

**CHAPTER 23. TOWNSHIP OF McCANDLESS
HOME RULE CHARTER**

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Source

The provisions of this Chapter 23 adopted November 5, 1974, effective January 1, 1975, unless otherwise noted.

ARTICLE I. NAME AND BOUNDARIES

Sec.

23.1-101. Name and Status.

23.1-102. Town Boundaries.

23.1-103. Councilmanic Districts.

§ 23.1-101. Name and Status.

McCandless Township hereafter shall be a Home Rule Charter Municipality under the name of the "Town of McCandless". It shall continue as a municipal corporation under the provisions of this Charter. Any reference in this Charter to the "Town of McCandless" or to the "Town" shall mean the municipal corporation previously known as McCandless Township, Allegheny County, Pennsylvania.

§ 23.1-102. Town Boundaries.

The boundaries of the Town of McCandless shall be the boundaries of McCandless Township on the effective date of this Charter, or as lawfully changed thereafter.

§ 23.1-103. Councilmanic Districts.

(a) *Number and Boundaries.* The Town of McCandless shall be divided into seven (7) Councilmanic Districts of compact and contiguous areas, as nearly equal in population as practical.

(b) *Initial Councilmanic Districts.* The Councilmanic Districts of McCandless Township on the effective date of this Charter shall remain in effect for the Town of McCandless thereafter, unless and until changed pursuant to Subsection (c).

(c) *Revision of Councilmanic Districts.* Town Council shall review and revise the boundaries of Councilmanic Districts by ordinance as and when necessary or appropriate to cause them to comply with Subsection (a) and all other applicable requirements of law, but in any event at least once every ten (10) years within a reasonable time after the completion of the United States census for the decade. Whenever Town Council intends to revise boundaries of Councilmanic Districts, it shall first establish and appoint a Councilmanic District Commission to develop a report and recommendations and then cause a public hearing to be held on the report and recommendations of that Commission. Each Councilmanic District Commission shall consist of three (3) residents of the Town, not more than two (2) of whom shall be registered members of the same political party. The members of a Councilmanic District Commission shall receive no compensation, but they shall be reimbursed for the reasonable expenses incurred by them in the performance of their duties.

ARTICLE II. POWERS AND DUTIES

Sec.

23.2-201. General Powers.

23.2-202. General Municipal Duties.

23.2-203. Construction.

§ 23.2-201. General Powers.

The Town shall have and may exercise all powers and may perform all functions not denied by the Constitution or laws of the United States, by the Constitution or laws of the Commonwealth of Pennsylvania, or by this Charter. Those powers may be exercised in accordance with the provisions of this Charter.

Cross References

This section cited in 302 Pa. Code § 23.2-203 (relating to construction).

§ 23.2-202. General Municipal Duties.

(a) *Specification of General Municipal Duties.* The Town shall have the affirmative duty to do each of the following, in addition to the performance of specific mandated duties provided for in this Charter and of all other municipal duties from time to time imposed on it by law:

- (i) To secure all possible municipal home rule.

(ii) To encourage and enable maximum citizen participation in the business and affairs of the Town.

(iii) To establish and maintain appropriate procedures for communicating effectively with Town residents on issues of public interest and for responding promptly and effectively to inquiries and complaints of residents.

(iv) To provide municipal services and facilities with the highest degree of efficiency and economy.

(v) To provide for the health and well-being of its citizens and the safety of persons and property within the Town.

(vi) To promote the creation and maintenance of public parks, open space and recreational and leisure time facilities and programs for residents of all ages, with due consideration for the interests of neighboring residents.

(vii) To promote the creation and maintenance of adequate regulations and programs for the preservation and enhancement of a safe, healthy, peaceful and attractive environment for the Town citizens and to define and prohibit disorderly or offensive practices within the limits of the Town.

(viii) To provide for comprehensive, progressive and long-range planning in all aspects of land use and community development.

(ix) To promote beneficial cooperation with the pertinent school district and neighboring school districts and with neighboring governmental units.

(b) *Nature and Exercise of General Municipal Duties.* The general municipal duties identified in Subsection (a) are intended as objectives to be sought at all times by Town Council and the Town Manager and all other employees and agents of the Town, directly or indirectly, by appropriate means. They shall not be deemed to be set forth in any order of priority. Neither the Town nor any person shall have any legal liability for damages to any person under the provisions of Subsection (a) in excess of such liability (if any) as would otherwise exist by law in the absence of those provisions.

§ 23.2-203. Construction.

Any specific and mandatory regulatory or procedural provision of this Charter shall be construed as exclusive; it shall prohibit any inconsistent regulation or procedure.

The powers of the Town under this Charter shall be broadly construed in favor of the Town. The specific mention of particular powers or duties shall not be interpreted as limiting in any way the general powers conferred under § 23.2-201 of this Charter or under the Constitution or laws of Pennsylvania as they now exist or may be amended.

Nothing in this Charter shall limit the discretionary authority of the Town under Article IX, Section 5 of the Constitution of Pennsylvania with respect to inter-governmental cooperation in the exercise of any function, power or responsibility of the Town.

ARTICLE III. TOWN COUNCIL

Sec.

23.3-301. Powers of the Town Council.

23.3-302. Composition of the Town Council.

23.3-303. Terms of Office of Members of Council.

23.3-304. Election of Members of Council.

23.3-305. Qualifications of Members of Council.

23.3-306. Vacancies.

23.3-307. Prohibitions.

23.3-308. Compensation and Expenses of Members of Council.

§ 23.3-301. Powers of the Town Council.

Except as is otherwise expressly provided by law or by this Charter, all powers of the Town shall be vested in Town Council ("Council").

§ 23.3-302. Composition of the Town Council.

Council shall consist of seven (7) members, elected from the seven (7) respective Councilmanic Districts of the Town.

§ 23.3-303. Terms of Office of Members of Council.

The terms of office of all members of Council shall be four (4) years, beginning on the first Monday of January in the year following their election. A member of Council who is appointed to fill a vacancy shall serve the unexpired term of that vacancy.

§ 23.3-304. Election of Members of Council.

The members of Council representing odd numbered Councilmanic Districts shall be elected at the municipal election in November of 1975 and at the municipal election in November of each fourth year thereafter. The members of Council representing even numbered Councilmanic Districts shall be elected at the municipal election in November of 1977 and at the municipal election in November of each fourth year thereafter.

§ 23.3-305. Qualifications of Members of Council.

Each member of Council must be a qualified voter of the Town and resident of the Councilmanic District to be represented by him or her at the time of election and continuously while serving in that capacity.

Cross References

This section cited in 302 Pa. Code § 23.3-306 (relating to vacancies).

§ 23.3-306. Vacancies.

(a) *Creation of Vacancies.* A vacancy in the office of a member of Council shall occur under the following circumstances:

- (i) Death;
 - (ii) Resignation;
 - (iii) Conviction of a felony or a crime involving moral turpitude;
 - (iv) Termination of the qualifications required under § 23.3-305.
 - (v) Absence from three (3) or more regular meetings of Council in succession, unless excused by the President of Council or by Council.
- (b) *Filling of Vacancies.* If a vacancy shall occur on Council, Council promptly shall fill such vacancy by appointing a qualified person of the same political party as the person being replaced. Such vacancy shall be filled by a majority vote of the remaining members of Council, regardless of number. If 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 Court of Common Pleas shall be authorized, upon a petition of Council or of any ten (10) electors of the Town, to fill the vacancy by the appointment of a qualified person of the same political party as the person being replaced.

Cross References

This section cited in 302 Pa. Code § 23.4-408 (relating to voting requirements in general); and 302 Pa. Code § 23.16-1602 (relating to status of elected officials).

§ 23.3-307. Prohibitions.

No member of Council shall hold any other compensated Town office or Town employment while serving as a member of Council.

§ 23.3-308. Compensation and Expenses of Members of Council.

Each member of Council shall receive compensation at a rate specified by ordinance from time to time, subject to the provisions of this Section and the applicable restrictions under the Constitution and laws of the Commonwealth of Pennsylvania. Unless and until changed by an ordinance adopted after the effective date of this Charter, the rate payable to all members of Council will be the highest rate established for members of the Board of Township Commissioners of McCandless Township (within the limitations imposed on the compensation of members of that Board under the First Class Township Code) in an ordinance duly adopted by that Board prior to December 31, 1974. The rate of compensation of a member of Council shall not be increased thereafter by more than ten percent (10%) at any one time, and it shall not be increased more than once every four (4) years. Any such increase in the rate of compensation to be paid to a member of Council during a specific four (4) year term must be enacted by ordinance on or before January 1 of the year in which that member of Council is to be elected for the particular term.

Members of Council shall receive no other compensation, directly or indirectly, for the performance of their duties as such. They shall receive no pension, insurance or other form of fringe benefits, except that nothing in this Section shall

preclude the Town from providing accident and health insurance and liability insurance coverage for members of Council in the performance of their official duties. Members of Council shall be reimbursed for the reasonable expenses incurred by them in the performance of their duties, provided that all such expenses are fully disclosed and are recorded in appropriate public records.

ARTICLE IV. ORGANIZATION AND PROCEDURES OF TOWN COUNCIL

Sec.

- 23.4-401. Organization and Meetings of Council.
- 23.4-402. Time and Place of Meetings.
- 23.4-403. Notice.
- 23.4-404. Records.
- 23.4-405. Public Meetings and Citizens' Right to be Heard.
- 23.4-406. Operating Rules and Procedures.
- 23.4-407. Quorum.
- 23.4-408. Voting Requirements in General.
- 23.4-409. Officers.
- 23.4-410. Advisory Committees.

§ 23.4-401. Organization and Meetings of Council.

(a) *Organization Meetings.* Council shall meet and organize at an "Organization Meeting" on the first Monday of January of each even numbered year, commencing at 8:00 P.M. prevailing time. If the first Monday of January is a legal holiday, the Organization Meeting shall be held on the next following business day. At each Organization Meeting, Council shall elect officers in accordance with § 23.4-409 and shall consider and act upon such other matters as the members of Council may deem necessary or appropriate for the organization and operation thereof, including the establishment of a schedule of Regular Meetings. In addition, Council may consider and act upon any matter at an Organization Meeting which would be appropriate for decision at any Regular Meeting of Council.

(b) *Regular Meetings.* Council shall hold Regular Meetings, at least once each month, at such times as may be determined by a schedule from time to time adopted or revised in advance by resolution of Council at the Organization Meeting or at any Regular Meeting. At any Regular Meeting, Council may consider and act upon any matter which properly may be brought before it in accordance with the provisions of this Charter and all other applicable provisions of law.

(c) *Special Meetings.* Council also may hold Special Meetings upon the call of the President of Council or the Vice President in his absence or the Town Manager or at least three (3) members of Council, at such times as may be specified in the notice of the Special Meeting to be sent in accordance with § 23.4-

403. At a Special Meeting, Council may consider and act upon only those items of business which shall have been identified as a purpose of that Special Meeting in the notice.

(d) *Emergency Meetings.* Council also may hold and take action at an Emergency Meeting at any time, and without complying with the notice requirements set forth in § 23.4-403, upon the call of the President of Council or the Vice President in his absence or the Town Manager or any member of Council, provided (i) that such meeting is attended by at least a majority of all members of Council and (ii) that all of the members of Council present and voting at such meeting determine that the holding of such meeting and the taking of emergency action under § 23.5-505(f) at that time will be necessary to protect or to promote the public health and safety of the Town.

(e) *Adjourned Meetings.* Council may adjourn any Organization, Regular or Special Meeting to a specified time, and reconvene and take action at that Adjourned Meeting, by a motion duly adopted by Council. Council may act upon any matter at an Adjourned Meeting which would have been appropriate for decision at the meeting at which the motion of adjournment has been approved, except that Council may not reconsider or take action at an Adjourned Meeting on any matter which has been acted on or tabled at the meeting at which such motion of adjournment has been approved.

Cross References

This section cited in 302 Pa. Code § 23.4-402 (relating to time and place of meetings); 302 Pa. Code § 23.4-403 (relating to notice); 302 Pa. Code § 23.5-501 (relating to administrative code); and 302 Pa. Code § 23.5-505 (relating to requisites of action by ordinance).

§ 23.4-402. Time and Place of Meetings.

All official meetings of Council shall be held at the municipal building of the Town. All official meetings of Council shall be held at times determined in accordance with the provisions of § 23.4-401 pertaining to the specific types of meetings and, where required, communicated in the notice to be sent in accordance with § 23.4-403.

§ 23.4-403. Notice.

(a) *Notice of Special Meetings.* Special Meetings of Council may be held only after the delivery of at least seventy-two (72) hours advance written notice to all members of Council. The notice of a Special Meeting shall be conspicuously posted at appropriate locations in and in front of the municipal building and (if reasonably practicable) shall be published in a newspaper of general circulation in the community in advance of such meeting. The notice of a Special Meeting shall identify the subject matter(s) of the business to be considered at such meeting. The presence of a member of Council at a Special Meeting shall constitute a waiver of notice by that member.

(b) *Notice of Other Official Meetings.* Official Meetings of Council of all types provided for in § 23.4-401 other than a Special Meeting may be held without the delivery or publication of specific advance notice in accordance with the provisions of the pertinent subparagraphs of § 23.4-401. The schedule of all Regular Meetings shall be conspicuously posted at appropriate locations and at reasonable times and advertised in a newspaper of general circulation in the Town as and when that schedule is adopted or revised. The schedule of Regular Meetings also shall be kept conspicuously posted at all times at appropriate locations in and in front of the municipal building.

Cross References

This section cited in 302 Pa. Code § 23.4-401 (relating to organization and meetings of council); and 302 Pa. Code § 23.4-402 (relating to time and place of meetings).

§ 23.4-404. Records.

(a) *Minutes of Council Meetings.* Council shall make and preserve minutes of all official meetings of Council; provided, however, (i) that it may hold portions of any official meeting in executive session in accordance with § 23.4-405 without the making of minutes or any other record, and (ii) that it may hold any unofficial or committee meeting at any time without the making of such minutes or other record. Such minutes shall be prepared and distributed to all members of Council promptly after the completion of each meeting, and they shall be open and available for public inspection and copying, in a convenient place and form at the municipal building, during normal business hours.

(b) *Codification of Ordinances.* Council shall provide for the codification, promptly after the effective date of this Charter, and for the periodic updating at reasonable times thereafter, of the substance of all ordinances of Council having continuing legal effect. Such codification shall be kept open and available for public inspection and copying, in a convenient place and form at the municipal building, during normal business hours. Copies shall be made available to all interested persons upon request and payment of a reasonable fee.

Cross References

This section cited in 302 Pa. Code § 23.5-505 (relating to requisites of action by ordinance); and § 23.5-506 (relating to requisites of action by resolution).

§ 23.4-405. Public Meetings and Citizens' Right to be Heard.

Except as is otherwise specifically provided in the following two sentences, all official meetings of Council shall be open for public attendance. Council may hold portions of any official meeting in executive session at such times as may be determined by the affirmative vote of all members of Council present at a meeting at which a quorum exists, but no final action shall be taken by Council on any matter in executive session. Council may hold unofficial or committee meetings or portions thereof in executive session at any time, upon the approval

of a motion by Council or such committee. Council at all times shall provide reasonable opportunities for interested citizens and taxpayers of the Town to address Council orally or in writing on matters of general or special concern. However, this requirement shall not preclude Council from adopting and enforcing in good faith, under § 23.4-406, reasonable procedures for the orderly conduct of its business.

Cross References

This section cited in 302 Pa. Code § 23.4-404 (relating to records).

§ 23.4-406. Operating Rules and Procedures.

Council shall adopt and enforce such reasonable rules and procedures for the conduct of its business, consistent with the provisions of this Charter, as Council may determine to be necessary for the orderly conduct of its business. All such rules and procedures shall be designed, among other things, to promote the full and equal participation of all members of Council in the deliberations of Council and its committees and to provide reasonable opportunities for all interested citizens and taxpayers of the Town to inform themselves of, and to be heard with respect to, all matters under consideration by Council.

Cross References

This section cited in 302 Pa. Code § 23.4-405 (relating to public meetings and citizens' right to be heard); and 302 Pa. Code § 23.5-503 (relating to forms of action by council).

§ 23.4-407. Quorum.

A majority of all members of Council shall constitute a quorum at any official meeting. Council shall conduct no business in the absence of a quorum.

§ 23.4-408. Voting Requirements in General.

(a) *Majority Action.* The affirmative vote of a majority of the members of Council present and entitled to vote at a meeting at which a quorum exists shall constitute the official action of Council, except as is otherwise provided in § 23.3-306(b) and except in instances in which a greater vote may be required by law or by the provisions of this Charter or of the Administrative Code.

(b) *Roll Call Votes.* All final actions on ordinances and resolutions of Council other than those adopted or rejected by the unanimous vote of the members of Council present at the meeting shall be taken by roll call vote in a public meeting, and the vote of each member of Council shall be entered in the minutes of that meeting.

§ 23.4-409. Officers.

(a) *Election.* Council shall elect a President, a Vice President, a Secretary, and such other officers (if any) as Council may deem appropriate. The President and

Vice President shall be members of Council. The Secretary need not be a member of Council. All officers may be elected, removed and/or replaced by resolution of Council at any time.

(b) *Duties.* The President of Council shall preside over meetings of Council and shall serve as the principal elected representative of the Town for formal purposes. The Vice President shall exercise the duties of the President in the event of the absence or unavailability of the President. The Secretary shall maintain the official minutes and records of Council. All officers and other agents of Council shall have such additional duties and powers, if any, as may from time to time be delegated to them under this Charter or the Administrative Code or any other ordinance, resolution or motion of Council duly adopted in accordance with this Charter.

Cross References

This section cited in 302 Pa. Code § 23.4-401 (relating to organization and meetings of council).

§ 23.4-410. Advisory Committees.

Council may appoint advisory committees, consisting of members of Council and/or other residents of the Town for such purposes as may be specified by Council. The members of such advisory committees shall serve in that capacity without compensation, but they shall be reimbursed for the reasonable expenses incurred by them in the performance of their duties.

ARTICLE V. ORDINANCES AND RESOLUTIONS

Sec.

23.5-501. Administrative Code.

23.5-502. Personnel Code.

23.5-503. Forms of Action by Council.

23.5-504. Specific Actions Requiring Adoption by Ordinance.

23.5-505. Requisites of Action by Ordinance.

23.5-506. Requisites of Action by Resolution.

23.5-507. Certification of Ordinances and Resolutions.

23.5-508. Periodic Review of Ordinances and Resolutions.

23.5-509. Penalties for Violation of Ordinances.

§ 23.5-501. Administrative Code.

(a) *Purposes and Content.* Council shall adopt and maintain in effect an Administrative Code to implement the provisions of this Charter. The administrative Code shall provide for the following matters in reasonable detail and in a manner consistent with the applicable provisions of this Charter and of the Constitutions and laws of the United States and the Commonwealth of Pennsylvania:

- (i) The organization and procedures of Council;

- (ii) The establishment, structures, duties, powers and procedures of such administrative departments, commissions and authorities as Council may authorize;
- (iii) The duties and powers of the Manager and other employees and agents of the Town;
- (iv) The procedures for the conduct of the business and affairs of the Town;
- (v) Such other matters, if any, as may be deemed by Council to be appropriate.

Council may, at its discretion, from time to time adopt by ordinance additional and more detailed provisions relating to the above-listed matters, consistent with the provisions of the Administrative Code.

(b) *Adoption.* Council shall adopt the Administrative Code, by ordinance, within one (1) year following the first Organization Meeting of Council (under § 23.4-401(a)).

(c) *Amendment.* The Administrative Code may be amended by an ordinance adopted under the same procedural requirements as are specified in § 23.5-505 for its adoption.

Cross References

This section cited in 302 Pa. Code § 23.5-504 (relating to specific actions requiring adoption by ordinances).

§ 23.5-502. Personnel Code.

Council shall adopt and maintain in effect a Personnel Code as provided for in § 23.11-1101. The Personnel Code shall be adopted and may be amended by ordinance of Council, in accordance with the applicable provisions of § 23.5-505.

Cross References

This section cited in 302 Pa. Code § 23.5-504 (relating to specific actions requiring adoption by ordinance).

§ 23.5-503. Forms of Action by Council.

Official actions of Council may be taken by ordinance, resolution or simple motion. All actions described in § 23.5-504 shall be taken by ordinance adopted under § 23.5-505. All ordinances and resolutions shall be presented for action by Council in writing, but simple motions may be made orally. In all other respects, the forms of action by Council shall be determined in accordance with § 23.4-406 and other applicable provisions of this Charter and of the Administrative Code.

§ 23.5-504. Specific Actions Requiring Adoption by Ordinance.

Any and all actions of Council on the following subjects shall be taken, if at all, in the form of an ordinance:

- (a) The adoption or amendment of an Administrative Code under § 23.5-501;
- (b) The adoption or amendment of a Personnel Code under §§ 23.5-502 and 23.11-1101;
- (c) The creation, alteration, or abolition of any department, commission, authority, office or agency of the Town;
- (d) The provision of any fine or other penalty, or the establishment of any requirement or prohibition for the violation of which a fine or other penalty may be imposed;
- (e) The levying of taxes or assessments;
- (f) The granting, renewing, amendment or extension of any franchise or services to be provided in or for the Town or its citizens or others;
- (g) The establishment of rates charged for any utility or other services to be supplied by the Town;
- (h) The borrowing of money;
- (i) The conveyance, leasing, exclusive licensing or other disposition or encumbering of any land or other property of the Town (except for the sale of land or other property by competitive bidding in a tax sale);
- (j) The establishment or changing of a zoning map or zoning district or of regulations governing any other matter pertaining to zoning uses, subdivision requirements, site plan approvals, excavation permits and/or building restrictions (see Article IX);
- (k) The undertaking of any substantial contract or other commitment of the Town with respect to the sharing or coordination of municipal functions or services with other governmental entities or agencies;
- (l) The adoption or amendment of a budget (see Article XII);
- (m) The adoption of requirements or procedures for the letting of public contracts of the Town (see Article XIII);
- (n) The authorization of any contract in excess of an amount equivalent to one-quarter of one percent (1/4%) of the previous year's budget of the Town, except for those contracts awarded to the lowest responsible bidder after advertisement in the official Town newspaper once a week for two successive weeks with the first advertisement to be published not less than ten (10) days prior to the date fixed for the opening of bids.
- (o) The adoption of any regulation or procedure pertaining to police and fire protection (see Article X);
- (p) Any increase in the compensation of members of Council;
- (q) The amendment or repeal of any ordinance previously adopted.

Source

The provisions of this § 23.5-504 amended November 4, 1975, effective November 4, 1975.

Cross References

This section cited in 302 Pa. Code § 23.5-503 (relating to forms of action by council); and 302 Pa. Code § 23.5-505 (relating to requisites of action by ordinance).

§ 23.5-505. Requisites of Action by Ordinance.

(a) *General Requisites.* Each ordinance enacted by Council shall be numbered and shall contain the date of its enactment. Each ordinance shall set forth verbatim in the minutes maintained in accordance with § 23.4-404(a) of the meeting at which it is finally adopted or, alternatively, in a separate and official ordinance book maintained for that purpose. The substance of each ordinance having continuing significance shall be incorporated in a codification or ordinances as provided in § 23.4-404(b). Each ordinance shall contain at the beginning a reasonably descriptive title and summary of its subject matter.

(b) *Prior Notice and Publication.* Except as is otherwise provided in subsections (f) and (g), a notice of each proposed ordinance to be considered and acted upon at any official meeting of Council shall be published in a newspaper of general circulation in the Town at least once, not more than ninety (90) days nor less than two (2) days prior to its final enactment. In addition, except as is otherwise provided in subsection (f), such notice shall be conspicuously posted at appropriate locations in and in front of the municipal building throughout the period of at least seventy-two (72) hours prior to the scheduled time for the commencement of the meeting of Council at which the proposed ordinance is adopted. The notice required under the preceding two sentences need not contain the full text of the proposed ordinance, but it shall include the title and number of the proposed ordinance and a brief but sufficient description to provide reasonable notice of the proposed provisions and effect of that ordinance. Such notice may be provided in the form of an official agenda for the pertinent meeting of Council, if it contains the requisite information. A copy of the full proposed text of each such ordinance shall be made available for inspection and copying by any interested person during reasonable business hours in the municipal building, throughout the period of at least six (6) days prior to its final enactment. The Manager also shall maintain a mailing list of interested citizens and citizen groups to whom notices and/or copies of all proposed ordinances (or of designated types to be specified by them) shall be sent at reasonable times prior to their final enactment, at the request and at the reasonable expense of such citizens or groups; provided, however, that the validity of an ordinance shall not be affected in any way by any nonperformance of the requirements of this sentence. Posting in front of the municipal building shall not be required provided a bulletin board for posting shall be maintained within the municipal building, be available for public inspection at all times and a notice as to the location of that bulletin board be posted at the front entrance of the municipal building.

(c) *Public Hearing.* A public hearing at which interested citizens shall be given a reasonable opportunity to appear and to be heard with respect to a spe-

cific proposed ordinance, shall be held not more than sixty (60) days nor less than six (6) days prior to the enactment of any ordinance relating to the subject matters identified as items § 23.5-504(a), (c), (e), (f), (g), (i), (j), (l), (n), or (p) except as is otherwise provided in subsections (f) and (g) in addition to any other instance in which a public hearing may be required by the Administrative Code or by any other applicable provision of law. Notice of the time and place of such public hearing shall be included in the notice of such proposed ordinance to be published and posted in accordance with subsection (b); provided, however, that any hearing on a proposed ordinance involving a change in the zoning map or a reclassification of a zoning district shall be preceded by (i) the publication and posting of notice of that proposed ordinance and of the hearing thereon, in accordance with subsection (b), at least ten (10) days in advance, and (ii) the conspicuous posting of notices thereof on the perimeter of the property to be rezoned, with at least one such notice to be posted on each public street abutting that property, throughout that ten (10) day period, and (iii) the mailing of notices thereof by registered mail to each owner of any of the property to be rezoned and of any other property abutting on or directly across a public street from the property to be rezoned. Any public hearing may be conducted by any two (2) or more members of Council designated for that purpose by Council.

(d) *Notice and Publication after Enactment.* Each ordinance shall be published, in a newspaper of general circulation in the Town, at least once as soon as is practicable after its final enactment. The full text of an ordinance need not be published if the title and a reasonably complete and descriptive summary notice of its provisions and effective date are published in accordance with the preceding sentence. In addition, an appropriate notice (but not necessarily the full text) of each enacted ordinance shall be conspicuously posted at appropriate locations in and in front of the municipal building for a period of at least thirty (30) days as soon as is practicable after its final enactment; and a copy of the full text shall be made available for inspection and copying by any interested person during reasonable business hours in the municipal building, within two (2) business days following its final enactment and at all times thereafter. The Manager also shall maintain a mailing list of interested persons or groups to whom copies of all enacted ordinances (or of designated types to be specified by them) shall be sent at reasonable times following their enactment, at the request and at the reasonable expense of such persons or groups; provided, however, that the validity of an ordinance shall not be affected in any way by any nonperformance of the requirements of this sentence. Posting in front of the municipal building shall not be required provided a bulletin board for posting shall be maintained within the municipal building, be available for public inspection at all times and a notice as to the location of that bulletin board be posted at the front entrance of the municipal building.

(e) *Effective Date.* Except as is otherwise provided in subsection (f), the effective date of any ordinance shall be ten (10) days after the notice of the

enactment thereof is published in a newspaper of general circulation in the Town under subsection (d), unless a later effective date is provided for in the text of that ordinance or is required by the Administrative Code or any applicable provision of law. In the event that the publication of any enacted ordinance is prevented or delayed by a strike or other cause beyond the reasonable control of Council, that ordinance shall take effect ten (10) days after its enactment, unless a later effective date is provided for in the text of that ordinance or is required by the Administrative Code or any applicable provision of law.

(f) *Emergency Actions.* Any other provision of this Charter or of the Administrative Code to the contrary notwithstanding, and except as may be otherwise expressly provided by any other applicable provision of law, Council shall have the power in its discretion to waive all or any part of the requirements of subsections (b)—(e) of this Charter and any other notice or public hearing requirement or other procedural requirement of the Administrative Code, if all of the members of Council present and voting at any properly convened Emergency Meeting of Council under § 23.4-401(d), reasonably determine such waiver to be the public health and/or safety. Any emergency ordinance enacted pursuant to the waiver provisions of the preceding sentence shall be limited in its effectiveness to a duration of not more than ninety (90) days unless it shall have been confirmed or amended by another ordinance duly adopted in full compliance with the provisions of this Charter and of the Administrative Code and all other applicable provisions of law, and without any such waiver under this subsection, within that period.

(g) *Special Voting Requirements for the Enactment of Certain Types of Ordinances.* The enactment, amendment or repeal of any ordinance of the following types shall require an affirmative vote of at least four (4) members of Council at an official meeting of Council, after having been specifically scheduled for final action at that meeting by a motion duly adopted at a previous meeting of Council:

- (i) The Administrative Code;
- (ii) Any increase in the compensation of members of Council; and
- (iii) The zoning and other land use matters specified in § 23.5-504(j).

(h) *Amendment or Repeal.* Any ordinance, including but not limited to any ordinance in effect on the effective date of this Charter, may be amended or repealed by, and only by, the adoption of another ordinance in accordance with the provisions of this Charter and the Administrative Code and all other applicable provisions of law.

Source

The provisions of this § 23.5-505 amended November 4, 1975, effective November 4, 1975.

Cross References

This section cited in 302 Pa. Code § 23.4-401 (relating to organization and meetings of council); 302 Pa. Code § 23.5-501 (relating to administrative code); 302 Pa. Code § 23.5-502 (relating to personnel code); 302 Pa. Code § 23.5-503 (relating to forms of action by council); and 302 Pa. Code § 23.12-1204 (relating to adoption of budget).

§ 23.5-506. Requisites of Action by Resolution.

Each resolution adopted by Council shall be numbered and shall contain the date of its enactment. Each such resolution shall be set forth verbatim or briefly summarized in the minutes of the meeting at which it is finally adopted, in accordance with § 23.4-404(a), but any resolution may be adopted without compliance with any of the other notice requirements and other formalities specified for the enactment of an ordinance under the provisions of this Charter and of the Administrative Code. The full text of all resolutions shall be set forth in a separate and official resolution book.

§ 23.5-507. Certification of Ordinances and Resolutions.

The Secretary of Council or his designated representative, or the Town Manager, shall prepare and issue certifications of the enactment, terms and effectiveness of any one or more of the ordinances and/or resolutions of Council, upon the reasonable request of any interested persons. Council may at its discretion impose by ordinance or resolution a reasonable charge for the furnishing of such certifications.

§ 23.5-508. Periodic Review of Ordinances and Resolutions.

Council shall establish and carry out appropriate procedures for the periodic review and re-enactment, amendment or repeal of all ordinances and resolutions of Council.

§ 23.5-509. Penalties for Violation of Ordinances.

Council may provide by ordinance for the imposition of penalties for the violation of any one or more of the duly enacted and effective ordinances of Council. Such penalties shall not exceed Five Hundred Dollars (\$500.00) and/or thirty (30) days imprisonment for each violation, except to the extent to which the imposition of greater penalties shall be authorized by the laws of the Commonwealth of Pennsylvania applicable to any class of municipalities from time to time hereafter. Any ordinance may provide, with respect to continuing violations, that each day on which a violation exists may be regarded as a separate offense and may be punishable as such.

ARTICLE VI. INVESTIGATIONS BY COUNCIL

Sec.

23.6-601. Authority to Conduct Investigations.

23.6-602. Witnesses and Documents.

23.6-603. Oaths of Witnesses.

§ 23.6-601. Authority to Conduct Investigations.

Council shall have the power, by resolution, to conduct or to authorize the conducting of any investigation by the entire body or any committee of Council or by any other employee or agent of the Town, with respect to the performance of the duties of any member of Council or any employee or agent of the Town, or with respect to any other proper subject matter in aid of its legislative functions.

Cross References

This section cited in 302 Pa. Code § 23.6-602 (relating to witnesses and documents); and 302 Pa. Code § 23.6-603 (relating to oaths of witnesses).

§ 23.6-602. Witnesses and Documents.

In connection with any proper investigation authorized under § 23.6- 601, Council may issue subpoenas to compel the attendance of any member of Council or any employee or agent of the Town at any meeting of Council or of a committee thereof, and/or the production for inspection and copying of any records or other documents in the possession of such persons which constitute public documents of the Town or which otherwise may be reasonably relevant to the performance of the duties of such person as a member of Council or as an employee or agent of the Town. Such subpoenas may be signed and issued by the President or Vice President of Council or by the Chairman of any committee of Council authorized to conduct the investigation, and they may be served in any part of the Commonwealth of Pennsylvania.

§ 23.6-603. Oaths of Witnesses.

The President of Council or the presiding officer at any meeting of Council or of any committee thereof in connection with an investigation duly authorized in accordance with § 23.6-601 shall have the power to administer oaths to witnesses.

ARTICLE VII. TOWN MANAGER

Sec.

23.7-701. Appointment, Qualifications and Compensation.

23.7-702. Powers and Duties of the Town Manager.

23.7-703. Full Time Employment.

23.7-704. Removal.

23.7-705. Absence or Incapacity.

§ 23.7-701. Appointment, Qualifications and Compensation.

Council shall appoint a Town Manager for an indefinite term and shall fix the Manager's compensation. The Manager shall be a person of demonstrated executive and administrative ability, preferably with experience and training in municipal management. The Manager need not be a resident of the Town at the time of his appointment, but the Manager may not reside outside the Town while in office without the approval of Council.

§ 23.7-702. Powers and Duties of the Town Manager.

The Town Manager shall be the chief executive and administrative officer of the Town and as such shall be responsible to Council for the administration of all Town affairs. The Manager shall have the following powers and duties, in addition to all others delegated to him under this Charter or by Council:

- (1) To appoint, suspend, remove and supervise all Town employees, except as otherwise provided by law or this Charter;
- (2) To collect, account for and deposit into the Town treasury, all taxes, fees, assessments or charges that are levied or established by the Town for general or special purposes;
- (3) To be and perform the duties of Town Clerk in causing appropriate records to be made, preserved and certified as required by law or this Charter, in attesting the execution of all instruments, in maintaining custody of the municipal corporate seal, and in assisting the Secretary of Council;
- (4) To direct and supervise the administration of all departments, offices and agencies;
- (5) To attend all Council meetings and to participate in discussions;
- (6) To prepare and submit proposed budgets and capital expenditure programs to Council;
- (7) To submit to Council and to make available to the public a report on the finances and administrative activities of the Town, at the end of each fiscal year;
- (8) To make such other reports as Council shall require;
- (9) To meet with citizens of the Town to accept and review complaints, suggestions and criticisms and to report them to Council for appropriate action;
- (10) To sign contracts, drafts and checks on behalf of the Town, except as is otherwise provided in this Charter;
- (11) To carry out and administer the ordinances, resolutions and policies established by Council;
- (12) To delegate any of these powers and duties to another Town Employee, with the approval of Council.

§ 23.7-703. Full Time Employment.

The Manager shall devote full time to the office and shall hold no other appointive or elective public office or other remunerative employment.

§ 23.7-704. Removal.

Council may remove the Manager at any time, with or without cause, by a majority vote of all members of Council.

§ 23.7-705. Absence or Incapacity.

Council may appoint an Acting Manager, in the event of a vacancy or of a temporary absence or incapacity of the Manager. The Acting Manager shall have all the powers and duties of the Manager.

ARTICLE VIII. TOWN ATTORNEY

Sec.

23.8-801. Appointment, Qualifications and Compensation.

23.8-802. Removal.

23.8-803. Delegation of Authority.

23.8-804. Powers and Duties of the Town Attorney.

23.8-805. Appointment of Special Counsel.

§ 23.8-801. Appointment, Qualifications and Compensation.

Council shall appoint a Town Attorney for an indefinite term and shall fix his compensation. The Attorney shall be an official of the Town; shall be appointed on a full-time, part-time or retainer basis; shall serve the Town as needed and required; shall be a person learned in the law with at least five (5) years experience in active legal practice in Pennsylvania; and shall be admitted to practice before the Supreme Court of Pennsylvania.

§ 23.8-802. Removal.

Council may remove the Attorney at any time, with or without cause.

§ 23.8-803. Delegation of Authority.

The Attorney may, from time to time, perform his duties by delegation of authority to qualified persons acting as his agents. However, such delegation may be made only with the knowledge and consent of Council.

§ 23.8-804. Powers and Duties of the Town Attorney.

The Attorney shall be the chief legal officer of the Town; shall prepare and may sign on behalf of the Town, legal documents to which the Town or any agency thereof may be a party; shall commence and prosecute all legal actions brought by the Town; shall defend all legal actions brought against the Town; and shall perform every professional act incident to the office which may be authorized or

required by Council. The Town Attorney shall furnish Council and the committees thereof, opinions, in writing, upon any question of law which may be submitted by them.

§ 23.8-805. Appointment of Special Counsel.

Whenever the exigencies of the business of the Town require such action, Council shall have the right to employ special counsel.

ARTICLE IX. PLANNING AND LAND USE ADMINISTRATION

Sec.

23.9-901. Planning and Development Administrator.

23.9-902. Planning Commission.

23.9-903. Land Use and Building Regulations.

23.9-904. Zoning Hearing Board.

Cross References

This article cited in 302 Pa. Code § 23.5-504 (relating to specific actions requiring adoption by ordinance).

§ 23.9-901. Planning and Development Administrator.

(a) *Appointment and Compensation.* The Town shall have a Planning and Development Administrator, appointed by the Manager with the approval of Council, at a rate of compensation consistent with the qualifications and experience of the individual. The Planning and Development Administrator shall be a qualified person with training and experience in municipal planning and related matters.

(b) *Duties.* The Planning and Development Administrator shall have the following powers and duties, under the general supervision of the Manager and Council, and in cooperation with the Planning Commission:

(i) To draft and propose a long-range and comprehensive master plan for the Town and modifications thereof, embodying land use planning and practices consistent with the quality of living desired by the people of the Town;

(ii) To review and to make recommendations regarding proposed Council actions implementing the comprehensive plan;

(iii) To prepare information and land use recommendations on capital projects for implementation in the annual capital budget;

(iv) To assist in the acquisition of available federal, state, and county funding assistance for capital projects and operating programs;

(v) To assist the Planning Commission, Zoning Hearing Board, Building Inspector, Bureau of Fire Prevention, Manager and Council with respect to the applications for zoning changes and other land use and development matters;

(vi) To assist with the administration of zoning ordinances and other land use controls;

- (vii) To assist in the preparation and administration of a building and housing code for the Town and amendments thereto;
 - (viii) To prepare and to recommend land development techniques and practices beneficial to the people of the Town; and
 - (ix) To carry out such other duties and functions as may be delegated to him under this Charter or by Council or the Manager.
- (c) *Removal.* The Planning and Development Administrator may be removed by the Manager, with the approval of Council, at any time, with or without cause.

§ 23.9-902. Planning Commission.

- (a) *Appointment.* The Town shall have a Planning Commission consisting of such number of qualified electors of the Town as may be determined by Council, who shall be appointed by Council for such terms as may be established by Council.
- (b) *Expenses.* The members of the Planning Commission shall serve without compensation, but they shall be reimbursed for the reasonable expenses incurred in the performance of their duties.
- (c) *Duties.* The Planning Commission shall have the following powers and duties:
- (i) To review and to make recommendations to Council with respect to all applications for changes in zoning districts, for subdivision approvals, for site plan approvals, and for excavation permits;
 - (ii) To review and to make recommendations to Council with respect to proposals for the enactment or amendment of the master plan or of ordinances regulating any of the matters referred to in Subsection (c)(i); and
 - (iii) To provide such other advice and assistance as may be requested at any time by Council, the Manager, or the Planning and Development Administrator.
- (d) *Procedures.* Council shall establish procedures for the performance of the powers and duties of the Planning Commission; provided, however (i) that all recommendations of the Planning Commission with respect to the matters referred to in subsections (c)(i) and (ii) shall be approved by the Planning Commission at public meetings, and (ii) that the agenda of all public meetings of the Planning Commission shall be established and made available to interested citizens and taxpayers of the Town at least six (6) days in advance.

§ 23.9-903. Land Use and Building Regulations.

- (a) *Regulations Required.* Council shall adopt, maintain in effect, and enforce each of the following forms of regulations, containing provisions consistent with this Charter and with all applicable provisions of law:
- (i) A comprehensive plan and official zoning map;
 - (ii) A Zoning Ordinance applicable to all land within the Town;
 - (iii) A Subdivision Ordinance applicable to all subdivisions of land;

- (iv) A Site Plan Ordinance applicable to all proposed land uses except for single family residences;
 - (v) An Excavation Ordinance applicable to all substantial excavation and earth moving activities; and
 - (vi) A Building and Housing Code, which may consist in whole or in part of the adoption by reference of a nationally recognized model building code.
- (b) *Review by Planning Commission.* Council shall not adopt or amend any ordinance concerning the matters referred to in subsection (a) and it shall not approve any application for an approval under any of them, without having first referred the proposal to the Planning Commission for its consideration and recommendations.

§ 23.9-904. Zoning Hearing Board.

The Town shall have a Zoning Hearing Board consisting of such number of qualified electors of the Town as may be determined by Council, who shall be appointed by Council for such terms as may be established by Council, subject to the applicable provisions of law. The Zoning Hearing Board shall have such powers and duties and shall utilize such procedures as shall be determined by Council, subject to the applicable provisions of law; provided, however (i) that all hearings held by the Zoning Hearing Board shall be open to the public, and (ii) that the agenda for all such hearings shall be established and made available to interested citizens and taxpayers of the Town at least six (6) days in advance.

ARTICLE X. PUBLIC SAFETY

Sec.

23.10-1001. Police Department.

23.10-1002. Fire Prevention.

Cross References

This article cited in 302 Pa. Code § 23.5-504 (relating to specific actions requiring adoption by ordinance).

§ 23.10-1001. Police Department.

Council shall, subject to this Charter and to the applicable provisions of law:

- (a) Appoint and fix the number, rank and compensation of the police and prescribe all necessary rules and regulations for the organization and operation of the Police Department;
- (b) Appoint and fix the compensation of a Chief of Police, who shall be generally responsible for the supervision of the Police Department, and shall be subject to removal at any time, with or without cause.

The Police Department shall have all powers and duties granted to it by Council under the Administrative Code, other applicable ordinances, and the applicable provisions of law.

§ 23.10-1002. Fire Prevention.

(a) *Bureau of Fire Prevention.* Council shall establish and provide for the duties of the Bureau of Fire Prevention, which shall consist of a Fire Marshal and the Fire Chiefs of the various districts of the Town or their delegated assistants. The Fire Marshal shall be appointed for an indefinite term by Council after consultation with the Fire Chiefs of the various districts. The Fire Marshal shall receive such compensation, if any, as may be determined by Council. He shall be entitled to receive reimbursement for reasonable expenses properly incurred by him in the performance of his duties. The Fire Chiefs or their delegated assistants shall act as inspectors in their respective districts. The Fire Marshal, assisted by the Fire Chiefs or their delegated assistants, shall be generally responsible for the administration and enforcement of the Fire Code. The Fire Marshal and the Fire Chiefs shall have all powers granted to them by Council pursuant to the terms and provisions of the Administrative Code and other applicable ordinances.

(b) *Independent Fire Companies.* Council may provide for the discharge of the fire prevention and fire protection responsibilities of the Town through independent fire companies, so long as it determines that such independent fire companies are willing and able adequately to carry out those responsibilities. Council may contribute to the purchase, maintenance, and operation of fire engines and other fire equipment by such independent fire companies; provided, however, that all such contributions shall be made subject to the condition that the fire equipment purchased with Town funds shall revert to the Town in the event of a dissolution of an independent fire company.

(c) *Fire Prevention Code.* Council shall adopt, maintain in effect, and enforce a Fire Prevention Code, which shall include provisions concerning the construction, use, maintenance and inspection of structures as related to fire prevention.

ARTICLE XI. PERSONNEL

Sec.

23.11-1101. Personnel Code.

23.11-1102. Merit System.

23.11-1103. Personnel Board.

23.11-1104. Political Activities.

§ 23.11-1101. Personnel Code.

Council shall adopt, maintain in effect, and enforce a Personnel Code providing for the employment, supervision, discipline, discharge (temporary or permanent), resignation, leave of absence, vacation, sick leave, and other pertinent matters, subject to the applicable provisions of law.

Cross References

This section cited in 302 Pa. Code § 23.5-502 (relating to personnel code); and 302 Pa. Code § 23.5-504 (relating to specific actions requiring adoption by ordinance).

§ 23.11-1102. Merit System.

Town employees shall be employed, promoted and compensated on the basis of their respective abilities, knowledge, skills, demonstrated performance, and potential for greater responsibility.

§ 23.11-1103. Personnel Board.

(a) *Appointment.* The Town shall have a Personnel Board, consisting of such number of qualified electors of the Town as may be determined by Council, who shall be appointed by Council for such terms as may be established by Council.

(b) *Expenses.* The members of the Personnel Board shall serve without compensation, but they shall be reimbursed for the reasonable expenses incurred in the performance of their duties.

(c) *Duties.* The Personnel Board shall have the following powers and duties:

(i) To grant a hearing to any employee, except those in a probationary status, who has been discharged, suspended or demoted, upon the request of such employee, subject to this Charter and to the applicable provisions of law;

(ii) To make investigations in the fulfillment of its proper duties, and to issue subpoenas; and

(iii) To provide such other advice and assistance as may be requested at any time by Council or the Manager.

(d) *Procedures.* Council shall establish procedures for the performance of the powers and duties of the Personnel Board, consistent with this Charter and with the applicable provisions of law.

Source

The provisions of this § 23.11-1103 amended November 4, 1974, effective November 4, 1975.

§ 23.11-1104. Political Activities.

No Town employee shall hold any public office in the Town or any political party office in the Town.

No employee or elected or appointed official shall solicit assessments, contributions, or services for any political party or candidate from any Town employee.

ARTICLE XII. BUDGET AND FISCAL MATTERS

Sec.

23.12-1201. Fiscal Year.

23.12-1202. Submission of Budget, Capital Program and Budget Message.

23.12-1203. Public Record.

23.12-1204. Adoption of Budget

23.12-1205. Amendment of Budget.

23.12-1206. Appropriation.

23.12-1207. Payment of Funds.

23.12-1208. Independent Audit.

- 23.12-1209. Fidelity Bonds.
- 23.12-1210. Borrowing of Funds.
- 23.12-1211. Temporary Investment of Funds.
- 23.12-1212. Taxation Limits.

Cross References

This article cited in 302 Pa. Code § 23.5-504 (relating to specific actions requiring adoption by ordinance).

§ 23.12-1201. Fiscal Year.

The fiscal year of the Town shall begin on the first day of January and end on the last day of December of each year.

§ 23.12-1202. Submission of Budget, Capital Program and Budget Message.

On or before the 15th day of October of each year, the Manager shall submit to Council a proposed budget for the ensuing fiscal year and an accompanying message which shall explain the budget both in fiscal terms and in terms of programs. At the same time the Manager shall submit to Council a proposed program and schedule of capital projects for the next five (5) fiscal years. The capital program shall include cost estimates, time schedules and plans for financing such projects. The Budget shall provide a complete financial plan for all Town funds, activities and capital programs, together with an explanation of major changes from the prior year. Except as required by this Charter, the budget shall be in such form as Council may require. The total proposed expenditures for the fiscal year, including proposed capital appropriations for that year, shall not exceed the total amount of revenues anticipated or available for that year.

§ 23.12-1203. Public Record.

The proposed annual budget, capital program, subsequently adopted budget, budget message, and all supporting documents shall be public records and shall be available for public inspection in the municipal building during reasonable business hours.

§ 23.12-1204. Adoption of Budget.

The annual budget, including proposed capital appropriations for that year, shall be adopted by ordinance in accordance with § 23.5-505 prior to the commencement of each year.

§ 23.12-1205. Amendment of Budget.

Council may amend the budget by ordinance during the fiscal year for which the budget is adopted; provided, however, that such amendment shall not result in expenditures exceeding the amount of anticipated or available revenues determined as of the time of the amendment.

§ 23.12-1206. Appropriation.

Adoption of the budget and amendments, if any, shall constitute appropriations and authorizations for the specified expenditures, unless otherwise provided by Council at that time.

§ 23.12-1207. Payment of Funds.

No payment of any funds of the Town shall be made unless it is provided for in the budget and is approved by Council; provided, however, that payments of payroll and utility charges and other continuing legal obligations based on previously approved ordinances or contracts may be made at the direction of the Manager.

§ 23.12-1208. Independent Audit.

Council shall provide for an annual audit of all Town revenues and accounts by an independent Certified Public Accountant who has no personal interest, direct or indirect, in the fiscal affairs of the Town. Council may provide for more frequent audits and special audits as it deems necessary. The results of the annual audit and a certified financial statement of the fiscal affairs of the Town shall be presented to Council and published in a newspaper of general circulation in the Town by April 1st of the year following the fiscal year audited.

§ 23.12-1209. Fidelity Bonds.

Council shall require and provide adequate fidelity bonds, with corporate sureties, covering employees and agents of the Town having responsibility for the property or funds of the Town.

§ 23.12-1210. Borrowing of Funds.

Council may authorize the borrowing of money, for any purpose within the scope of the powers vested in the Town, including revolving funds for municipal improvements, and for the issuance of bonds of the Town or other evidences of indebtedness. Council may pledge the full faith, credit and resources of the Town for the payment of the obligations created thereby.

§ 23.12-1211. Temporary Investment of Funds.

Authorized types of investment for the temporary investment of Town funds shall be those investments authorized for Townships of the First Class under the Pennsylvania First Class Township Code.

Source

The provisions of this § 23.12-1211 amended November 8, 1983, effective November 8, 1983.

§ 23.12-1212. Taxation Limits.

Concurrently with the adoption of the annual budget, Council shall by ordinance set the tax rates and levy on the various subjects of taxation. Subject to the applicable provisions of law, Council shall determine the rates of all taxes; provided, however, that the limit of real estate taxes for general purposes shall not exceed twenty (20) mills per one hundred dollars (\$100) of taxable assessed valuation of real property situate in the Town.

ARTICLE XIII. CONTRACTS

Sec.

- 23.13-1301. Requirements.
- 23.13-1302. Bidding Procedure.
- 23.13-1303. Exceptions to Competitive Bidding.
- 23.13-1304. Maximum Term of Certain Contracts.
- 23.13-1305. Eminent Domain.
- 23.13-1306. Adverse Interest.
- 23.13-1307. Bonding Requirements.

Cross References

This article cited in 302 Pa. Code § 23.5-504 (relating to specific actions requiring adoption by ordinance).

§ 23.13-1301. Requirements.

All contracts of the Town involving the expenditure of sums in excess of an amount equivalent to one-quarter of one percent (1/4%) of the previous year's final budget of the Town shall be in writing and shall be executed on behalf of the Town by the President of Council or, in his absence, 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. Unless otherwise provided by ordinance, the Manager may execute contracts on behalf of the Town involving sums of not more than one-quarter of one percent (1/4%) of the previous year's final budget of the Town. Authorization for contracts for the construction of public capital improvements shall be given by ordinance. Any officer required to execute a written contract must request the Town Attorney to approve the same as to form.

§ 23.13-1302. Bidding Procedure.

Except as provided in § 23.13-1303, all contracts of the Town shall be let to the lowest responsible bidder under a competitive bidding system, which shall provide for public advertising and include such other procedures, conditions, and requirements as are established by Council.

§ 23.13-1303. Exceptions to Competitive Bidding.

Competitive bidding shall not be required under this Charter for:

- (a) Labor or services rendered by any Town Officer or employee;
- (b) Labor, material, supplies or services furnished by one Town department to another Town Department;
- (c) Contracts for labor, material, supplies, or services, the annual cost of which shall aggregate less than one-quarter of one percent (1/4%) of the previous year's final budget;
- (d) Upon the unanimous approval of all members of Council, contracts for labor, material, supplies, or services, the annual cost of which shall aggregate more than one-quarter of one percent (1/4%) of the previous year's final budget, but less than one percent (1%) thereof;
- (e) Contracts relating to the acquisition or use of real property;
- (f) Contracts for labor, materials, supplies, or services of a kind which Council reasonably determines to be available from only one vendor;
- (g) Contracts for professional or unique services;
- (h) Contracts for emergency repair of public works or equipment; and
- (i) Contracts with other governmental entities, authorities, agencies, or political subdivisions.

Cross References

This section cited in 302 Pa. Code § 23.13-1302 (relating to bidding procedure).

§ 23.13-1304. Maximum Term of Certain Contracts.

The term of a contract for the purchase of supplies shall not exceed two (2) years, unless Council determines that such supplies are not obtainable at a reasonable cost without a longer term contract.

§ 23.13-1305. Eminent Domain.

The Town shall have no authority to grant to others, by franchise, contract, or otherwise, its power and right of eminent domain.

§ 23.13-1306. Adverse Interest.

Any elected or appointed official or employee of the Town who has a substantial financial interest, direct or indirect, in any contract with the Town, shall make known that interest to Council and shall refrain from voting on or recommending that contract. Anyone who willfully violates this requirement shall be guilty of malfeasance and shall forfeit his office or position. Violation of this section with the express or implied knowledge of the party contracting with the Town shall render the contract voidable by Council.

§ 23.13-1307. Bonding Requirements.

Subject to the applicable provisions of law, Council shall require any person having an improvement contract with the Town to give a sufficient bond, with corporate surety, or other adequate security, to guarantee the faithful performance of the contract and the full payment for all labor and materials.

ARTICLE XIV. INITIATIVE AND REFERENDUM

Sec.

23.14-1401. General Authority.

23.14-1402. Commencement of Initiative or Referendum Proceedings.

23.14-1403. Petitions.

23.14-1404. Certification by Manager.

23.14-1405. Suspension of Ordinance in the Event of Referendum Petition.

23.14-1406. Action on Petitions.

23.14-1407. Results of Election.

§ 23.14-1401. General Authority.

(a) *Initiative.* Any citizen or taxpayer of the Town may propose an ordinance to Council by an initiative petition. If Council fails to adopt the proposed ordinance without any change in substance, the ordinance shall be placed on the ballot at a general or primary election, as provided in § 23.14-1406(b), for adoption or rejection by the electors of the Town. The right of initiative shall not extend to the budget or capital program or to any ordinance relating to the appropriation of money, levying of taxes, fixing of tax rates, salaries of Town employees, or zoning. A proposed initiative ordinance shall be limited to a single subject, which shall be clearly expressed in its title. An ordinance on the same subject may not be initiated until two (2) years after the final disposition, including any failure to comply with the requirements of this Article, of a previous initiative petition on that subject.

(b) *Referendum.* Any citizen or taxpayer of the Town may propose, by petition, the repeal of any adopted ordinance. If Council fails to repeal the ordinance in response to that petition, the ordinance shall be placed on the ballot at a general or primary election, as provided in § 23.14-1406(b), for affirmation or repeal by the electors of the Town. The right to petition for repeal shall not extend to the budget or capital program or to any ordinance relating to the appropriation of money, levying of taxes, fixing of tax rates, salaries of Town employees, or zoning. Nor may the appeal of any ordinance impair any then existing contract obligation of the Town.

§ 23.14-1402. Commencement of Initiative or Referendum Proceedings.

(a) *Procedure.* Any five (5) citizens or taxpayers of the Town may commence initiative or referendum proceedings by filing with the Manager an affidavit stating that they are the petitioners' committee, their names and addresses, and the

address to which all notices to the committee are to be sent. The affidavit also shall include the full text of the proposed ordinance or cite the ordinance sought to be repealed. The petitioners' committee shall be responsible for circulating the petitions and filing them in proper form. An affidavit to commence a referendum proceeding must be filed within fifteen (15) days after the publication of the ordinance sought to be repealed. Within five (5) days after the affidavit of a petitioners' committee is filed, the Manager shall issue the appropriate petition blanks to the committee.

(b) *Time for Filing of Petitions.* An initiative or referendum petition must be filed within forty-five (45) days after the issuance of the blank petition forms to the petitioners' committee.

§ 23.14-1403. Petitions.

(a) *Number of Signatures.* Initiative and referendum petitions must be signed by at least eight hundred (800) qualified electors of the Town.

(b) *Form and Content.* Each signature on a petition must be legibly executed in ink or indelible pencil and must be followed by the date of the signature and the address of the person signing. The full text of the ordinance proposed or sought to be repealed must be contained within or attached to the petition throughout its circulation.

(c) *Affidavit.* Each page of the petition shall have attached to it when it is filed an affidavit of a member of the petitioners' committee, stating that he or she personally circulated that petition, and knows all of the signatures on that page to be the signatures of persons whom he or she believes to be qualified electors of the Town, and that each signer had an opportunity to read the full text attached before signing the petition.

§ 23.14-1404. Certification by Manager.

Within twenty (20) days after the petition is filed, the Manager shall certify as to its sufficiency, specifying any deficiency in detail, and shall send a copy of the certificate to the petitioners' committee by registered mail.

§ 23.14-1405. Suspension of Ordinance in the Event of Referendum Petition.

When a referendum petition is filed with the Manager, the effectiveness of the ordinance sought to be repealed shall be suspended until:

- (a) The final determination of the insufficiency of the petition;
- (b) The petitioners' committee withdraws the petition;
- (c) The Council repeals the ordinance; or
- (d) The certification of the election results.

§ 23.14-1406. Action on Petitions.

(a) *Action by Council.* When an initiative or referendum petition has been finally determined sufficient, the Council promptly shall consider the proposed initiative ordinance in the same manner as other ordinances, or reconsider the ordinance cited in the referendum petition by voting its repeal. If the Council fails to adopt the proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the ordinance cited in the referendum petition within thirty (30) days after the date the petition is determined and certified by the Manager to be sufficient, it shall submit the matter to the electors of the Town.

(b) *Submission to the Voters.* The vote of the electors of the Town on the proposed or cited ordinance shall be held at the next available general or primary election after final Council action. Copies of the proposed or cited ordinance shall be available to the public at the municipal building during reasonable business hours at least ten (10) days before the scheduled election and at the polls on election day.

(c) *Withdrawal of Petitions.* An initiative or referendum petition may be withdrawn at any time, subject to the applicable provisions of the election laws, by a written request signed by a majority of the members of the petitioners' committee.

Cross References

This section cited in 302 Pa. Code § 23.14-1401 (relating to general authority).

§ 23.14-1407. Results of Election.

(a) *Initiative.* If a majority of the qualified electors voting on the question vote in favor of the proposed initiative ordinance, the ordinance shall be considered adopted upon certification of the election results and shall be treated in all respects as if it had been duly adopted by 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 qualified electors voting on the question vote in favor of repeal of the ordinance cited in the referendum petition, the ordinance shall be considered repealed upon certification of the election results. Council shall not enact for a period of two (2) years any ordinance of like substance as that repealed by referendum.

ARTICLE XV. GENERAL PROVISIONS

Sec.
23.15-1501. Charter Amendments.
23.15-1502. Severability.

§ 23.15-1501. Charter Amendments.

This Charter may be amended in accordance with the applicable provisions of law.

§ 23.15-1502. Severability.

If any provision of this Charter is determined by a court of competent jurisdiction to be invalid or unenforceable, that provision will be deemed to be severable, and all other provisions of this Charter shall be given full force and effect.

ARTICLE XVI. TRANSITION

Sec.

- 23.16-1601. Adoption and Effective Date of Charter.
- 23.16-1602. Status of Elected Officials.
- 23.16-1603. Status of Appointed Personnel.
- 23.16-1604. Status of Prior Ordinances, Resolutions, Taxes and Other Actions.
- 23.16-1605. Employee Rights and Privileges.
- 23.16-1606. Status of Other Township Obligations.
- 23.16-1607. Status of Township Property, Rights and Litigation.
- 23.16-1608. First Organization Meeting of Council.

§ 23.16-1601. Adoption and Effective Date of Charter.

(a) *Election to Adopt Charter.* This Charter shall be submitted to the electors of McCandless Township for approval or disapproval at the general election to be held in November of 1974.

(b) *Effective Date.* This Charter, if adopted, shall take effect on January 1, 1975, for all purposes, except as is otherwise specifically provided in this Charter.

§ 23.16-1602. Status of Elected Officials.

(a) *Township Commissioners.* All members of the Board of Commissioners of McCandless Township whose terms of office have not expired prior to the effective date of this Charter shall continue in office as members of Council and shall represent their respective Councilmanic Districts until the expiration of their respective terms. Vacancies occurring on Council after the effective date of this Charter shall be filled as provided in § 23.3-306.

(b) *Township Treasurer and Tax Collector.* The elected Township Treasurer and Tax Collector of McCandless Township in office on the effective date of this Charter shall continue in office as such until the expiration of the term of election of that official. Thereafter his powers and duties shall be exercised in accordance with the provisions of this Charter. Any vacancy occurring in that office after the effective date of this Charter shall not be filled.

§ 23.16-1603. Status of Appointed Personnel.

The Township Manager, Township Solicitor, Police Chief and all other appointed employees and agents of McCandless Township serving as such on the effective date of this Charter shall continue in the same capacities unless or until replaced or otherwise removed under the applicable provisions of this Charter. Members of the Planning Commission, Zoning Hearing Board, Sanitary Authority and all other commissions, boards and authorities of McCandless Township serving as such on the effective date of this Charter shall remain in the same capacities until the expiration of their respective terms of appointment, if any, or until replaced or otherwise removed under the applicable provisions of this Charter or of law.

§ 23.16-1604. Status of Prior Ordinances, Resolutions, Taxes and Other Actions.

The 1975 budget and all ordinances, resolutions, rules, regulations, taxes, assessments, fines or penalties and other official actions of McCandless Township in effect on the effective date of this Charter and not inconsistent with this Charter, shall remain in effect until they expire by their terms or are amended or repealed under the applicable provisions of this Charter.

§ 23.16-1605. Employee Rights and Privileges.

Nothing in this Charter shall impair any right vested in any employee of McCandless Township on the effective date of this Charter.

§ 23.16-1606. Status of Other Township Obligations.

Nothing in this Charter shall impair any contract, liability or other obligation of McCandless Township existing on the effective date of this Charter, whether absolute or conditional, and whether accrued or inchoate.

§ 23.16-1607. Status of Township Property, Rights and Litigation.

The Town of McCandless shall be the successor in interest to McCandless Township in all respects and shall continue to own, possess, exercise, control and enjoy, as the case may be, all of the property, rights and privileges of McCandless Township as of the effective date of this Charter. All rights of action, suits and prosecutions pending or to be instituted to enforce any right or penalty accruing, or to punish any offense committed, prior to the effective date of this Charter, shall continue with the same force and effect thereafter.

§ 23.16-1608. First Organization Meeting of Council.

The first Organization Meeting of Council under this Charter shall be held at the municipal building on the first Monday of January in 1975, commencing at 8:00 P.M.

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