

**CHAPTER 35. TOWNSHIP OF CHESTER
HOME RULE CHARTER**

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Source

The provisions of this Chapter 35 adopted May 15, 1990, effective July 2, 1990, unless otherwise noted.

PREAMBLE

We, the citizens of Chester Township, in order to insure the power of self government, make it more clearly responsible and responsive to the citizens, provide municipal services and facilities with the highest degree of efficiency and economy, and promote the general welfare and security within the township to ourselves and for the future, do ordain and establish this home rule charter for the Township of Chester, Delaware County, Pennsylvania.

DEFINITIONS

The following words, when used in this charter, shall have the following meaning:

- A. "Charter" shall mean the home rule charter adopted by the voters of Chester Township and effective on the first Monday of July, 1990.
- B. "Township" shall mean Chester Township.
- C. "Seal" shall mean the official corporate seal of the Township of Chester.
- D. "Council" shall mean the governing body of Chester Township.
- E. "Elector" shall mean any person who shall possess all of the qualifications enabling him to register to vote.

F. "Registered elector" shall mean any person who shall possess all the qualifications of an elector and who has legally registered to vote.

G. "Voter" shall mean any person who votes.

H. "Election" shall mean any general, special, municipal or primary election unless otherwise specified.

I. "General election" shall mean the election which the constitution of this Commonwealth requires to be held in even numbered years.

J. "Municipal election" shall mean the election which the constitution of this Commonwealth requires to be held in odd numbered years.

K. "Primary election" shall mean any election for the nomination of candidates.

L. "November election" shall mean either the general election or municipal election or both, according to the context.

M. "Certification of the election" shall mean that certification of elections results prepared by the county board of elections as prescribed by the laws of the Commonwealth.

N. "Majority" shall mean the number greater than one half of any total.

O. "Quorum" shall mean a majority of the whole body.

P. "Oath" shall include affirmation, and "swear" shall include affirm.

Q. "Advertising" shall mean publication in one newspaper of general circulation issued daily, intended for general distribution and circulation and sold at fixed prices per copy to subscribers and readers without regard to business, trade, profession or class.

R. "Proof of publication" shall mean a printed or written statement, declaring the name of a newspaper of general circulation, a legal newspaper, a legal periodical, official newspaper, or official legal newspaper, its place of business, when the same was established, date or dates, and issue or issues, in which is printed notice or publication appears, and to which is securely attached, exactly as printed or published, a copy of the official advertisement, verified with a statement of the owner, publisher or designated agent of the owner or publisher, of such newspaper or periodical in which the official or legal advertisement or notice was published, duly sworn to before a person authorized to administer oaths, and also declaring that the applicant is not interested in the subject matter of the notice of advertising, and that all of the allegations of the statement as to the time, place and character of the publication are true.

S. "Ordinance" shall mean an enactment of the township council.

T. "Resolution" shall mean an enactment of the opinion of the township council or will of the township council, decided on and determined by majority vote.

U. "Motion" shall mean the formal mode in which a member of council submits a proposed measure or resolve for the consideration and action of the township council at a meeting.

V. "Residency" shall mean that place where a man and his family, if any, has his true, fixed and permanent home and principle establishment, and to which whenever he is absent he has intention of returning.

W. "Conviction of a crime" shall mean a final adjudication of guilt.

ARTICLE I. APPLICABILITY AND LEGAL STATUS

Sec.

35.1-101. Legal Applicability.

35.1-102. Status and Name.

35.1-103. Boundaries.

§ 35.1-101. Legal Applicability.

This charter and all subsequent amendments thereto shall define the powers and establish the form of government for Chester Township in the County of Delaware in the Commonwealth of Pennsylvania. This charter is the basic law of the township and is restricted only by the constitutions and laws of the United States of America and the Commonwealth of Pennsylvania.

§ 35.1-102. Status and Name.

This municipality now known as "Chester Township" shall continue to be a body politic and municipal corporation under the same name and to act for the Commonwealth in the execution of Commonwealth programs within the township boundaries.

§ 35.1-103. Boundaries.

The boundaries of the township shall continue to be the present boundaries of Chester Township. The boundaries of the township may be changed hereafter only as prescribed by or pursuant to the laws of the Commonwealth of Pennsylvania.

ARTICLE II. POWERS AND DUTIES

Sec.

35.2-201. General Grant of Powers.

35.2-202. Interpretation.

35.2-203. Inter-Governmental Relations.

§ 35.2-201. General Grant of Powers.

The township shall continue to possess all powers now vested in it by law and also shall have and may exercise any power or perform any function not expressly denied by or inconsistent with the Constitution and laws of the United States of America, the Constitution and general law of uniform applicability of the Commonwealth, or provisions of this charter.

§ 35.2-202. Interpretation.

The powers of the township shall be liberally construed in favor of the township in order to provide the township with the greatest possible degree of self government. The specific mention of particular powers in the charter shall not be construed as limiting in any way the general powers stated in this article. All possible powers and functions of the township are to be considered as if specifically and individually set forth in this charter, whether such powers are presently available or hereafter may become available.

§ 35.2-203. Inter-Governmental Relations.

The township may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the United States or any agency thereof and/or the Commonwealth of Pennsylvania and any political sub-division or agency thereof.

ARTICLE III. TOWNSHIP COUNCIL

Sec.

35.3-301. Governing Body.

35.3-302. Legislative Powers.

35.3-303. Composition.

35.3-304. Terms of Office.

35.3-305. Qualifications.

35.3-306. Vacancies; Forfeiture of Office; Filling of Vacancies.

35.3-307. Compensation.

35.3-308. Organization.

35.3-309. Failure of Council to Organize.

35.3-310. Procedures.

35.3-311. Records.

§ 35.3-301. Governing Body.

All powers of the township, including those powers now in existence or hereafter conferred on the township by the constitutions or laws of the United States of America and the Commonwealth of Pennsylvania, shall be exclusively vested in and exercised by the township council, subject only to the provisions of this charter.

§ 35.3-302. Legislative Powers.

Council shall be the legislative body charged with the responsibility and duty to:

- (1) Establish and implement the policies, goals and objectives for the executive, administrative and advisory functions.
- (2) Make and adopt ordinances and resolutions consistent with the constitutions and laws of the United States of America and of this Commonwealth and of this charter and to prescribe fines and penalties for the violation thereof.

(3) Adopt a seal which shall contain the name of the township and the word “seal” and which shall be in the custody of the township secretary. The official acts of the council shall be authenticated therewith, and the seal shall have the same effect when used for authentication as the seal of a notary public.

§ 35.3-303. Composition.

The township council shall consist of five members elected at large by the voters of the township.

§ 35.3-304. Terms of Office.

Council members shall serve six year terms, commencing at 8:00 p.m. on the first Monday of January following the year in which they are elected. Terms of council members shall remain staggered so no more than two members of council are standing for election at any one time.

§ 35.3-305. Qualifications.

A council member shall be a citizen of the United States of America, a resident of the township throughout his term and at the time of his nomination, shall have been a resident of the township for not less than one year and shall be a registered elector. Further, he shall not have been convicted of a felony or embezzlement, bribery, perjury, or any crime involving moral turpitude. No council member at the same time shall hold the elected office of tax collector, auditor, or constable within the township.

Prior to assuming the position of council member, a citizen shall affirm by oath that he is qualified for the office and that he shall act in the best interest of the township.

§ 35.3-306. Vacancies; Forfeiture of Office; Filling of Vacancies.

A. *Vacancies.* The office of council member shall become vacant upon death, resignation, legal certification of incompetence, change of residence from the township or removal from office in any manner authorized by law or this charter.

B. *Forfeiture of Office.* A council member shall forfeit his office if he:

- (1) Is declared by any court of this Commonwealth to lack any qualifications for the office as prescribed by law.
- (2) Is convicted in any court of record of any felony or embezzlement, bribery, perjury or any crime involving moral turpitude.
- (3) Neglects or refuses to attend three (3) consecutive, regularly scheduled public meetings of council, unless detained by sickness, employment, necessary absence from the township, or granted a permissible leave by council.
- (4) Violates any expressed prohibition of this charter.

The following procedure shall be followed to determine whether a forfeiture has occurred:

(1) Council shall hold a public hearing to decide whether a petition shall be filed in the court of common pleas of Delaware County, Pennsylvania, to determine whether the office of a council member has been forfeited.

(2) Notice of such public hearing with the purpose, date, time and place specified shall be advertised once not less than ten (10) days prior to the hearing. Council shall cause such notice to be sent by certified mail to the last known address of the council member not less than ten (10) days prior to the hearing.

(3) Council shall determine whether such office should be forfeited. If council shall determine, by resolution, that the said office be forfeited, within five days following such public hearing, said petition shall be filed.

C. Filling of Vacancies.

(1) If a vacancy shall occur in the office of a member of council, council shall fill such vacancy within thirty days by appointing, by resolution a qualified elector of the township to fill the vacancy.

(2) If council shall refuse, fail, neglect, or be unable, for any reason whatsoever, to fill any vacancy within thirty days after the vacancy happens, as provided, then the vacancy board, to consist of the remaining members of council, and one registered elector of the township who shall be appointed by the council at each organization meeting of the council and who shall act as chairman of the vacancy board. The board shall appoint a qualified elector of the township to fill the vacancy. If the vacancy is not filled by the vacancy board within the fifteen days, the chairman of the vacancy board shall instruct the township solicitor to petition within ten (10) days the court of common pleas to fill the vacancy by appointing a qualified elector of the township.

(3) Council members appointed shall continue to serve the unexpired term for which they were appointed.

(4) In the event that sufficient vacancies exist so that council lacks a quorum necessary to do business, the remaining member or members of the council shall make an appointment or appointments to fill sufficient vacancies to constitute a quorum. Such appointees shall meet all the qualifications for a council member as defined in this charter. Remaining vacancies shall be filled in accordance with the provisions of this charter.

(5) In the event that all the positions on the council shall become vacant, the court of common pleas shall immediately, upon petition of ten (10) or more registered electors of the township, make appointments to fill the vacancies. Thereafter vacancies shall be filled as otherwise provided herein.

§ 35.3-307. Compensation.

(1) Council members shall receive an annual salary of two thousand, four hundred dollars (\$2400.00) or such other sum as the council may from time to time establish by resolution, provided, however, that no resolution increasing such salary shall become effective less than one year from the date of passage of

such enabling resolution and shall not take effect until the expiration of the term of any incumbent council person, and that said salary increase shall not exceed a rate of five percent (5%) compounded per year for each year since the last salary was adopted.

(2) In addition to the compensation provided to council members pursuant to subsection (1), council members shall be entitled to receive the same health care insurance, life insurance and pension benefits as are made available from time to time to employees of the township.

(3) Except as provided in subsections (1) and (2), or in other sections of the charter, council members shall not receive from the township other compensation, direct or indirect, except for reimbursement of actual out-of-pocket expenses incurred in the performance of their duties. Such reimbursement shall be pursuant to procedures established by resolution of council.

§ 35.3-308. Organization.

The township council shall meet at the office of the township or such other location as designated, at 7:30 p.m. on the first Monday of January of each year. If the first Monday is a legal holiday, the meeting shall be held on the first day following the holiday. The purpose of this meeting shall be to organize as a council and elect one of their members as chairman and one of their members as vice chairman, appoint such other officers as designated in this charter, and employees, as may be deemed necessary for the conduct of affairs of the township, designate a depository or depositories for township funds with a bank or banking institution of this Commonwealth insured with the Federal Deposit Insurance Corporation, or any other corporation hereafter organized by the United States for the purpose of insuring deposits, up to the amount to which such corporation is or may hereafter be, authorized to insure deposits and transact such business as may be deemed necessary to organize the council.

The chairman or in the chairman's absence the vice chairman, shall preside at all meetings; serve as the township's ceremonial officer: he shall be empowered and have authority to sign documents as may be prescribed by this charter: to act as the chief executive officer of the township; to administer oaths and affirmations in all matters pertaining to township matters; to issue any public proclamation to preserve the public peace of the township, to prevent and suppress mobs, riots, and unlawful and tumultuous assemblies; to report to council annually on the condition and requirements of the municipal government and from time to time make recommendations for action by the council as he may deem in the public interest; to approve all ordinances adopted by the council within five days after passage, by affixing his signature thereto.

§ 35.3-309. Failure of Council to Organize.

If the council shall fail to organize within ten (10) days from the time prescribed, the court of common pleas, upon the petition of at least ten registered

electors of the township verified by the affidavit of one of the petitioners, shall issue a rule upon the delinquent council members to show cause why their seats should not be declared vacant, the rule shall be returnable as provided by the local rules of the court from the time of its issue and, after hearing, the court may declare the seats of such council members, as are responsible for such failure to organize, vacant, and shall thereupon appoint other qualified electors of the township to serve until their successors are sworn into office.

§ 35.3-310. Procedures.

(1) Council shall meet regularly in public at least once each month on the day and at the time as set by council at the municipal building or such other locations as prescribed. Special meetings may be held on call of the chairman or a majority of council members with at least twenty four hours notice to members of council, except for emergency actions authorized by this charter.

(2) Council shall conduct no business except in the presence of a quorum.

(3) Council shall adopt rules of procedures for its meetings which shall be designed so as to assure full and equal participation in the deliberation of council by all its members.

(4) All meetings of council must include as part of the agenda, an element of the meeting dedicated for interested citizens of the community to address council on matters of general or specific concern under and subject to such rules of decorum as council may prescribe. Interested citizens attending special meetings shall limit their comments to the item or items of specific concern.

(5) Official actions by council shall be taken only at a public meeting by the adoption of an ordinance, of a resolution or by motion. A majority of the council members present and entitled to vote shall be required to make such vote binding upon council.

(6) Council shall act in all matters as a body, and it is contrary to this charter, to circumvent established policies, procedures, administrative duties or functions of township employees.

§ 35.3-311. Records.

(1) Council shall make, protect and preserve written minutes and records of its proceedings and voting which shall be entrusted to the care of the township. Such records shall be readily available for public inspection during regular business hours at the office of the township.

(2) Council may provide for the electronic recording of all public meetings. These recordings shall be preserved for a period of three (3) years, shall be open to the public for inspection during reasonable hours, and shall be kept in the township offices.

ARTICLE IV. TOWNSHIP OFFICERS

Sec.

- 35.4-401. Township Secretary.
- 35.4-402. Township Treasurer.
- 35.4-403. Township Solicitor.
- 35.4-404. Township Engineer.
- 35.4-405. Township Police Commissioner.
- 35.4-406. Township Streets Commissioner.
- 35.4-407. Township Manager.

§ 35.4-401. Township Secretary.

The council, by a majority vote, shall annually appoint and fix the compensation of one person who shall be designated the township secretary, who may or may not be a member of council.

The secretary shall attend all meetings of the council and shall keep full minutes of its proceedings; he shall keep the by laws, rules, regulations and ordinances adopted in a book kept for that purpose; he shall preserve the records and documents of the township, and shall have custody of the corporate seal; he shall certify copies of any book, paper, record, bylaw, regulation, resolution, ordinance or proceeding of the township, under the seal thereof which copies, when so certified, shall be admissible in evidence in any court of the Commonwealth. He shall attest the execution of all instruments, record all ordinances and resolutions, and attest the same by his signature. He shall file of record proof of service of all notices required by law, and his certificate thereof shall be good evidence of such notice. He shall deliver to his successor the seal and all books, papers and other records and things belonging to the township.

Other duties of the township secretary shall be defined in the administrative code.

It is the intent of this charter that only one person shall be secretary of the township, but the council may authorize assistants.

Removal of the township secretary shall require a majority vote of council.

§ 35.4-402. Township Treasurer.

The council, by a majority vote, shall annually appoint and fix the compensation of one person who shall be designated the township treasurer, who may or may not be a member of council. However council may elect either a trust company, bank or banking institution to serve as treasurer.

The treasurer shall receive all moneys due the township and deposit the same promptly upon receipt thereof in such trust company, bank or banking institution as designated by council, in the name of the township. He shall keep distinct and accurate accounts of all sums received from taxes and other sources, which accounts shall be open to the inspection of council; he shall pay out all moneys received by him only on orders by the council; he shall annually state his accounts, and lay same together with the vouchers, before the auditors for settlement.

The treasurer appointed by council if an individual, shall give bond with a surety company or other company authorized by law to act as surety and filed with the township, conditioned that the treasurer shall well and truly account for and pay over all moneys collected or received by him; for the delivery to his successor in office of all books, papers and documents; for the payment to such successor of any balance of money belonging to the township that may remain in his hands; and for the faithful performance of the duties of his office.

If council sets as compensation for the treasurer, a certain percentage of all moneys received and paid by the treasurer, which rate shall be determined by the council, the amount shall not exceed three per cent of the moneys paid by the treasurer, and the calculation of such compensation shall not include any percentage upon money paid out by the treasurer for the repayment of loans, notes, certificates, or other evidence of indebtedness, or other borrowed moneys.

Other duties of the township treasurer shall be defined in the administrative code.

It is the intent of this charter that only one person shall be the treasurer of the township but council may authorize assistants.

Removal of the township treasurer shall require a majority vote of council.

§ 35.4-403. Township Solicitor.

The council, by a majority vote, shall annually appoint and fix the compensation of one person who shall be designated the township solicitor. Said person shall be learned in the law and shall be a member of the bar of the Supreme Court of Pennsylvania or in lieu of the appointment of one person, council may appoint a Pennsylvania law firm, partnership, association or professional corporation which shall act as the township solicitor.

All law matters of the township shall be under the supervision, direction, and control of the township solicitor, and no official or official body of the township, except as herein otherwise provided, shall employ an additional counsel without the assent or ratification of the council.

The township solicitor, under and subject to the authorization of council shall prepare or approve such bonds, obligations, contracts, leases, conveyances, ordinances, and assurances to which the township may be a party; he shall commence and prosecute all actions brought by the township for or on account of any of the estates, rights, trusts, privileges, claims, or demands as well as defend all actions or suits against the township or any officer thereof, wherein or whereby any of the estates, rights, privileges, claims, demands ordinances, or accounts, of the township, may be brought in question before any court in the Commonwealth, and shall do every professional act incident to the office which may be authorized or required to do by the council, he shall, whenever required furnish the council with his opinion in writing upon any question of law which may be submitted by any of them in their official capacities.

Other duties of the township solicitor shall be defined in the administrative code and elsewhere in this charter.

It is the intent of this charter that only one person shall be the solicitor of the township but council may authorize assistants or special councils.

Removal of the township solicitor shall require a majority vote of the council.

§ 35.4-404. Township Engineer.

The council, by a majority vote shall annually appoint and fix the compensation of one person who shall be designated the township engineer. Said person shall hold a degree in civil engineering and shall be a professional engineer registered in the Commonwealth of Pennsylvania, or in lieu of the appointment of one person, council may appoint a Pennsylvania firm, partnership, association or professional corporation which shall act as the township engineer.

The township engineer, under and subject to the authority of council, shall perform such duties as the council shall prescribe as to the construction, reconstruction, maintenance, and repair of all streets, roads, pavements, sewers, bridges, culverts and other engineering work. He shall prepare plans, specifications and estimates of all work undertaken by the township, and shall whenever required, furnish the council with reports, information, or estimates on any township engineering work, or on questions submitted by any of them in their official capacity.

Other duties of the township engineer shall be defined in the administrative code.

It is the intent of this charter that only one person shall be the engineer of the township but council may authorize assistants.

Removal of the township engineer shall require a majority vote of the council.

§ 35.4-405. Township Police Commissioner.

The council, by majority vote, shall annually appoint and fix the compensation of one person, who may or may not be a member of council, who shall be designated the township police commissioner, who shall act as liaison between council and the township police department; see that order is preserved in the township; see that all ordinances and regulations of the township are enforced; remove nuisances; and exact a faithful performance of the duties of the township police officers.

Other duties applicable to the police commissioner shall be defined in the administrative code.

It is the intent of the charter that only one person shall be the township police commissioner but council may authorize assistants.

Removal of the township police commissioner shall require a majority vote of council.

§ 35.4-406. Township Streets Commissioner.

The council, by a majority vote, shall annually appoint and fix the compensation of one person, who may or may not be a member of council, who shall be designated the township streets commissioner, who shall cause such roads and streets to be kept in repair and reasonably free of all obstructions and give the necessary directions therefore.

Other duties applicable to the township streets commissioner shall be defined in the administrative code.

It is the intent of this charter that only one person shall be the streets commissioner of the township but council may authorize assistants.

Removal of the township streets commissioner shall require a majority vote of council.

§ 35.4-407. Township Manager.

The council, by resolution, may at any time create the office of township manager and may in like manner abolish the same.

While said office exists, the council shall from time to time and whenever there is a vacancy, by majority vote, appoint and fix the compensation of one person who shall be designated township manager.

The powers and duties of the township manager shall be fixed by resolution. Council may delegate any of their non-legislative powers and duties to the manager.

The township manager may hold the office of township secretary.

The township manager shall not be an elected official or department head.

It is the intent of this charter that only one person shall be the manager of the township but council may authorize assistants.

Removal of the township manager shall require a majority vote of council.

ARTICLE V. OTHER ELECTED OFFICIALS

Sec.

35.5-501. Auditors.

35.5-502. Tax Collector.

§ 35.5-501. Auditors.

A. *Auditors.* Three auditors shall be elected at large and at six (6) year intervals. The auditors shall serve for a six (6) year term beginning on the first Monday of January following the year in which they are elected.

B. *Qualifications.* An auditor shall be a citizen of the United States of America, a resident of the township throughout his term, and, at the time of his nomination shall have been a resident of the township for not less than one year and shall be a registered elector. Further, he shall not have been convicted of a felony or embezzlement, bribery, perjury or any crime involving moral turpitude.

No auditor shall at the same time hold the elected office of tax collector, councilman, or constable within the township.

Prior to assuming the position of auditor, a citizen shall affirm by oath that he is qualified for the office and that he shall act in the best interest of the township.

C. *Duties.* The auditors, while such office is in existence, shall audit the financial accounts and records of the township and its officers, boards authorities, commissions and tax collector at least once a year.

If any errors, omissions or irregularities are discovered in the course of such audit, the auditors shall promptly report such matters to the chairman of council and to the council at its next public meeting, said report to be made orally and in writing. The council shall take immediate action to correct the errors, omissions or irregularities and initiate action to correct any loss to the township which may have resulted from such irregularity.

The auditors shall complete their audit prior to March first of each year and shall file a written report no later than ninety days after the close of the fiscal year. Said report shall be filed with the township secretary, the clerk of the court of the county or as may be provided by the local rules of court, the Department of Community Affairs, the Pennsylvania Department of Highways and with such other offices as may be required by law.

The auditors on or before March thirty first (31) of each year shall publish, by advertising, a concise financial statement setting forth the balance in the treasury at the beginning of each fiscal year, all revenues received during the fiscal year by major classifications. All expenditures made during the fiscal year by major function, and the current resources and liabilities of the township at the end of the fiscal year, the gross liability and net debt of the township, the amount of assessed valuation of the township, and the assets of the township with the character and value thereof.

The auditors shall perform such other auditing duties as council may require.

D. *Compensation.* Each auditor shall be compensated at fifty dollars (\$50.00) per day for each day necessarily employed in the duties of auditors, not to exceed ten (10) calendar days. A day shall consist of not less than five hours. Any subsequent change in said compensation shall be established by council, by resolution, and shall not become effective in less than one (1) year from the date of passage of such resolution, and shall not take effect until the expiration of the term(s) of office of the incumbent auditors at the time the change is enacted.

E. *Vacancy.* If a vacancy should occur in the office of auditor, and such office shall be declared vacant by the council, such vacancy shall be filled by the council, which shall appoint a qualified person in accordance with the procedure for replacement of council members, as defined in this charter.

F. *Abolition of Office.* The office of auditor may be abolished by ordinance. Such ordinance shall not take effect during the term of an incumbent. The ordinance abolishing this office shall provide for an alternate method for auditing the township records.

§ 35.5-502. Tax Collector.

A. *Tax Collector.* A tax collector shall be elected at-large and at four year intervals. The tax collector shall serve for a four year term beginning on the first Monday in January following the year in which he is elected. No tax collector shall serve consecutively more than two full terms, except that a tax collector filling a vacancy may serve two full terms following the unexpired term.

B. *Qualifications.* A tax collector shall be a citizen of the United States of America, a resident of the township throughout his terms and, at the time of his nomination, shall have been a resident of the township for not less than one year and shall be a registered elector. Further, he shall not have been convicted of a felony or embezzlement, bribery, perjury or any crime involving moral turpitude. No tax collector shall at the same time hold the elected office of auditor, councilman, or constable within the township.

Prior to assuming the position of tax collector, a citizen shall affirm by oath that he is qualified for the office and that he shall act in the best interest of the township.

C. *Duties.* The tax collector, while such office is in existence, under and subject to the direction of council, shall collect in the manner provided by law, all taxes, special charges, or fees levied by those authorities empowered to levy such taxes, special charges, or fees within the township.

Except council by resolution may approve an alternate method for the collection of certain taxes, special charges, or fees, other than county, institutional district, school district, real estate property, fire, police service, recreation, and trash levied within the township by person(s) other than the tax collector.

D. *Compensation.* The tax collector shall be compensated at an annual rate established by ordinance. Any subsequent change in said compensation shall not take effect until the expiration of the term of office of the incumbent tax collector at the time the change is enacted.

E. *Vacancy.* If a vacancy shall occur in the office of tax collector, and such office shall be declared vacant by the council, such vacancy shall be filled by the council which shall appoint a qualified person in accordance with the procedure for replacement of council members as defined in this charter.

F. *Abolition of Office.* The office of tax collector may be abolished by ordinance. Such ordinance shall not take effect during the term of an incumbent. The ordinance abolishing this office shall provide for an alternate method of collection of taxes.

ARTICLE VI. ORDINANCES

Sec.

35.6-601. Requirements for Ordinance.

35.6-602. Form.

35.6-603. Enactment Procedure.

35.6-604. Emergency Ordinances.

35.6-605. Standard Codes or Technical Regulations.

35.6-606. Reading and Compilation.

35.6-607. Appeal.

35.6-608. Action by Resolution.

§ 35.6-601. Requirements for Ordinance.

Council shall exercise the following powers and duties only by ordinance:

1. Establish a rule or regulation, a violation of which may establish a penalty;
2. Establish, levy and collect taxes; except that all acts and parts of acts granted by state law relating to the establishment, levying, and collecting of taxes in townships of the second class by resolution shall remain in force in the same manner as had a home rule charter not been adopted;
3. Grant, renew, extend or revoke a franchise;
4. Establish a utility or other service not prohibited by general law;
5. Establish, alter or abolish rates or charges for a utility or service supplied by the township;
6. Authorize the borrowing of money except for revenue anticipation loans, or as otherwise provided by general law or this charter;
7. Exercise the power of eminent domain;
8. Purchase, convey, lease, accept, reject, or authorize, the purchase, conveyance, lease, acceptance or rejection of any real property;
9. Amend or repeal any ordinance previously adopted;
10. Establish, alter or amend any zoning ordinance, subdivision, procedure, land development, land use or building regulation;
11. Create a charter commission or proposals for charter amendments;
12. Call for a referendum;
13. Any other power or duty required by law or this charter to be exercised by ordinance.

§ 35.6-602. Form.

An ordinance shall contain no more than one subject, with the exception of codifications. Any ordinance which repeals or amends an existing ordinance shall clearly indicate the matter to be omitted, added or amended.

§ 35.6-603. Enactment Procedure.

An ordinance shall be introduced at any regular or special public meeting. Except where specifically provided otherwise in the charter, an ordinance shall be processed in the following manner:

1. The proposed ordinance shall be placed on the meeting agenda of the council for introduction and initial consideration.
2. If the proposed ordinance is approved initially by the council, a concise summary of the proposed ordinance shall be advertised at least seven (7) days, but not more than fourteen (14) days, before the meeting at which the ordi-

nance will receive further action by the council. The summary shall contain sufficient information to identify the nature of the ordinance as it would affect any resident, property owner or geographical area in the township. The summary shall also specify the date on which the council proposes to act on the ordinance.

3. Copies of the proposed ordinance shall be available at cost at the township office.

4. After the preceding procedures have been followed and interested persons have had an opportunity to be heard or to present their views in writing, the council may adopt the proposed ordinance at the advertised meeting or it may postpone action until a later meeting, the date which shall be stated at the advertised meeting. The council may amend a proposed ordinance before final adoption, but if any amendment makes any substantive changes from the ordinance originally advertised, no final action may be taken until the amended ordinance has been advertised as required for the original ordinance.

5. An ordinance finally adopted by the council adopting by reference standard codes or technical regulations as provided in this charter, will not require publication of said codes or technical regulations.

6. Every ordinance adopted by the council, with exceptions noted hereinafter, shall become effective not less than five (5) days after the date of adoption. Exceptions to this requirement are emergencies or as otherwise provided in this charter.

§ 35.6-604. Emergency Ordinances.

A. The council may, in the event of a substantial public emergency affecting the life, health, property, or peace of the citizens of the township, adopt emergency ordinances. Such ordinances shall not levy taxes or authorize the borrowing of money except as provided in this charter.

B. An emergency ordinance shall clearly state the nature of the emergency in specific terms and shall be designated as an emergency ordinance.

C. A majority of the council may adopt an emergency ordinance without legal formalities. No prior advertising of an emergency ordinance is required.

D. An emergency ordinance shall become effective immediately but shall automatically be repealed as of the thirty-first (31st) day following the date of its adoption. It may be re-enacted as provided herein if the emergency still exists. An emergency ordinance shall be advertised as soon as possible after the date on which it is enacted.

E. An emergency ordinance may also be repealed, by majority vote, of the council.

§ 35.6-605. Standard Codes or Technical Regulations.

The council may adopt any standard code or technical regulation by ordinance, incorporating said code or regulation by reference. The details of such standard

codes and technical regulations need not be advertised, but at least one copy of each such code or regulation shall be available at the office of the township for public inspection.

§ 35.6-606. Recording and Compilation.

A. *Recording.* The full text of an ordinance with proof of publication or proof of summary publication shall be recorded in a permanent record within thirty-one (31) days of its effective date. The permanent record shall be open and available for public inspection throughout normal business hours.

B. *Compilation.* The council shall provide every five (5) years for the preparation of a general compilation and indexing of all existing township ordinances. The compilation shall be published and copies shall be furnished to township officers, and placed in the township office and available for public inspection throughout normal business hours.

C. *Amendments.* All amendments to township ordinances and new ordinances shall be integrated into said compilation and distributed as aforesaid.

§ 35.6-607. Appeal.

An interested party may, by petition to the court of common pleas, duly filed as prescribed by said court, appeal the enactment of an ordinance by the council by perfecting said appeal within thirty (30) days from the date of the enactment of the ordinance.

§ 35.6-608. Action by Resolution.

Council, by resolution, may provide for those actions provided in this charter, not requiring the enactment of an ordinance.

ARTICLE VII. TOWNSHIP ADMINISTRATION

Sec.

35.7-701. Administrative Code.

35.7-702. Township Departments.

35.7-703. Personnel System.

35.7-704. Residency Requirement.

§ 35.7-701. Administrative Code.

The council shall develop and adopt, by ordinance, an administration code which shall provide for the township administrative structure and procedures.

§ 35.7-702. Township Departments.

The council is empowered to create, alter or abolish and prescribe the functions of township departments, offices and agencies not inconsistent with law or this charter.

§ 35.7-703. Personnel System.

A. *Department Heads.* The council is empowered to hire, designate and remove department heads; and the department heads have the discretion to manage their particular departments within the constraints imposed by the council.

B. *Personnel Rules.* The council is empowered to adopt personnel rules necessary to the administration of the township's personnel system, including but not limited to, methods for determining the merit and fitness of the candidates for appointment or promotion, policies regulating disciplinary action(s) and grievance procedures.

§ 35.7-704. Residency Requirement.

Council may provide in the administrative code for residency requirement being applied to certain classification of employees hired after the effective date of this charter.

ARTICLE VIII. FINANCIAL PROCEDURES

Sec.

35.8-801. Fiscal Year.

35.8-802. Township Financial Plan.

35.8-803. Adoption of Financial Plan.

35.8-804. Amendment of the Financial Plan.

35.8-805. Lapse of Appropriations.

35.8-806. Receipts and Disbursements.

35.8-807. Contracts.

35.8-808. Audit.

§ 35.8-801. Fiscal Year.

The fiscal year of the Township of Chester shall coincide with the calendar year, beginning January 1, and ending December 31, of each year. All receipts, disbursements, contracts and purchases shall be chargeable to and entered as of record in the fiscal year in which made.

§ 35.8-802. Township Financial Plan.

The council, by resolution, shall cause a township financial plan to be prepared for each fiscal year. The financial plan shall be the basis for financial operation of the township during the fiscal year. The township financial plan shall indicate all proposed tax levies, as well as other assessments, fees and other charges for the fiscal year and shall be composed of the following parts.

A. *The General Operating Budget.* The general operating budget shall define all anticipated revenues and operating expenditures for the ensuing fiscal year, shall be in such detail as required by council, disclose the source and amount of all anticipated township revenues and shall utilize an efficient combination of expenditure classification by fund organization unit, program, purpose, object or

activity, and function. The total of the proposed expenditures shall not exceed the total of the estimated income.

B. *The Capital Budget.* The capital budget shall define all expenditures for capital improvements or acquisitions during the ensuing fiscal year. Supporting information as to the necessity of such improvements shall be provided in the budget. The estimated annual cost of such improvements to be constructed or acquired shall be provided in the budget cost. These costs may be revised and extended each fiscal year with regard to improvements still pending or in progress.

C. *Statement of Debt.* The statement of debt shall describe the type of instrument of each indebtedness and the terms thereof. Proposed additional indebtedness shall be similarly described. The projects necessitating such debt or other reasons for incurring such shall be defined.

D. *Statement of Budget Reserve.* The statement of budget reserve shall describe any reserve moneys available, and shall be shown in the outline of the proposed financial policies of the township for the ensuing fiscal year.

§ 35.8-803. Adoption of Financial Plan.

The proposed township financial plan shall be submitted by the council at a public meeting held at least thirty (30) days prior to the beginning of the ensuing fiscal year. It shall be made available for public inspection at the township office during normal business hours.

A public hearing shall be held prior to the adoption of a final township plan. Not less than ten (10) days prior to said public hearing, the council shall advertise:

- (1) A summary of the financial plan.
- (2) A statement of when and where copies of the complete financial plan are available for inspection; and
- (3) The time and place of the public hearing on the final financial plan.

The financial plan shall be adopted at a public meeting by the majority of the council. It shall then become the financial plan of the township for the ensuing fiscal year. The plan shall be adopted at least ten (10) days prior to the beginning of the fiscal year. Should the council fail to adopt a financial plan within the specified period, the township shall operate on the basis of the current fiscal year's plan, pro-rating expenses at the rate of one-twelfth (1/12) of each defined operating expenditure per month. The capital program shall be similarly pro-rated based upon the current year's program. These pro-ratings shall be used until the council adopts a final township financial plan, but under no circumstances shall such pro-rating extend beyond a ninety (90) day period.

§ 35.8-804. Amendment of the Financial Plan.

A. *Amendment Before Adoption.* The council may adopt the financial plan with or without amendment. In amending the plan, it may add or increase pro-

grams or amounts and may delete or decrease any program or amounts, except expenditures required by law or for debt service or for estimated cash deficit. No amendment to the plan shall increase the authorized expenditures to an amount greater than the total of anticipated revenues. Amendments to the plan shall be presented and discussed at a public meeting prior to the adoption of a final plan.

B. *Amendment After Adoption.*

1. *Supplemental Appropriations.* If, during the fiscal year, the council determines that there are available for appropriation revenues in excess of those estimated in the general operating budget, the council by resolution may make supplemental appropriations for the year up to the amount of such excess. If the excess of revenues exceeds fifteen percent (15%) of the revenues anticipated in the financial plan, the intended distribution of the funds shall be advertised prior to the adoption of said resolution.

2. *Emergency Appropriations.* To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of this charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes. These notes may be renewed from time to time, but the notes and their renewals in any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made, from current revenues or from permanent financing.

3. *Reduction of Appropriation.* If at any time during the fiscal year it appears probable that the revenues available will be insufficient to meet the amount appropriated, such information shall be reported to the council without delay, indicating the estimated amount of the deficit. The council shall then take such action as it deems necessary to prevent or minimize any deficit and for that purpose, it may by resolution reduce one or more appropriations.

4. *Transfer of Appropriations.* At any time during the fiscal year, the council may transfer part or all of any encumbered appropriation balance among programs within a department, office or agency or budgeted category. The council may by resolution transfer part or all of any unencumbered appropriation balance from one department office or agency or budgeted category to another.

5. *Limitations.* No appropriation for debt service may be reduced or transferred. No appropriation may be reduced below any amount required by law or by more than the amount of the encumbered balance thereof. The supplemental and emergency appropriations and reductions or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

§ 35.8-805. Lapse of Appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or been cancelled. If three years pass without any disbursement from or encumbrance of the capital appropriation, it shall lapse.

§ 35.8-806. Receipts and Disbursements.

The council shall provide for the procedures and the accounting required for the receipt, deposit or disbursement of all monies due to or payable by the township.

§ 35.8-807. Contracts.

A. The township may make contracts for lawful purposes subject to the provisions of this charter and general law. No contract shall be made unless there is sufficient unencumbered balance in an appropriation of the current financial plan.

B. The township council shall establish or amend by specific resolution the value of a contract defined in the subsequent sections as a “major contract.”

C. All major contracts of the township shall be in writing and shall be executed on behalf of the township by the chairman of the council. Also, all major contracts extending over a period of more than four years, or for the purchase, sale, lease or use of real estate, or authorizing contracts for the construction of capital improvements shall be formally approved by the council, shall be in writing and executed on behalf of the township by the chairman of the council. Also, all major contracts shall be submitted, prior to execution, to the township solicitor for an opinion as to their legality.

D. For other than major contracts, the council may, by resolution, authorize others to execute contracts which are made pursuant to the budget or other prior authorization.

E. Competitive bidding shall be required for all major contracts except for those listed in section (F). The former contracts shall be made only with the lowest responsible bidder. The invitation for bids shall be advertised at least ten (10) days prior to the date fixed for the opening of bids. Acceptance of bids shall be by public announcement at the meeting at which bids are received or at a subsequent meeting, the time and place of which shall be publicly announced when the bids are received. As to the other details, the council shall, in its administrative code, establish a procedure for competitive bidding to include definitions, deposit and bond requirements, conditions, terms, rules, regulations waivers, rights of acceptance and rejection and exception as it shall from time to time deem advisable.

F. Competitive bidding shall not be required for:

- (1) Labor or services rendered by township officers or employees in the course of their normal duties.
- (2) Contracts relating to the acquisition or use of real property.
- (3) Contracts for services or supplies from a unique source.
- (4) Contracts which amount to less than ten thousand dollars (\$10,000.00) in the total aggregate or such higher amount as may be established for any municipality by the General Assembly of Pennsylvania.
- (5) Contracts assigned for negotiation by consent of the council.

§ 35.8-808. Audit.

The township auditors shall conduct an annual audit. However council may also provide for yearly independent accounting and auditing services of all township accounts, and shall provide for an independent audit of all township accounts at least every three years.

All such independent accounting and audits shall be conducted by a certified public accountant or other accepted accounting procedure(s).

All audits, including the independent audits, shall be made public and advertised.

ARTICLE IX. TAXATION

Sec.
35.9-901. General.

§ 35.9-901. General.

This charter shall not limit or take away any right of the township from levying any tax which any municipality had the power to levy upon all authorized subjects of taxation granted by State law. Nor shall it subject the township to any limitations on the rates of taxation imposed by the township as permitted under the home rule charter and optional plan law.

ARTICLE X. BOARDS, COMMISSIONS AND AUTHORITIES

Sec.
35.10-1001. General.
35.10-1002. Composition.
35.10-1003. Term.
35.10-1004. Organization.
35.10-1005. Planning Commission.
35.10-1006. Zoning Hearing Board.
35.10-1007. Recreation Board.
35.10-1008. Environmental Board.
35.10-1009. Incompatible Offices.

§ 35.10-1001. General.

Council shall, by resolution, create, modify or abolish boards, commissions, authorities and other agencies and committees and prescribe their organization

and functions consistent with this charter and applicable State law. Their general purpose may include providing information, findings of fact, recommendations, and action on matters and problems falling within the legislative responsibility of the council.

§ 35.10-1002. Composition.

The number and qualification of the members of any board, commission, authority, agency or committee shall be determined by council, except where stated otherwise in the charter council shall appoint, suspend or remove the members of such bodies by a majority vote at a public meeting.

§ 35.10-1003. Term.

Citizen appointed to boards, commissions, authorities, agencies and commissions shall serve for terms not to exceed three (3) years.

§ 35.10-1004. Organization.

Each board, commission, authority, agency or committee shall organize itself from among its members within thirty days from the date of the appointment of its initial membership and annually thereafter. The officers elected shall include a chairman, a secretary and other officers considered appropriate by the membership. Each board, commission, authority, agency or committee shall keep records of its proceedings and shall report at least once yearly to the council at a regular public meeting.

§ 35.10-1005. Planning Commission.

The planning commission shall be a permanent body and shall be empowered by and shall function in accordance with the Pennsylvania Municipalities Code, Act 247 of 1968, as amended, until such time as the General Assembly of Pennsylvania shall provide uniform laws on planning and zoning which apply to a municipality with a home rule charter. The planning commission shall act in an advisory capacity to the council and shall consult with agencies and committees where appropriate. It shall be the function of the secretary of the planning commission to keep the zoning hearing board current on all ordinances pertaining to planning and zoning.

§ 35.10-1006. Zoning Hearing Board.

The zoning hearing board shall be a permanent body and shall be empowered by and shall function in accordance with the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, until such time as the General Assembly of Pennsylvania shall provide uniform laws on planning and zoning which apply to a municipality with a home rule charter.

§ 35.10-1007. Recreation Board.

The recreation board shall be a permanent body and shall be responsible for the establishment, development and administration of recreation programs in the township. The Chester Township recreation board may cooperate with any other recreation association in the township or may cooperate with or withdraw from participation in any other authority, board or commission which is responsible for recreation type activities. The recreation board shall regularly report to council outlining their proposed activities.

§ 35.10-1008. Environmental Board.

The environmental board shall be a permanent body and shall act in an advisory capacity to the council. It shall consult with other township officials, boards, commissions, authorities, agencies or committees. The purpose of said board shall be to make recommendations to council in matters relating to the environment of Chester Township.

§ 35.10-1009. Incompatible Offices.

Unless there is incompatibility in fact, any elected or appointed officer of the township shall be eligible to serve on any board, commission, authority, agency or committee created by the council or any office created or authorized by statute and may accept appointments thereunder.

ARTICLE XI. ENVIRONMENTAL BILL OF RIGHTS**§ 35.11-1101.**

The people of Chester Township have a right to clean air, pure water, and to the preservation of the natural, residential, scenic, historic and esthetic values of the environment. The public natural resources within Chester Township, including the natural condition of flood plains and the streams and creeks within its boundaries are the common property of all the people, including generations yet to come.

ARTICLE XII. CHESTER TOWNSHIP CODE OF ETHICS

Sec.

35.12-1201. Code of Ethics.

35.12-1202. Violation of the Code of Ethics.

§ 35.12-1201. Code of Ethics.

All township officers, appointees and employees shall:

A. Uphold the constitution and laws of the United States of America and the constitution of Pennsylvania as well as the provisions of this charter, and never be a party to evasion of any of the above.

B. Not favor or discriminate against another person because of race, sex, political or religious affiliations.

C. Not discriminate or accept for themselves, or anyone, favors, benefits or privileges under circumstances conflicting with the performance of township duties.

D. Not engage in any business with the township, either directly or indirectly, which is inconsistent with the honest performance of township duties.

E. Not render advice, consult with or appear on behalf of private interests before any board, commission or judicial body where the township is involved directly or indirectly and the interest of the party is adverse to position of the township.

F. Disclose any personal or business interest in questions arising before the council or in the exercise of their duties. Said disclosure should be made public, and they shall eliminate themselves from votes or decisive actions on these matters.

G. Not use information obtained confidentially in the performance of duties as a means for making private profit.

H. Not enter into any private agreements which could in any way be construed to be adverse to the public interest.

I. Report violations wherever discovered to the township council.

J. Uphold these principles recognizing that township office or employ is a public trust.

§ 35.12-1202. Violation of the Code of Ethics.

Township officers, employees and appointees found in violation of this code of ethics shall be subject to dismissal or such other sanction by a majority vote of the township council.

ARTICLE XIII. INDEBTEDNESS

Sec.

35.13-1301. Temporary.

35.13-1302. Bonds.

§ 35.13-1301. Temporary.

The council is hereby empowered to borrow, on the credit of the township, money in anticipation of taxes to be collected for the current fiscal year and issue a certificate of indebtedness payable on a certain date within the current fiscal year.

§ 35.13-1302. Bonds.

The council is hereby empowered to issue non-debt revenue bonds pursuant to provisions of the act of June 25, 1941 (P. L. 159 No. 87) known as the "Municipal Borrowing Law," as amended, to provide sufficient moneys for and toward anticipated capital expenditures from time to time; for the construction, purchase, or replacement of or addition to municipal buildings; equipment; machinery; motor vehicles; public works projects; or other capital assets of the township.

Such funds derived from the issue of non-debt revenue bonds for anticipated capital expenditures shall be maintained in a separate capital reserve account. The funds shall be controlled, invested, reinvested and administered and the moneys expended for any of the purposes for which the fund is created in such manner as may be determined by council.

The money in the fund, when invested, shall be invested in securities designated by law as legal investments for sinking funds of municipalities. This shall not be construed to limit the powers of the township to the use of moneys in the capital reserve fund in making lawful capital expenditures.

ARTICLE XIV. PUBLIC WORKS

Sec.

35.14-1401. General.

§ 35.14-1401. General.

The council is hereby empowered to initiate whatever public works provisions as time and circumstances indicate are necessary.

ARTICLE XV. CITIZEN PARTICIPATION

Sec.

35.15-1501. General.

35.15-1502. Initiative.

35.15-1503. Referendum.

35.15-1504. Limitations of Initiative and Referendum.

35.15-1505. Commencement of Proceedings; Petitioners' Committee; Affidavit.

35.15-1506. Petitions for Initiative and Referendum.

35.15-1507. Procedure After Filing.

35.15-1508. Action on Petition.

35.15-1509. Results of Election.

35.15-1510. Recall.

§ 35.15-1501. General.

Council shall protect and promote the right of citizens to participate in a positive and constructive manner in the government of the township as set forth hereinafter in this article.

§ 35.15-1502. Initiative.

The registered electors of the township shall have the power to propose ordinances to the council. If the council fails to adopt an ordinance so proposed without any change in substance, the registered electors shall have the power to adopt or reject it at an election.

§ 35.15-1503. Referendum.

The registered electors of the township shall have the power to require reconsideration by the council of any adopted ordinance. If the council fails to repeal

an ordinance so reconsidered, the registered electors shall have the power to approve or reject it at an election.

§ 35.15-1504. Limitations of Initiative and Referendum.

The powers of initiative and referendum shall not extend to any ordinance pertaining to the appropriation of monies, the levying of taxes, specific projects of the capital program of an adopted township financial plan or any ordinances which have been in effect for a period exceeding ninety days.

§ 35.15-1505. Commencement of Proceedings; Petitioners' Committee; Affidavit.

Any ten (10) registered electors may commence initiative or referendum proceedings by filing an affidavit with the township secretary. The affidavit shall state that they will constitute the petitioners' committee and shall be responsible for circulating the petition and filing it in proper form. The affidavit shall contain their names and addresses and shall specify the address to which all notices to the committee are to be sent. The affidavit shall contain the full text of the proposed ordinance or the ordinance sought to be reconsidered, and shall include a statement indicating the reasons the petitioners' feel such ordinance should be enacted by council or repealed by council.

After the affidavit is filed, the secretary shall within twenty days issue, the appropriate petition forms which have been approved by council for the purpose of filing initiative and referendum petitions, to the petitioners' committee.

§ 35.15-1506. Petitions for Initiative and Referendum.

A. *Number of Signatures.* Initiative and referendum petitions must be signed by registered electors of the township equal in number to at least twenty five percent (25%) of the registered electors of the township.

B. *Forms of Petitions.* All petitions must be of such form as approved by council and all papers of a petition shall be assembled as one instrument for filing. Each signature shall be executed in ink and followed by the address of the person signing, and date of signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

C. *Affidavit of Circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof, stating that he personally circulated the paper and that he is a registered elector of the municipality. Said affidavit shall also state that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

D. *Period of Circulation of Petitions.* The petition must be circulated and signed within a period of thirty (30) days between the date of the first signature and the date at which the petition papers are submitted.

§ 35.15-1507. Procedure After Filing.

The township secretary shall within ten (10) days after a petition is filed, examine the petition for compliance with the provisions of the charter. The secretary shall submit the petition to the township solicitor for his written opinion as to legality within ten (10) days of filing. If lawful, not defective in form, and in compliance with the meaning of this article, the township solicitor shall certify the results of his examination by letter to the committee of the petitioners, the council chairman and the township secretary not more than twenty (20) days from the date the solicitor received the petition.

§ 35.15-1508. Action on Petition.

When an initiative or referendum petition has been certified by the solicitor, the council shall, at its next meeting, consider the proposed initiative ordinance or reconsider the referred ordinance in the manner provided by this charter. If the council fails to adopt a proposed initiative ordinance without any change in substance or fails to repeal the referred ordinance, it shall submit the proposed or referred ordinance to the voters of the township at the next election provided that said election is held not less than sixty (60) days from the first date the solicitor received the petition.

§ 35.15-1509. Results of Election.

A. *Initiative.* If a majority of the voters voting on a proposed initiative ordinance vote in favor, it shall be adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail.

B. *Referendum.* If a majority of the voters voting on a referendum ordinance vote against it, it shall be repealed upon certification of the election results.

C. *Limitation.* Council shall not reverse the substantive results of an initiative or referendum vote for at least one year following the certification of such vote.

§ 35.15-1510. Recall.

A. *General.* Any person holding an elective office of the township government, whether by election, succession or appointment to fill a vacancy, shall be subject to removal from office at a recall election in the manner provided in this charter.

B. *Recall Petitions.*

1. *Number of Signatures.* A recall of an incumbent of an elective office shall be initiated upon petition signed by thirty five percent (35%) of the reg-

istered electors of the township who are eligible to vote for said office. Every recall petition shall name the office and officer against whom it is directed.

2. *Form of Petitions.* All petitions must be on such form as approved by council, all papers of a petition shall be assembled as one instrument for filing and shall contain a statement indicating the reasons the petitioners' feel such officer of the township government should be recalled. Each signature shall be executed in ink and followed by the address of the person signing, and the date of signing.

3. *Affidavit of Circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof, stating that he personally circulated the paper and that he is a registered elector of the municipality. Said affidavit shall also state that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be and that to the best of the affiant's knowledge all signators had knowledge of the contents of the recall petition.

4. *Period of Circulation of Petitions.* The recall petition must be circulated within a period of thirty (30) days between the date of the first signature and the date at which the petition papers are submitted.

5. *Filing with County Board of Elections.* A recall petition shall be tendered for filing to the county board of elections. Upon tendered for filing to the county board of elections, copies of the petition shall be filed with the township secretary and available for examination at the township office by any interested person. Within fifteen (15) days after tender of the petition, the county board of elections shall pass upon the validity of the petition and the validity and number of signatures required thereon. The decision of the board of elections shall be subject to review within thirty (30) days by appeal to the court of common pleas.

C. *Notice to the Incumbent.* As soon as the county board of elections has received a recall petition for filing and determined its validity and sufficiency, the chairman of the board of elections shall notify the incumbent named in the petition within twenty (20) days that the petition has been filed. Upon receipt of such notice, the incumbent may resign from his office and thereupon the recall proceedings shall terminate; file an appeal to the recall petition with the court of common pleas that such petition is frivolous in nature having no basis in fact, which shall stay the recall petition until the court has had time to hear the matter on appeal.

D. *Recall Elections.* If the incumbent against whom a recall petition is directed does not resign from his office within ten (10) days after notice of the filing of such petition has been given him, or if the court of common pleas does not stay the recall petition by agreeing to hear the merits of the appeal, the county board of elections shall arrange a recall election to be held at the next election to be held not less than thirty (30) days after the ten (10) days have expired. The

incumbent against whom a recall petition is directed may resign at any time prior to the recall election and thereupon the election shall not be held.

If the court of common pleas rules after hearing the appeal of the officer sought to be recalled, that such recall petition is frivolous in nature having no basis in fact, such recall election shall be terminated.

The following question shall be presented to each registered elector in a recall election:

“Shall (name of officer) be recalled and removed from the office of (name of office)?”

The above question shall appear as to every officer whose recall is to be voted upon and provisions shall be made for the registered elector to vote “yes” or “no” on the question.

If a majority of the vote on the question at a recall election shall be “yes” the incumbent shall be deemed recalled and removed from office, but if a majority of such vote shall be “no” he shall remain in office.

Should the result of such a election be affirmative, the date of the removal and vacancy in the office shall be seven (7) days subsequent to the date when the results of election are certified by the county board of elections unless such date is further postponed by order of the court.

E. *Disqualification for Office.* No person who has been removed from an elected office by a recall election or who has resigned from such elected office after a recall petition directed to him has been filed, shall be eligible for election or appointment to any office of the township government within two (2) years after his removal or resignation.

F. *Limitations.* No recall petition shall be filed against any incumbent of an elected office within the first eighteen (18) months or the last year of the term of his office or within one (1) year after an unsuccessful recall election against him.

ARTICLE XVI. GENERAL PROVISIONS

Sec.

- 35.16-1601. Severability.
- 35.16-1602. Gender.
- 35.16-1603. Amendment.
- 35.16-1604. Election Procedures.
- 35.16-1605. Vacancies in Office.
- 35.16-1606. Township Employees.
- 35.16-1607. Bonding.
- 35.16-1608. Subpoena Powers.
- 35.16-1609. Writ of Mandamus.

§ 35.16-1601. Severability.

If any provision of the charter is held invalid or unconstitutional, the remaining provisions of the charter shall not be affected thereby.

§ 35.16-1602. Gender.

At all places in this charter, words used in a masculine gender shall include the feminine.

§ 35.16-1603. Amendment.

This charter may be amended only in the manner provided by law.

§ 35.16-1604. Election Procedures.

The procedure for nomination and election of all township officials shall be in accordance with the applicable provisions of the Pennsylvania Election Code.

§ 35.16-1605. Vacancies in Office.

The council shall have the power to declare an office vacant and the same shall be filled in accordance with the provisions of this charter.

§ 35.16-1606. Township Employees.

No township employee shall hold an elected or appointed office within the township during the term of his employment with the township.

All employees appointed by council with the exception of those who under the provisions of the charter or any other act are under civil service or have a definite term of office, shall serve at the pleasure of council.

Nothing in this charter except as otherwise specifically provided, shall effect or impair the rights of council from fixing the compensation of all appointed employees.

§ 35.16-1607. Bonding.

Council shall provide for bonding of all employees and representatives of the township who are involved in the handling or authorization of receipts or disbursements, conditioned for the honest and faithful performance of their respective duties.

§ 35.16-1608. Subpoena Powers.

The council, auditors, boards, commissions and authorities are empowered to request that subpoenas issue if the same are appropriate while in the performance of their official duties.

§ 35.16-1609. Writ of Mandamus.

The registered electors of the township may by writ of mandamus or other appropriate legal actions enforce the provisions of this charter.

ARTICLE XVII. TRANSITION PROVISIONS

Sec.

- 35.17-1701. Nature of Article.
- 35.17-1702. Continuance.
- 35.17-1703. Pending Matters.
- 35.17-1704. Transition Committee.
- 35.17-1705. Transition to the New Township Council.
- 35.17-1706. Other Elected Officials.
- 35.17-1707. Officers and Employees.
- 35.17-1708. Offices, Agencies, Boards, and Commissions.
- 35.17-1709. Administrative Code.
- 35.17-1710. Effective Date.
- 35.17-1711. Termination.

Cross References

This article cited in 323 Pa. Code § 35.17-1711 (relating to termination).

§ 35.17-1701. Nature of Article.

The provisions of this article shall relate to the transition from the existing second class township form of government to the home rule form of government provided in this charter. Where inconsistent with the preceding articles of this charter, the provisions of this article shall constitute temporary exceptions thereto.

§ 35.17-1702. Continuance.

The township shall continue to possess all of the powers now vested in it by law. All powers and functions of Chester Township contained in any and all ordinances, resolutions, by-laws, rules and regulations or portions thereof in force on the effective date of this charter and not inconsistent or in conflict herewith, shall be continued in full force and effect until amended, repealed, superseded or expired by their own terms.

§ 35.17-1703. Pending Matters.

All actions and proceedings of the legislative, executive or judicial character which are pending upon the effective date of this charter shall be maintained, carried on or dealt with by the township office or agency appropriate under this charter.

§ 35.17-1704. Transition Committee.

In order to establish an orderly procedure for transition from the old to the new form of government provided by this charter, and insure that all necessary action is taken in order that this charter will be fully operational on its effective date, the elected government study commission members and the board of township supervisors shall comprise a transition committee.

The function of said committee shall be to prepare an orderly transition.

It shall be the duty of the transition committee to meet within ten (10) days from the date of the certification by the election bureau that the question of

adopting a home rule charter form of government for the township of Chester passed, for the purpose of organization. It will be the duty of the chairman of the government study commission to call this meeting; and rules and procedures for the operation of this committee shall be determined at that time.

All meetings of the transition committee shall be open to the public.

The transition committee shall expire with the effective date of the charter.

§ 35.17-1705. Transition to the New Township Council.

There shall be an orderly transition to the new township council in accordance with the provisions of this charter.

All supervisors in office at the time this charter goes into effect on the first Monday in July 1990, shall continue in office for the terms for which they were elected or until death, resignation or removal, thereafter, said positions shall be filled and the functions thereof defined as specified in this charter. They shall, however, be designated as council members.

It is the intent of this charter that at the time this charter goes into effect, incumbent supervisors then in office are eligible for re-election for the term and in the manner prescribed by this charter.

§ 35.17-1706. Other Elected Officials.

The township auditors and tax collector in office at the time this charter goes into effect, shall continue in office for the terms for which they were elected or until their death, resignation or removal. Thereafter, said position shall be filled and the functions thereof defined as specified in this charter.

It is the intent of this charter that at the time this charter goes into effect, incumbent auditors and tax collector then in office are eligible for re-election for the term and in the manner prescribed by the charter.

§ 35.17-1707. Officers and Employees.

A. *Rights and Privileges Preserved.* Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are township officers or employees at the time of the adoption of this charter.

B. *Personnel System.* An employee holding a township position at the time this charter takes full effect, who was serving in the same or a comparable position at the time of the adoption, shall continue in the same position unless inconsistent with, superseded or terminated by this charter, but in all respects shall be subject to the personnel system set forth in this charter and in the administration code.

§ 35.17-1708. Offices, Agencies, Boards, and Commissions.

All offices, agencies, boards and commissions in existence at the time of the adoption of this charter shall be continued in full force and effect, unless inconsistent with, superseded or terminated by this charter or the administrative code.

The administrative code shall provide for the orderly transfer of the duties, powers, property and records as required.

§ 35.17-1709. Administrative Code.

An administrative code shall be written and adopted in accordance with this charter and shall include personnel rules and regulations in accordance with this charter. Said administrative code shall be adopted by ordinance in accordance with the provisions of this charter. The final adoption of the administrative code shall occur not later than January 1, 1992.

§ 35.17-1710. Effective Date.

The effective date of this charter will be the first Monday of July, 1990.

Cross References

This section cited in 323 Pa. Code § 35.17-1711 (relating to termination).

§ 35.17-1711. Termination.

When all provisions of this article are complete and transition to the new form of government as prescribed in this home rule charter is accomplished all sections of this Article XVII, with the exception of § 35.17-1710, shall become null and void and need not be included in further printings of this charter.