IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Ellen Wright,	:	
Appellant	:	
	:	
v.	:	
	:	No. 921 C.D. 2025
Town of McCandless	:	Submitted: September 14, 2026

BEFORE: HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE LORI A. DUMAS, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION
BY JUDGE FIZZANO CANNON FILED: October 27, 2026

Ellen Wright (Wright), *pro se*, appeals from the June 23, 2025 order of the Court of Common Pleas of Allegheny County (Trial Court) which quashed Wright's statutory appeal as untimely filed under Section 5571.1 of the Judicial Code, 42 Pa.C.S. § 5571.1. Upon review, we affirm

I. Background

On January 23, 2025, the Town of McCandless (Town) posted a public notice in the *Pittsburgh Post-Gazette* advertising the regular meeting of the Town Council scheduled for February 10, 2025. Reproduced Record (R.R.) at 10a. This advertisement also notified residents that Ordinance No. 1554 (Personnel Board Ordinance) would be considered for adoption at the upcoming Town Council meeting, and that "[a] complete true and correct copy of the proposed ordinance [was] on file and [could] be examined by the public at [the] Town Hall during regular

business hours."[1] *Id.* The Personnel Board Ordinance would amend the powers and duties of the Personnel Board. *Id.* at 12a-16a.

During the February 10, 2025 meeting, the Town Council took public comment on the Personnel Board Ordinance, as well as on Resolution 2025-01 (Fee Resolution), which amended the Town's 2025 Master Fee Schedule to add fees for minor and major grading permits.[2] R.R. at 20a & 30a-38a. Wright attended the meeting and objected to both enactments. *Id.* at 17a & 20a. At the end of the meeting, the Town Council voted unanimously to enact both the Personnel Board Ordinance and the Fee Resolution. *Id.* at 20a. Both enactments expressly stated that they were intended to "become effective immediately." *Id.* at 16a & 38a.

On March 13, 2025, Wright appealed the Personnel Board Ordinance and the Fee Resolution to the Trial Court, arguing that the Town Council's failure to hold public hearings prior to the enactments constituted a violation of procedural due process. R.R. at 41a & 80a. The Town filed a Motion to Quash due to the untimeliness of Wright's statutory appeal under Section 5571.1 of the Judicial Code and asserted that Wright failed to establish any defect in statutory procedure that would lead to an exemption of the 30-day statutory time period. *Id.* at 48a-50a. On

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[1] The Town contends that it posted the agenda for the February 10, 2025 Town Council meeting on its website more than 24 hours before the meeting and attached complete copies of both the Personnel Board Ordinance and the Fee Resolution in compliance with the Sunshine Act. Town's Br. at 11 (citing 65 Pa.C.S. § 709(c.1)(1)(i)) (requiring agencies with publicly accessible internet websites to post the meeting agenda, "which includes a listing of each matter of agency business that will be or may be the subject of deliberation or official action at the meeting," no later than 24 hours in advance of the time of the convening of the meeting). Although that posting is not of record, Wright does not dispute the Town's compliance with the Sunshine Act, 65 Pa.C.S. § 709, on appeal.

[2] There is no record evidence of the Town's advertisement of the Fee Resolution. However, Wright does not argue defective pre-enactment procedure on appeal.

June 23, 2025, the Trial Court granted the Town's Motion to Quash, and Wright subsequently filed a timely appeal to this Court. Notice of Appeal at 3.

II. Issues

Before this Court,[3] Wright argues that the Trial Court erred in quashing her statutory appeal for untimeliness. Wright's Br. at 2. Specifically, Wright argues that the Personnel Board Ordinance could not have been effective immediately because the Codified Ordinances of the Town (Town Code) state that "the effective date for an Ordinance is '10 days after advertisement or 10 days after enactment if advertisement fails to appear for reasons beyond [the Town] Council's control.'" *Id.* at 6 (quoting Town Code, § 117.11).[4] Relatedly, Wright asserts that the Fee Resolution could not have been effective immediately because Rule 107 of the Pennsylvania Rules of Judicial Administration "exclude[s] the first and include[s] the last day" when computing time periods. *Id.* at 9 (quoting Pa.R.J.A. § 107(a)). Accordingly, Wright argues that her statutory appeal was timely when applying such time computations. *Id.* at 8 & 10.

Additionally, Wright asserts that the Town failed to communicate the enactment of the Personnel Board Ordinance, which "interfered with the due process rights of [Town] residents," thereby mooting the statutory 30-day time limit for

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[3] The jurisdictional issue presented is "a question of law over which this Court exercises a *de novo* standard of review and for which its scope of review is plenary." *Realty Enters., LLC v. Marple Twp.*, 213 A.3d 333, 337 n.4 (Pa. Cmwlth. 2019) (italics added) (citing *Johnson v. Am. Standard*, 8 A.3d 318, 326 (Pa. 2010)).

[4] While only Section 506 of the Town's HRC is of record, we note that Section 505 of the Town's HRC establishes the "effective date" definition thereafter codified within Section 117.11 of the Town Code. *See Aiken v. Radnor Twp. Bd. of Supervisors*, 476 A.2d 1383, 1385 n.1 (Pa. Cmwlth. 1984) (noting that this Court may take judicial notice of the entirety of a town's HRC (citing 42 Pa.C.S. § 6107)).

procedural challenges. Wright's Br. at 13-14. Finally, Wright maintains that both enactments are *void ab initio* due to the Town's alleged failure to provide post-enactment notices to residents. *Id.* at 15-16.

The Town argues that the Trial Court lacked jurisdiction over Wright's statutory appeal because Wright failed to file her appeal within 30 days of the intended effective dates of the Personnel Board Ordinance and Fee Resolution. Town's Br. at 7. The Town maintains that Wright failed to satisfy her burden of proof pursuant to the time bar exemption in Section 5571.1(c), 42 Pa.C.S. § 5571.1(c), because Wright did not provide evidence of the Town's departure from procedures for enacting ordinances within the Town Code. *Id.* at 9-10. Because the jurisdictional issue is dispositive, we address it first.

III. Discussion

Pennsylvania law is well settled that statutory appeals must be brought within 30 days of the intended effective date of the ordinance in question unless a defect in statutory procedure results in "an impermissible deprivation of constitutional rights." 42 Pa.C.S. § 5571.1(b)-(c); *see also Messina v. E. Penn Twp.*, 62 A.3d 363, 369 (Pa. 2010) (citing *Glen-Gery Corp. v. Zoning Hearing Bd.*, 907 A.2d 1033, 1044-45 (Pa. 2006)). Section 5571.1 of the Judicial Code provides, in relevant part:

> (b) Appeals of defects in statutory procedure.
>
> > (1) Any appeal raising questions relating to an alleged defect in statutory procedure shall be brought within 30 days of the ***intended effective date*** of the ordinance.

42 Pa.C.S. § 5571.1(b) (emphasis added). "Intended effective date" is expressly defined as: "***Notwithstanding the validity of the challenged ordinance***, the effective date specified in the challenged ordinance or, if no effective date is specified, the date 60 days after the date the ordinance would have been finally adopted but for the alleged defect in the process of enactment or adoption." 42 Pa.C.S. § 5571.1(g) (emphasis added).

We observe that in *Shaw v. Township of Upper St. Clair Zoning Hearing Board*, 71 A.3d 1103, 1107 (Pa. Cmwlth. 2013), the lower court used a township's Home Rule Charter (HRC) as the basis for calculating the effective date of a challenged ordinance instead of the method set forth in Section 5571.1(g). Specifically, where the challenged ordinance lacked an effective date, the township's HRC provided that the ordinance was effective upon the date of post-enactment publication. *Id.* at 1107. Because the application of the HRC had not been challenged and the appeal was untimely under both methods of calculation, this Court did not expressly refute the trial court's application of the HRC. However, we noted: "***It would appear that Section 5571.1(g) of the Judicial Code establishes the method to be used in calculating the effective date*** of [the challenged ordinance]. Nevertheless, as noted above, the trial court relied upon the [t]ownship's [HRC] as the basis for calculating the effective date . . . ." *Id.* at 1111 n.12 (emphasis added).

The present case is distinguishable from *Shaw*, as the application of the Town's HRC here would change the outcome of the timeliness issue and the parties dispute its application. We inferred the superseding authority of Section 5571.1 in *Shaw*, 71 A.3d at 1111 n.12, and we now affirmatively conclude that Section 5571.1

is a statute of statewide applicability, which overrides the authority of the Town's HRC and Code. *See* 53 Pa.C.S. 2962(e).

The Pennsylvania State Constitution provides for the creation of an HRC, which is a voter-adopted, governing document that creates a local government's structure, allocates powers among officials and boards, and establishes local legislative and administrative procedures. Pa. Const. art. IX, § 2; *see also In re Addison*, 122 A.2d 272, 275 (Pa. 1956) (holding that an HRC emanates from the Pennsylvania State Constitution and is "duly adopted [] by the affirmative vote of the electors of [a municipality] as the organic law of the corporate municipal body"). As such, an HRC has the force and status of an enactment of the legislature, *provided that such authority does not conflict with state law*. *Id.* at 275; *see also Pa. Rest. & Lodging Ass'n v. City of Pittsburgh*, 211 A.3d 810, 816 (Pa. 2019). Statutes that are uniform and applicable in every part of this Commonwealth remain in effect and will supersede any municipal ordinance or resolution pertaining to the same subject enacted pursuant to an HRC. 53 Pa.C.S. § 2962(e); *see also Reading City Council v. City of Reading Charter Bd.* (Pa. Cmwlth., No. 29 C.D. 2012, filed October 23, 2012) (holding that where an HRC provision "directly conflicts with a state statute . . . the statute must prevail").[5]

By definition, Section 5571.1, 42 Pa.C.S. § 5571.1, is a uniform statute of statewide applicability which governs appeals taken from ordinances and resolutions. Specifically, Section 5571.1(a) states:

(a) Applicability []

[5] Under Section 414(a) of this Court's Internal Operating Procedures, an unpublished opinion of this Court issued after January 15, 2008, although not binding precedent, may be cited for its persuasive value. 210 Pa. Code § 69.414(a).

> (1) ***This section shall apply to any appeal*** raising questions relating to an alleged defect in the process of or procedure for enactment or adoption of ***any ordinance, resolution*** . . . or similar action of a political subdivision.

Id. § 5571.1(a)(1) (emphasis added). The plain language provides that the statute applies to any appeals challenging alleged defects in the enactment or adoption of ordinances and resolutions and that it applies to every type of political subdivision. As such, the entirety of the statute supersedes any HRC provision that directly conflicts with its provisions. 53 Pa.C.S. § 2962(e). Therefore, Section 5571.1(g), 42 Pa.C.S. § 5571.1(g), controls the "intended effective date" for purposes of determining the timeliness of Wright's appeal, notwithstanding any contrary local effective-date provision.

The "intended effective date" applies "[n]otwithstanding the validity of the challenged ordinance." 42 Pa.C.S. § 5571.1(g). Because Section 5571.1(g) is not conditioned on the validity of the challenged ordinance, the appeal period begins to run on "the effective date specified in the challenged ordinance," regardless of whether such is proper under a town's HRC. Accordingly, the Personnel Board Ordinance and Fee Resolution were "effective immediately" for purposes of calculating the 30-day appeal period, and Wright was required to appeal by March 12, 2025. Therefore, her appeal was patently untimely.

An appellant may rescue an untimely appeal under the time limitation exemption in Section 5571.1(c), which provides:

> (c) Exemption from limitation. An appeal shall be exempt from the time limitation in subsection (b) if the party bringing the appeal establishes that, because of the particular nature of the alleged defect in statutory procedure, the application of the time limitation under

> subsection (b) would result in an impermissible deprivation of constitutional rights.

42 Pa.C.S. § 5571.1(c). Where a challenge is brought more than 30 days after an ordinance's intended effective date, a town need only have "substantially" complied with pre- and post-enactment procedure rather than "strictly" complied. *Messina*, 62 A.3d at 369; *see also Karol v. Smithfield Twp.* (Pa. Cmwlth., No. 1481 C.D. 2024, filed August 27, 2026), slip op. at 28 (holding that there is no "impermissible deprivation of constitutional rights" where an appellant fails to demonstrate that a township did not substantially comply with statutory procedure).

Here, the majority of Wright's arguments focus not on the Town's substantial compliance with pre- and post-enactment procedures, but instead, on the applicability of the Town Code rather than Section 5571.1 for calculating the start of the appeal period. *See* Wright's Br. at 6-12. Where Wright does argue the Town failed to follow post-enactment procedure regarding its lack of publication of the Personnel Board Ordinance, that issue is waived and cannot be considered on appeal due to Wright's failure to raise it before the Trial Court. *See* Pa.R.A.P. 302(a) ("Issues not raised in the trial court are waived and cannot be raised for the first time on appeal."). Accordingly, Wright cannot rescue her untimely appeal pursuant to the time limitation exemption, and the appeal was properly quashed for lack of jurisdiction.

IV. Conclusion

Based on the foregoing discussion, the June 23, 2025 order of the Trial Court is affirmed.

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CHRISTINE FIZZANO CANNON, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Ellen Wright,	:	
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	:	
v.	:	
	:	No. 921 C.D. 2025
Town of McCandless	:	

O R D E R

AND NOW, this 27th day of October, 2026, the June 23, 2025 order of the Court of Common Pleas of Allegheny County is AFFIRMED.

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CHRISTINE FIZZANO CANNON, Judge