

PART IV. TOWNSHIPS, SECOND CLASS

Chap.		Sec.
31.	TOWNSHIP OF WHITEMARSH HOME RULE CHARTER.....	31.1-101
33.	TOWNSHIP OF HORSHAM HOME RULE CHARTER.....	33.1-101

**CHAPTER 31. TOWNSHIP OF WHITEMARSH HOME RULE
CHARTER**

Art.		Sec.
I.	NAME AND POWERS OF GOVERNMENT.....	31.1-101
II.	THE BOARD OF SUPERVISORS.....	31.2-201
III.	TOWNSHIP MANAGER.....	31.3-301
IV.	ORDINANCES	31.4-401
V.	TOWNSHIP ADMINISTRATION	31.5-501
VI.	FINANCIAL PROCEDURES	31.6-601
VII.	FINANCIAL PLANNING	31.7-701
VIII.	TAXATION	31.8-801
IX.	PROHIBITIONS AND CONFLICT OF INTEREST.....	31.9-901
X.	CITIZEN PARTICIPATION	31.10-1001
XI.	GENERAL PROVISIONS	31.11-1101
XII.	TRANSITIONAL PROVISIONS	31.12-1201

Source

The provisions of this Chapter 31 adopted May 18, 1982, effective January 3, 1983, unless otherwise noted.

ARTICLE I. NAME AND POWERS OF GOVERNMENT

- Sec.
 31.1-101. Name and Boundaries.
 31.1-102. Powers.
 31.1-103. Continuation.
 31.1-104. Intergovernmental Cooperation.

§ 31.1-101. Name and Boundaries.

The Home Rule Municipality of Whitemarsh Township shall be a municipal corporation with the actual boundaries at the time this Charter takes effect to be those of the Second Class Township of Whitemarsh and as may be lawfully changed thereafter. As used in this Charter the words Whitemarsh and Township shall mean the Home Rule Municipality of Whitemarsh Township, Montgomery County, Pennsylvania.

§ 31.1-102. Powers.

The Township shall have and may exercise any powers and perform any functions not denied by the Constitution of Pennsylvania, the General Assembly of

Pennsylvania or this Charter as fully and completely as though they were specifically enumerated in this Charter. The powers of the Township shall be liberally construed in favor of the Township in order to provide the greatest possible powers of self-government allowable in the Commonwealth of Pennsylvania. Any specific mention of powers in this Charter shall not be construed as limiting in any way the general powers of the Township.

Cross References

This section cited in 346 Pa. Code § 31.2-202 (relating to powers and duties).

§ 31.1-103. Continuation.

All powers and functions of the Second Class Township of Whitemarsh contained in any or all ordinances, resolutions, by-laws, rules and regulations or portions thereof in force on the effective date of this Charter, and not inconsistent with or in conflict with the provisions of this Charter, shall be continued in full force and effect until amended, repealed, superseded or expired by their own terms.

§ 31.1-104. Intergovernmental Cooperation.

In the exercise of any of its powers or performance of any of its functions or responsibilities and the financing thereof, the Township shall have those powers of intergovernmental cooperation as set forth in Article IX, Section 5 of the Constitution of the Commonwealth of Pennsylvania.

ARTICLE II. THE BOARD OF SUPERVISORS

Sec.

- 31.2-201. Composition.
- 31.2-202. Powers and Duties.
- 31.2-203. Qualifications.
- 31.2-204. Election.
- 31.2-205. Term of Office.
- 31.2-206. Forfeiture of Office.
- 31.2-207. Vacancies.
- 31.2-208. Filling of Vacancies.
- 31.2-209. Compensation.
- 31.2-210. Change of Compensation.
- 31.2-211. Organization of the Board.
- 31.2-212. Officers of the Board.
- 31.2-213. Board Meetings.
- 31.2-214. Meeting Procedures and Agenda.
- 31.2-215. Quorum and Majority Action.
- 31.2-216. Official Action.
- 31.2-217. Record of Official Action.

§ 31.2-201. Composition.

The governing body of the Township shall be known as the Board of Supervisors (hereinafter called Board) and shall be composed of five members elected from the Township at large.

§ 31.2-202. Powers and Duties.

All powers and duties of the Township including those set forth in § 31.1-102 of this Charter and those in existence or hereafter conferred on the Township by the Constitution of Pennsylvania or the Acts of the General Assembly of Pennsylvania that are uniform and applicable throughout the Commonwealth (hereinafter called general law) shall be exclusively vested in and exercised by the Board. The Board shall provide for the exercise of and the performance of all such powers and duties including, but not limited to, the following:

- a. To adopt a budget, make appropriations for expenditures for lawful purposes and levy taxes;
- b. To adopt and amend an Administrative Code which shall create, alter, combine and/or abolish municipal departments, boards, commissions, agencies, authorities and committees and prescribe their functions, duties and procedures;
- c. To adopt ordinances and resolutions and to prescribe fines and penalties for the violation thereof; and,
- d. To appoint the Township Manager, Solicitor, Finance Director and Police Chief.

§ 31.2-203. Qualifications.

A member of the Board shall:

- a. Be a citizen of the United States of America;
- b. Be a registered elector of the Township;
- c. Not have been convicted of embezzlement of public monies, bribery, perjury or other infamous crime;
- d. Not otherwise be disqualified from office by the terms of this Charter or by general law; and,
- e. During his term of office hold no other elective public office nor any other compensated or appointed position in the Township government.

Cross References

This section cited in 346 Pa. Code § 31.2-208 (relating to filling of vacancies).

§ 31.2-204. Election.

The procedure for the nomination and election of members of the Board shall be as provided in the election laws of the Commonwealth of Pennsylvania.

§ 31.2-205. Term of Office.

A Supervisor shall serve a term of office of four years beginning at the organizational meeting under § 31.2-211 of this Charter following the year in which he is elected. A Supervisor appointed or elected to fill a vacancy in an unexpired term of office shall serve as provided in § 31.2-208 of this Charter. No Supervisor shall be elected to more than two (2) consecutive four (4) year terms and the balance of one (1) unexpired term. Thereafter, no such person shall be elected or appointed to serve as Supervisor for at least two (2) years.

§ 31.2-206. Forfeiture of Office.

- a. The office of a Supervisor shall be forfeited if the Supervisor:
 1. Lacks any of the qualifications for Supervisor prescribed by this Charter or by general law;
 2. Violates any express prohibition of this Charter;
 3. Is convicted of embezzlement of monies, bribery, perjury or other infamous crime; or,
 4. Fails to perform the duties of Supervisor.
- b. The following procedure shall be followed to determine whether a forfeiture has occurred:
 1. The Board shall hold a public hearing and decide thereat by resolution whether a petition shall be filed in the Court of Common Pleas of Montgomery County, Pennsylvania to determine whether the office of a Supervisor has been forfeited.
 2. Notice of such public hearing with the purpose, date, time and place thereof shall be advertised at least once in one or more newspapers of general circulation in the Township not more than thirty (30) days nor less than ten (10) days prior to the hearing. The Board shall cause such notice to be sent by certified mail to the named Supervisor not less than ten (10) days prior to the hearing.
 3. If so resolved, the petition shall be filed within five (5) days following the public hearing.

§ 31.2-207. Vacancies.

The office of a Supervisor shall become vacant upon death, resignation, legal incompetency, removal from office in any manner authorized by this Charter or general law, or by final Order of a Court of Competent Jurisdiction that said office has been forfeited.

§ 31.2-208. Filling of Vacancies.

Whenever a vacancy exists in the office of Supervisor, the vacancy shall be filled under the following procedures:

a. The remaining members of the Board, by the affirmative vote of at least three (3) members thereof, shall fill the vacancy within thirty (30) days from the date the office becomes vacant. In the event there are two (2) vacancies, they shall be filled one at a time. The newly appointed Supervisor may vote on the appointment of the next vacancy to be filled. The person selected shall have the qualifications set forth in § 31.2-203 of this Charter.

b. If the Board for any reason fails to fill a vacancy within the aforesaid thirty (30) day period, the vacancy shall be filled within fifteen (15) additional days by the majority vote of a vacancy board consisting of five members having the same qualifications as Supervisor and appointed to serve a one (1) year term by the Board at the organizational meeting.

c. If the vacancy board fails to act as aforesaid, the Court of Common Pleas of Montgomery County, Pennsylvania, upon petition of any remaining Supervisor or any five registered voters of the Township, shall fill the vacancy by the appointment of a person having the qualifications set forth in § 31.2-203 of this Charter.

d. The person so appointed shall serve until the earlier of the beginning of the first regularly scheduled meeting of the Board following the certification of election under subsection e or the expiration of the original Supervisor's term.

e. At the next regularly scheduled primary, municipal or general election occurring at least sixty (60) days after the vacancy occurs, a qualified person shall be elected to fill the vacancy by special election as provided in the election laws of the Commonwealth of Pennsylvania. A person so elected shall assume office at the beginning of the first regularly scheduled meeting of the Board following certification of his election and shall serve for the remainder of the unexpired term.

Cross References

This section cited in 346 Pa. Code § 31.2-205 (relating to term of office).

§ 31.2-209. Compensation.

The compensation of a Supervisor shall be \$2,500 per annum. A Supervisor shall receive reimbursement for reasonable expenses actually incurred in the performance of his duties in accordance with the Administrative Code or other ordinance.

§ 31.2-210. Change of Compensation.

The Board may change by ordinance the compensation of a Supervisor, but no such ordinance shall become effective until the expiration of the current terms of all Supervisors in office at the time the ordinance is adopted.

§ 31.2-211. Organization of the Board.

The Board shall organize at 8:00 PM on the first Monday of January of each year. If the first Monday is a legal holiday, the organizational meeting will be held on the first day following which is not a legal holiday. At the organizational meeting the Board shall:

- a. Elect a Chairman and a Vice-Chairman who shall hold office at the pleasure of the Board;
- b. Appoint a vacancy board; and,
- c. Designate and advertise the calendar of regular monthly meetings for the remainder of the year.

Cross References

This section cited in 346 Pa. Code § 31.2-205 (relating to term of office).

§ 31.2-212. Officers of the Board.

The Chairman or, in the Chairman's absence, the Vice-Chairman shall preside at Board meetings; designate the Township's representative at ceremonial occasions; and carry out such duties and sign such legal documents as prescribed elsewhere in this Charter, the Administrative Code or other ordinance or general law.

§ 31.2-213. Board Meetings.

The Board shall meet regularly in public at least once every month at such time and place within the Township as prescribed by the Board. Special meetings may be held on the call of the presiding Officer upon notice to each Supervisor at least twenty-four (24) hours in advance thereof. Special meetings shall be held in public and notice thereof posted in the Township Office. These requirements may be waived in an emergency under § 31.4-408 of this Charter.

§ 31.2-214. Meeting Procedures and Agenda.

All Board meetings shall be conducted to assure full and equal participation in the deliberations by all Board members. The Board shall have an agenda for each meeting of matters to be considered. The agenda shall be available to the public and distributed to those in attendance prior to the start of the meeting. No official action may be taken by the Board on any matters not included in the agenda except by the affirmative vote of at least three (3) members thereof. The agenda shall include the opportunity and reasonable time for public participation in the meeting.

§ 31.2-215. Quorum and Majority Action.

Three (3) members of the Board shall constitute a quorum. The Board shall conduct no business except in the presence of a quorum. The action of a majority of the Supervisors present and entitled to vote shall be binding upon and consti-

tute the official action of the Board except as otherwise provided in this Charter. No Supervisor shall by virtue of his office publicly or privately seek individually to interfere with the official acts of the Township and its employees.

§ 31.2-216. Official Action.

Official action of the Board shall be taken by the adoption of an ordinance or resolution at a public meeting. All legislation shall be enacted by the adoption of an ordinance in compliance with Article IV of this Charter. All final action in adopting ordinances and resolutions shall be by roll call vote and shall be entered into the record of the meeting.

§ 31.2-217. Record of Official Action.

The Board shall make and maintain a written record of its minutes and proceedings. Such record shall be open and available for public inspection at the Township Office. No citizen of Whitemarsh Township shall be denied reasonable access to such records. Copies of minutes, ordinances, resolutions and other official actions of the Board shall be available to the public without charge or at a reasonable fee established by the Board.

ARTICLE III. TOWNSHIP MANAGER

Sec.

31.3-301. Appointment and Compensation.

31.3-302. Qualifications.

31.3-303. Removal from Office.

31.3-304. Powers and Duties.

31.3-305. Acting Manager.

§ 31.3-301. Appointment and Compensation.

The Board shall, by the affirmative vote of at least three (3) members thereof, appoint a Township Manager (hereinafter called Manager) who shall serve at the pleasure of the Board. The Board shall set the compensation of the Manager and provide other terms of his employment. When a vacancy occurs in the office of the Manager, the Board shall appoint a qualified successor.

§ 31.3-302. Qualifications.

The Manager shall be chosen strictly on the basis of his administrative qualifications, training and/or experience with respect to the duties of the office. The Manager need not be a resident of the Township at the time of his appointment, but shall within one year after appointment become a resident unless otherwise authorized by the affirmative vote of at least three (3) members of the Board. The Manager shall hold no elective governmental office, shall devote his full time to the affairs of the Township and shall not otherwise be gainfully employed unless authorized by the affirmative vote of at least three (3) members of the Board.

§ 31.3-303. Removal from Office.

The Manager may be removed from office at any time with or without cause by the affirmative vote of at least three (3) members of the Board. Such action shall be taken by a resolution adopted by a public meeting of the Board. The Board shall notify the Manager in writing of its intention to act on a removal resolution at least five (5) days prior to the date on which such action shall be considered.

§ 31.3-304. Powers and Duties.

The Manager shall be the chief administrative officer and Secretary of the Township and shall be responsible to the Board for executing and enforcing all policies, ordinances and resolutions of the Township. Such powers and duties shall include but not be limited to the following:

- a. To supervise and be responsible for the activities of all Township offices, agencies, departments and employees except as otherwise provided in this Charter;
- b. To appoint all department heads except the Finance Director and Police Chief;
- c. To hire, suspend or remove any employees under his supervision except for the Finance Director and Police Chief;
- d. To assist the Board in the preparation of the budgets of the Township and be responsible for their administration;
- e. To keep the Board informed as to the conduct of Township affairs and submit reports at least annually on financial, administrative and other matters as the Board may prescribe;
- f. To make recommendations to the Board as deemed necessary on matters affecting the health, safety, welfare and administration of the Township and its citizens;
- g. To enforce provisions of all franchises, permits, licenses, and privileges granted by the Township; to make certain all terms and conditions in favor of the Township in any public law, public utility franchise, other franchise, contract or lease are faithfully kept and performed and to report any violations to the Board;
- h. To represent the Township in negotiations and deliberations concerning matters of intergovernmental cooperation subject to the approval of the Board; and,
- i. To exercise any additional powers or duties conferred upon the Manager by this Charter or by the Board.

§ 31.3-305. Acting Manager.

The Manager shall designate in writing an employee of the Township to serve as Acting Manager during his temporary absence or disability or in the event of

a vacancy in the office. The Board, by the affirmative vote of at least three (3) members thereof, may revoke such designation and appoint another qualified employee of the Township to so serve.

ARTICLE IV. ORDINANCES

Sec.

- 31.4-401. Actions Requiring Ordinances.
- 31.4-402. Form of Ordinances.
- 31.4-403. Standard Code of Technical Regulations.
- 31.4-404. Procedure for Adoption.
- 31.4-405. Effective Date.
- 31.4-406. Recording.
- 31.4-407. Codification.
- 31.4-408. Emergency Ordinances.
- 31.4-409. Referendum on Proposed Ordinances.

Cross References

This article cited in 346 Pa. Code § 31.2-216 (relating to official action).

§ 31.4-401. Actions Requiring Ordinances.

The Board shall exercise by ordinance those powers and duties which:

- a. Provide for a fine or other penalty or establish a rule or regulation for the violation of which a fine or other penalty may be imposed;
- b. Establish, levy and collect taxes, and provide the rates thereof;
- c. Establish, alter or abolish the rates or charges for any utility supplied by the Township;
- d. Authorize the borrowing of money except for revenue anticipation loans;
- e. Grant, renew, or extend a franchise;
- f. Exercise the power of eminent domain;
- g. Purchase, convey, lease or authorize the purchase, conveyance or lease of any real property;
- h. Authorize the construction of public capital improvements;
- i. Establish, alter or amend any zoning, subdivision, land development or building regulations;
- j. Amend or repeal any ordinance previously adopted; and,
- k. Otherwise are required by this Charter or general law to be exercised by ordinance.

All other powers and duties of the Township and the Board may be exercised by ordinance or resolution.

§ 31.4-402. Form of Ordinances.

An ordinance shall contain only one subject clearly expressed in its title. Any ordinance which repeals or amends an existing ordinance shall clearly indicate the matter to be repealed, omitted or added.

§ 31.4-403. Standard Code of Technical Regulations.

The Board may adopt any standard code of technical regulations or parts thereof by adopting an ordinance incorporating said code or parts thereof by reference. The details of such standard codes need not be advertised, but copies thereof shall be available at the Township office for public use, inspection and purchase at a reasonable fee fixed by the Board.

§ 31.4-404. Procedure for Adoption.

Except as otherwise provided in this Charter, the procedure for adoption shall be as follows:

a. *Introduction.* A proposed ordinance may be introduced by a Supervisor at any regular or special public meeting. Such ordinance shall be submitted to the Manager in advance thereof who shall place it on the agenda of the next public meeting for introduction and first consideration. A proposed ordinance not included in the agenda shall be introduced and given first consideration only with the affirmative vote of at least three (3) members of the Board.

b. *Advance Advertisement.* If the proposed ordinance is approved by the Board upon introduction and first consideration, the Manager shall advertise the full text thereof and the date, time and place when the ordinance will receive further consideration. Said advertisement shall be published at least once in one or more newspapers of general circulation in the Township, not more than thirty (30) days nor less than ten (10) days before the said public meeting. When maps, plans, or drawings of any kind are proposed as part of an ordinance, the Manager may, instead of publishing same, provide that they are on file and may be examined at the Township office.

c. *Adoption by the Board.* Provided that citizens of the Township have been given an opportunity to express their views at the advertised public meeting, the Board may:

1. Adopt the ordinance as proposed;
2. Postpone action until a later meeting; or,
3. Amend a proposed ordinance before final adoption.

If there is a postponement and no announcement made thereat of a later date, time and place when the ordinance will receive further consideration or if an amendment makes any change in the substance of the ordinance as originally advertised, then no final action may be taken until the ordinance has again been advertised in accordance with subsection b of this Charter. Final adoption of an ordinance, except as otherwise provided in this Charter, shall require the affirmative vote of at least three (3) members of the Board.

§ 31.4-405. Effective Date.

Except as otherwise provided in this Charter, an ordinance shall take effect on the day after the date of adoption or such later date as the Board may prescribe.

§ 31.4-406. Recording.

The Manager shall record the full text of all ordinances with proofs of publication in a permanent record book which shall be available for public inspection at the Township office.

§ 31.4-407. Codification.

The Board shall provide for the general codification of all Township ordinances having the force and effect of law. The general codification shall be adopted by ordinance and include this Charter and the Administrative Code. The codification shall be known and cited as “Code of the Township of Whitemarsh”. All new ordinances shall be integrated in the codification.

§ 31.4-408. Emergency Ordinances.

Notwithstanding any other provisions of this Article, the Board may, in the event of a substantial public emergency affecting the health, safety and welfare of the citizens of the Township, adopt emergency ordinances. Emergency ordinances shall be so designated, introduced in the form required for ordinances and clearly state the nature of the emergency. No prior publication of an emergency ordinance shall be required and it may be introduced and adopted at any public meeting at which it is introduced. An emergency ordinance shall require the affirmative vote of at least three (3) members of the Board. In the event it is impossible for the total membership to be present, an emergency ordinance may be adopted by the majority vote of the members present provided there is a quorum. Emergency ordinances shall not levy taxes. An emergency ordinance shall become effective immediately upon adoption and shall automatically be repealed on the thirty-first day following the date of its adoption, but may be re-enacted as provided herein if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the manner set forth herein. An emergency or repealing ordinance shall be advertised as soon as possible after it is adopted.

Cross References

This section cited in 346 Pa. Code § 31.2-213 (relating to board meetings); and in 346 Pa. Code § 31.7-706 (relating to budget amendment).

§ 31.4-409. Referendum on Proposed Ordinances.

The Board may, by the affirmative vote of at least three (3) members thereof, approve a resolution to provide for a referendum on the question of adopting any proposed ordinance. The referendum resolution shall be filed with the Board of Elections of Montgomery County, Pennsylvania at least sixty (60) days prior to the next primary, municipal or general election and a referendum shall be held thereat by special election as provided in the election laws of the Commonwealth

of Pennsylvania. The said Board of Elections shall place the question on the ballot in a manner fairly representing its contents.

If a majority of the qualified electors voting on the proposed ordinance vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the Township upon certification of the election results. If the provisions of two or more proposed ordinances approved or adopted at the same election conflict, then the proposed ordinance receiving the greatest affirmative vote shall control.

Cross References

This section cited in 346 Pa. Code § 31.8-801 (relating to subjects and rates of taxation).

ARTICLE V. TOWNSHIP ADMINISTRATION

Sec.

- 31.5-501. General Provisions.
- 31.5-502. Administrative Code.
- 31.5-503. Department Heads.
- 31.5-504. Boards and Commissions.
- 31.5-505. Township Solicitor.
- 31.5-506. Finance Director.

§ 31.5-501. General Provisions.

The Board shall, by ordinance, adopt an Administrative Code which shall create, alter, or abolish Township departments, agencies and offices, and prescribe the duties and responsibilities thereof not inconsistent with this Charter or general law.

§ 31.5-502. Administrative Code.

The Administrative Code shall provide for the administrative organization of the Township government, and contain at a minimum the following:

- a. A comprehensive system of personnel administration based on merit principles and providing uniform procedures for the hiring, appointment, suspension and removal of all Township employees;
- b. The assignment of duties and responsibilities of all Township employees;
- c. Procedures for managing the financial affairs of the Township; and,
- d. Other matters and procedures required in this Charter.

§ 31.5-503. Department Heads.

The Board shall appoint the Manager, Finance Director and Police Chief. All other department heads shall be appointed by the Manager.

§ 31.5-504. Boards and Commissions.

The Board may create, modify, or abolish boards, commissions, authorities, agencies or special committees of the Township and appoint the members thereof not inconsistent with this Charter or general law. The Board shall, by the affirmative vote of at least three (3) members thereof, appoint residents of the Township to serve terms not to exceed five (5) years, after appropriate prior announcement of openings at a public meeting. No appointee shall hold any other elective Township office except on a Government Study Commission created under Pa. Act 62 of 1972.

Cross References

This section cited in 346 Pa. Code § 31.12-1204 (relating to boards, commissions, authorities and other agencies).

§ 31.5-505. Township Solicitor.

The Board, by the affirmative vote of at least three (3) members thereof, shall appoint a Township Solicitor (hereinafter called Solicitor) for an indefinite term who shall serve at the pleasure of the Board with compensation to be set by the Board. The Solicitor shall be a member of the Bar of the Supreme Court of Pennsylvania and experienced in municipal law. The Solicitor shall serve as the legal counsel of the Township, including the Board, the Manager, and departments and agencies thereof, and shall perform such duties as prescribed by the Board, this Charter or by general law.

§ 31.5-506. Finance Director.

The Board, by the affirmative vote of at least three (3) members thereof, shall appoint a Finance Director for an indefinite term and fix his compensation. The Finance Director shall be qualified by education and/or experience in accounting and/or public finance and/or financial management, to supervise, in cooperation with the Manager, the financial administration of the Township and perform such duties as prescribed by the Board, this Charter, or general law.

ARTICLE VI. FINANCIAL PROCEDURES

Sec.

- 31.6-601. Fiscal Year.
- 31.6-602. Classification of Accounts.
- 31.6-603. Receipts.
- 31.6-604. Contracts.
- 31.6-605. Disbursements.
- 31.6-606. Records and Reports.
- 31.6-607. Independent Audit.
- 31.6-608. Bonding of Officers and Employees.
- 31.6-609. Limitations on Debt.

§ 31.6-601. Fiscal Year.

The fiscal year of the Township shall be the calendar year. After 1984 the Board may, by ordinance, adopt a different fiscal year, specifying an orderly transition procedure for financial and budgetary controls.

§ 31.6-602. Classification of Accounts.

The Board shall provide in the Administrative Code a uniform classification of accounts for all financial plans, budgets and financial reports.

§ 31.6-603. Receipts.

The Board shall provide in the Administrative Code procedures for the receipt, deposit and accounting by the Finance Director of all taxes, fees and other monies due and received by the Township. The Board shall designate the depositories for Township receipts.

§ 31.6-604. Contracts.

The Township may make contracts for lawful purposes subject to this Charter or general law. No contract shall be made or obligation incurred unless the Finance Director shall certify to the Board and Manager that there is a sufficient unencumbered balance in an appropriation and that sufficient monies therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any contract made or obligation incurred in violation of this provision shall be void and any Supervisor or employee authorizing such contract shall be subject to removal and be liable to the Township or its surety for any loss incurred. The Board shall provide in the Administrative Code the procedures for letting contracts which shall not be inconsistent with this Charter or general law and shall include as a minimum the following:

- a. Contracts of the Township involving sums in excess of an amount from time to time specified by the Board by ordinance shall be in writing, shall be subject to competitive bidding, and shall be executed by the Chairman of the Board. The Manager may enter into and execute all other contracts on behalf of the Township. All written contracts shall be reviewed and approved by the Solicitor before execution. Contracts for the purchase, sale, lease or use of real property, or for the construction of public capital improvements shall be authorized by ordinance.
- b. A procedure for competitive bidding to include definitions, publication and notice requirements, deposit and bond requirements, conditions, terms, rules, regulations, waivers, rights of acceptance and rejection, and exceptions as it shall from time to time deem advisable and in accordance with this Charter and general law.
- c. Competitive bidding shall not be required for:

1. Contracts for labor or services rendered by any person in their capacity as Township employee;
 2. Contracts for labor, material, supplies or services aggregating less than the amount from time to time specified by the Board by ordinance for the item in the year supplied;
 3. Contracts relating to the acquisition or use of real property;
 4. Contracts for professional or unique services or supplies;
 5. Contracts for policies of insurance or surety company bonds, except that the use of competitive bidding or proposals for such items shall be encouraged where practical;
 6. Contracts for emergency repairs; and,
 7. Contracts with other governmental entities, agencies, authorities or political subdivisions.
- d. No contract subject to competitive bidding shall be authorized on behalf of the Township except with the lowest responsible bidder.
- e. No person shall evade the competitive bidding provisions of this Charter by purchasing or contracting in multiple transactions for the purpose of obtaining prices under the amount specified by the Board for competitive bidding when such transactions should, in the exercise of reasonable discretion and prudence, be conducted or considered as one transaction.

§ 31.6-605. Disbursements.

The Board shall authorize disbursement of Township monies in discharge of Township obligations lawfully incurred after determining that all goods and services contracted for have actually been received or performed. The Board shall provide in the Administrative Code for procedures for the signing and counter-signing of all checks, drafts or other orders of payment by two persons.

§ 31.6-606. Records and Reports.

The Finance Director shall:

- a. Prepare and maintain a record of all financial transactions of the Township as prescribed by the Board in the Administrative Code. These records shall be kept at the Township office and shall be available for public inspection.
- b. Prepare financial reports at least monthly, annually and at such other times as the Manager may direct. The said reports shall be submitted to the Board at its regular meetings and made available to the public.
- c. Prepare a quarterly review of the income and expenditures of the annual budget. Such report shall be presented publicly at a regular meeting of the Board.

§ 31.6-607. Independent Audit.

The Board shall provide for an independent annual audit of Township receipts, expenditures, accounts and reports by a Pennsylvania Certified Public Accountant

or a firm of such accountants, experienced in municipal finance, having no personal interest, direct or indirect, in the fiscal affairs of the Township or any of its elected or appointed personnel or employees. The Board may provide for more frequent audits at its discretion. The results of the annual audit and a financial statement of the fiscal affairs of the Township, together with any recommendations thereon, shall be included in the annual report of the Manager and a summary thereof shall be published at least once in one or more newspapers of general circulation in the Township within one hundred and twenty (120) days after the close of the fiscal year.

§ 31.6-608. Bonding of Officers and Employees.

The Board shall provide in the Administrative Code for the bonding of all officers and employees who are responsible for the handling and/or authorization of receipts, disbursements, materials or supplies. All such bonding shall be approved by the Solicitor for form and sufficiency. The premium for such bonding shall be paid by the Township.

§ 31.6-609. Limitations on Debt.

The borrowing of money by the Township shall be limited in amounts and governed by procedures in the Local Government Unit Debt Act (Act 185 of 1972) as amended, or general law.

ARTICLE VII. FINANCIAL PLANNING

Sec.

31.7-701. Financial Planning and Budgets.

31.7-702. Budget Content.

31.7-703. Budget Review, Advertisement and Presentation.

31.7-704. Budget Adoption.

31.7-705. Budget Modification.

31.7-706. Budget Amendment.

§ 31.7-701. Financial Planning and Budgets.

The Board shall adopt an Operating Plan and Budget and a Capital Plan and Budget which shall reflect the policies and objectives established by the Board, cover all Township funds and activities, and specify a total of expenditures not to exceed estimated revenue from all sources to be received in the course of normal governmental activity but excluding any extraordinary income not contracted for at the date of adoption. Available surpluses from prior years may be included with estimated revenues.

§ 31.7-702. Budget Content.

Such financial planning and budgets shall be in the form and detail as the Board shall direct and as a minimum be as follows:

a. An operating plan of revenue and expenditures for the next two (2) fiscal years which shall contain, as a minimum, the amounts to be appropriated for each activity in terms of personal services, contractual services, material, supplies, equipment and such additional classes as the Board may prescribe. The first year of the Plan shall be in detail and constitute the Operating Budget. The second year of the Plan shall be advisory for the purpose of long range planning and may be stated in general categories only.

b. A Capital Plan for the next three (3) or more fiscal years and shall contain, as a minimum, all proposed capital improvements identified by project, the year of acquisition or construction, proposed funding and the impact on the operating expenses, debt structure and borrowing limitations of the Township. The first year of the Plan shall be in detail and constitute the Capital Budget. The remaining years of the Plan, except where capital expenditures are approved, shall be advisory for the purpose of long range planning and may be stated in general categories only. The capital budget may be financed from appropriations of current revenues or monies borrowed as authorized by this Charter or general law. All appropriations for the Capital Budget shall lapse at the end of the fiscal year but sufficient amounts to complete projects in progress may be appropriated in the budget for the following year.

c. The Financial Plans and Budgets required herein shall include an explanation in terms of programs, projects and services to be provided and the funding thereof.

§ 31.7-703. Budget Review, Advertisement and Presentation.

The Board, assisted by the Manager and Finance Director, shall develop and present the initial Financial Plans and Budgets not less than ninety (90) days prior to the end of the fiscal year, which shall constitute the work budget. After reviewing the work budget for viability, legality and compliance with established guidelines and the completion of required changes, the Board shall adopt the work budget as a preliminary budget at a public meeting not less than forty-five (45) days prior to the end of the fiscal year. The Manager shall advertise a summary of the work budget and the date, time and place of the said public meeting at least once in one or more newspapers of general circulation in the Township not more than thirty (30) days nor less than ten (10) days prior to said meeting. A copy of the work budget shall be available for inspection by Township residents.

Cross References

This section cited in 346 Pa. Code § 31.7-705 (relating to budget modification).

§ 31.7-704. Budget Adoption.

After adopting the preliminary budget and, on or before the last day of the fiscal year the Board shall, by written resolution, with or without amendment, adopt

the Operating Plan and Budget and the Capital Plan and Budget. A separate ordinance shall be required to levy taxes set forth therein for the ensuing fiscal year.

§ 31.7-705. Budget Modification.

In the years following a municipal election, the new Board may, within forty-five (45) days after the beginning of the fiscal year, adopt a revised Operating Plan and Budget or Capital Plan and Budget provided such revisions are adopted after the advertising and public hearing procedures set forth in § 31.7-703 of this Charter.

§ 31.7-706. Budget Amendment.

The Board may, by resolution, amend the Operating and Capital Budgets by:

- a. Making supplemental appropriations only when the Manager and Finance Director state the reasons for so doing and certify there are available for such appropriations, revenues in excess of those estimated;
- b. Reducing one or more unencumbered appropriations when the Manager and Finance Director have reason to believe revenues will be insufficient to meet the amounts appropriated, which fact shall be reported to the Board without delay, indicating the estimated amount of the deficit, any remedial action to be taken and recommendations thereon;
- c. Transferring part or all of any unencumbered appropriations from one account to another in which case the Board shall clearly state the reason for doing so and the amount of funds affected both before and after the transfer; and,
- d. Making emergency appropriations and providing for the funding thereof in accordance with the provisions of § 31.4-408 of this Charter and general law.

ARTICLE VIII. TAXATION

Sec.
31.8-801. Subjects and Rates of Taxation.

§ 31.8-801. Subjects and Rates of Taxation.

The subjects and rates of taxation in the Township shall be those allowable under the Second Class Township Code of the Commonwealth of Pennsylvania on the effective date of this Charter and those allowable from time to time under general law and other laws of the Commonwealth of Pennsylvania applicable to townships of the second class except as follows:

- a. The rate of taxation on real property for roads, bridges and general Township purposes shall not exceed 19 mills except the Board by ordinance may increase said rate of taxation not to exceed three (3) additional mills in the aggregate in any four (4) consecutive years by not more than one (1) mill per

year by the affirmative vote of at least four (4) members thereof or by not more than two (2) mills per year by the affirmative vote of at least five (5) of the members thereof; and,

b. The rates of taxation on any allowable taxes may be raised above the limitations set forth in this Charter by following the referendum procedures set forth in § 31.4-409 of this Charter.

ARTICLE IX. PROHIBITIONS AND CONFLICT OF INTEREST

Sec.

31.9-901. Prohibited Activities.

31.9-902. Violation.

§ 31.9-901. Prohibited Activities.

The following activities shall be prohibited in the operation of the Township:

a. *Discrimination.* No person shall be favored or discriminated against in his employment, appointment to any board, commission or agency, or suspension or removal therefrom, because of race, national origin, sex, age or political or religious opinions or affiliations.

b. *Improper Gifts.* No person who seeks appointment to any Township board, commission or agency or employment by the Township shall, directly or indirectly, give or pay money, service or other consideration to any person in connection with such appointment.

c. *Gifts to the Township.* No gift to the Township may be accepted without approval of the Board.

d. *Improper Advantage.* No elected or appointed official of the Township or employee thereof shall:

1. Engage in any activity or take any action by virtue of his position by which, directly or indirectly, he or any other person or entity in whose welfare he is interested shall benefit or realize a gain or advantage, except such actions in behalf of citizens of the Township and such benefit, gain or advantage and relationship is disclosed to the Board prior thereto;

2. Solicit or accept, directly or indirectly, any gift, favor, service, commission, compensation or other consideration that might reasonably tend to influence that person in the discharge of his duties;

3. Seek to influence, directly or indirectly, the awarding of any contract where such person or other person or entity in whose welfare he is, directly or indirectly, interested would benefit, financially or otherwise, except in behalf of citizens of the Township who would benefit from the contract and such benefit is disclosed to the Board prior thereto;

4. Accept or receive by virtue of his office, directly or indirectly, from any person any service or franchise right upon terms more favorable than is granted to the public generally; and,

5. Give or promise, directly or indirectly, to any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person. This prohibition also applies to a candidate for office, appointment or employment by the Township.

e. *Disqualification from Action.* Any elected or appointed official of the Township, or employee thereof, who has or by the exercise of reasonable diligence should know that he has any direct or indirect financial interest with any person or other entity proposing to contract with the Township shall fully disclose said interest to the Board and, except where such interest is minimal stock holdings in a public corporation, shall not participate in the discussion or vote on said contract. Such contract shall not be approved by the Board except by the affirmative vote of at least three (3) of the members thereof. This section shall not apply where such person 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 he cannot possibly be benefited either financially or in any other material manner. Violation of this Section shall render the contract voidable.

Cross References

This section cited in 346 Pa. Code § 31.9-902 (relating to violation).

§ 31.9-902. Violation.

Any person who violates § 31.9-901 of this Charter shall, upon conviction, be unqualified to hold elected or appointed office or employment in the Township government and may be subject to such punishment as may be provided by the Board by ordinance or by general law. Conviction shall result in forfeiture of office or termination of employment and any person so convicted shall thereafter be ineligible to hold office or be employed in the Township government.

ARTICLE X. CITIZEN PARTICIPATION

Sec.

31.10-1001. General Provisions.

31.10-1002. Participation Encouraged.

31.10-1003. Initiative and Referendum.

31.10-1004. Initiative and Referendum First Step Procedures.

31.10-1005. Initiative and Referendum Second Step Procedures.

31.10-1006. Initiative and Referendum—Limitations.

§ 31.10-1001. General Provisions.

The Board shall protect and promote the right of the citizens of Whitemarsh Township to participate in a positive and constructive manner in the government

of the Township. Any qualified citizen of the Township may participate in the government of the Township by:

- a. Seeking the office of and voting for candidates for Supervisor;
- b. Serving on boards, commissions, authorities or other agencies of the Township;
- c. Attending and being heard at all public meetings of the Board, and other boards, commissions, authorities or other agencies of the Township;
- d. Addressing suggestions to the Board and others to provide guidance for their actions; and,
- e. Exercising the right of initiative and referendum as provided in this Charter or general law.

§ 31.10-1002. Participation Encouraged.

The Board shall make every effort to appoint qualified citizens to boards, commissions, authorities or other agencies of the Township in order to make the greatest possible use of the talents and interests of such citizens, thereby promoting the public interest and welfare of the Township.

§ 31.10-1003. Initiative and Referendum.

Registered electors of the Township shall have the following powers:

- a. *Initiative*—to propose ordinances to the Board which are consistent with this Charter and general law and to adopt or reject the same at a primary, municipal or general election if the Board fails to adopt an ordinance so proposed without any change in substance; and,
- b. *Referendum*—to require repeal by the Board of any adopted ordinance and, if the Board fails to repeal said ordinance, to repeal it at a primary, municipal or general election.

These powers shall be utilized in a two step procedure.

§ 31.10-1004. Initiative and Referendum First Step Procedures.

Petition papers, circulated for the purpose of initiative or referendum, shall contain the names and addresses of five registered electors of the Township designated as the Committee of the Petitioners and the full text of the ordinance proposed or to be repealed. When the petition papers bear the signatures and addresses in ink of at least one hundred (100) registered electors of the Township, said Committee shall file the papers with the Manager as one instrument, each page of which shall contain an affidavit, executed by the circulator thereof, stating that all signatures thereon are genuine and were affixed in his presence after the signer had opportunity to read the full text thereof. The Manager shall within twenty (20) days thereafter determine whether the petition complies with the provisions of this Charter and general law. If the Manager certifies the petition as valid, the ordinance shall be presented at the next meeting of the Board for introduction and first consideration and be subject to other provisions of this Charter.

If the Manager determines the petition to be invalid, he shall certify the results of his examination by registered mail to the committee of the Petitioners describing the particulars in which it is defective. The defects may be corrected by amendment within ten (10) days after said notification.

Cross References

This section cited in 346 Pa. Code § 31.10-1005 (relating to initiative and referendum second step procedures).

§ 31.10-1005. Initiative and Referendum Second Step Procedures.

If the proposed or repealing ordinance is not adopted by the Board within forty-five (45) days after the date of introduction and first consideration, petition papers may again be circulated according to the procedures in § 31.10-1004 with the exception that a complying petition must bear the signatures and addresses in ink of at least fifteen percent (15%) of the registered electors of the Township collected within sixty (60) days thereafter. If, within sixty (60) days after the submission of the certified petition for introduction and first consideration, the Board fails to adopt or repeal the ordinance as requested by the initiative or referendum petition, the Manager, within ten (10) days thereafter, or the Committee of Petitioners if the Manager fails to act, shall file the petition with the Board of Elections of Montgomery County, Pennsylvania to be voted upon by registered electors of the Township at the next primary, municipal or general election to be held not less than sixty (60) days thereafter. An initiative or referendum election shall be held by special election as provided in the election laws of the Commonwealth of Pennsylvania.

If a majority of the registered electors voting on the proposed ordinance vote in favor thereof, such ordinance shall become a valid and binding ordinance of the Township upon certification of the election results. If the provisions of two or more ordinances adopted at the same election conflict, then the ordinance receiving the greatest affirmative vote shall control. If the majority of the registered electors voting to repeal an ordinance vote in favor thereof, the ordinance shall be considered repealed upon certification of the election results.

§ 31.10-1006. Initiative and Referendum—Limitations.

Initiative and referendum powers shall not extend to the budget or capital programs in their entirety nor to any emergency ordinance. However, such exception shall not apply to specific projects of the budget or capital program. Any proposed ordinance which requires the expenditure of Township revenues shall provide for the funding thereof.

ARTICLE XI. GENERAL PROVISIONS

Sec.

- 31.11-1101. Effective Date.
- 31.11-1102. Gender.
- 31.11-1103. Amendment.
- 31.11-1104. Severability.

§ 31.11-1101. Effective Date.

This Charter shall become effective on the first Monday of January 1983 except for the transitional provisions of Article XII of this Charter which shall become effective upon certification of the adoption of the Charter.

§ 31.11-1102. Gender.

Words used in the masculine gender shall include the feminine at all places in this Charter.

§ 31.11-1103. Amendment.

Amendments to this Charter shall be made in accordance with the provisions of Act 62 of 1972 of the General Assembly of Pennsylvania, as amended, or as otherwise provided by general law.

§ 31.11-1104. Severability.

If any provision or part thereof of this Charter is held invalid or unconstitutional, the remaining provisions of the Charter shall not be affected thereby. If the application of this Charter, its provisions or parts thereof to any persons or circumstances is held invalid or unconstitutional, the application of this Charter and said provisions or parts thereof to other persons or circumstances shall not be affected thereby.

ARTICLE XII. TRANSITIONAL PROVISIONS

Sec.

- 31.12-1201. Supervisors.
- 31.12-1202. Auditors and Tax Collector.
- 31.12-1203. Rights and Privileges Preserved.
- 31.12-1204. Boards, Commissions, Authorities and Other Agencies.
- 31.12-1205. Pending Matters.
- 31.12-1206. Transition Committee.
- 31.12-1207. Budgets for Calendar Year 1983.

Cross References

This article cited in 346 Pa. Code § 31.11-1101 (relating to effective date).

§ 31.12-1201. Supervisors.

Supervisors in office on the day this Charter becomes effective shall continue in office for the remainder of the staggered terms to which they were elected and shall have the powers, duties and benefits of Supervisors as set forth in this Charter.

§ 31.12-1202. Auditors and Tax Collector.

The Auditors and Tax Collector in office on the day this Charter becomes effective shall continue in office for the remainder of the terms to which they were elected and they shall continue to perform the functions of their respective offices as previously provided by law. Upon the death, resignation, removal from office or expiration of the terms of such Auditors or Tax Collector, no successors shall be appointed or elected and their functions shall be as provided in the Administrative Code.

§ 31.12-1203. Rights and Privileges Preserved.

The rights and privileges of employees of the Township at the time of adoption of this Charter shall not be impaired or affected unless said rights and privileges are inconsistent with this Charter. An employee holding a position in the Township government at the time this Charter takes effect, which same or similar position is continued after the effective date of this Charter, shall not be subject to competitive tests as a condition of continuation in that same or similar position, but in all other respects shall be subject to the personnel system set forth the Administrative Code.

§ 31.12-1204. Boards, Commissions, Authorities and Other Agencies.

All appointed members of boards, commissions, authorities, or other agencies of the Township in office on the day this Charter becomes effective shall continue with the same or similar bodies for the remainder of the terms of their original appointment. However, nothing in this Section shall limit the right of the Board to create, modify or abolish boards, commissions, authorities or other agencies as provided in § 31.5-504 of this Charter.

§ 31.12-1205. Pending Matters.

All pending actions and proceedings of the Township on the effective date of this Charter shall continue to be the responsibility of the Township department, employee, board, commission or other agency or authority appropriate under this Charter and the Administrative Code.

§ 31.12-1206. Transition Committee.

In order to establish an orderly transition to the new form of government provided by this Charter and to ensure that all necessary action is taken to make this

Charter fully effective on its effective date, the Board shall, within thirty (30) days after certification of adoption of this Charter, appoint a Transition Committee of at least nine (9) members comprised of representatives from the Board, Government Study Commission, administrative staff of the Township, residents of the Township and such civic agencies as the Board shall select to draft the Administrative Code, rules, regulations and ordinances required by this Charter. Not less than forty-five (45) days prior to the effective date of this Charter, the Board shall meet with the Transition Committee to review and prepare the final draft of said Code, rules, regulations and ordinances. All proposed ordinances shall be advertised at least once in one or more newspapers of general circulation in the Township not more than thirty (30) days nor less than ten (10) days before the organizational meeting of the new Board in January 1983. At said organizational meeting, the Board shall adopt the Administrative Code and related rules, regulations and ordinances which shall become effective on adoption.

§ 31.12-1207. Budgets for Calendar Year 1983.

The Board in office in 1982 shall prepare the budgets for 1983, where possible, in accordance with the organizational structure and uniform classification of accounts under this Charter.

[Next page is 33-1.]

31-26

(278208) No. 320 Jul. 01

Copyright © 2001 Commonwealth of Pennsylvania