

CHAPTER 33. HORSHAM TOWNSHIP HOME RULE CHARTER

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Source

The provisions of this Chapter 33 adopted November 5, 1974, effective January 6, 1975, unless otherwise noted.

ARTICLE I. NAME, BOUNDARIES, AND POWERS

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§ 33.1-101. Name.

Horsham Township is continued as a municipality in Montgomery County, Pennsylvania, and is hereby established as a municipal corporation under the name of Horsham Township and shall herein be referred to as "Township."

§ 33.1-102. Boundaries.

The boundaries of the Township shall be the actual boundaries of the Township at the time this Charter takes effect and as they may be lawfully changed thereafter.

§ 33.1-103. Powers.

The Township has, and may exercise, any powers, and may perform any function not denied by the Constitution of the United States or the Constitution of the Commonwealth of Pennsylvania, by this Charter, or by an act of the General Assembly at any time. It is the sense of this Charter that the Township shall have all powers possible to have under the Constitution and Laws of this Commonwealth whether or not such powers and functions are being exercised at the time of the adoption of this Charter.

Cross References

This section cited in 346 Pa. Code § 33.1-105 (relating to construction).

§ 33.1-104. Residual Powers.

All powers of the Township, including any such power which may hereafter be conferred on the Township by an amendment of the Constitution of the United States or of the Constitution of Pennsylvania or of this Charter or by act of the General Assembly, unless otherwise specifically set forth in this Charter, shall be vested in the Township Council. The Council shall be elected, shall organize, and shall function as provided in this Charter.

§ 33.1-105. Construction.

The powers of the Township under this Charter shall be liberally construed in favor of the Township, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power stated in this article. All possible powers of the Township, except as limited in § 33.1-103 above, are to be considered as if specifically and individually set forth in this article, whether such powers are presently available to the Township or may hereafter from time to time become available.

§ 33.1-106. Definitions.

Unless otherwise expressly stated in this Charter, the following words and phrases shall be construed to have the following meanings:

- a. The term "Councilman" is the title of any person elected to the office.
- b. The pronouns "he" and "his" are used in this Charter to refer to any person regardless of sex.
- c. "Office of the Township" may be any meeting place within the Township designated by the Council.

ARTICLE II. TOWNSHIP COUNCIL

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Cross References

This article cited in 346 Pa. Code § 33.5-502 (relating to initiative and referendum).

§ 33.2-201. Composition.

There shall be a Township Council of five (5) members elected at large by the qualified voters of the Township.

§ 33.2-202. Qualifications.

A Councilman shall be a citizen of the United States, shall be a qualified elector of the Township, who has resided in the Township for at least one year immediately prior to the date of his filing petition for nomination, and shall be at least twenty-one (21) years of age when elected to office. He must remain a resident of the Township during his term of office.

Cross References

This section cited in 346 Pa. Code § 33.2-207 (relating to vacancies).

§ 33.2-203. Term.

The term of a Councilman shall be four (4) years, commencing at 8:00 p.m. on the first Monday of January following the year in which he is elected, except that the term of a Councilman appointed to fill a vacancy shall end at 8:00 p.m. on the first Monday of January following the next municipal election.

§ 33.2-204. Election.

The procedure for nomination and election of Councilmen shall be established by the general laws of the Commonwealth of Pennsylvania for municipal elections. The regular election of Councilmen shall be held on the general municipal election day as established from time to time by the laws of the Commonwealth of Pennsylvania commencing in the year 1975. Commencing at the first regular municipal election after the adoption of this Charter and at all subsequent regular municipal elections, if the number of Councilmen to be then elected shall be three or fewer, they shall all be elected for four year terms. If the number to be elected is more than three, then the three candidates receiving the greatest number of votes shall serve for terms of four years and the remaining candidates elected to the available vacancies shall serve for terms of two years.

§ 33.2-205. Salary.

Each Councilman shall receive a salary at the rate of \$750 per annum or such other sum as the Council shall from time to time ordain. No such increase in salary, however, shall become effective until the date of commencement of the terms of Councilmen elected at the next municipal election after such salary increase, provided that such election follows the adoption of such ordinance by at least six months. Councilmen shall receive no other compensation, direct or indirect, for

the performance of their duties; they shall receive no pensions, insurance or other forms of fringe benefits. They shall, however, be entitled to their actual expenses incurred in the performance of their duties.

§ 33.2-206. Prohibitions.

No Councilman shall hold any other compensated Township office or Township employment during the term for which he is elected to the Council, and no Councilman after resignation or removal shall hold any compensated Township office or Township employment, nor shall he act as a paid consultant to the Township, until after the expiration of the term for which he was elected to the Council.

§ 33.2-207. Vacancies.

33.2-207.1. The office of Councilman shall become vacant upon his death, removal from the Township, resignation, removal from office in any manner authorized by law or this Charter, or forfeiture of his office, or for failure to assume such office after election thereto within forty-five (45) days after the commencement of the term thereof. A Councilman shall forfeit his office if he lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law or is convicted of a felony or a crime involving moral turpitude or fails to attend at least three (3) consecutive regular meetings of the Council without being excused by the Council. In the case of failure of attendance, the Council shall declare such office vacant but no appointment to fill vacancy shall be made for at least 30 days thereafter.

33.2-207.2. If a vacancy shall occur in the office of Councilman for any reason set forth in this Charter, a majority of the remaining members of the Council shall fill such vacancy by appointing a person qualified under this Charter to hold such office until 8:00 PM of the first Monday of January following the next municipal election. If the Council shall refuse, fail, neglect, or be unable, for any reason whatsoever, to fill such vacancy within forty-five (45) days after the vacancy occurs, then the vacancy shall be filled within fifteen (15) additional days by the Vacancy Board. The Vacancy Board shall consist of the Township Council and one elector of the Township, who shall be appointed by the Council at the Council's annual reorganization meeting or as soon after that as practical. Said elector shall act as the Chairman of the Vacancy Board. If the Vacancy Board fails to fill the position within fifteen (15) days, then the Court of Common Pleas of Montgomery County, Pennsylvania, shall, upon petition of the Council or any five (5) qualified electors of the Township, fill the vacancy in such office by the appointment of a person meeting the qualifications in § 33.2-202 to serve until 8:00 PM of the first Monday of January following the next regular municipal election.

Source

The provisions of this § 33.2-207 amended November 3, 1998. Immediately preceding text appears at serial pages (107316) to (107317).

§ 33.2-208. Organization.

33.2-208.1. The Councilmen, prior to assuming office, shall take and shall sign an oath of office as shall from time to time be prescribed by the laws of the Commonwealth of Pennsylvania. Such oath may be taken and signed before any judge, District Justice or notary public of the Commonwealth of Pennsylvania and no person shall be permitted to assume such office until the oath, in written form, is filed with the Township Manager.

33.2-208.2. The Township Council shall organize on the first Monday of January of each year, by electing one of their number as President and one of their number as Vice President, who shall serve at the pleasure of Council. If the first Monday of January is a legal holiday, the meeting and organization shall take place the next day. At the organization meeting Council may transact any further business it deems necessary or appropriate.

§ 33.2-209. Meetings.

33.2-209.1. It shall be the duty of the Council to hold stated meetings at least once a month at the office of the Township. Council may adjourn to a specified time for general business or for special business. If no quorum is present at a regular or adjourned meeting, a majority of those who do meet may agree upon another date for a meeting and may continue to so agree until the meeting is held. Special meetings may be called by the President of Council or upon written request of at least one-third of the members thereof. All members shall receive at least twenty-four (24) hours' notice of such special meetings. The notice shall state whether it is for general or special purposes, and if it is for special purposes, the notice shall contain a statement of the nature of the business to be considered. Presence at a meeting constitutes waiver of notice. Council shall establish the dates and times of stated monthly meetings at their organization meeting held on the first Monday in January. These shall be published in a newspaper, or newspapers, of general circulation covering the entire Township once a week for two consecutive weeks. Notice of all stated and special meetings shall be posted on a bulletin board in the Township Building at least 24 hours prior to the meeting.

33.2-209.2. All stated and special meetings of the Council shall be open to the public. All official votes of the Council shall be taken openly at such meetings. Final action shall not be taken on items which are not listed on the agenda.

33.2-209.3. Council shall make and preserve minutes and records of its proceedings. These minutes and records shall be open for public inspection during regular Township office hours. The retention period of minutes and records shall conform to the laws of the Commonwealth of Pennsylvania.

Cross References

This section cited in 346 Pa. Code § 33.2-214 (relating to boards and commissions).

§ 33.2-210. Operating Procedures.

33.2-210.1. The Council shall by Ordinance adopt rules of procedure for its meetings and for assignment of members to committees. Such rules shall be designed so as to assure full and equal participation in the deliberations of the Council by all of its members.

33.2-210.2. A majority of the members of Council shall constitute a quorum. The Council shall conduct no business except in the presence of a quorum.

33.2-210.3. The action of a majority of the Council, unless otherwise state in this Charter, shall be binding upon and constitute the action of the Council.

33.2-210.4. Official actions of Council may be taken by adoption of an ordinance, of a resolution, or by a motion. All ordinances and resolutions must be in written form. All actions of a legislative character shall be taken by ordinance. All other actions of Council shall be by resolution or motion, unless otherwise required in this Charter, or in the ordinance establishing the rules of Council procedure. However, no such action shall be void or otherwise adversely affected if it shall have been taken by ordinance. All final action in adopting ordinances or resolutions shall be by roll call vote, and the vote of each member of Council shall be entered in the minutes of the meeting.

§ 33.2-211. Legislative Powers and Procedures.

33.2-211.1. Legislative Power. The legislative power of the Township shall be vested in the Council except as otherwise provided by law or this Charter. Individual Councilmen shall have no authority under this Charter unless such authority is specifically delegated by the Charter or by the Council acting as a body.

33.2-211.2. By Ordinance. In addition to any other actions required by law or by this Charter to be taken by ordinance, actions of the Council shall be by ordinance which:

- a. Adopt or amend an Administrative Code.
- b. Establish, alter, or abolish any Township department, office, or agency.
- c. Adopt or amend a code establishing a personnel system for the Township.
- d. Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed, except for fines of less than one dollar (\$1.00) per violation.
- e. Levy taxes.
- f. Grant, renew or extend a franchise.
- g. Establish, alter or abolish rates charged for any utility or other service supplied by the Township.
- h. Authorize the borrowing of money except for tax-anticipation loans.

i. Convey or lease or authorize the conveyance or lease of any lands of the Township.

j. Amend or repeal any ordinance previously adopted unless such previous ordinance action could have been taken by resolution or motion.

k. All other actions which are legislative in nature, which affect or regulate the public health, safety, or welfare.

33.2-211.3. Enacting Clause. The enacting clause of all ordinances shall be: "The Horsham Township Council does hereby enact and ordain:"

33.2-211.4. General Ordinance Requirements. Every ordinance shall contain the date of its enactment, and its enactment shall be verified by the signature of the presiding officer of the meeting at which final action thereon was taken, and by the signature of the Township Secretary. The official seal of the Township shall be affixed to the original copy of each ordinance. However, failure on the part of the presiding officer or Township Secretary to sign an ordinance or affix the official seal shall not in any way invalidate an otherwise valid ordinance.

33.2-211.5. Penalty. The penalty for the violation of any ordinance shall not exceed five hundred (500) dollars for each violation, or imprisonment not to exceed thirty (30) days in default of payment of fine or both. However, any ordinance may provide that for continuing violations, each day that a violation exists may be regarded as a separate offense and punishable as such. The limit of fines may be increased by the Council to the extent of the maximum fine that may be levied by any charter municipality in the Commonwealth of Pennsylvania as that limit is from time to time established by the General Assembly.

33.2-211.6. Public Notice Required.

a. No ordinance or amendment thereto shall be valid unless prior public notice has been given by publication of 1) the intent to adopt such ordinance or amendment thereto and 2) a summary of the substance thereof, in a newspaper, or newspapers, of general circulation covering the entire Township, once a week for two successive weeks, and by posting of the same intent and summary on a bulletin board in the Township Building.

b. No ordinance or amendment thereto which deals with the following types of ordinances shall be valid unless the notice required in subsection a of this section is given and, in addition thereto, a public hearing has been held in which full opportunity is given to all interested citizens to be heard:

1. Zoning ordinance or amendments thereto.
2. Adoption of the zoning map and amendments thereto.
3. Land subdivision regulations.
4. Land development and land use regulations.
5. New taxes or increases in the rate of existing taxes.

c. To meet a public emergency affecting life, health, property, or public peace, the requirement of prior public notice may be waived by the unanimous vote of Council.

33.2-211.7. *Publication and Effective Date.* After adoption, all ordinances shall be published one time in a newspaper, or newspapers, of general circulation covering the entire Township. The full text of the ordinance need not be published; instead, the title and a general summary of the substance of the ordinance will be sufficient to meet this publication requirement. Publication shall occur within thirty days of the enactment of the ordinance. The effective date shall be the publication date unless a later date is specified in the ordinance, or is required by the laws of the Commonwealth of Pennsylvania. An emergency ordinance shall become effective immediately on passage for a period of thirty (30) days.

33.2-211.8. *Recording.* All ordinances and resolutions of the Township shall be entered verbatim in permanent separate record books for ordinances and resolutions on the next business day after passage. No ordinance shall be considered in force until the same is recorded in the ordinance book. The ordinance book and the resolution book shall be open and available for public inspection during Township office hours. These books shall be in the custody and control of the Township Manager and all entries made therein shall be at the direction of the Manager.

§ 33.2-212. Appointment Powers.

33.2-212.1. Council shall appoint the following:

- a. Township Manager, as provided in § 33.3-301.
- b. Township Solicitor, as provided in § 33.3-304.
- c. Township Engineer, as provided in § 33.3-305.
- d. Independent Auditor, as provided in § 33.4-401.12.

33.2-212.2. Council shall appoint members of Boards, Commissions, Authorities and Committees created by action of Council or by the State Legislature. All appointees shall be residents of the Township and shall serve for a term set by Council or by the State Legislature, or by this Charter.

§ 33.2-213. Investigative Powers.

33.2-213.1. *Inquiries and Investigations.* Council shall have the power, by resolution, to authorize inquiries and investigations to be conducted by the entire body or by any of its committees in aid of its legislative powers and functions.

33.2-213.2. *Witnesses and Documents.* Council may compel the attendance of witnesses and the production of documents, books, papers or other evidence at any meeting of the Council or any committee thereof, and for that purpose may issue subpoenas, signed by the President of Council or the chairman of the committee, and cause the same to be served in any part of the Commonwealth of Pennsylvania.

33.2-213.3. *Oaths of Witnesses.* The President of Council or chairman of any of its committees shall have the power to administer oaths to witnesses.

33.2-213.4. *Witness Fees.* No person so subpoenaed shall be required to respond to the same until mileage and witness fees, equal to those then estab-

lished by the Court of Common Pleas, of Montgomery County, Pennsylvania shall have been first furnished to the witness.

§ 33.2-214. Boards and Commissions.

33.2-214.1. General Powers. Council shall create by ordinance or resolution, a Planning Commission, a Zoning Hearing Board, a Parks and Recreation Commission and such other boards, commissions, authorities and other agencies and committees as required by this Charter, by general law, or as Council may deem appropriate. No member of the Planning Commission, Zoning Hearing Board or Parks and Recreation Commission, once qualified and appointed, may be removed from office except for malfeasance, misfeasance or non-feasance in office or for other just cause by a majority vote of Council taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote as the members shall request in writing.

33.2-214.2. Planning and Zoning.

a. *Planning Commission.* The Planning Commission appointed by Council shall consist of seven (7) members and the term of each of the members shall be for four (4) years or until his or her successor is appointed and qualifies. The Planning Commission shall be the planning agency of the Township as defined by the Pennsylvania Municipalities Planning Code and shall have all the powers and duties as set forth in § 33.2-209.1 of said Code.

b. *Procedures.* Procedures specified in the Pennsylvania Municipalities Planning Code, as amended from time to time, shall be applicable to all matters before Council, the Planning Commission and the Zoning Hearing Board.

ARTICLE III. TOWNSHIP ADMINISTRATION

- Sec. 33.3-301. Township Manager.
- 33.3-302. Administrative Departments.
- 33.3-303. Personnel.
- 33.3-304. Township Solicitor.
- 33.3-305. Township Engineer.

§ 33.3-301. Township Manager.

33.3-301.1. Appointment, Qualifications, and Compensation. Council shall appoint a Township Manager for an indefinite term by a majority vote of all members of Council and shall fix his compensation. The Manager shall be appointed with regard to merit only, and solely on the basis of his administrative training, qualifications, and experience. He need not be a resident of the Township at the time of appointment, and may reside outside the Township while in office only with the approval of Council. The Manager shall not hold any elec-

tive governmental office and shall devote his full time to the affairs of his office, and shall not be otherwise gainfully employed.

33.3-301.2. Powers and Duties. The Township Manager shall be the chief administrative officer of the Township. He shall be responsible to the Council for the administration of all Township affairs placed in his charge. He shall have the following powers and duties, any of which, at his discretion, may be delegated.

a. He shall appoint, suspend or remove all Township employees, except as otherwise provided by law or this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.

b. He shall collect and receive, account for, and deposit into the Township treasury all taxes, fees, assessments, or charges that are levied or established by the Township for general or special purposes. He shall be empowered to collect taxes for other agencies by request of those agencies. (See § 33.6-601.2)

c. He shall perform the duties of the Township Secretary in causing appropriate records to be made, preserved and certified, as required by law or other action of Council. He shall attest the execution of all instruments and record all ordinances, and he shall have custody of the Township corporate seal.

d. He shall direct and supervise the administration of all departments, offices and agencies, except as otherwise provided by this Charter and by law.

e. He shall prepare the agenda for all meetings of Council and shall attend all Council meetings. He shall have the right to take part in discussions, but shall have no right to vote on any matter before Council.

f. He shall prepare and submit the annual budget and capital expenditures program to Council.

g. He shall submit to Council and make available to the public a complete report on the finances and administrative activities of the Township at the end of each fiscal year.

h. He shall make such other reports as Council may require concerning the operations of Township departments, offices and agencies subject to his direction and supervision.

i. He shall see that all laws and ordinances, provisions of this Charter, and acts of Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

j. He shall have the authority to exercise any additional powers and duties conferred upon him by this Charter and other ordinances and resolutions of Council.

33.3-301.3. Removal. The Council may remove the Township Manager from office in accordance with the following procedures:

a. Council shall adopt by vote of a majority of all its members a preliminary resolution which must state the reasons for removal, and may suspend the

Manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the Manager.

b. Within five days after a copy of the resolution is delivered to the Manager, he may file with Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with Council a written reply not later than five days before the hearing.

c. Council may adopt a final resolution of removal, which may be made effective immediately by vote of a majority of all members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

d. The Manager shall continue to receive his salary until the effective date of a final resolution of removal or until three months from the adoption of the preliminary resolution of removal, whichever is later.

33.3-301.4. Acting Township Manager. The Manager shall designate, in writing, subject to approval of Council, a substitute to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, Council may revoke such designation and appoint another substitute to serve until the Manager shall return or his disability cease. During the period of any vacancy in the office of Township Manager, Council may designate a substitute to serve as Acting Manager until such time as the designation is revoked by Council or until the office of Township Manager is filled.

Cross References

This section cited in 346 Pa. Code § 33.2-212 (relating to appointment powers).

§ 33.3-302. Administrative Departments.

33.3-302.1. Council shall, within six (6) months following the effective date of this Charter, adopt by ordinance an Administrative Code providing a complete plan of organization and structure for the township government. The Administrative Code and any regulations pursuant thereto shall be consistent with this Charter.

33.3-302.2. Council may, by ordinance, create, alter, or abolish administrative departments and prescribe the functions of such departments not inconsistent with law or this Charter.

33.3-302.3. The highest ranking employee of each department shall be designated "Director," except that a Police Department head may be given the title of "Chief." A legal department, if established, shall be under the direction of the Township Solicitor. All department heads, unless otherwise provided, shall be appointed by the Township Manager.

33.3-302.4. Neither Council nor any of its committees or members shall direct the appointment of any person to or his removal from office or employ-

ment by the Manager or any of his subordinates. Except for the purpose of inquiry and investigation, Council and its members shall deal with the administrative affairs of the Township solely through the Manager, and neither Council nor any member thereof shall give orders to any subordinate of the Manager either publicly or privately.

§ 33.3-303. Personnel.

Council shall establish, by ordinance, a personnel system for the Township. The system so established shall be based upon merit principles and other recommendations submitted by the Township Manager. The system shall include as a minimum such provisions as the following:

33.3-303.1. The classification of all township positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by change or circumstances.

33.3-303.2. A pay plan for all township positions.

33.3-303.3. Methods for determining the merit and fitness of candidates for appointment or promotion.

33.3-303.4. Policies and procedures regulating reduction in force and disciplinary action, including suspension and removal of any employees.

33.3-303.5. Hours of work, and provisions for sick and vacation leave and holidays, and provisions for overtime and compensation.

33.3-303.6. Grievance procedures, including procedures for the hearing of grievances.

33.3-303.7. Other practices and procedures necessary to the administration of the Township personnel system.

33.3-303.8. No person shall in his employment by the Township in any capacity, appointment to any board, commission or agency, or removal therefrom, be favored or discriminated against because of age, race, sex, political or religious opinions or affiliations.

§ 33.3-304. Township Solicitor.

Council shall appoint a Solicitor, learned and experienced in the law, who shall be a member of the Bar of the Supreme Court of Pennsylvania with at least five (5) years experience in active legal practice. His appointment shall be for an indefinite term and his compensation shall be fixed by Council. The Solicitor shall furnish legal opinions to Council, the Township Manager, Township departments, and boards and commissions not provided with separate legal counsel. He shall prepare or approve all legal documents, prosecute legal action brought by the Township and defend all action against the Township, and perform any other duties prescribed by this Charter, ordinances or direction of Council, or general law.

Cross References

This section cited in 346 Pa. Code § 33.2-212 (relating to appointment powers).

§ 33.3-305. Township Engineer.

Council shall appoint an Engineer who is a professional civil engineer, registered to practice in the Commonwealth of Pennsylvania. His appointment shall be for an indefinite term, and his compensation shall be fixed by Council. The Township Engineer shall assist the Council, the Township Manager, Township departments, and boards and commissions not provided with separate engineering services, in matters of engineering, and shall supply necessary information and reports.

Cross References

This section cited in 346 Pa. Code § 33.2-212 (relating to appointment powers).

ARTICLE IV. TOWNSHIP FINANCIAL PROCEDURES

Sec.	
33.4-401.	Budget.
33.4-402.	Taxation.
33.4-403.	Borrowing.
33.4-404.	Contracts.

§ 33.4-401. Budget.

33.4-401.1. Fiscal Year. The fiscal year of the Township shall begin on the first day of January and end on the last day of December of each year.

33.4-401.2. Submission of Budget. On or before the fifteenth day of November of each year the Manager shall submit to Council a proposed budget for the ensuing fiscal year and an accompanying budget message.

33.4-401.3. Budget Message. The Manager's budget message shall explain the budget both in fiscal terms and in terms of programs. It shall outline the proposed financial policies of the Township for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes, summarize the Township's debt position, and include such other material the Manager deems desirable.

33.4-401.4. Budget. The budget shall provide a complete financial plan of all Township funds and activities for the ensuing fiscal year and, except as required by this Charter and the laws of this Commonwealth, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose, activity, or object. The budget shall contain, *inter alia*, the following:

- a. It shall begin with a general summary of its contents.

- b. It shall show in detail all estimated income, indicating the existing and proposed tax levies, as well as other assessments, fees and charges.
- c. It shall show all proposed expenditures, including debt service, for the ensuing fiscal year.
- d. It shall show the number of proposed employees in every job classification.
- e. It shall be so arranged as to show comparative figures for actual and estimated income and expenditures for the current fiscal year and those for the preceding fiscal year.
- f. It shall indicate proposed expenditures for the ensuing fiscal year, detailed by offices, departments, and agencies, in terms of their respective work programs and the methods of financing such expenditures.
- g. It shall indicate proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments, and agencies when practicable, and the proposed method of financing each.
- h. The total of proposed expenditures shall not exceed the total estimated income.

33.4-401.5. Capital Program. The Manager shall prepare and include as a separate section in the annual budget submitted to Council a capital program including capital expenditures of a non-recurring and long-range nature, as the Manager shall deem desirable or as Council may require. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

33.4-401.6. Review of Budget. Upon submission of the budget proposed by the Manager, Council shall review it with the Manager and others it may deem appropriate for validity, legality and compliance with guide lines previously established.

33.4-401.7. Publication and Public Hearing. Council, after review of the proposed budget and completion of changes directed by it, shall on or before December 1st cause to be published in a newspaper, or newspapers, of general circulation covering the entire Township.

- a. A general summary of the proposed budget.
- b. Notice of a public meeting with date, time and place specified.
- c. Notice that the annual budget shall be a public record and shall be available for public inspection after submission and prior to adoption, during Township office hours. The conduct of the public meeting shall follow such notice by no less than seven (7) days to receive the comments and suggestions of Township citizens.

33.4-401.8. Adoption of Budget. The annual budget shall be adopted by Council by ordinance with or without amendment on or before the twentieth of December and shall become effective immediately upon adoption and shall constitute for the ensuing year appropriations of the amounts specified therein as

expenditures from the funds indicated and shall constitute a levy of the taxes therein proposed, and shall be published immediately.

33.4-401.9. Modification of Adopted Budget.

a. At any time during the fiscal year at the request of the Manager, Council may, by resolution, transfer part or all of any unencumbered balance appropriated to a department, office, agency or other organizational level to another.

b. Council may amend the budget at any time during the fiscal year by ordinance, provided that such amendment shall not result in expenditures exceeding the estimated income, except that, if there is available unencumbered revenues in excess of those estimated in the budget, Council may, by ordinance, make supplemental appropriations not to exceed such excess.

33.4-401.10. Appropriations. Adoption of the budget and amendments thereof shall constitute appropriations for the expenditures set forth therein.

33.4-401.11. Payment of Funds. No payment of any funds of the Township shall be made unless provided for in the budget and specifically approved by Council, provided, however, that payroll and utility expenditures may be made at the direction of the Manager where based upon a prior ordinance or contract. All checks or drafts of the Township shall be signed by the Manager or his designate, and shall be countersigned by the President of Council or another Council member designated by Council.

33.4-401.12. Independent Audit. Council shall provide for an independent annual audit of all Township revenues and accounts by a Certified Public Accountant who has no personal interest, direct or indirect, in the fiscal affairs of the Township government or any of its elected or appointed officers. This annual audit shall include a performance audit. Council may provide for more frequent audits, as well as special audits, as it deems necessary. The results of the annual audit and a financial statement of the fiscal affairs of the Township shall be presented to the Council and a summary published in a newspaper, or newspapers, of general circulation in the Township by April 1st of the year following the fiscal year audited.

33.4-401.13. Fidelity Bonds. Before entering upon the duties of his office, the Township Manager, as well as any other officer, agent, or employee of the Township as Council may determine, shall execute and file with the Township a surety bond, conditioned for the honest and faithful performance of his duties, in such sums as shall be fixed by Council. All such bonds and sureties thereon, before being accepted by the Township, shall be approved by the Township Solicitor. The agency placing such bonds shall be approved by Council and the premium therefor shall be paid by the Township. Such bonds may provide for one or more additional obligees in the event that the officer bonded is acting in a dual or similar capacity with other political sub-divisions or governmental or quasi-governmental entities.

Cross References

This section cited in 346 Pa. Code § 33.2-212 (relating to appointment powers).

§ 33.4-402. Taxation.

Limitations on the rates of taxation in existence on the day prior to the effective date of this Charter shall continue in force. Such limitations on rates of taxation may be raised only by referendum.

§ 33.4-403. Borrowing.

All borrowing of money for Township purposes by Council shall be governed by the Local Government Unit Debt Act of 1972 as it is now or may from time to time be amended by the General Assembly.

§ 33.4-404. Contracts.

33.4-401.1. General Requirements. The Manager shall execute contracts on behalf of the Township made pursuant to the budget or other prior authorization involving sums less than an amount set by ordinance by Council. All contracts of the Township involving sums in excess of such set amount shall be in writing and shall be executed on behalf of the Township by the President of Council, or in his absence by the Vice President of Council. The President of Council shall also execute all contracts, regardless of amount, for the purchase, sale, leasing, or use of real estate. Authorization of contracts for the construction of public capital improvement shall be given by ordinance.

33.4-404.2. Competitive Bids. Except as otherwise provided in this Charter, no contract for supplies, material, labor, franchise, or other valuable consideration, to be furnished to or by the Township, shall be authorized on behalf of the Township, except with the lowest responsible bidder after competitive bidding.

33.4-404.3. Bidding Procedure. Council shall, by ordinance, establish a system of competitive bidding, as required by law, including such definitions, publication requirements, deposit and bond requirements, conditions, terms, rules, regulations, waiver, and exceptions as it shall from time to time deem advisable.

33.4-404.4. Exceptions to Competitive Bidding. Competitive bidding shall not be required under this Charter for:

- a. Labor or services rendered by any Township officer or employee.
- b. Labor, material, supplies, or services furnished by one Township department to another Township department.
- c. Contracts for labor, material, supplies, or services available from only one vendor.
- d. Contracts for labor, materials, supplies or services aggregating ten thousand (\$10,000.00) dollars or less in the year supplied, provided that written or telephonic price quotations from at least three (3) qualified and responsible contractors shall be requested for all contracts that exceed four thousand (\$4,000.00) dollars, but are less than the amount requiring advertisement and

competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three (3) qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of the telephonic price quotation shall be made and shall contain at minimum, the date of the quotation, the name of the contractor, the contractor representative, the work which was the subject of the quotation, and the price. Written price quotations, written records of telephonic price quotations and memorandum, shall be retained for a period of three (3) years.

- e. Contracts relating to the acquisition or use of real property.
- f. Contracts for professional or unique services.
- g. Contracts for emergency repair of public works of the Township.
- h. Contracts with other governmental entities, authorities, agencies, or political sub-divisions.

33.4-404.5. *Maximum Term.* The term of contracts for the purchase of supplies shall not exceed one (1) year.

33.4-404.6. *Eminent Domain.* The Township shall have no authority to grant to others, by franchise, contract, or otherwise, its power and right of eminent domain.

33.4-404.7. *Personal Financial Interest.* No Councilman nor any other Township officer or employee shall solicit, benefit by, or be financially interested, directly or indirectly, in any contract for the purchase of property or services (except for the services for which he is specifically retained) to be paid from the Township Treasury. No Councilman shall vote upon any contract with any company that he is employed by, or is a principle of, or with which he does business other than as a Township officer. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the Township shall render the contract or sale voidable by the Township Manager or the Township Council. Any officer or official of the Township who shall knowingly violate the provisions of this section shall be liable to the Township upon his bond, if any, or personally, to the extent of the damage shown to be sustained thereby by the Township, and to ouster from office. No officer or employee shall accept gratuities, services, or benefits from any person or organization doing business or likely to do business with the Township unless such gratuities or benefits are available to the public at large on equal terms or unless such benefits have been contracted for by the Township.

Source

The provisions of this § 33.4-404 amended May 18, 1982, effective May 18, 1982; amended November 3, 1998. Immediately preceding text appears at serial pages (107331) to (107332).

ARTICLE V. CITIZEN PARTICIPATION

Sec.	
33.5-501.	Right to be Heard.
33.5-502.	Initiative and Referendum.
33.5-503.	Recall.

§ 33.5-501. Right to be Heard.

33.5-501.1. Council shall provide opportunity for interested citizens and taxpayers to address Council on matters of general or special concern at all public meetings. This opportunity must always be provided prior to voting on any issue.

33.5-501.2. Copies of the agenda for public meetings shall be made available to persons in attendance.

33.5-501.3. Boards, Commissions, Authorities and Committees created by action of Council or by the State Legislature shall provide opportunity for interested citizens and taxpayers to address them on matters of general or special concern at all public meetings. This opportunity must always be provided prior to voting on any issue.

§ 33.5-502. Initiative and Referendum.

33.5-502.1. General Authority.

a. The qualified voters of the Township shall have the power to propose ordinances to Council and, if Council fails to adopt an ordinance so proposed, shall have the power to adopt or reject it at a Township election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, or salaries of Township officers or employees.

b. The qualified voters of the Township shall have the power to require reconsideration by Council of any adopted ordinance and, if Council fails to repeal an ordinance so reconsidered, to approve or reject it at a Township election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

33.5-502.2. Initiative. Any five qualified voters may commence initiative and referendum proceedings by filing with the Township Secretary an affidavit stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners' committee is filed, the Township Secretary shall issue the appropriate petition blanks to the petitioners' committee, at the committee's expense.

33.5-502.3. Petitions.

a. Initiative and referendum petitions must be signed by qualified voters of the Township in number equal to at least fifteen (15%) per cent of the total number of qualified voters registered to vote at the last municipal election.

b. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

c. Each petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of those 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. Petitions for referendum must be filed within thirty (30) days after the effective date of the ordinance sought to be reconsidered.

33.5-502.4. Procedure after Filing.

a. Within twenty (20) days after the petition is filed, the Township Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Secretary within two (2) days after receiving the copy of his certificate, and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection 33.5-502.1b and c; and within five days after it is filed, the Secretary shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review (under subsection (b) to follow) within the time required, the Secretary shall promptly present his certificate to Council and the certificate shall then be a final determination as to the sufficiency of the petition.

b. Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving a copy of the certificate, file a request that it be reviewed by Council. Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and Council's determination shall then be a final determination as to the sufficiency of the petition.

c. Court Review; New Petition. A final determination as to the insufficiency of a petition shall be subject to court review. A final determination of insufficiency even if sustained upon court review shall not prejudice the filing of a new petition for the same purpose.

33.5-502.5. Effect of Referendum Petition on Ordinance. When a referendum petition is filed with the Township Secretary, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- a. There is a final determination of insufficiency of the petition, or
- b. The petitioners' committee withdraws the petition, or
- c. The Council repeals the ordinance, or
- d. Thirty (30) days have elapsed after a vote of the Township electorate on the ordinance.

33.5-502.6. Action on Petitions.

a. *By Council.* When an initiative petition has been determined sufficient, Council shall promptly consider the adoption of the proposed initiative ordinance in the manner provided in Article II, or reconsider the referred ordinance as requested and vote upon its repeal. If Council fails to adopt a proposed ordinance without change in substance within sixty (60) days or fails to repeal a reconsidered ordinance within thirty (30) days after the date on which the petition was finally determined sufficient, Council shall submit the proposed ordinance or the reconsidered ordinance to the voters of the Township.

b. *Submission to Voters.* The vote of the Township on a proposed or referred ordinance shall be held not less than thirty (30) days and not more than one year after the date of the final Council vote thereon. If no regular municipal election is to be held within the period so prescribed, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

33.5-502.7. Results of Election.

a. *Initiative.* If a majority of the qualified electors voting on a proposed ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

b. *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

§ 33.5-503. Recall.

33.5-503.1. Officers Subject to Recall. Any person holding an elective office of the Township, whether by election, succession, or appointment to fill a vacancy, shall be subject to removal from office at a recall election.

33.5-503.2. Procedure. Recall of an incumbent in an elective office shall be initiated upon petition signed by twenty per cent (20%) of the qualified registered voters at the time of the last regular municipal election. Every recall petition shall name the office and officer against whom it is directed. Each elector signing a recall petition shall add to his signature his residence, his election district, and the date of signing. Signatures on a recall petition may be on separate sheets, but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that to the best of the affiant's knowledge and belief, the persons whose signatures appear on the sheet are registered electors of the Township, that they signed with full knowledge of the contents of the petition, and that their residences are correctly given.

A recall petition shall be tendered for filing to the board of elections having jurisdiction over elections in the Township. No signature shall be counted as valid which is dated more than sixty (60) days prior to tender for filing the petition. Upon tender to the board of elections, the petition shall be available for examination by any interested person. Within fifteen (15) days after tender of the petition, the board of elections shall have the authority to 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 by the Court of Common Pleas of Montgomery County on appeal filed within thirty (30) days of the date of the decision of the election board.

33.5-503.3. Notice to Incumbent. As soon as the board having jurisdiction over elections in the Township has accepted a recall petition for filing and determined its validity and sufficiency, the board shall notify the incumbent named in the petition 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.

33.5-503.4. Recall Elections. If the incumbent against whom a recall petition is directed does not resign from his office within the ten (10) days after notice of the filing of such petition shall have been given to him, the board having jurisdiction over elections in the Township shall arrange a recall election. If a regular election is to be held not less than thirty (30) days nor more than ninety (90) days after the ten days have expired, the recall question shall be placed before the electors at such an election. Otherwise a special recall election shall be fixed by such board for a date not earlier than thirty (30) nor later than ninety (90) days after the ten 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.

The following question shall be presented to each 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 provision shall be made for the elector to vote "Yes" or "No" on the question.

If a majority of the registered electors who vote on the question of recall shall vote "Yes" the incumbent shall be deemed recalled and removed from office, but if a majority of the registered electors shall vote "No", he shall remain in office. Should the result of such election be affirmative, the date of removal and vacancy in the office shall be seven (7) days subsequent to the date when the results of election are certified by the board having jurisdiction thereon, unless such date is further postponed by court order.

33.5-503.5. Disqualification. No person who has been removed from an elective office by a recall election or who has resigned from such an elective office after a recall petition directed to him has been filed shall be eligible for election or appointment to any office of the Township within two (2) years after his removal or resignation.

33.5-503.6. Limitations. No recall petition shall be filed against any incumbent of an elective office within the first year or the last nine months of his term of office or within nine months after an unsuccessful recall election against him.

ARTICLE VI. GENERAL PROVISIONS

Sec.	
33.6-601.	Transition.
33.6-602.	Severability.
33.6-603.	Amendments to the Charter.
33.6-604.	Effective Date.

§ 33.6-601. Transition.

33.6-601.1. Rights and Liabilities of the Township. The Township shall continue to own, possess, and control all rights and property of every kind and nature, owned, possessed or controlled by it when this Charter takes effect, and shall be subject to all its debts, obligations, liabilities, and duties.

33.6-601.2. Elected Officers. All persons elected as Supervisors under the provisions of the Township of the Second Class Code shall cease to be called Supervisors on the effective date of this Charter. They shall then serve as Councilmen for the remainder of their elected term. They shall have the responsibilities, duties, compensation, and authority only as set forth in and in pursuance of this Charter. All other elected officials of the Township in office at the time this Charter becomes effective shall remain in office for the full term for which they were elected and they shall continue to perform the duties and receive the same compensation which they received prior to the adoption of this Charter. However,

should any of such offices, other than that of Councilman, become vacant for any reason, the vacancies shall not be filled, but the duties of the offices shall, instead, pass to the persons designated in this Charter.

33.6-601.3. Township Employees. Township employees shall retain all rights and privileges held at the time this Charter becomes effective.

33.6-601.4. Continuation of Ordinances. All ordinances, resolutions, rules and regulations, or portions thereof, in force when this Charter takes effect and not in conflict herewith, are hereby continued in force and effect until amended, repealed, superseded, or expired by their own terms. All ordinances and resolutions in continued effect as of the effective date of this Charter shall be construed as if enacted under this Charter, but as of the date of their original enactment.

33.6-601.5. Members of Boards, Commissions, and Authorities. Members of Boards, Commissions, and Authorities in office at the time this Charter takes effect shall remain in office for as long as their respective terms of appointment continue.

Cross References

This section cited in 346 Pa. Code § 33.3-301 (relating to township manager).

§ 33.6-602. Severability.

It is the intention of the electors of the Township that if this Charter cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding invalid any part or parts hereof, the remaining provisions of the Charter shall be given full force and effect as completely as if the part or parts held invalid had not been included herein.

§ 33.6-603. Amendments to the Charter.

Amendments to this Charter shall be in conformity with the provisions of Act 62 of 1972 and as amended.

§ 33.6-604. Effective Date.

This Charter shall become effective and shall be deemed operative on January 6, 1975.

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