

**CHAPTER 29. TOWNSHIP OF PENN HILLS
HOME RULE CHARTER**

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Source

The provisions of this Chapter 29 adopted November 6, 1973, effective January 5, 1976, unless otherwise noted.

ARTICLE I. NAME AND BOUNDARIES

- Sec.
- 29.1-1. Name.
- 29.1-2. Boundaries.

§ 29.1-1. Name.

The Township of Penn Hills shall hereafter be a HOME RULE CHARTER MUNICIPALITY under the name of "Penn Hills". As used in this Charter, the word "Municipality" shall mean the Municipality of Penn Hills in Allegheny County, Pennsylvania.

§ 29.1-2. Boundaries.

The Boundaries of the Municipality shall be those designated in the Zone Map of the Township of Penn Hills adopted as part of the Township of Penn Hills Ordinance No. 992, August 19, 1963.

ARTICLE II. POWERS OF THE MUNICIPALITY

Sec.

- 29.2-1. General Powers.
- 29.2-2. Eminent Domain.
- 29.2-3. Construction.

§ 29.2-1. General Powers.

The Municipality has, and may exercise, any power, and may perform any function not denied by the Constitution of the United States, the Constitution of Pennsylvania, this Charter, or the General Assembly at any time.

Cross References

This section cited in 302 Pa. Code § 29.2-3 (relating to construction).

§ 29.2-2. Eminent Domain.

The Municipality is hereby authorized and empowered to enter upon, appropriate, take, use, occupy, injure, or destroy, private lands, property or material, wherever situate, for any legal and valid municipal purpose. All such action shall be provided for by ordinance and just compensation shall be made and secured as provided by general law.

§ 29.2-3. Construction.

The powers of the Municipality under this Charter shall be construed broadly in favor of the Municipality, 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 Municipality, except as limited in § 29.2-1 above, are to be considered as if specifically and individually set forth in this Article, whether such powers are presently available to the Municipality or may hereafter from time to time become available.

ARTICLE III. COUNCIL AND THE MAYOR

Sec.

- 29.3-1. Composition.
- 29.3-2. Eligibility.
- 29.3-3. Terms.
- 29.3-4. Election.
- 29.3-5. Election Procedure.
- 29.3-6. Oath of Office.

- 29.3-7. Compensation and Expenses.
- 29.3-8. Vacancies, Forfeiture of Office.
- 29.3-9. Filling of Vacancies.
- 29.3-10. Judge of Qualifications.
- 29.3-11. General Powers and Duties of the Council.
- 29.3-12. Powers and Duties of the Mayor.
- 29.3-13. Deputy Mayor.
- 29.3-14. Investigations.
- 29.3-15. Independent Audit, Powers and Duties of Auditors.
- 29.3-16. Prohibitions.

The Council shall be the legislative, policy-making and goal-setting body of the Municipality. It is the intent of this Article that the Council members shall act in all matters as a body and shall have equal authority except as otherwise specifically provided.

§ 29.3-1. Composition.

There shall be a Municipal Council of five (5) members consisting of a Mayor and four (4) other members elected at large.

§ 29.3-2. Eligibility.

The Mayor and the other four (4) members of Council shall be citizens of the United States, and shall have attained the age of eighteen (18) years, and shall have been residents of the Municipality for at least one (1) year. All criteria shall be applicable as of the last day for filing nomination petitions for the primary election in which they seek nomination.

§ 29.3-3. Terms.

The terms of the Mayor and the other four (4) members of Council shall be for four (4) years, commencing at 8:00 P.M. on the first Monday of January following the year in which they were elected. They shall continue in office until their successors are elected and qualified or appointed. If, for any reason, an elected successor fails to qualify for office, that member of Council receiving the highest number of votes when elected shall have the first option to hold over until the office is filled in accordance with this Charter.

§ 29.3-4. Election.

The election of the Mayor and the other four (4) members of Council 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. At the first election under this Charter, the Mayor and the other four (4) members of Council shall be elected. The Mayor and the two (2) members of Council receiving the greatest number of votes shall serve for terms of four (4) years; the

two (2) candidates receiving the next greatest number of votes shall serve for terms of two (2) years. Thereafter, members of Council shall be elected for full four (4) year terms.

§ 29.3-5. Election Procedure.

The procedure for nomination and election of the Mayor and the other four (4) members of Council shall be in accordance with the general laws of the Commonwealth of Pennsylvania for municipal elections.

§ 29.3-6. Oath of Office.

The Mayor and the other members of Council, prior to assuming office, shall take and 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, justice of the peace, 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 Municipality.

§ 29.3-7. Compensation and Expenses.

The Mayor shall receive compensation of \$4,800.00 per annum, and each other member of Council shall receive compensation of \$3,600.00 per annum or such other sum as the Council shall from time to time ordain; provided, however, that such compensation shall not be increased or decreased during the term for which any of said officials were elected or appointed. No ordinance increasing or decreasing compensation shall be adopted less than ten (10) months prior to an election at which the office of Mayor or Member of Council will be on the ballot. Members of Council shall receive no other compensation, direct or indirect, for the performance of their duties. They shall not participate in employee pension plans or insurance programs for the benefit of municipal employees, except, however, nothing in this section shall preclude the right of the Municipality to provide accident and health insurance or liability insurance coverage for members of Council when on municipal business, or when in the performance of their official duties, limited to the duration of their term. Members of Council shall be entitled to reimbursement for actual expenses incurred provided that the expenditure:

- a. Is related to the performance of official duties; and,
- b. Was authorized in advance by Council at a public meeting; and,
- c. Is included in an itemized list presented prior to payment.

§ 29.3-8. Vacancies, Forfeiture of Office.

The Office of Mayor or Member of Council shall become vacant upon death, resignation, non-residency, removal from office in any manner authorized by law or this Charter, or forfeiture of office, or for failure to assume such office for any

reason, after election thereto within forty-five (45) days after the commencement of the term thereof. A member of Council or Mayor shall forfeit office if he or she:

- a. Lacks at any time any eligibility factor for office as prescribed by this Charter;
- b. Violates any of the prohibitions in § 29.3-16 of this Article or Article XIX;
- c. Is convicted of a felony or a crime involving moral turpitude;
- d. Fails to attend three (3) consecutive stated monthly meetings of Council unless excused by Council.
- e. Is found to have committed an act or acts which constitute malfeasance in office, misfeasance in office, or violation of the oath of office. For purpose of this Section:
 - (1) *Malfeasance in Office* means an unlawful act committed willfully by any elective public officer;
 - (2) *Misfeasance in Office* means the fulfillment of a statutorily imposed duty in an unlawful or improper manner by an elective public officer;
 - (3) *Violation of the oath of Office* means the neglect or failure by an elective public officer to perform faithfully as duty imposed by law.

When forfeiture occurs by reason of non-attendance, Council shall declare the office vacant at a public meeting held at least ten (10) days before appointing a successor.

Source

The provisions of this § 29.3-8 amended May 17, 1977, effective May 17, 1977.

Cross References

This section cited in 302 Pa. Code § 29.3-9 (relating to filling of vacancies); and 302 Pa. Code § 29.3-10 (relating to judge of qualifications).

§ 29.3-9. Filling of Vacancies.

A. If two or less vacancies occur on Council, for any reason set forth in this Charter, except for vacancies caused by a recall election or by forfeiture of office under § 29.3-8(b), (c), or (e), the remaining members of Council shall fill each such vacancy by appointing a person eligible under the Charter to hold such office; If the vacancy occurs 120 days prior to the next General Municipal Election, the appointee shall hold the office until the end of the year in which the next General Municipal Election occurs. The vacant position shall be filled through the election process at the next General Municipal Election for the remainder of the unexpired term. If the vacancy occurs less than 120 days prior to the next General Municipal Election, the appointee will hold the office until the end of the year in which the General Municipal Election occurs following the year of the appointment, or for the unexpired term whichever occurs first.

B. Should Council fail to fill the vacancy within 45 days after the vacancy occurs, or should a vacancy by a recall election or by forfeiture of office § 29.3-8(b), (c), or (e) or should 3 or more vacancies exist, the Court having proper jurisdiction shall, upon petition of the remaining members of Council or with any 5 electors of the Municipality, fill the vacancy or vacancies by appointment of an eligible Penn Hills resident in the procedure set forth under subsection (a). If 3 or more vacancies exist, the Court may order a special election to fill vacancies until the next General Municipal Election, provided the special election is held more than 90 days prior to the next General Municipal Election.

Source

The provisions of this § 29.3-9 amended through November 6, 1984, effective November 6, 1984.

Cross References

This section cited in 302 Pa. Code § 29.3-13 (relating to deputy mayor).

§ 29.3-10. Judge of Qualifications.

a. The Council shall be the judge of the election and eligibility of its members.

b. Except for alleged forfeitures of office under § 29.3-8(b) or (e), the Council shall be the judge of the grounds for forfeiture of their office and for that purpose shall have the power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office on grounds other than that set out in § 29.3-8(b), (c), (d) or (e) shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers of general circulation in the municipality at least one (1) week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Court of Common Pleas of Allegheny County.

c. The Court of Common Pleas of Allegheny County shall have jurisdiction and be the judge of the grounds for forfeiture of office where a complaint in writing by at least one hundred (100) registered electors of the Municipality is filed with the Court alleging forfeiture of office under § 29.3-8(b) or (e). The Court shall issue upon such officer or officers named an order to show cause why their office or offices should not be declared vacant and another appointed in their stead.

Source

The provisions of this § 29.3-10 amended May 17, 1977, effective May 17, 1977.

§ 29.3-11. General Powers and Duties of the Council.

All powers of the Municipality shall be vested in Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Municipality by law.

§ 29.3-12. Powers and Duties of the Mayor.

The Mayor shall be recognized as the head of the Municipal government, shall preside at the meetings of the Council, and shall have a voice and a vote in all matters before Council. In addition, the Mayor shall have the following powers and duties:

- a. Represent the Municipality in deliberations with other governmental bodies.
- b. Have the authority to negotiate intergovernmental cooperative agreements which shall be subject to the final ratification of Council. The Mayor shall give prior notification to council of any intent to negotiate such agreements and shall provide Council with periodic reports of the negotiations.
- c. Appoint, with the advice and consent of the Council:
 - (1) the Municipal Manager. The appointment of the Manager shall require the approval of four-fifths (4/5) of the entire Council.
 - (2) the Municipal Attorney.
 - (3) members of any boards, commissions, and authorities which are established under the provisions of this Charter or which may, from time to time, be established by the Council, except as otherwise provided for by law or this Charter.
- d. Report, on behalf of Council, to the public from time to time regarding the state of affairs of the Municipality.
- e. Execute or authenticate by signature such instruments as the Council, this Charter, or any State or Federal law shall require.
- f. Be recognized, by the Governor, as head of government for purposes of martial law, and any powers that the Council may establish by ordinance to resolve emergencies shall develop upon the Mayor.
- g. Prepare, in consultation with the other members of Council and the Manager, an annual report on behalf of the Council. The Mayor shall annually in public session, make a report to the community which will recount the accomplishments of the preceding year, set forth the problems and prospects facing the community, and outline future plans for the Municipality.

§ 29.3-13. Deputy Mayor.

At its organization meeting the Council shall elect, from among its members, a Deputy Mayor. The Deputy Mayor shall exercise the powers and duties of the Mayor during the absence or disability of the Mayor. When the office of Mayor

shall become vacant for any of the reasons provided for under this Charter, that office shall be filled by the Deputy Mayor for the unexpired term of the Mayor. Upon assuming the office of Mayor, the office of the Council member so doing shall become vacant and shall be filled as prescribed by § 29.3-9.

Source

The provisions of this § 29.3-13 amended November 6, 1984, effective November 6, 1984.

§ 29.3-14. Investigations.

a. *Inquiries and Investigations.* The 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.

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

c. *Oaths of Witnesses.* The member of Council presiding at any meeting held pursuant to this section shall have the power to administer oaths to witnesses.

d. *Witness Fees.* No person subpoenaed as aforesaid, shall be required to respond to the same until mileage and witness fees, equal to those then established by the General Assembly shall have been first furnished to the witness.

e. *Subpoenas, Fine for Violation.* If any person shall refuse or neglect to obey any subpoena issued by the Council, that person shall, upon conviction thereof at a summary proceeding, be sentenced to pay a fine as may be ordained, and in default of the payment of such fine and costs shall be imprisoned not to exceed thirty (30) days.

f. *Subpoenas, Court Proceedings.* If any person shall refuse or neglect to obey any subpoena issued by the Council, Council may apply by petition to the Court of Common Pleas for its subpoena, requiring the attendance of such persons before the Council or the court.

§ 29.3-15. Independent Audit, Powers and Duties of Auditors.

a. The Council shall provide for an independent annual audit of all Municipal accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accounts who have no personal interest, direct or indirect, in the fiscal affairs of the Municipal government or any of its officers. The Council may designate such accountant or firm annually or for a period not exceeding three (3) years, providing that the designation for any particular fiscal year shall be made no later than thirty (30) days after the beginning of such fiscal year.

b. The auditors shall audit, settle, and adjust the accounts of all municipal officers and other officers and persons receiving and disbursing or authorizing the disbursement of the monies of the Municipality during the preceding fiscal year.

c. The auditors may issue subpoenas to obtain the attendance of officers and persons whose accounts they are required to adjust, their executors and administrators and any other persons whom it may be necessary to examine as witnesses and compel their attendance by attachment and may also compel the production of all books, vouchers and papers relevant to such accounts. Such subpoena and attachment shall be issued by a justice of the peace and be served and executed by a Municipal constable or other proper officer.

The auditors may administer oaths and affirmations to all persons appearing before them, and all persons guilty of swearing or affirming falsely shall be liable to indictment and punishment for perjury.

d. The auditors shall complete their audit settlement and adjustment and file copies thereof with the Municipal Manager and the Department of Community Affairs and the Pennsylvania Department of Transportation not later than ninety (90) days after the end of the fiscal year. Said report shall also show a complete statement of the financial condition of the Municipality, giving in detail the actual indebtedness, the amount of the funded debt, the amount of the floating debt, the valuation of taxable property therein, the assets of the Municipality, with the character and value thereof and the date of maturity of the respective forms of funded debt thereof.

e. The amount of any balance or shortage, or of any expenditure of a fund, or made in a manner, prohibited, or unauthorized by law, which causes financial loss to the Municipality, shall be a surcharge against any officer against whom such balance or shortage shall appear, or who by vote, act, or neglect, has permitted or approved such expenditure.

f. The auditors shall cancel all orders and vouchers presented to them which they find have been paid by writing or stamping the word "audited" on the face thereof.

g. The auditors shall within ten (10) days after completion of their audit publish by advertisement in at least one (1) newspaper of general circulation in the Municipality a concise financial statement of Municipal fiscal matters such as to comply with the provisions of all acts of the General Assembly relative thereto.

h. It shall be lawful for the Municipality or any taxpayer thereof, on its behalf, or any officer whose account is settled or audited, to appeal from the settlement or audit, as shown on the auditors report, to the Court of Common Pleas of the County, not later than sixty (60) days from the date of publication referred to in the preceding paragraph.

Whenever an appeal has been taken as aforesaid, any taxpayer of the Municipality may intervene in such appeal to prosecute the same on behalf of the Municipality or defend it against the appeal of the person charged with any sum.

i. Any balance, in any report of the auditors, against any officer of the Municipality shall constitute a surcharge and, unless appeal is taken as heretofore provided, the auditors shall cause same to be entered in the office of the Prothonotary as a judgment against such officer in favor of the Municipality.

j. Judgments entered by the auditors or the court, after hearing on appeal, may be enforced by appropriate proceedings, by the party prevailing.

§ 29.3-16. Prohibitions.

a. *Holding Other Office.* No member of Council shall hold any other elective office in the Municipal government, the School District of Penn Hills, the County of Allegheny, or the Commonwealth of Pennsylvania, during the term for which the member of Council was elected. This does not preclude a person serving a political party as a committee person from seeking office. However, if elected, this person must resign the committee position.

b. *Employment.* No member of Council shall be in the employment of the Municipal government of Penn Hills or the government of Allegheny County. In addition, no member of Council may accept employment, or serve as a paid consultant with the Municipal government of Penn Hills for a period of at least one (1) year following expiration of term.

c. *Membership on Boards, Commissions, or Authorities.* No member of Council shall be an appointed member of any board, commission, or authority of the Municipality during the member's term of office.

d. *Interference with Administration.* Except for the purpose of inquiries and investigations, the Council or its members shall deal with Municipal officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Cross References

This section cited in 302 Pa. Code § 29.3-8 (relating to vacancies, forfeiture of office).

ARTICLE IV. PROCEDURES AND OPERATIONS OF THE COUNCIL

- Sec.
- 29.4-1. Organization of Council.
 - 29.4-2. Meetings.
 - 29.4-3. Minutes.
 - 29.4-4. Operating Rules.
 - 29.4-5. Quorum.
 - 29.4-6. Majority Action.
 - 29.4-7. Form of Action by the Council; Councilmanic Action; Recording of Votes.
 - 29.4-8. Public Meetings.
 - 29.4-9. Citizens' Right to be Heard.
 - 29.4-10. Agenda.

It is the intent of this Article that the Council provide for procedures governing the conduct of its business that will instill a high degree of trust, confidence and pride on the part of the public. To this end, Council should provide for maximum openness in the conduct of its business. The Council's procedures should provide for clear and well publicized means by which citizens can make their views known to the Council and which will permit them the opportunity to review and comment upon policy matters on which the Council is contemplating action.

§ 29.4-1. Organization of Council.

The Municipal Council shall organize at 8:00 P.M. on the first Monday of January of each even numbered year. If the first Monday is a legal holiday, the meeting and organization shall take place the first day following.

§ 29.4-2. Meetings.

a. It shall be the duty of the Council to meet stately at least once a month, at such time and place as shall be fixed by Council. Council may adjourn to a stated time for general business or for special business. If no quorum is present at a stated monthly 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.

The Council shall publish once in a newspaper of general circulation in the Municipality, during the week prior to said stated monthly meeting, the place, time, and proposed agenda of the items to be considered at that meeting.

b. Special meetings may be called

- (1) By the Mayor; or,
- (2) Upon written request of three (3) members of Council.

A written notice stating the purpose of the special meeting shall be mailed or delivered to each Council member at least twenty-four (24) hours before a special meeting is held. At least three (3) copies of said notice shall be posted in conspicuous places in or on the Township Municipal Building at least twenty-four (24) hours before a special meeting is held. Presence at the meeting constitutes waiver of notice. At such special meeting Council shall only consider items for which purposes the meeting was called.

§ 29.4-3. Minutes.

Council shall make and preserve minutes of its proceedings. These minutes shall be open for public inspection during normal business hours of the Municipality.

§ 29.4-4. Operating Rules.

The Council shall, by ordinance, adopt rules of procedures for its meetings and for assignment of members to committees, if such be provided for. Such rules

shall be designed so as to assure full and equal participation in the deliberations of the Council by all of its members.

§ 29.4-5. Quorum.

Three (3) members of Council shall constitute a quorum. The Council shall conduct no business except in the presence of a quorum.

§ 29.4-6. Majority Action.

Official action shall require the affirmative vote of at least three (3) members of the Council, except as otherwise provided in this Charter.

§ 29.4-7. Form of Action by the Council; Councilmanic Action; Recording of Votes.

Official actions of Council shall be by ordinance, resolution, or motion. All ordinances and resolutions must be in written form. All actions of a legislative character shall be by ordinance. All final action in adopting ordinances or resolutions shall be by roll call vote, at a public meeting, and the vote of each member of Council shall be recorded in the minutes of the meeting. All other official votes of the Council shall be recorded in the minutes.

§ 29.4-8. Public Meetings.

All stated monthly, special, and adjourned stated monthly meetings of the Council shall be open for public attendance.

§ 29.4-9. Citizens' Right to be Heard.

a. The council shall provide opportunity for all members of the public to address the Council on matters of general or special concern. This opportunity shall be afforded the public at the stated monthly Council meeting. Those persons desiring to speak shall deliver to the Manager written notice of the subject matter at least seven (7) days prior to the meeting. Council shall provide procedures to permit the public to discuss agenda items without written notice. Council may adopt regulations governing the conduct of the meeting and the manner in which the public and the Municipal officers shall conduct themselves.

b. *Special Hearings Upon Petition.* Whenever a petition bearing the names and addresses of fifty (50) registered voters of the Municipality shall be filed with the Municipal Manager, requesting a hearing on matters of special concern, it shall be the duty of the Manager or the Mayor and at least one (1) other member of Council to meet with the petitioners within a reasonable time and provide a hearing on the subject matter of the petition. All petitions shall be verified by the person circulating same and shall contain a concise statement of the subjects to be heard.

§ 29.4-10. Agenda.

The proposed agenda for any stated monthly meeting of Council shall be prepared by the Manager in conjunction with the Council. The proposed agenda shall be forwarded to all members of Council and be available to the public seven (7) days prior to the stated monthly meeting. A brief statement of the subject matter of any ordinance or resolution to be considered shall be published as part of the agenda. The published agenda may be amended prior to the meeting for good cause.

ARTICLE V. THE MANAGER

Sec.

29.5-1. Appointment; Qualifications; and Compensation.

29.5-2. Removal.

29.5-3. Acting Manager.

29.5-4. Powers and Duties of the Manager.

The manager shall be the Chief Administrative Officer of the Municipality and shall be responsible to the Council for the administration of all municipal affairs. It shall be the Manager's special obligation to insure high standards of performance in the day to day operation of the municipal government; to provide high quality services to the citizens of the Municipality; to be responsive, within the sphere of managerial responsibility, to the needs of residents; and to bring special knowledge and training to bear in stimulating new ideas and opportunities for the progressive growth of the Municipality.

§ 29.5-1. Appointment; Qualifications; and Compensation.

The appointment of the Municipal Manager shall be for an indefinite term and Council shall fix the compensation. The Manager shall be appointed solely on the basis of executive and administrative qualifications, with a background such as to prepare the appointee to assume the responsibility for administering municipal operations. The Manager need not be a resident of the Municipality at the time of appointment but must assume residence within the Municipality within one (1) year of appointment to the position.

§ 29.5-2. Removal.

The Council may, by majority vote, remove the Manager at any time with or without cause. Any such removal shall not take effect until after the expiration of thirty (30) days from the date of the removal action. During such thirty (30) day period, the Council may suspend the Manager from the position as Manager. The Manager may, prior to the expiration of the thirty (30) day period request a public hearing before the Council. Such hearing shall be held before the expiration of the thirty (30) day period.

The Manager shall continue to receive the existing salary during the thirty (30) day suspension period. The action of the Council in suspending and removing the Manager shall not be subject to review by any court or agency.

§ 29.5-3. Acting Manager.

The Municipality Manager may designate a qualified administrative officer of the Municipality to perform the duties during the Manager's temporary absence or disability. In the event the Manager fails to make such designation, or if the absence or disability continues more than thirty (30) days, the Council may appoint an officer or employee of the Municipality to perform the duties of the Manager during such absence or disability until the Manager shall return or the disability cease. No member of Council or other elected officer shall at any time serve as the Manager or Acting Manager of the Municipality.

§ 29.5-4. Powers and Duties of the Manager.

The Manager shall have the following powers and duties:

- a. Administer and enforce all laws and ordinances of the Municipality, and be responsible to the Council for carrying out all policies established by it and for the proper administration of all affairs of the Municipality within the jurisdiction of the Council.
- b. Appoint and remove, with the consent of Council, an Assistant Manager.
- c. Appoint, suspend, or remove all municipal employees, except as otherwise provided by law or this Charter. The Manager may retain independent contractors with the consent of Council. The Manager shall appoint all department directors with the consent of Council.
- d. Direct and supervise the administration of all departments, offices, and agencies, except as otherwise provided by this Charter or by law.
- e. Prepare and administer the personnel system of the Municipality in accordance with Article XV of this Charter.
- f. Prepare and submit the annual budget and capital program to the Council under the provisions established by the Charter, and administer the budget and capital program approved by the Council.
- g. Make such recommendations to the Council concerning policy formulation as the Manager deems desirable, and keep all members of Council regularly informed as to the conduct of municipal affairs.
- h. Keep the Council fully advised as to the financial condition of the Municipality and shall make such financial reports as Council may desire.
- i. Serve as the purchasing officer and as such negotiate contracts for the Municipality, subject to the approval of the Council.
- j. Insure that all terms and conditions imposed in favor of the Municipality or its inhabitants in any statute, public utility franchise or other contract are faithfully kept and performed, and upon knowledge of any violation, call the same to the attention of the Council.

k. Attend all Council meetings and have the right to take part in discussions, but shall not have the right to vote.

l. The Manager or a designate shall perform the duties of the Clerk of the Municipality in causing appropriate records to be made, preserved, and certified as required by law, or by the action of Council. Where required, the Manager shall attest to the documents as Clerk of the Municipality and shall have custody of the municipal corporate seal.

m. Preserve the health, safety and general welfare in the Municipality.

n. The Manager or a designate shall take an annual inventory of all Municipal supplies and materials. At the completion of this inventory, a detailed report of the inventory noting any variations between the recorded and actual quantities shall be submitted to Council.

ARTICLE VI. MUNICIPAL ATTORNEY

Sec.

29.6-1. Appointment, Qualifications, and Compensation.

29.6-2. Removal.

29.6-3. Delegation of Authority.

29.6-4. Powers and Duties of the Municipal Attorney.

29.6-5. Access to Records.

§ 29.6-1. Appointment, Qualifications, and Compensation.

The Mayor, with the advice and consent of the Council, shall appoint a Municipal Attorney for an indefinite term, and the Council shall fix the compensation. The Municipal Attorney shall be an official of the Municipality and shall be appointed on a full-time basis, part-time basis, or on a retainer basis. The Municipal Attorney shall be admitted to the Supreme Court of Pennsylvania and shall have at least five (5) years' experience in active legal practice in the Commonwealth of Pennsylvania.

§ 29.6-2. Removal.

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

§ 29.6-3. Delegation of Authority.

The Municipal Attorney may delegate duties to co-counsel admitted to practice law in Pennsylvania.

§ 29.6-4. Powers and Duties of the Municipal Attorney.

The Municipal Attorney shall be the chief legal officer of the Municipality, and perform such other duties as the Council may from time to time dictate. The Municipal Attorney shall furnish legal advice to the Council, the Manager, and to officers, boards, and commissions as designated by Council, concerning any mat-

ter or thing arising in connection with the exercise of their official powers or performance of their official duties and, except as otherwise expressly provided by the Council or this Charter, shall supervise, direct, and control of the law work of the Municipality, and represent the Municipality in all legal proceedings.

§ 29.6-5. Access to Records.

The Municipal Attorney shall have the right of access to the records of any officer, department, board, or commission of the Municipality as necessary in the performance of the duties of the Municipal Attorney.

ARTICLE VII. THE CONTROLLER

Sec.

- 29.7-1. Election; Term of Office; Eligibility.
- 29.7-2. Vacancy; Filling a Vacancy; Forfeiture of Office; Oath of Office; Prohibitions.
- 29.7-3. Compensation.
- 29.7-4. Powers and Duties of the Controller.
- 29.7-5. Staff and Facilities.
- 29.7-6. Access to Records.
- 29.7-7. Deputy Controller.
- 29.7-8. Checks.

The Controller shall be an elected official of the Municipality whose primary function is to monitor the fiscal affairs of the Municipality. Commensurate with the independent status of this office, it is the intent of this Charter that there be a maximum possible cooperation among the Controller, the Manager, and other fiscal officers of the Municipality so as to have a totally coordinated fiscal management operation and, at the same time, the most responsible stewardship of the public funds.

§ 29.7-1. Election; Term of Office; Eligibility.

The provisions governing the election, term of office, eligibility, and election procedure for the Controller shall be the same as those established by this Charter for Council, except that the Controller shall be elected for a term of four (4) years at the first election under this Charter.

§ 29.7-2. Vacancy; Filling a Vacancy; Forfeiture of Office; Oath of Office; Prohibitions.

Provisions governing vacancy, filling the vacancy, forfeiture of office, oath of office and prohibitions shall be the same as those prescribed for Council except that the Controller shall not be required to attend stated monthly meetings of the Council.

§ 29.7-3. Compensation.

The Controller shall receive compensation of \$4,200.00 per annum or such other sum as the Council shall from time to time ordain; provided, however, that such compensation shall not be increased or decreased during the term for which the Controller was elected or appointed. No ordinance increasing or decreasing compensation shall be adopted less than ten (10) months prior to an election at which the office of the Controller will be on the ballot.

The Controller shall receive no other compensation, direct or indirect, for the performance of the duties of Controller. The Controller shall not participate in employee pension plans or insurance programs for the benefit of municipal employees, except, however, nothing in this section shall preclude the right of the Municipality to provide accident and health insurance or liability insurance coverage for the Controller when on municipal business, or when in the performance of official duties, limited to the duration of the Controller's term. The Controller shall be entitled to reimbursement for actual expenses incurred provided that the expenditure:

- a. Is related to the performance of official duties; and,
- b. Was authorized in advance by Council at a public meeting; and,
- c. Is included in an itemized list presented prior to payment.

§ 29.7-4. Powers and Duties of the Controller.

The Controller shall have the following powers and duties:

- a. Co-sign with the Director of Finance all checks, drafts, or other instruments which disburse municipal funds.
- b. Maintain a record of all municipal employees, sign payroll checks only for duly appointed municipal employees, and maintain such other books and records as may be required for the proper exercise of the functions and duties of this office.
- c. Insure that no payment is made or obligation incurred against any appropriation except in accordance with the designated budget appropriations.
- d. Insure that there is sufficient, unencumbered balance in the appropriate budget appropriation and that sufficient funds therefrom are, or will be, available to cover the claim or meet the obligation when it becomes due or payable. However, nothing in this Charter shall be construed to prevent the making or authorizing of payments, or making of contracts for capital improvements to be financed fully or partly by the issuance of bonds, or to prevent the making of any contract or lease providing for payment beyond the end of the fiscal year, provided such action is made or approved by ordinance.
- e. May require each department, office, agency, board, or commission to certify that the materials, supplies, or equipment have been duly received and accepted as specified and that services have been duly rendered. For such purpose the Controller shall have the power to require by subpoena executed by

the Controller or Deputy Controller the attendance of, and examine under oath, administered by the Controller or the Deputy Controller, such persons, documents, and records as the Controller may deem necessary. If any person shall refuse or neglect to obey any subpoena issued by the Controller, the Controller may apply by petition to the Court of Common Pleas for its subpoena, requiring the attendance of such person before the Controller or the Court.

f. Insure that all payments and obligations incurred by the Municipality are in accordance with the law, municipal contract, and the provisions of this Charter. If there is a question concerning the lawfulness of the payment or obligation, the Controller shall request a ruling from the Municipal Attorney. Following such ruling, in the event the Controller refuses to approve any payment or obligation as aforesaid and such refusal results in litigation against the Controller, then the Controller may retain legal counsel. The compensation of such counsel shall be determined by the Court of Common Pleas and paid by the Municipality.

§ 29.7-5. Staff and Facilities.

a. The Municipality shall provide the Controller with such staff, office supplies, equipment, and office space as shall be necessary for the performance of the duties of the Controller as assigned under this Charter.

b. The number and compensation of persons employed by the Controller shall be determined by majority vote of a committee composed of the Controller, the Mayor, and the Deputy Mayor. The results of the findings of said committee shall be included in the municipal budget prior to the budget submission.

c. Nothing contained herein shall be construed to deprive the Controller of the right to hire and remove the persons employed in the Office of the Controller.

§ 29.7-6. Access to Records.

The Controller shall have the right of access at all times to the records of any officer, department, board, or commission of this Municipality as shall be necessary in the performance of the duties of the Controller as established under this Charter.

§ 29.7- 7. Deputy Controller.

The Controller, upon assuming office, shall designate a Deputy Controller who, in case of temporary absence or disability of the Controller, shall perform such duties as are imposed by this Charter upon the Controller. In the case of the temporary absence or disability of both the Controller and the Deputy Controller, then the Council may appoint a Deputy Controller to serve during the temporary absence or disability of the Controller and Deputy Controller. The Deputy Controller shall assume the office of Controller upon a vacancy in that office until

such time as the vacancy is filled by Council. If Council appoints a Deputy Controller under the provisions of this Charter, Council shall fix compensation to be paid the Deputy Controller.

§ 29.7-8. Checks.

Whenever checks are required to be signed by the Controller, it may be by facsimile signature or other method approved by Council.

ARTICLE VIII. BUDGET AND FISCAL AFFAIRS

Sec.

- 29.8-1. Department of Finance.
- 29.8-2. Duties of Director.
- 29.8-3. Fiscal Year.
- 29.8-4. Submission of Budget and Budget Message.
- 29.8-5. Budget Message.
- 29.8-6. Budget.
- 29.8-7. Capital Program.
- 29.8-8. Publication; Council Action on Budget.
- 29.8-9. Publication and Council Action on Capital Program.
- 29.8-10. Public Records.
- 29.8-11. Amendments After Adoption.
- 29.8-12. Lapse of Appropriations.
- 29.8-13. Administration of Budget.
- 29.8-14. Payments of Funds.
- 29.8-15. Fidelity bonds.

§ 29.8-1. Department of Finance.

There shall be created a Department of Finance which shall administer the financial affairs of the Municipality. The Director of the Department of Finance shall be the chief fiscal officer of the Municipality.

§ 29.8-2. Duties of Director.

The Director of the Department of Finance shall have the following powers and duties:

- a. Except as otherwise provided by the Council or this Charter, receive, collect, account for, and deposit into the Municipal treasury, all taxes, fees, funds, assessments or charges that are levied, established or received by the Municipality for general or special purposes. Such deposits shall be made not later than the first business day following the day in which the funds are received.
- b. Disburse Municipal funds pursuant to authorizations for payment made by the Council and shall sign, along with the Controller, all checks, drafts or other instruments which disburse municipal funds. The Manager shall sign all such checks, drafts or other instruments in the absence of the Financial Officer.

The Director of Finance or the Manager may use a facsimile signature or other method approved by the Council.

- c. Assist the Manager in the preparation of the budget, and in the administration of the financial affairs of the Municipality.
- d. Arrange for temporary investments of Municipal funds in the manner provided by the law of the General Assembly.
- e. Deposit the funds of the Municipality in various depositories as designated by the Council. All such accounts shall be in the name of the Municipality.
- f. Such other duties as the Council or the Manager shall assign from time to time.

§ 29.8-3. Fiscal Year.

The fiscal year of the Municipality shall begin on the first day of January and end on the last day of December of each year, unless changed by the Council or by law.

§ 29.8-4. Submission of Budget and Budget Message.

On or before the sixtieth (60th) day prior to the beginning of the fiscal year, the Manager shall submit to the Council, a budget for the ensuing year and an accompanying message.

§ 29.8-5. Budget Message.

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

§ 29.8-6. Budget.

The budget shall provide a complete financial plan of the Municipal funds and activities for the ensuing fiscal year. It shall be in such form as the Manager deems desirable or the Council shall require, and may utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and 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, and the salaries for each such classification.

e. It shall be so arranged as to show comparative figures for actual and estimated income and expenditures for the three (3) preceding fiscal years, and the projected income and expenditures for the current and ensuing fiscal year.

f. It shall indicate proposed operating 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 and the proposed method of financing each such capital expenditure.

The total of proposed expenditures shall not exceed the total of estimated income, including the surplus or deficit from the preceding year's budget.

§ 29.8-7. Capital Program.

It is the intent of this Charter that the Council adopt long range plans and objectives to provide for the orderly growth of the Municipality. Plans and objectives shall be prepared for public review in the form of the Annual Capital Program Report. Projects, which will result in major additions or changes to the Municipality, such as Recreation and Sanitation facilities or Roadways, shall be included in the program. Such other capital expenditures for equipment with a useful life of less than two (2) years shall be part of the operating budget.

a. *Submission to Council.* The Manager shall prepare and submit to the Council a five-year capital program at least three (3) months prior to the final date for submission of the budget.

b. *Contents.* The capital program shall include:

- (1) A clear general summary of its contents;
- (2) A list of capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- (3) Cost estimates, method of financing and recommended time schedules for each such improvement;
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired; and
- (5) The estimated annual amortization costs.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

§ 29.8-8. Publication; Council Action on Budget.

a. *Publication.* The Council shall publish the proposed budget immediately upon its receipt from the Manager.

b. *Public Hearings.* The Council shall hold a minimum of two (2) public hearings on the budget at which time residents of the Municipality may express

their views on the proposed budget. The first such hearing shall be not less than twenty-one (21) days nor more than thirty (30) days after the date of the publication. The second public hearing shall be not less than seven (7) days nor more than fourteen (14) after the first hearing.

c. *Method of Publication and Notice of Hearings.* The Council shall publish in one or more newspapers of general circulation in the Municipality a general summary of the budget and a notice stating:

- (1) The times and places where copies of the budget and the message are available to the public, and
- (2) The times and places of the required public hearings on the budget and such other public hearings as the Council may decide to hold.

d. *Amendment Before Adoption.* After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditure to an amount greater than the total of estimated income.

e. *Adoption.* The Council shall adopt the budget by ordinance on or before the twenty-eighth (28th) day of the twelfth (12th) month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

§ 29.8-9. Publication and Council Action on Capital Program.

a. *Publication.* The Council shall publish the proposed Capital Program immediately upon its receipt from the Manager.

b. *Public Hearings.* The Council shall hold a minimum of one (1) public hearing on the proposed capital program at which time residents of the Municipality may express their views on the proposed capital program. Such required public hearing shall be not less than twenty-one (21) days nor more than thirty (30) days after the date of publication.

c. *Method of Publication and Notice of Hearings.* The Council shall publish in one or more newspapers of general circulation in the Municipality a general summary of the Capital Program and a notice stating:

- (1) The times and places where copies of the summary of the Capital Program are available to the public, and
- (2) The times and places where a complete copy of the Capital Program along with accompanying maps, charts, reports, and other data are available for inspection by the public, and

(3) The time and place of the required public hearing on the Capital Program and such other public hearings as the Council may decide to hold.

d. *Adoption.* The Council, by resolution, shall adopt the Capital Program with or without amendment, after the public hearing and on or before the last day of the ninth (9th) month of the current fiscal year.

§ 29.8-10. Public Records.

Copies of the budget and the Capital Program as adopted shall be public record and shall be made available to the public at suitable places and during normal business hours of the Municipality.

§ 29.8-11. Amendments After Adoption.

a. *Supplemental Appropriations.* If, during the fiscal year the Manager certifies that there are available for appropriations, revenues in excess of those estimated in the budget, the Council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.

b. *Emergency Appropriations.* To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money except to the extent that there are no available unappropriated revenues to meet such appropriations. The Council may by such emergency ordinance authorize the issuance of emergency notes which may be renewed from time to time.

c. *Reduction of Appropriations.* If, at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, the Manager shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may, by ordinance, reduce one or more appropriations.

d. *Transfer of Appropriations.* At any time during the fiscal year the Manager, with the consent of Council, may transfer part or all on any unencumbered appropriation balance among programs within a department, except that appropriations for Capital Program expenditures shall be excluded from this provision, and after the first six (6) months of the fiscal year, the Manager, with the consent of the Council, may transfer part or all of any unencumbered appropriation balance from one department to another. Such actions shall be by ordinance.

e. *Limitations: Effective Date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and

reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption of the ordinance.

Cross References

This section cited in 302 Pa. Code § 29.8-13 (relating to administration of budget).

§ 29.8-12. Lapse of Appropriations.

Every appropriation, except an appropriation for the Capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a Capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. A project shall be deemed abandoned if three (3) years pass without any disbursement from, or encumbrance of, the appropriation.

§ 29.8-13. Administration of Budget.

At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. The Manager may revise such allotments during the year if deemed desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to § 29.8-11.

§ 29.8-14. Payment of Funds.

No payment of any funds of the Municipality shall be made unless provided for in the budget and specifically approved by the 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 Municipality shall be co-signed by the Director of the Department of Finance and the Controller.

§ 29.8-15. Fidelity Bonds.

Before entering upon the duties of their respective officers or positions, the Municipal Manager and the Director of the Department of Finance and the Controller as well as any other officer, agent, or employee of the Municipality as the Council may determine, shall execute and file with the Municipality corporate surety bonds in such sum as shall be fixed by the Council. Each bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in the Commonwealth of Pennsylvania and duly licensed by the Insurance Commissioner of said Commonwealth.

Each bond shall be conditioned upon the faithful discharge by the officer, the clerks, assistants, and appointees of all trusts confided in them by virtue of their office, upon the faithful execution of all duties required of them by virtue of their

office, upon the just and faithful accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by virtue of the office and upon the delivery to the successor in office of all books, papers, documents, or other official things held in right of the office. All such bonds and sureties thereon, before being accepted by the Municipality, shall be approved by the Municipal Attorney. The placing of such bonds shall be determined by the Council and the premium therefor shall be paid by the Municipality. 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 subdivisions or governmental or quasi governmental entities.

ARTICLE IX. CONTRACTS

- Sec.
 29.9-1. Requirements.
 29.9-2. Competitive Bids.
 29.9-3. Bidding Procedure.
 29.9-4. Exceptions to Competitive Bidding.
 29.9-5. Real Property Appraisals.
 29.9-6. Maximum Term of Certain Contracts.
 29.9-7. Eminent Domain.
 29.9-8. Unenforceable Contracts.
 29.9-9. Personal Financial Interest.

§ 29.9-1. Requirements.

All contracts of the Municipality involving sums in excess of Five Hundred (\$500.00) Dollars shall be in writing.

§ 29.9-2. 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 Municipality, shall be authorized on behalf of the Municipality except with the lowest responsible bidder after competitive bidding.

§ 29.9-3. Bidding Procedure.

a. The Municipality shall, by ordinance, establish a system of competitive bidding, including such definitions, publication requirements, deposit and bond requirements, conditions, terms, rules, regulations, waivers, and exceptions, as it shall from time to time deem advisable.

b. All contracts or purchases in excess of Two Thousand Five Hundred (\$2,500.00) Dollars except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder after due publication. In awarding bids, Council may take into consideration such other factors as the availability, cost, and quality of service. The limit of Two Thousand Five Hundred

(\$2,500.00) Dollars may be increased by Council to the extent of the maximum permitted to any non-charter Municipality in the Commonwealth of Pennsylvania as that limit is from time to time established by the General Assembly.

§ 29.9-4. Exceptions to Competitive Bidding.

Competitive bidding shall not be required under this Charter for:

- a. Labor or services rendered by any Municipal officer or employee in payment for his/her services.
- b. Contracts for labor, material, supplies, or services available from only one vendor.
- c. Contracts for labor, material, supplies, or services aggregating less than Two Thousand Five Hundred (\$2,500.00) Dollars for the item in the year supplied.
- d. Contracts relating to the acquisition or use of real property.
- e. Contracts for professional or unique services.
- f. Contracts for emergency repair of public works of the Municipality.
- g. Contracts with other governmental entities, authorities, agencies, or political subdivisions.

§ 29.9-5. Real Property Appraisals.

Real property cannot be acquired until two (2) appraisals by certified real estate appraisers have been received.

§ 29.9-6. Maximum Term of Certain Contracts.

The term of contracts for the purchase of supplies shall not exceed two (2) years.

§ 29.9-7. Eminent Domain.

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

§ 29.9-8. Unenforceable Contracts.

- a. No liability shall be enforceable against the Municipality by any action at law, in equity, or otherwise, upon any unauthorized or illegal contract.
- b. Provided, however, that Council may by ordinance authorize payment for materials furnished or services rendered in reliance on contracts made by municipal officers and agents without authority or in excess of authority when the contract is one which the Municipality could have authorized.

§ 29.9-9. Personal Financial Interest.

In any case where a Municipal officer or official elected or appointed knows or by the exercise or reasonable diligence could know that such person is interested to any appreciable degree, either directly or indirectly, in any contract for the sale

or furnishing of any personal property for the use of the Municipality, or for any services to be rendered for such Municipality involving the expenditure by the Municipality of more than three hundred (\$300.00) dollars in any year, such persons shall notify Council thereof, and any such contract shall not be passed and approved by Council except by an affirmative vote of at least three-fourths (3/4) of the members thereof. In case the interested officer is a member of Council, such person shall refrain from voting upon said contract. The provisions of this section shall not apply to cases where such officer or official is an employee of the person, firm, or corporation to which money is to be paid in a capacity with no possible influence on the transaction and in which such person cannot possibly be benefited thereby, either financially or in any other material manner. Any officer or officials who shall knowingly violate the provisions of this section shall be liable to the Municipality, and to forfeiture of office.

ARTICLE X. POLICE

Sec.

29.10-1. Arrests.

29.10-2. Criminal Process.

29.10-3. Special Police.

§ 29.10-1. Arrests.

Police employed by the Municipality shall be ex officio constables of the Municipality and may within or without the limits of the Municipality without warrant and upon view, arrest and commit for hearing any and all persons guilty of breach of the peace, vagrancy, riotous, or disorderly conduct or drunkenness, or who may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of any citizen or for violating any ordinance of the Municipality for which a fine or penalty is imposed, notwithstanding any statute pertaining to the same or similar offenses. Any person so arrested shall be received for confinement by the keepers of the jails, lockups, or station houses within the county.

§ 29.10-2. Criminal Process.

Police shall have the authority to serve and execute all criminal process for the violation of Municipal ordinances which may be issued, and shall charge the same fees and costs as constables of the Municipality, but such fees and costs shall be collected by the Director of the Department of Finance and paid into the Municipal Treasury.

§ 29.10-3. Special Police.

The Mayor, with the advice and consent of Council, may appoint special police who shall have the duty of controlling and directing traffic and providing for the

public safety at or near schools and churches, and who shall be in uniform and shall display a badge or other sign of authority, and who shall be vested with all of the powers of Municipal police officers. Such police shall serve at the pleasure of the Council and shall not come within the Career Service and personnel provisions of this Charter, nor shall they be eligible to join any police pension fund maintained for municipal police.

The Mayor may appoint special police with full police powers and jurisdiction for the duration of any emergency in which the safety and welfare of the Municipality and the public is endangered.

Auxiliary police may be appointed as provided by general law.

ARTICLE XI. FIRE MARSHAL, FIRE PREVENTION

Sec.

29.11-1. Appointment, Term of Office, Powers, Compensation.

29.11-2. Fire Prevention Code.

29.11-3. Volunteer Fire Companies.

§ 29.11-1. Appointment, Term of Office, Powers, Compensation.

Council shall, within one (1) year to the date of its first organizational meeting, adopt an ordinance creating the Office of Fire Marshal. The ordinance shall include but not be limited to provisions concerning the method of appointment of the Fire Marshal, term of office, and the powers, duties, staff and compensation appertaining to the office.

§ 29.11-2. Fire Prevention Code.

Council shall contemporaneously with the creation of the Office of Fire Marshal, adopt an ordinance in the nature of a Fire Prevention Code. Such ordinance shall include but not be limited to provisions concerning the construction, use and maintenance of structures as related to fire prevention and the inspection and enforcement methods designed to insure compliance with the ordinance.

§ 29.11-3. Volunteer Fire Companies.

Prior to adoption or amendment of the ordinances aforesaid Council shall consult with representatives of all Penn Hills Volunteer Fire Companies.

ARTICLE XII. ORDINANCES

Sec.

29.12-1. Action Requiring an Ordinance.

29.12-2. Ordinances in General.

29.12-3. Penalty.

29.12-4. Emergency Ordinances.

29.12-5. Codes of Technical Regulations.

29.12-6. Authentication and Recording; Codification; Printing.

§ 29.12-1. Action Requiring an Ordinance.

In addition to other acts required by law or by specific provisions of this Charter to be enacted by ordinance, those acts of the Municipal Council shall be by ordinance which:

- a. Adopt or amend an administrative code or establish, alter or abolish any municipal department, office or agency;
- b. Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- c. Levy taxes, and adopt the budget;
- d. Grant, renew or extend a franchise;
- e. Authorize the borrowing of money;
- f. Purchase, convey or lease any lands or buildings of the Municipality.

§ 29.12-2. Ordinances in General.

a. *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The Municipality of Penn Hills hereby ordains . . ." Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

b. *Procedure.* An ordinance may be introduced by any member of Council at any stated monthly or special meeting of the Council. Upon introduction of any ordinance, a copy shall be distributed to each Council member and to the Manager, and a reasonable number of copies shall be filed in such other public places as the Council may designate.

c. *Ordinances Requiring Prior Public Notice and Hearing.* No final action shall be taken on the following types of ordinances and amendments thereto without public hearing thereon and at least ten (10) days prior public notice thereof published in a newspaper circulating in the Municipality:

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

d. *Effective Date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective on the tenth (10th) day after publication, or at any later date specified herein.

e. *"Publish" Defined.* As used in this section, the term "publish" means to print in a newspaper of general circulation in the Municipality:

- (1) the ordinance or a brief summary thereof;

(2) the places where copies of it have been filed and the times when they are available for public inspection.

f. *Copies of Ordinances.* Copies of ordinances shall be available to all persons requesting same upon payment of a reasonable charge therefore.

Cross References

This section cited in 302 Pa. Code § 29.12-5 (relating to codes of technical regulations).

§ 29.12-3. Penalty.

The penalty for the violation of any ordinance shall be that prescribed by Council for each violation, or not more than thirty (30) days imprisonment in default of such penalty. Council may, in any ordinance, provide that for continuing violations, each day that a violation exists may be regarded as a separate offense and punishable as such.

§ 29.12-4. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, which may be adopted without proper notice and may be made effective immediately. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

§ 29.12-5. Codes of Technical Regulations.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be prescribed for ordinances generally except that:

- a. The requirements of § 29.12-2 of this Article for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and
- b. A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded.

§ 29.12-6. Authentication and Recording; Codification; Printing.

a. *Authentication and Recording.* Ordinances and resolutions shall be authenticated by the Mayor and attested by the Manager and recorded in full in properly indexed books.

b. *Codification.* Within three (3) years after adoption of this Charter and at least every ten (10) years thereafter, the Council shall provide for the preparation of a general codification of all municipal ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the constitution and other laws of the state of Pennsylvania, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Penn Hills Municipal Code. Copies of the code shall be furnished to municipal officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price.

ARTICLE XIII. CITIZEN SERVICE AND INFORMATION

Sec.

29.13-1. Citizen Requests.

§ 29.13-1. Citizen Requests.

Council shall within two (2) years of the date of its first organizational meeting, adopt an ordinance which provides for handling of citizen requests for information and services. The ordinance shall provide for means to receive and investigate complaints and requests for municipal service; to provide information on municipal services, facilities and other matters; and to render information and assistance to Veterans and Senior Citizens in connection with benefits available to them.

**ARTICLE XIV. ADMINISTRATIVE DEPARTMENTS, BOARDS,
COMMISSIONS, AND AUTHORITIES**

Sec.

29.14-1. General Provisions.

29.14-2. Direction by Manager.

29.14-3. Boards, Commissions, and Authorities.

Cross References

This article cited in 302 Pa. Code § 29.20-1 (relating to rights and privileges of employees).

§ 29.14-1. General Provisions.

The work of the Municipality performed by paid employees shall be assigned to and under the jurisdiction of an Administrative Department. Council shall establish municipal departments, offices, and agencies in addition to those created by this Charter. Council shall prescribe the functions of all departments, offices, and agencies, except that no function assigned by this Charter to a particular department, office, or agency may be discontinued or assigned to any other unless this Charter specifically so provides. The highest ranking employee of each department shall be designated the "Director."

§ 29.14-2. Direction by Manager.

All departments and Directors, unless specifically excepted by this Charter, shall be subject to the direction and control of the Manager. With the consent of the Council, the Manager may serve as the Director of one or more of such departments or may appoint one person as the head of one or more of them.

§ 29.14-3. Boards, Commissions, and Authorities.

a. In addition to the Boards and Commissions established by this Charter, the Council may from time to time establish, by ordinance, various boards, commissions, and authorities to act in an advisory capacity or to perform special functions.

b. All persons appointed to any board, commission, or authority shall be residents of the Municipality, and no person shall serve concurrently on more than one board, commission, or authority except as permitted by the Pennsylvania Municipalities Planning Code or others Acts of General Assembly.

ARTICLE XV. PERSONNEL MANAGEMENT

Sec.

- 29.15-1. Principles and Objectives Governing the Personnel System: Duty of the Manager.
- 29.15-2. Implementation of Personnel Policies, Rules and Regulations.
- 29.15-3. Compatibility with Legislative Enactments.
- 29.15-4. Political Activity Restrictions.
- 29.15-5. Causes for Suspension, Removal, Demotion, or Reduction in Rank.
- 29.15-6. The Career Service.

Cross References

This article cited in 302 Pa. Code § 29.5-4 (relating to powers and duties of the manager).

It is the intent of this Charter that the personnel system of the Municipality will be built upon the best experience in the field of personnel management. It should recognize that its employees are worthy and responsible enough to have their concerns fully heard and taken into account and should be such as to encourage employees to identify positively with the purposes of the organization and be

motivated to give their best efforts in support of those purposes. The policies governing this system will seek to accommodate the views, interests, and rights of the community as well as the municipal officers and employees.

**§ 29.15-1. Principles and Objectives Governing the Personnel System:
Duty of the Manager.**

The Manager shall, among other things, develop policies, procedures and regulations for the personnel system of the Municipality which shall include but not be limited to the following principles and objectives:

- a. Providing equal opportunity for employment and for advancement of employees without regard to political affiliation, race, color, national origin, sex, or religious creed and complying fully with all applicable state and federal regulations in this area.
- b. Recruiting and selecting employees on the basis of their respective abilities, knowledge and skills, through open and competitive means.
- c. Promoting employees on the basis of demonstrated performance and potential for greater responsibility.
- d. Providing fair and competitive compensation and benefits for all employees, which shall be set forth in the form of a pay and benefit plan covering all positions in the Career Service.
- e. Training and developing employees to assure continuing high quality performance.
- f. Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.
- g. Providing opportunity for employees growth and advancement through competent and capable leadership.
- h. Assuring that employees are protected against coercion for partisan political purposes and, in return, that employees are restricted in their political activity as set forth in § 29.15-4 of this Article.
- i. A classification and position description system.
- j. Rules and regulations governing reduction in manpower, discipline, discharges, resignations, leaves of absence, and off-hours employment of municipal employees by other agencies.
- k. Rules and regulations governing the resolution of claims of unfair or unjust treatment other than those resulting from suspension, dismissal, demotion, or reduction in rank.

§ 29.15-2. Implementation of Personnel Policies, Rules and Regulations.

Personnel policies, rules, and regulations, and any amendments thereto, along with the establishment of other practices and procedures necessary to the administration of the municipal personnel system, when developed by the Manager, shall be submitted to Council which shall adopt them with, or without, amend-

ment. Prior to such adoption, the Council shall provide municipal employees with the opportunity to review and comment upon such proposed policies, rules, or regulations. The Council may delegate to the Manager the responsibility for establishing procedures for such review and comment.

§ 29.15-3. Compatibility with Legislative Enactments.

No personnel procedures or policies established under the provisions of this Charter shall be in conflict with Acts of the State Legislature providing for collective bargaining and arbitration.

§ 29.15-4. Political Activity Restrictions.

a. No municipal employee shall be an officer of a political party, or be an elected committee person, or hold political office during employment.

b. No employee or official shall solicit any assessments, contributions, or services, for any political party or candidate from any municipal employee.

c. Nothing herein contained shall affect the right of the employee to hold membership in and support a political party, to vote, to express publicly or privately opinions on all political subjects and candidates, to maintain political neutrality and to actively participate in political meetings. However, employees must engage in all such activities as private citizens and during non-working hours.

Cross References

This section cited in 302 Pa. Code § 29.15-1 (relating to principles and objectives governing the personnel system: duty of the manager); and 302 Pa. Code § 29.15-5 (relating to causes for suspension, removal, demotion, or reduction in rank).

§ 29.15-5. Causes for Suspension, Removal, Demotion, or Reduction in Rank.

a. Except as otherwise provided in this Charter, no person in the Municipal Career Service shall be suspended, removed, demoted, or reduced in rank, except for the following reasons:

(1) Physical or mental disability affecting the ability of an employee to continue in the performance of the duties of the position.

(2) Neglect or violation of any official duty or assignment.

(3) Violation of any law which provides that such violation constitutes a misdemeanor or felony.

(4) Inefficiency, neglect, intemperance, immorality, insubordination, willful disobedience of orders, conduct unbecoming an employee, or conduct reflecting discredit upon the Municipality and its government.

(5) Intoxication while on duty.

(6) Engaging in political activity prohibited under § 29.15-4 of this Article.

b. Any employee in the Career Service who is suspended, removed, demoted, or reduced in rank for any of the above causes shall have the right to appeal to the Personnel Board, except those having grievance procedures in collective bargaining contracts, which deal with suspension, removal, demotion, or reduction in rank.

c. If, for reasons of economy, or other reasons, it shall be deemed necessary by the municipal government to reduce the number or rank of paid employees, such reductions shall not be subject to the provisions of this section, but shall be accomplished in accordance with rules and regulations promulgated by the Manager and approved by Council.

§ 29.15-6. The Career Service.

The Career Service shall be a permanent service to which the provisions of this Article shall apply and shall comprise all positions in the municipal service now existing or hereafter established, except the following:

- a. Members of the Council and other elected positions.
- b. Members of boards, commissions, authorities, and heads of departments.
- c. Persons employed to make or conduct a temporary and special inquiry, investigation, or examination on behalf of Council or the Manager.
- d. Persons employed as professional consultants or who are employed on a retainer basis.

Persons whose positions are defined by the General Assembly to be a confidential nature.

- f. Controller's staff and employees.
- g. Part-time or occasional employees.

ARTICLE XVI. THE PERSONNEL BOARD

Sec.

- 29.16-1. Jurisdiction.
- 29.16-2. Composition.
- 29.16-3. Terms: Limitation on Terms.
- 29.16-4. Offices Incompatible with Membership on the Personnel Board.
- 29.16-5. Compensation.
- 29.16-6. Oath of Office.
- 29.16-7. Organization of the Board: Quorum.
- 29.16-8. Clerical Assistance, Legal Counsel, and Supplies.
- 29.16-9. Minutes and Records.
- 29.16-10. Powers and Duties of the Board.
- 29.16-11. Rules and Procedures Governing Appeals to the Personnel Board.
- 29.16-12. Decision.
- 29.16-13. Investigations: Subpoenas.

§ 29.16-1. Jurisdiction.

The Personnel Board shall have jurisdiction in all cases involving Career Service employees who have been suspended, removed, reduced in rank, or demoted except Career Service employees represented by bargaining units which have executed contracts with the Municipality which provide for grievance procedures dealing with suspension, removal, reduction in rank, or demotion. Where such grievance procedures exist, it is the intent of this Charter to exclude appeal to the Personnel Board.

§ 29.16-2. Composition.

The Mayor, with the advice and consent of Council, shall, within ninety (90) days of the first organizational meeting of Council, appoint from the registered electors of the Municipality a Personnel Board composed of three (3) members.

§ 29.16-3. Terms: Limitation on Terms.

In making appointments to the first Board under the provisions of this Charter the Mayor shall designate one (1) member to serve for a term of three (3) years, one for a term of two (2) years, and one for a term of one (1) year. Thereafter, all appointments shall be made for terms of three (3) years.

No individual shall be eligible to serve on the Personnel Board for more than two full three (3) year terms. After the expiration of two (2) years such individual shall be eligible for another appointment to the Board.

Any vacancy occurring on the Personnel Board for any reason whatsoever shall be filled by the Mayor with the advice and consent of Council for the unexpired term within the period of thirty (30) days after such vacancy occurs. Members of the Personnel Board may be removed from office by the Mayor with the advice and consent of Council.

§ 29.16-4. Offices Incompatible with Membership on the Personnel Board.

No member of the Personnel Board shall, at the same time, be a municipal employee or hold an elective or appointive office under the United States Government, the Commonwealth of Pennsylvania, or any political subdivision of the Commonwealth. No member of the Board shall be a member of any local, state, or national committee of a political party. Nor shall any member of the Personnel Board be an officer or employee of any bargaining agency representing employees of the Municipality.

The first sentence of this section shall not be construed to apply to members of the teaching profession or to employees of any school district.

§ 29.16-5. Compensation.

Members of the Personnel Board shall receive no compensation.

§ 29.16-6. Oath of Office.

Each member of the Personnel Board shall take an oath of office which shall be the same as that prescribed for the members of the Council.

§ 29.16-7. Organization of the Board: Quorum.

The Personnel Board first appointed shall organize within ten (10) days of its appointment and shall elect one of its members as Chairman and one as Secretary. The Board shall thereafter meet and organize on the first Monday of January of each even-numbered year. The Secretary of the Board shall give each member twenty-four (24) hours notice of every meeting of the Board. Two (2) members of the Board shall constitute a quorum and no action of the Board shall be valid unless it shall have the concurrence of at least two (2) members.

§ 29.16-8. Clerical Assistance, Legal Counsel, and Supplies.

The Municipality shall furnish to the Board, on its requisition, such clerical assistance and supplies as may be necessary for the work of the Board. The Municipality shall provide a suitable and convenient room for the use of the Board. The Council shall provide Legal Counsel upon request of the Board in complex cases.

§ 29.16-9. Minutes and Records.

The Board shall keep minutes of the proceedings and records of other official actions. Such records shall be kept and preserved in accordance with general law.

§ 29.16-10. Powers and Duties of the Board.

It shall be the function and duty of the Personnel Board to grant a hearing to an employee who has been suspended, removed, reduced in rank, or demoted, upon the request of such employee. The Board shall hear and render a decision on every appeal properly brought before it. All parties shall have the right of further appeal as provided in "Local Agency Law" act of 1968, December 2, P. L. 1133, as now or hereafter amended, supplemented, reenacted, or supplied.

§ 29.16-11. Rules and Procedures Governing Appeals to the Personnel Board.

The first Personnel Board established under this Charter shall, within ninety (90) days of its organization, set forth in writing the rules and procedures which shall govern appeals as permitted herein. Such rules and procedures shall provide for, but not be limited to a due process hearing, and shall otherwise comply with the provisions of the "Local Agency Law."

The rules of the Board shall further provide that no order of suspension made by the Board shall be for a period of longer than one (1) year, and that the Board may sustain the charges or reduce the length of suspension or dismiss the charges.

All hearings of appeal involving Career Service employees shall be closed to the public and the transcript sealed, unless otherwise requested by the employee taking the appeal.

The rules and procedures established by the Board, and any revisions or amendments thereto, shall, before adoption by the Board and approval of the Council, be revised and commented on by the Council and the Manager.

The personnel procedures or policies established under the provisions of this Charter shall not be in conflict with Acts of the General Assembly providing for collective bargaining and arbitration.

§ 29.16-12. Decision.

The Board shall render its decision within thirty (30) days of the receipt of the transcript.

In the event the appellant is cleared of all charges, then the appellant shall be reinstated to the position with full pay for the period during which the appellant was suspended, removed, reduced in rank, or demoted.

Upon such acquittal and after the expiration of all time for appeal, all such references to the charge, hearing and decision shall be removed from all Municipal records and destroyed.

§ 29.16-13. Investigations: Subpoenas.

The Board shall have the power to make investigations on all matters touching the administration and fulfillment of its powers and duties. The Chairman or Acting Chairman of the Board shall have the power to administer oaths and affirmations in connection with such investigations. The Board shall have the power to issue subpoenas over the signature of a Board member to require the attendance of the witnesses and the production of records and papers pertaining to any investigation or inquiry. The fees of such witnesses for attendance and travel shall be the same as for witnesses appearing in the courts.

All officers in public service and employees shall attend and testify when required to do so by the Board.

If any person shall refuse or neglect to obey any subpoena issued by the Board, that person shall upon conviction thereof and a summary proceeding, be sentenced to pay a fine not to exceed \$100.00 and in default of the payment of such fine and cost shall be imprisoned not to exceed thirty (30) days.

If any person shall refuse or neglect to obey any subpoena issued by the Board, the Board may apply by petition to the appropriate court for its subpoena requiring the attendance of such persons before the Board or the court.

ARTICLE XVII. PLANNING AND ZONING

Sec.

- 29.17-1. Planning Agencies.
- 29.17-2. Comprehensive Plan and Official Map.
- 29.17-3. Subdivision and Land Development, Zoning, and Zoning Hearing Board.
- 29.17-4. Planned Residential Development.
- 29.17-5. Building and Housing Code.

§ 29.17-1. Planning Agencies.

Council shall, within one (1) year of the date of its first organizational meeting, adopt an ordinance creating a Planning Commission or Planning Department or both. Thereafter, at least one such Planning Agency shall be retained as the Planning Agency of the Municipality.

The composition, compensation, eligibility of membership, appointment, term, vacancy, removal, conduct of business, powers and duties of a Planning Commission or Planning Department shall be governed by the provisions of the Pennsylvania Municipalities Planning Code (Act 247 of 1968) as now or hereafter amended, supplemented, reenacted, or supplied.

§ 29.17-2. Comprehensive Plan and Official Map.

Council shall, within three (3) years of the date of its first organizational meeting, adopt ordinances creating a Comprehensive Plan and Official Map. These ordinances shall be adopted pursuant to and shall be subject to the provisions of the Pennsylvania Municipalities Planning Code (Act 247 of 1968) as now or hereafter amended, supplemented, reenacted or supplied.

§ 29.17-3. Subdivision and Land Development, Zoning, and Zoning Hearing Board.

Council shall, within three (3) years of the date of its first organizational meeting, adopt ordinances governing Subdivision and Land Development and Zoning and Zoning Hearing Board. These ordinances shall be adopted pursuant to and shall be subject to the provisions of the Pennsylvania Municipalities Planning Code (Act 247 of 1968) as now or hereafter amended, supplemented, reenacted or supplied.

§ 29.17-4. Planned Residential Development.

Council shall, within three (3) years of the date of its first organizational meeting, adopt a Planned Residential Development Ordinance pursuant to and subject to the provisions of the Pennsylvania Municipalities Planning Code (Act 247 of 1968) as now or hereafter amended, supplemented, reenacted or supplied.

§ 29.17-5. Building and Housing Code.

Council shall, within one (1) year of the date of its first organizational meeting, adopt a Building and Housing Code.

ARTICLE XVIII. ADMINISTRATIVE CODE

Sec.

29.18-1. Adoption of Code.

§ 29.18-1. Adoption of Code.

The council shall within six (6) months following the full effective date of this Charter, adopt by the ordinance an administrative code providing a complete plan of organization and structure for the Municipal government. The administrative code may authorize the Municipal Manager to promulgate regulations dealing with questions of organization and structure. The administrative code and any regulations promulgated pursuant thereto shall be consistent with this Charter.

ARTICLE XIX. GENERAL PROVISIONS

Sec.

29.19-1. Preferential Treatment Prohibited.

29.19-2. Improper Solicitation of Political Support.

29.19-3. Duty to Testify.

29.19-4. Severability.

Cross References

This article cited in 302 Pa. Code § 29.3-8 (relating to vacancies, forfeiture of office).

§ 29.19-1. Preferential Treatment Prohibited.

No officer or employee of the Municipality shall accept or receive, directly or indirectly from any public or private utility operating within the territorial limits of the Municipality, or other business using or operating under a public franchise, any frank, free pass, free ticket or free service or accept or receive, directly or indirectly from any person or corporation any other service upon terms more favorable than is granted to the public generally.

§ 29.19-2. Improper Solicitation of Political Support.

No candidate for office, appointment or employment and no officer, appointee or employee in the Municipality shall, directly or indirectly, give or promise any person any office, position, employment, or anything of substantial value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office or employment to which such candidate was elected or appointed.

§ 29.19-3. Duty to Testify.

Any person hereafter elected or appointed to any office or position in a Municipal Government under this Charter who, after lawful notice or process, shall willfully refuse or fail to appear before any court, any legislative committee, or the Governor, or having appeared shall refuse to testify or to answer any question regarding the property, government or affairs of the Municipality, or regarding that persons' nomination, election, appointment or official conduct on the ground that the answer would tend to incriminate him/her, or shall refuse to waive immunity from prosecution on account of any such matter in relation to which that person may be asked to testify, may be removed from office by the Council of the Municipality in its discretion.

§ 29.19-4. Severability.

It is the intent of the electors of this Municipality 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.

ARTICLE XX. TRANSITION

Sec.

- 29.20-1. Rights and Privileges of Employees.
- 29.20-2. Rights of Elected Officials.
- 29.20-3. Township Treasurer.
- 29.20-4. Ordinances to Remain in Force.
- 29.20-5. Pending Actions and Proceedings.
- 29.20-6. Continuance of Contracts, Public Improvements and Taxes.
- 29.20-7. Departments, Offices, Agencies, Boards, and Commissions.
- 29.20-8. Existing Police Civil Service Commission.

Cross References

This article cited in 302 Pa. Code § 29.21-6 (relating to purpose of the schedule).

§ 29.20-1. Rights and Privileges of Employees.

This Charter shall not give any power or authority to diminish any rights or privileges of any present or former municipal employee entitled to benefits in his pension or retirement system.

An employee holding a municipal position at the time this Charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system established pursuant to Article XIV.

§ 29.20-2. Rights of Elected Officials.

In accordance with the provisions of Act 62, all elected officials in office at the time of adoption of this Charter shall have the right to continue in office until their terms expire.

§ 29.20-3. Township Treasurer.

The Treasurer of the Township of Penn Hills at the time this Charter shall be in full effect shall continue to perform the duties of the office of Treasurer and Tax Collector as provided in the First Class Township Code.

Any official or employee charged with duties or given powers by this Charter which are the same as or similar to those of the said Treasurer-Tax Collector shall be excused from performing such duties and exercising such powers during the time the incumbent Treasurer remains in office.

§ 29.20-4. Ordinances to Remain in Force.

All ordinances, regulations, and resolutions in force at the time this Charter takes effect, which are not inconsistent with the provisions of this Charter, shall remain and be in force until altered, modified or repealed by or under authority of this Charter or ordinance.

§ 29.20-5. Pending Actions and Proceedings.

No action or proceeding, civil or criminal, pending at the time this Charter shall take effect, brought by or against the Municipality or any office, department, agency or officer thereof, shall be affected or abated by the adoption of this Charter or by anything herein contained.

§ 29.20-6. Continuance of Contracts, Public Improvements and Taxes.

All contracts entered into by the Municipality, or for its benefit, prior to taking effect of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws existing at the time of this Charter takes effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws. All taxes and assessments levied or assessed, all fines and penalties imposed, and all other obligations owing to the Municipality which are uncollected at the time this Charter becomes effective, shall continue in full force and effect and shall be collected as if no change had been made.

§ 29.20-7. Departments, Offices, Agencies, Boards, and Commissions.

a. *Transfer of Powers.* If a Municipal department, office, agency, board, or commission is abolished by this Charter, the powers and duties given it by law

shall be transferred to the Municipal department, office, agency, board, or commission designated in this Charter or, if the Charter makes no provision, designated by the Council.

b. *Property and Records.* All property, records, and equipment of any department, office, agency, board, or commission existing when this Charter is adopted shall be transferred to the department, office, agency, board, or commission assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices, agencies, boards, or commissions designated by the Council in accordance with this Charter.

c. *Existing Authorities.* The Municipality's membership and participation in any Municipal Authority at the time this Charter is adopted shall continue and the persons representing the Municipality on the board of any such authority shall continue in office until the normal expiration of their terms or until their successors are appointed.

§ 29.20-8. Existing Police Civil Service Commission.

The Civil Service Commission of the Township of Penn Hills shall continue in office and function under the provisions of the First Class Township Code. The Commission shall hear and dispose of all appeals of police entered within one hundred fifty (150) days of the first organizational meeting of Council. No appeal shall be entered with the Commission after one hundred fifty (150) days of the first organizational meeting of Council. Upon rendering its decision in its final case the Civil Service Commission shall be dissolved, and all proceedings thereafter shall be within the jurisdiction of the Personnel Board.

ARTICLE XXI. SCHEDULE

Sec.

- 29.21-1. Election to Adopt Charter.
- 29.21-2. First Election.
- 29.21-3. Time of Taking Full Effect.
- 29.21-4. First Meeting of Council.
- 29.21-5. Temporary Ordinances.
- 29.21-6. Purpose of the Schedule.

Cross References

This article cited in 302 Pa. Code § 29.21-6 (relating to purpose of the schedule).

§ 29.21-1. Election to Adopt Charter.

This Charter shall be submitted to a vote of the electors of the Township of Penn Hills at the general election to be held on November 6, 1973.

§ 29.21-2. First Election.

The first elections required to effect the provisions of this Charter shall be conducted by the election officials of the Township of Penn Hills and the County of Allegheny, in accordance with the Pennsylvania Election Code in the year 1975.

§ 29.21-3. Time of Taking Full Effect.

This Charter shall be in full effect for all purposes on and after the date and time of the first meeting of the newly elected Council.

§ 29.21-4. First Meeting of Council.

On the first Monday in January following the first election of Council members under this Charter, the Council shall meet at 8:00 P.M. in the legislative chambers of the Penn Hills Municipal Building.

§ 29.21-5. Temporary Ordinances.

At its first meeting or at any meeting held within sixty (60) days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective municipal government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered without prior notice and may be adopted with or without amendment or rejected at the meeting at which it is introduced. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify. Every temporary ordinance including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be readopted, renewed, or otherwise continued except by adoption in the manner prescribed by the Charter for ordinances of the kind concerned.

§ 29.21-6. Purpose of the Schedule.

The purpose of Articles XX and XXI is to provide a transition from the present government of the Township of Penn Hills to the new government provided for in this Charter and to inaugurate the new government under the provisions of this Charter. They shall constitute a part of this Charter only to the extent and for the time required to accomplish this aim.

ARTICLE XXII. RECALL

- Sec.
- 29.22-1. Officers—Subject to Recall.
 - 29.22-2. Reasonable Cause.
 - 29.22-3. Initiating the Recall.
 - 29.22-4. Charge—Sufficiency of Grounds.
 - 29.22-5. Ballot Synopsis.
 - 29.22-6. Enforcement Provisions—Jurisdiction—Appeals.
 - 29.22-7. Preparation of Recall Petition.
 - 29.22-8. Number of Signatures Required.
 - 29.22-9. Notice to Incumbent and Petitioner's Representative.
 - 29.22-10. Recall Elections.
 - 29.22-11. Disqualification.
 - 29.22-12. Limitations.

Source

The provisions of this Article XXII adopted May 17, 1977, effective May 17, 1977, unless otherwise noted.

Cross References

This article cited in 302 Pa. Code § 29.23-1 (relating to general authority).

§ 29.22-1. Officers—Subject to Recall.

Any person holding an elective office of the Municipality, whether by election, succession or appointment to fill the vacancy, shall be subject to removal from office at a recall election in the manner provided in this Article or as may otherwise be provided by this Charter or applicable law.

§ 29.22-2. Reasonable Cause.

A. The recall of an incumbent of an elective office shall be for reasonable cause which shall include, but not be limited to an act or acts which constitute forfeiture of office under this Charter, malfeasance in office, misfeasance in office, or a violation of the oath of office, committed by any elective public officer of the Municipality during the term of office which he or she is presently serving.

B. For the purpose of this Article:

1. *Malfeasance in Office* means an unlawful act committed willfully by any elective public officer;
2. *Misfeasance in Office* means the fulfillment of a statutorily imposed duty in an unlawful or improper manner by an elective public officer;
3. *Violation of the oath of Office* means the neglect or failure by an elective public officer to perform faithfully a duty imposed by law.

§ 29.22-3. Initiating the Recall.

Whenever any registered voter or committee or organization of legal voters of the Municipality shall desire to demand the recall and discharge of any person holding an elective office of the Municipality, he, she, or they shall prepare a typewritten charge reciting:

- a. The name of the officer;
- b. The title of the office;
- c. The grounds for holding a recall election (as set forth above); which charge shall state the act or acts complained of in concise language, without unnecessary repetition, and shall be signed by the person or persons making the same, give their respective addresses, and be verified under oath that he, she, or they believe the charge or charges to be true.

§ 29.22-4. Charge—Sufficiency of Grounds.

The grounds for recall to be recited in a petition for recall are sufficient if it can be understood therefrom that the act or acts charged therein are clearly and distinctly set forth in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended.

§ 29.22-5. Ballot Synopsis.

The charge shall be filed in triplicate with the County Board of Elections. The Board of Elections shall, within fifteen (15) days of the filing of the charge, formulate a ballot synopsis of such charge not to exceed two hundred words, which shall set forth the name of the person charged, the title of the office, and a concise statement of the elements of the charge, and shall notify the elective officer against whom such charge or charges have been made, and the persons filing the charge, of the exact language of such ballot synopsis. A copy of the charge filed and a copy of the ballot synopsis shall be served on the elective officer and the persons filing the charge by certified or registered mail or by personal service. Thereafter such charge shall be designated on all petitions, ballots and other proceedings in relation thereby to such synopsis.

§ 29.22-6. Enforcement Provisions—Jurisdiction—Appeals.

Any person aggrieved by the filing of recall charges or by the failure thereafter of the Board of Elections to perform duties in relation to the recall, may petition for relief to the Court of Common Pleas of Allegheny County. In reviewing such petition, the court shall have the jurisdiction to consider the following grounds:

- a. The sufficiency or specificity of such recall charge or charges;
- b. The sufficiency or specificity of the ballot synopsis of such recall charge or charges;

c. The issuance of a writ of mandamus to compel the performance of any act required of the Board of Elections or to prevent the performance by the Board of any act in relation to recall not in compliance with law;

d. The existence or lack of facts establishing *prima facie* the truthfulness of such recall charge or charges provided, that any person challenging any such recall charge pursuant to this subsection shall have the burden of proof by clear and convincing evidence.

Any proceeding pursuant to subsections (a), (b), and (d) of this Article shall be commenced within fifteen (15) days from the time that notice is given of the preparation of a ballot synopsis of such recall charge or charges and, further provided, that any proceeding to subsection (c) of this article shall be commenced within ten (10) days from the time the cause of complaint arises.

Actions brought pursuant to this Article shall be considered an emergency matter of public concern, take precedence over other cases and be speedily heard and determined. Any proceeding to review a decision of the Court of Common Pleas shall be begun and perfected within fifteen days, after its decision in a recall election case and shall be by the Supreme Court considered an emergency matter of public concern and speedily heard and determined.

§ 29.22-7. Preparation of Recall Petition.

Fifteen days after being notified of the language of the ballot synopsis of the charge, the person or persons filing the charge shall cause to be prepared petitions for recall and discharge of such officer. Such petition shall state the elective official's name, title of the office and the ballot synopsis as prepared by the Board of Elections.

§ 29.22-8. Number of Signatures Required.

An election for the recall of such an elected official shall be directed where such petition has been signed by at least twenty (20) percent of the registered electors voting at the last gubernatorial election in the Municipality and the procedure set forth has been followed:

a. Each elector signing a recall petition shall add to his or her signature his or her residence, and the date of signing. All signatures must be executed in ink or indelible pencil. 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 affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the Municipality, that they signed with full knowledge of the contents of the petition, and that their residences are correctly given.

b. A recall petition shall be filed with the County Board of Elections. No signatures shall be counted as valid which is dated more than sixty (60) days prior to the date the petition is filed. Upon filing with the Board of Elections, the petition shall be available for examination and copying by any interested

person. Within fifteen (15) days after the filing of the petition, the Board of Elections shall, in writing, pass upon the validity of the petition and the validity and the number of signatures required thereon. The decision of the Board of Elections shall be subject to immediate review on appeal to the Court of Common Pleas of Allegheny County.

Cross References

This section cited in 302 Pa. Code § 29.22-9 (relating to notice to incumbent and petitioner's representative).

§ 29.22-9. Notice to Incumbent and Petitioner's Representative.

a. As soon as the Board of Elections has issued its written decision as provided for in § 29.22-8(b), the Board, in writing, shall notify the incumbent named in the petition that a petition has been filed and a copy of the Board's decision shall be attached to the notice.

b. If a representative of the petitioners has filed in writing a request with the Board for a copy of said notice and the Board's decision, a copy of the notice and decision shall also be served on the petitioners representative at the same time.

c. The notice and decision shall be served on the incumbent and any such representative of the petitioners by certified or registered mail, or personal service.

d. Upon receipt of such notice, the incumbent may resign from his office and thereupon the recall proceeding shall terminate.

§ 29.22-10. Recall Elections.

a. If the incumbent against whom a recall petition is directed does not effectively resign from his or her office within ten (10) days after notice of the filing of such a petition shall have been given to him or her, the Board of Elections shall arrange a recall election. If a regular or special election is to be held not less than thirty (30) days or more than ninety (90) days after the ten days have expired, the recall question shall be placed before the electors in 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 the recall petition is directed may resign at any time prior to the election and thereupon the recall election shall not be held.

b. 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 officer) because (here insert the synopsis of the charge as prepared by the Board of Elections).

c. 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.

d. 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 do not vote “yes,” he or she shall remain in office. Should the result of such an 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 the election are certified by the Board of Elections, unless such date is postponed by an order from a court of competent jurisdiction.

§ 29.22-11. 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 or her has been filed shall be eligible for appointment to any elective office of the Municipality within two (2) years after his or her removal or resignation.

§ 29.22-12. Limitations.

No recall petition may be filed against any incumbent of an elective office within the first year or the last nine months of the term of his or her office or within nine months after an unsuccessful recall election against him or her, but an officer who has been re-elected for a successive term shall be subject to recall during the first year of such term.

ARTICLE XXIII. INITIATIVE AND REFERENDUM

Sec.

- 29.23-1. General Authority.
- 29.23-2. Commencement of Proceedings.
- 29.23-3. Petitions.
- 29.23-4. Procedure after Filing.
- 29.23-5. Referendum Petitions, Suspension of Ordinance.
- 29.23-6. Action of Petitions.
- 29.23-7. Results of Election.

Source

The provisions of this Article XXIII adopted November 6, 1984, effective November 6, 1984, unless otherwise noted.

§ 29.23-1. General Authority.

a. *Initiative*—The qualified electors of Penn Hills shall have the power to propose ordinances to the Council by an initiative petition. If the Council fails to adopt the proposed ordinance without any change in substance, the ordinance shall be placed on the ballot at a regular or special election for adoption or rejection by the voters of Penn Hills.

b. *Referendum*—The qualified electors of Penn Hills shall have the power to require the Council to reconsider any adopted ordinance. If the Council fails to repeal an ordinance so reconsidered, the ordinance shall be placed on the ballot at a regular or special election for adoption or rejection by the qualified electors of Penn Hills.

c. *Restrictions*—

(1) All results of ordinances proposed by Initiative or repealed by Referendum must be in compliance with all County, State and Federal Laws.

(2) No Initiative or Referendum petition may be filed that require any changes in the adopted budget or that require any changes in taxes, fees, funds, assessments or changes that are levied in the adopted budget to meet required appropriations therein.

(3) No Initiative and Referendum petitions may be filed that deal with the status of employees or officials of the Municipality of Penn Hills except as provided by Article XXII, Recall.

§ 29.23-2. Commencement of Proceedings.

Any fifty (50) qualified electors may begin initiative or referendum proceedings by filing with the Clerk an affidavit stating that they will constitute the petitioners' committee, stating their names and addresses and the address to which all notices to the committee are to be sent. The affidavit shall also include the full text of proposed ordinance or cite the ordinance sought to be reconsidered. A filing fee of twenty-five (\$25.00) dollars shall be paid by the petitioners' committee to cover expenses to Penn Hills. Promptly after the affidavit of the petitioners' committee is filed, the Clerk shall issue appropriate petition blanks to the committee. The Petitioners' committee shall be responsible for circulating the petition and filing it in proper form within sixty (60) days after filing the committees' affidavit.

§ 29.23-3. Petitions.

a. *Number of Signatures*—Initiative and referendum petitions must be signed by at least twenty (20%) percent of the total number of qualified electors registered to vote at the last regular Penn Hills election.

b. *Form and Content*—All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature must be executed in ink or indelible pencil must be followed by the date of the signature and address of the person signing. The full text of the ordinance proposed or sought to be reconsidered must be contained within or attached to each paper of the petition throughout its circulation.

c. *Affidavit*—Each paper of the petition shall have attached to it when it is filed, an affidavit of the circulator which states that to the best of his knowledge the persons whose signatures appear on the petition are registered electors of Penn Hills, that their residences are correctly given, that he believes them to be

the genuine signatures of the persons whose names they purport to be, and that they signed with full knowledge of the contents of the petition.

d. *Time for Filing Referendum Petition*—Referendum petitions must be filed no later than sixty (60) days after publication of the approved ordinance sought to be reconsidered.

§ 29.23-4. Procedure after Filing.

a. *Certification*—Within twenty (20) days after the petition is filed, the Clerk shall certify its sufficiency, specifying in exactly which ways if any, it is deficient, and shall immediately send a copy of the certificate to the petitioners' committee by certified 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 Clerk within five (5) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of the certificate. Such supplementary petition shall comply with all the requirements of the original petition; within five (5) days after it is filed, the Clerk shall again certify the sufficiency of the amended petition and promptly send a copy of this certificate to the petitioners' committee by certified mail as in the case of the original petition.

b. *Council Review*—If no certification is received by the petitioners' committee within the specified time, they may request a review by the Council. If a petition has been certified insufficient and the petitioners' committee does not file a notice of intention to amend the petition, or if an amended petition has been certified insufficient, the petitioners' committee may, within two (2) days after receiving the copy of the certificate, file a request that the certificate be reviewed by Council. The Council shall review the certificate at its next meeting after the filing of the request and approve or disapprove it.

c. *Court Review*—A final determination as to the sufficiency 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.

§ 29.23-5. Referendum Petitions, Suspension of Ordinance.

When a referendum petition is filed with the Clerk, the ordinances sought to be reconsidered shall be suspended from taking effect. Such suspension shall end when:

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

§ 29.23-6. Action of Petitions.

a. *Action by Council*—When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly 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 was finally determined sufficient, it shall submit the proposed or cited ordinance to the electors of Penn Hills.

b. *Submission to the Electors*—The vote of Penn Hills on a proposed or cited ordinance shall be held, at the earliest available election, in accordance with the provisions of the election laws of the Commonwealth of Pennsylvania. Copies of the proposed or cited ordinance shall be available to the public at least ten (10) days before the scheduled election and at the polls.

c. *Withdrawal of Petitions*—An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote in Penn Hills on the petition. No petition shall be withdrawn except by written request signed by forty (40) members of the petitioners' committee. Upon filing of a withdrawal request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

§ 29.23-7. Results of Election.

a. *Initiative*—If a majority of the qualified electors 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 in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

b. *Referendum*—If a majority of the qualified electors 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.

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