officer;

(b) As approval officer, the chief financial officer shall prepare certifications as required by N.J.S.A. 40A:5-16(b); ascertain the existence of proper and sufficient appropriations for the payments to be made and determine that there is legal authority for the payments, evidenced by the action of the purchasing agent in respect to the goods or services ordered and the incurring of the expense thereafter;

(c) As approval officer, the chief financial officer shall prescribe the procedure for approving

and certifying to the proper municipal officer claims for payments and drawing the checks therefor;

(d) As approval officer, the chief financial officer shall establish a procedure for certifying approved claims to the council by continuing to present to council a bill list which shall be presented to council for approval;

(e) In addition to the approval of said claims, the chief financial officer shall be authorized to pay said claims once audited and found correct by drawing a check on the proper municipal account, signed by the mayor, the municipal clerk and the said chief financial officer. Prior to paying any claim, however, the chief financial officer shall contact either the mayor or council president to receive authorization to issue a check to pay a claim;

(f) The chief financial officer shall maintain general books of account of all claims that have been approved and paid as required by the provisions of the New Jersey Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 *et seq.*; and

(g) The chief financial officer shall provide certifications and financial and account information as may be required by the administrator or designee in connection with purchase of goods and services, in order to comply with the New Jersey Local Public Contracts Law and Rules, and other relevant laws.

Sec. 2-5.4. Tax collector.

The office of tax collector is hereby established, in accordance with N.J.S.A. 40A:9-141 *et seq.* Performance of the tax collector's official duties shall be subject to the oversight and requirements of the Director of the Division of Local Government Services. Performance as a subordinate officer of the municipality shall be in accordance with the municipality's personnel policies, and as may be directed by the director of finance or administrator.

Sec. 2-5.5. Same - Appointment; qualifications; term; vacancy.

The tax collector shall be appointed by the mayor with the advice and consent of the council, for a term of four years from the first day of January next following the appointment. Any person appointed or reappointed as tax collector shall hold a valid tax collector certificate issued in accordance with law. Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term.

Sec. 2-5.6. Same - Office hours.

The council may, by resolution, set appropriate hours of operation of the tax collector's office and the working hours of the tax collector, commensurate with the compensation paid to the tax collector, and all personnel assigned to the tax collector's office.

Sec. 2-5.7. Deputy tax collector.

The position of deputy collector of the municipality is hereby created.

Sec. 2-5.8. Same – Appointment; duties.

A deputy tax collector shall be appointed by the administrator. The person who shall serve as the deputy tax collector shall perform all duties imposed by law upon and act in the place of the tax collector during the temporary absence or disability of the tax collector and shall perform such other duties as shall be assigned to such person by the tax collector.

Sec. 2-5.9. Same - Qualifications.

The qualifications required for a deputy collector shall be determined by the tax collector and the director of finance based on the needs of the municipality.

Sec. 2-5.10. Compensation.

The tax collector, deputy tax collector and other subordinate personnel shall be compensated in accordance with the annual salary ordinance.

Sec. 2-5.11. Municipal tax assessor; office established; compensation.

The office of municipal tax assessor is hereby established and shall be maintained for the purpose of assessing real and personal property for taxation within the municipality, in accordance with N.J.S.A. 40A:9-146 *et seq*. Such office shall consist of a tax assessor, deputy tax assessor, and such subordinate personnel as may be deemed necessary and proper to perform the assessment function in accordance with law. The tax assessor, deputy tax assessor and other subordinate personnel shall be compensated as set forth in the annual salary ordinance.

Sec. 2-5.12. Appointment; qualifications; term; duties.

The mayor, with the advice and consent of the council, shall appoint the tax assessor, who shall hold office for a term of four years from the first day of July next following the appointment. At the time of appointment, the tax assessor must hold a valid tax assessor certificate as required by law. The assessor shall have the duty of assessing property for the purpose of general taxation. The mayor, with the advice and consent of the council, may appoint a deputy tax assessor, who shall serve at the pleasure of the council. At the time of appointment, the deputy tax assessor must hold a valid tax assessor certificate as required by law.

Sec. 2-5.13. Office hours.

The council may, by resolution, set the total number of weekly hours of operation of the tax assessor's office, and the total number of weekly work hours (but not the specific work hours) of the tax assessor, commensurate with the compensation paid to the tax assessor.

Division 6. Department of Engineering.

Sec. 2-6. Department created.

A department of engineering is hereby created, the department head of which shall be the director of engineering, who shall report to the administrator except as to the functions for which the engineer has specific authority granted by statute or ordinance. The director of engineering may also be referred to as the municipal engineer or engineer.

Sec. 2-6.1. Qualifications; appointment; term; vacancy.

The engineer shall be a person qualified and licensed to practice professional engineering in the state and such person shall possess the scientific engineering skill that is necessary to qualify such person to personally perform the duties of the office. Such person shall be appointed by the mayor with the advice and consent of the council for a term of three years as the council shall designate, computed from January 1 of the year in which appointed. Any vacancy in such office occurring other than by expiration of term shall be filled by the mayor with the advice and consent of the council for the unexpired portion of the term.

Sec. 2-6.2. Duties.

The engineer shall perform or supervise all duties of an engineering nature pertaining to the office of an engineer of a municipal corporation, except in particular cases where for special reasons another engineer is employed, and shall also have such powers and duties as are conferred or imposed by law or ordinance or as otherwise specified by the council. The engineer, subject to the oversight of the administrator, shall have full charge and management of the employees of the office and of the property belonging or assigned to the engineering department.

Including but not limited to the following, the municipal engineer shall:

(a) have charge of and be responsible for all municipal engineering for Princeton, including but not limited to land use engineering, construction engineering and management, design engineering and developer compliance;

(b) have charge of and be responsible for all surveying of streets and shall keep records thereof;

(c) have charge of all municipal maps, plans, specifications and engineering data, except such of these as may, by law or by resolution of the council, be required to be filed in places other than the engineering department;

(d) be responsible for filing all plans and specifications submitted by public utility companies and make, from time to time, revisions in the municipal maps that relate to underground utility lines;

(e) have charge of plans and specifications and select materials, hire contractors or labor, and supervise all construction work done by or for the municipality, except when otherwise provided for by law or by the council, and subject to the limitations of the New Jersey Local Public Contracts Law;

(f) to the extent permitted by law, oversee the work of the subcode officials, zoning officer and the municipal inspectors; and

(g) have charge of the work of the planning department and supervise the work of the planner.

Sec. 2-6.3. Records and reports.

The engineer shall submit a report to the administrator each month as to the progress of the work under the engineer's control; and at the end of each year shall submit an annual summary of the work done by the department of engineering.

Sec. 2-6.4. Compensation.

The engineer shall receive such salary or compensation as shall be fixed and determined by the council in the annual salary ordinance.

Sec. 2-6.5. Acting engineer.

In case of the absence or disability of the municipal engineer, the administrator may designate an assistant engineer or other qualified person as acting municipal engineer, and the acting municipal engineer shall have and perform all the powers and duties of the municipal engineer when acting in that capacity.

Sec. 2-6.6. Engineering assistants - Employment; compensation.

The engineer is hereby authorized to recommend for employment qualified assistants who, when approved by the administrator, shall enter upon their duties as assigned by the engineer and shall receive such compensation as may be determined by the administrator subject to the annual salary ordinance. Such assistants shall include but not be limited to a construction engineer, design engineer and land use engineer.

Sec. 2-6.7. Same - Delegation of powers and duties.

The engineer is hereby authorized and empowered to delegate to assistants such of the powers and duties delegated or imposed upon the engineer by this Code or as, in the engineer's judgment, they are qualified to undertake and capable of performing in the best interests of the municipality, and such assistants are hereby authorized and empowered to have and perform such powers and duties so delegated to them, under the supervision and direction of the engineer. The engineer shall retain responsibility for all such work performed by others.

Division 7. Department of Infrastructure and Operations.

Sec. 2-7.1 Department created.

A department of infrastructure and operations is hereby created, the department head of which

shall the director of infrastructure and operations.

Sec. 2-7.2. Appointment; qualifications; compensation.

The director of infrastructure and operations shall be appointed by the mayor with the advice and consent of the council. The director shall be qualified and have the necessary experience to manage all aspects and divisions of said department, and shall be compensated as provided by the council in the annual salary ordinance.

Sec. 2-7.3. Duties.

The duties and powers of the director of infrastructure and operations shall include supervisory responsibility for:

(a) The oversight and efficient operation of the Princeton sanitary and storm sewer systems;

(b) The oversight and operation of the municipal garage, downtown parking and supervision of all maintenance and repair work on all cars, trucks, vehicles, mechanical equipment and tools owned by the municipality, except as otherwise provided by the council;

(c) The condition of all streets, curbs, gutters, sidewalks, catch basins and street drains required to be cleaned, constructed, maintained or repaired by the municipality;

(d) The condition of all buildings and open space owned or controlled by Princeton; and

(e) Municipal trash and organic waste collections, municipal recycling and all municipal trees, shrubs and plants.

Sec. 2-7.4. Division of public works created.

In the department of infrastructure and operations, a division of public works is hereby created. There shall be a superintendent of public works as supervisor of this division, and except as to any functions for which the superintendent has specific authority granted by law or ordinance, the superintendent shall report to the director of infrastructure and operations.

Sec. 2-7.5. Appointment; qualifications; compensation.

The superintendent shall be appointed by the administrator, and shall be compensated as provided by the council in the annual salary ordinance. The superintendent shall have the necessary experience and qualifications to oversee the division of public works and manage and supervise the care and maintenance of Princeton's roads, streets and sidewalks and their appurtenances, municipal parking, municipal vehicles, municipal property and open space, and municipal recycling.

Sec. 2-7.6. Duties.

The duties of the superintendent shall include but not be limited to the following:

(a) Operation of the municipal garage and supervision of all maintenance and repair work on all cars, trucks, vehicles, mechanical equipment and tools owned by the municipality, except as otherwise provided by the council;

(b) Responsibility for the cleaning, construction, maintenance and repair of all streets, curbs, gutters, sidewalks, catch basins and street drains required to be cleaned, constructed, maintained or repaired by the municipality;

(c) Responsibility for the making of, or causing to be made, routine inspections of all buildings owned or controlled by Princeton and supervision of municipal employees and others in making such repairs as may be directed by the director of infrastructure and operations. The superintendent shall inspect and certify as to the satisfactory completion of such repairs;

(d) Responsibility for all municipal recycling, management of downtown parking and municipal trees, shrubs and plants; and

(e) Management and supervision of the employees of the division of public works.

Sec. 2-7.7. Division of sewer operations created.

In the department of infrastructure and operations, a division of sewer operations is hereby created. Said division shall have the obligation to ensure the efficient operation of the Princeton sanitary and storm sewer systems, as well as their upkeep, maintenance and repair. The director of infrastructure and operations shall serve as director of said division, and may delegate some or all of his or her duties thereunder.