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[HISTORY: Adopted by the Township of Whitehall 11-5-1974; generally reenacted 12-28-1989 by Ord. No. 1661, approved 5-15-1990.¹ Other amendments noted where applicable.]

¹Editor's Note: Ordinance No. 1661 effectuated various technical, clerical and grammatical changes to ease the use of the Charter by the public.

**HOME RULE CHARTER OF THE
TOWNSHIP OF WHITEHALL**

ARTICLE I

GENERAL

§1.01. Title.

This Charter shall be known as the “Home Rule Charter of the Township of Whitehall,” as amended.

§1.02. Purposes. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

This Charter and all amendments hereto shall constitute the form of government for the Township of Whitehall. The purposes of this Charter are: to provide Township services and facilities with the highest degree of efficiency and economy; to establish a Mayor-Commissioner form of government; to secure home rule for the citizens of Whitehall; and to provide for the health, safety and well-being of the people of the Township.

§1.03. Status and Boundaries.

“The Township of Whitehall” shall continue to be a municipality under the same name and with the same geographical boundaries as those existing at the time this Charter was first adopted.

§1.04. Definitions.

The following words, when used in this Charter, shall, unless the context clearly indicates otherwise, have the following meanings:

AGENCY — department, administrative unit, board, bureau, commission or committee.

BOARD — the Township Board of Commissioners consisting of those Commissioners who have assumed office.

COURT OF COMMON PLEAS — shall mean the Court of Common Pleas of Lehigh County, Pennsylvania.

MUNICIPAL GENERAL ELECTIONS — those elections required by the laws of Pennsylvania to be held in odd-numbered years.

PERSON — an individual, a partnership, an association, a corporation or other entity.

TOWNSHIP — the Township of Whitehall, Lehigh County, Pennsylvania.

ARTICLE II

GENERAL POWERS OF THE TOWNSHIP

§2.01. Powers and Functions.

The Township has and may exercise any powers and perform any functions not denied it by the Constitution of Pennsylvania, by this Charter or by the General Assembly.

§2.02. Construction.

The powers and functions of the Township under this Charter shall be liberally construed in favor of the Township. The specific enumeration of powers and functions shall not be construed as limiting in any way the general powers and functions of the Township. All possible powers and functions of the Township are to be considered as if specifically and individually set forth in this Article, whether such power and functions are presently available to the Township or may hereafter become available.

§2.03. Incorporation of Certain Statutes of General Applicability. [Added 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

The provisions of the following statutes, as amended from time to time, are hereby declared to be incorporated by reference, as though fully set forth herein:

- A. The Eminent Domain Code, Act of June 22, 1964, P.L. 84, as amended.
- B. The Local Tax Enabling Act, Act 511 of 1965, P.L. 1257, as amended, except with regard to the tax rate limitations set forth therein.
- C. The Pennsylvania Municipalities Planning Code, Act 247 of 1968, P.L. 805, as amended by Act 170 of 1988, P.L. 1329, inter alia.
- D. The Police Pension Law, Act 600 of 1956, P.L. 643, as amended.
- E. The Municipal Retirement Law, Act 15 of 1974, P.L. 34, as amended.
- F. The Local Government Unit Debt Act, Act 185 of 1972, P.L. 781, as amended.
- G. The Sunshine Act, Act 84 of 1986, P.L. 388, as amended.

To the extent not inconsistent herewith, the procedural provisions of the First Class Township Code Act of June 24, 1931, P.L. 1206, No. 331, as amended, shall be utilized when undertaking the various actions authorized thereby.

The power and authority to determine the applicability of other statutes not set forth herein is granted to the Township Board of Commissioners. The applicability of any statute, unless its applicability is mandated by the General Assembly, must be declared by ordinance.

ARTICLE III

THE TOWNSHIP BOARD OF COMMISSIONERS

§3.01. Status and Title.

The legislative branch of the government of the Township shall consist of an elective governing body which shall be known as the Township Board of Commissioners, The Board, when lawfully convened, shall constitute the legislative, appropriating, policy-determining and governing body of the Township.

§3.02. Powers and Duties.

- A. The Board shall, except as otherwise provided in this Charter, provide for the exercise and for the performance of all duties and obligations imposed on the Township by law.
- B. The Township Board of Commissioners shall have, but not by way of limitation, the following powers and duties.
 - (1) To make appropriations, incur indebtedness and adopt the budget.
 - (2) To adopt, amend and repeal an administrative code.
 - (3) To create, alter, combine and abolish any Township agency or agencies, with the exception of a department authorized by the Charter, and any committee appointed by the Mayor under Article V, §5.08(M) of this Charter. **[Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]**
 - (4) To levy taxes.
 - (5) To fix the amount of bonds for officers and employees, which bonds shall be paid from Township funds.
 - (6) To adopt by resolution all rules and regulations necessary for the governing of its own activities and procedures and for assuring the proper conducting of the business of the Township.
 - (7) To make or cause to be made such studies, investigations or audits which it deems necessary or to be in the best interests of the Township.

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- (8) To make provision for any matter of Township government not otherwise provided for including, but not limited to, any necessary matter involved in the transition of this Charter form of government.

§3.03. Composition.

The Board of Commissioners shall be composed of seven members elected at-large at the municipal general elections by the qualified voters of the Township.

§3.04. Terms and Election. [Amended 1-13-2002 by Ord. No. 2387, approved 5-20-2003]

The terms of office of all Commissioners shall be four years, commencing at 8:00 p.m. on the first Monday of January next following the year in which they are elected and ending at the commencement of the terms for which their successors are elected; except that a Commissioner appointed to fill a vacancy shall serve only until the next municipal election at which a successor is elected. Four Commissioners shall be elected at the Municipal General Elections in November, 1975, and every four years thereafter. Three Commissioners shall be elected at the Municipal General Elections in November, 1977, and every four years thereafter. Commissioners in the office at the time of the adoption of this Charter shall continue in office until their terms expire.

§3.05. Salary. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

Each Commissioner shall receive a salary at the rate of \$2,000 per annum or such other sum as the Board shall from time to time determine; provided, however, that no ordinance increasing such salary shall become effective for at last 4 years after the effective date of this Charter. No change in the compensation of Commissioners shall become effective in their current term of office. Commissioners shall receive no other compensation, directly or indirectly, for the performance of their duties; they shall receive no pensions, health or life insurances or other forms of fringe benefits. They shall, however, be entitled to payment of their actual expenses, and to protection from liability incurred in the proper performance of their duties.

§3.06. Qualifications.

Commissioners shall be qualified voters of the Township, shall have been residents of the Township continuously for at least 1 year preceding election and shall reside in the Township throughout their terms of office.

§3.07. Prohibitions. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991; 1-14-2008 by Ord. No. 2708, approved 4-22-2008]

Except where authorized by law or by this Charter, no current or former Commissioner shall hold any other Township office or employment in which he or she receives salary, compensation or emolument, until one year has passed since the expiration of the full term for which he or she was elected or appointed to the Board unless he/she is duly elected to such new position by the citizens in a municipal election.

§3.08. Vacancies. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

The office of Commissioner shall become vacant upon death, resignation, removal from office, forfeiture of office or for failure to assume such office after election thereto within 45 days after commencement of the term thereof. A Commissioner shall forfeit office if he or she:

- (1) Lacks at any time during his or her term of office any qualifications of his or her office prescribed in this Charter or by law.
- (2) Is convicted of a felony or a crime involving moral turpitude or a crime relating to the office of Commissioner.
- (3) Fails to attend three consecutive regular meetings without being excused by the Board of Commissioners.
- (4) Fails to attend regular meetings for a period of 90 consecutive days without an excuse deemed acceptable by the Board.

§3.09. Filling of Vacancies. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The Board of Commissioners shall, by appointment by a majority vote of the total remaining members of the Board, fill any vacancy in the office of Commissioner. Should the Board fail, for any reason whatsoever, to fill a vacancy within 45 days after the vacancy occurs, then the Court of Common Pleas shall, upon petition of the Mayor, a member of the Board or of any five citizens of the Township, fill by appointment the vacancy in such office. Any person appointed to fill a vacancy shall possess all the qualifications required of members of the Board as set forth in this Charter.

§3.10. Organization of Board of Commissioners.

The Board shall organize at 8 p.m. on the first Monday of January of each even-numbered year. The Board at the organizational meeting shall elect from its membership a President, Vice President and a Secretary, who shall hold such offices at the pleasure of the Board. The President, or in his or her absence the Vice President, shall preside at all meetings of the Board. The officers of the Board shall have and may exercise the rights to which they are otherwise

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entitled as Board members. The Secretary shall also possess the powers and duties as set forth in Article VIII, §8.02, of this Charter.

If the first Monday is a legal holiday, the meeting and organization shall take place the first day following the legal holiday. The Board may transact any further business it deems necessary or appropriate at the organizational meeting.

If a majority of the Board shall not attend the organizational meeting of the Board, those present may adjourn the meeting to such time as they determine. Those who attend the second of such adjourned meetings, although less than a quorum, as fixed in §3.17 of this Article, shall, nevertheless constitute a quorum for the sole purpose of electing the officers of the Board, but not for any other purpose.

§3.11. Committees and Staff.

The Board may appoint from among its members any committees and officers of the Board not expressly established by this Charter, who shall perform the duties and functions charged by the Board to the extent not inconsistent with other provisions of this Charter.

§3.12. Meetings. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

- A. Regular meetings of the Board shall be convened at least once a month at such times as the Board may determine, except as otherwise provided in this Charter. Written notice shall be given to each Commissioner at least 5 days prior to the meeting.
- B. Special meetings may be called by the President of the Board or, upon the written request of two members of the Board, by the Secretary. At least 48 hours prior notice shall be given to each member. Said notice shall designate the purpose, time and place of the special meeting, which time may be other than that required for regular meetings. At a special meeting, no business shall be considered other than that designated in the notice of the meeting.
- C. Presence of a Commissioner at any meeting shall constitute a waiver of notice of such meeting, except where a Commissioner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.
- D. If a meeting cannot be organized because a quorum has not attended, those present may adjourn the meeting to such time as they may determine.
- E. All meetings of the Board shall be held at the Township Municipal Building, or at such other location as shall be designated in a lawful public meeting notice, following approval of such other location by the Board of Commissioners.

§3.13. Minutes.

The Board shall provide for minutes of all regular and special meetings, which minutes shall be open and available for public inspection at the Township Municipal Building during the Township's regular business hours.

§3.14. Public Meetings and Public Notice of Meetings.

- A. Every public meeting of the Board shall be open to the public. Advance notice of the intent of the Board to take forthcoming actions at regularly scheduled meetings shall be published once in a newspaper of general circulation.
- B. The Board shall hold all public meetings, at specified times and places, of which public notice shall be given. Public notice of the schedule of regular meetings shall be given once for each calendar year and shall show the regular dates and times for meetings and the place at which meetings are held. Public notice of each special meeting and of each rescheduled regular or special meeting shall be given, setting forth the date, time and place of each meeting. Public notice shall be given by posting a copy of the notice prominently at the Township Municipal Building and by publishing the notice once in a newspaper of general circulation in Whitehall Township. Public notice shall be given at least 3 days prior to the time of each regular meeting and at least 48 hours prior to the time of the meeting in the case of special or rescheduled meetings. The Board shall supply, on request, copies of the public notice thereof to any newspaper of general circulation in Whitehall Township and to any radio station, television and television cable system which regularly broadcasts into Whitehall Township. The advertising and public notice requirements of this Charter, to the extent inconsistent with the provisions of the First Class Township Code, shall be deemed to supersede the provisions of that statute.

§3.15. Citizens' Right to be Heard.

The Board, before taking any vote, shall provide reasonable opportunity for persons to address the Board on matters of concern.

§3.16. Procedures.

- A. The Board shall, by ordinance, adopt rules of procedure for its organization, meetings and committees as part of its Administrative Code.
- B. The Board shall, by ordinance, adopt rules for the form of ordinances and resolutions, and procedures for the presentation and adoption of motions, ordinances and resolutions, all as part of its Administrative Code.

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§3.17. Quorum. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

The majority of the current membership of the Board shall constitute a quorum. The Board shall conduct no business unless a quorum is present, except as otherwise provided in §3.10 of this Article.

§3.18. Majority Action. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

The action of the majority of a duly constituted quorum of the Board shall be binding upon and constitute the action of the Board, except as otherwise provided in this Charter.

§3.19. Form of Action by the Board.

All legislation, certain specific actions enumerated in §3.20 of this Article, and any other actions required by law or by the Charter to be adopted by ordinance shall be enacted through the adoption of an ordinance. All other action of the Board may be taken by ordinance, resolution or motion. All ordinances and resolutions must be in written form. All actions in adopting ordinances, resolutions or motions shall be by roll call vote and the vote of each member of the Board shall be entered in the minutes of the meeting.

§3.20. Certain Specific Action Requiring an Ordinance. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

The following actions of the Board shall require an ordinance to establish their validity:

- A. The adoption, amendment or repeal of any provision of an administrative code or the creation, establishment, alteration, combination or abolition of any Township agency or agencies.
- B. Establishment of any fine or other penalty or the establishment of a rule or regulation for violation of which a fine or other penalty is imposed.
- C. The levy of any tax.
- D. The grant, renewal or extension of a franchise.
- E. The establishment, alteration or abolition of rates charged for any utility or other service supplied by the Township.
- F. The authorization to borrow money.
- G. The conveyance or lease, or authorization of the conveyance or lease, of any land of the Township.
- H. The amendment or repeal of any ordinance previously adopted.

- I. The establishment of wages, hours or fringe benefits of Township employees.
- J. The determination of powers, duties and authority of the Mayor, Deputy Mayor, Solicitor or Treasurer beyond those created by this Charter. **[Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]**
- K. The authorization to make any capital expenditures in excess of \$25,000.

§3.21. Submission to Mayor for Approval or Disapproval. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The Mayor shall, within 3 days of passage, receive a written copy of each ordinance or resolution approved by the Board for his approval or veto. Within 10 days after receipt, the Mayor shall return the ordinance or resolution to the Board with his or her approval or with a written statement explaining his or her reasons for the veto thereof.

If the Mayor shall veto an ordinance or resolution, the Board, within 10 days after receiving the veto, may override such veto by a two-thirds vote of the total members of the Board. If the Mayor fails to return the ordinance or resolution to the Board within 10 days after receipt, either approving or vetoing the same, the ordinance or resolution shall be deemed to be finally adopted as though approved and signed by the Mayor.

§3.22. Publication and Effective Date of Ordinances.

- A. After final adoption in accordance with §3.21, all ordinances shall be published one time in a newspaper circulating generally within the Township. The full text of the ordinance need not be published; instead the title or a general summary of the substance of the ordinance, the places where copies of it have been filed and the times when they are available for public inspection will be sufficient to satisfy the publication requirements of this Article. Publication shall occur within 30 days after the final adoption of an ordinance in accordance with §3.21.
- B. Ordinances shall take effect when specified therein except that no ordinance, other than the Township budget ordinance, shall take effect less than 30 days after final adoption in accordance with §3.21, unless the Board shall adopt a resolution declaring an emergency and at least a majority plus one of the total number of the Board vote in favor of such resolution. If an ordinance does not contain a specified effective date, it shall be effective 30 days after its final adoption in accordance with §3.21.

§3.23. Recording of Ordinances and Resolutions.

All motions, ordinances and resolutions of the Township shall be entered verbatim in permanent separate record books for each. The books shall be open and available for public inspection at the Township Municipal Building during the Township's regular business hours.

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These books shall be in the custody and control of the Secretary to the Board and all entries made therein shall be at the direction of the President within 30 days after passage.

§3.24. Ordinances Requiring Prior Public Notice. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

No final action shall be taken on the following types of ordinances and amendments thereto without two public hearings thereon, with at least 10 day intervals between the public hearings and at least 10 days prior public notice of each public hearing thereof published in a newspaper of general circulation in the Township:

- A. Adoption of a zoning ordinance, a zoning map or of amendments thereto.
- B. Adoption of subdivision, land development and land uses, regulations or of amendments thereto.
- C. Authorization of the conveyance or leasing of any lands to or from the Township.
- D. Adoption, amendment or repeal of any administrative code provisions.

§3.25. Enforcement of Ordinances. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

- A. All proceedings for the violation of any ordinances and for the recovery of fines or penalties imposed thereby shall be brought as prescribed by statute or by Township ordinance.
- B. Unless otherwise specified and authorized by law, the penalty for the violation of any ordinance shall not exceed the amount established in the First Class Township Code for the violation in question or 30 days imprisonment in default of payment of fine. Any ordinance may provide that for continuing violations, each day that a violation exists may be regarded as a separate offense and punishable as such. The Board may, by ordinance, increase any penalty beyond that set forth in the First Class Township Code to the extent permitted by law.

ARTICLE IV

BOARD INQUIRIES AND INVESTIGATIONS

§4.01. Inquiries and Investigations.

The Board shall have 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.

§4.02. Witnesses and Documents.

The Board may compel the attendance of witnesses and the production of books, papers and other tangible evidence at any meeting of the Board or any committee thereof. For that purpose, subpoenas may be issued, signed by the President of the Board or the Chairman of the committee in any pending case of inquiry or investigation and the same may be served in any part of the Commonwealth of Pennsylvania. Said subpoenas shall be enforceable by action in the Court of Common Pleas of Lehigh County, Pennsylvania.

§4.03. Oaths of Witnesses.

Any member of the Board shall have the power to administer oaths to witnesses.

§4.04. Witnesses' Privileges.

A person residing outside the Township and subpoenaed as aforesaid shall not be required to respond to the same until mileage and witness fees, equal to those then established for witnesses whose attendance has been required by the Court of Common Pleas of Lehigh County, shall have been first furnished to the witness. All witnesses required to provide information shall be accorded the same privileges and immunities as witnesses whose attendance has been required by the Court of Common Pleas of Lehigh County, Pennsylvania.

ARTICLE V

MAYOR

[Amended 2-16-1987 by Ord. No. 1576, approved 5-19-1987; 12-18-1989 by Ord. No. 1661, approved 5-15-1991; 11-11-1991 by Ord. No. 1747, approved 4-28-1992; 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

§5.01. Nature and Title.

The executive branch of the government of the Township shall be vested in and administered by an elective executive, hereafter known as the Mayor, who shall be the chief executive and administrative official of the Township the official head of the Township. He or she shall have such authority and perform such duties as are assigned to him or her under this Charter and shall have such further authority as may, from time to time, be delegated to the Mayor by ordinance.

§5.02. Election, Term, and Vacancy.

- A. The Mayor shall be elected at large by the qualified electors of the Township for a term of four years.

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- B. The election of a Mayor shall be held at a municipal election at four-year intervals, except for when a vacancy occurs as provided in Subsection F of this section, below.
- C. The term of an elected Mayor shall commence at 8:00 p.m. on the first Monday of January following the year in which he or she is elected.
- D. The term of an elected Mayor shall end at the commencement of the term for which his or her successor is elected, or when the office of Mayor becomes vacant, as provided in Section 5.06 of this Charter, as amended from time to time.
- E. If a vacancy in the office of Mayor occurs, the term of the appointed Mayor shall commence upon his or her appointment, as provided by Section 5.07 of this Charter, as amended from time to time, and shall end at the commencement of the term of an elected successor Mayor, or when a vacancy in the office of Mayor again occurs.
- F. If a vacancy occurs, a successor Mayor shall be elected at the next municipal election, for which the closing date for filing for the primary election is eight weeks or more after the office of the Mayor becomes vacant.

Transition: This amendment shall become effective with the commencement of the term of the next Mayor elected at a municipal election following approval of this amendment by referendum.

§5.03. Qualifications.

The Mayor shall be a qualified voter of the Township, shall be at least 25 years of age when elected to office, shall have been a resident of the Township continuously for 1 year preceding his or her election and shall reside in the Township throughout his or her term of service.

§5.04. Prohibitions. [Amended as approved 4-23-1996; 6-9-2008 by Ord. No. 2727, approved 11-4-2008]

The Mayor shall devote full-time to the office. Except where authorized by law or by this Charter, the Mayor, during his or her term of office, shall not hold any other Township governmental office or Township governmental employment in which he or she receives salary, compensation or emolument. During the period of the term for which he or she was elected or appointed, even if he or she does not complete such term, he or she shall not hold any other compensated Township governmental office until one year after the expiration of the full term for which he or she was elected or appointed to serve as Mayor, unless he or she is duly elected to such new position by the citizens in a municipal election.

§5.05. Salary.

The Mayor shall receive a salary at a rate established from time to time by the Board; provided, however, that no increase in the compensation of the Mayor shall become effective until the commencement of the term of the Mayor elected at the municipal general election following the authorization by the Board, and only then if the authorization preceded the election by at least 6 months; and further provided that a decrease in the compensation of the Mayor may only be accomplished by referendum (the authorization of which shall not require the approval of the Mayor).

The Mayor shall receive, in addition to salary, such additional fringe benefits as are extended to other managerial employees in the employ of the Township and such other fringe benefits as are authorized from time to time by the Board.

§5.06. Vacancies.

The office of Mayor shall become vacant upon his or her death, resignation, removal from or forfeiture of office or failure to assume office after election thereto within 45 days after the commencement of the term thereof. The Mayor shall forfeit his or her office if he or she:

- (1) Lacks at any time during his or her term of office any qualifications of his or her office prescribed by this Charter or by law.
- (2) Is convicted of a felony or a crime involving moral turpitude or a crime relating to the office of the Mayor.

§5.07. Filling of a Vacancy.

The Board shall, by appointment by a majority vote of the total number of the Board, fill any vacancy in the office of Mayor. Should the Board fail, for any reason whatsoever, to fill a vacancy within 45 days after the vacancy occurs, then the Court of Common Pleas of Lehigh County shall, upon petition of any member of the Board or any five citizens of the Township, fill the vacancy in such office by appointment. Any person appointed to fill the vacancy shall possess all the qualifications required of the Mayor as set forth in the Charter.

§5.08. Powers, Duties and Authority.

The Mayor, in addition to any other powers, duties and authority provided elsewhere in this Charter, by law or by Board action, shall have the following powers, duties and authority:

- A. He or she shall attend meetings of the Board and have the right to attend committees thereof and have an equal right with Commissioners to participate in deliberations. He or she shall have no right to vote on any matter before the Board or committee thereof.

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- B. He or she shall have the power to veto ordinances set forth in Article III, §3.21, of this Charter.
- C. He or she shall have the duty to preserve order in the Township.
- D. He or she shall have the duty to execute and enforce all ordinances and resolutions of the Board.
- E. He or she shall have the duty to sign, on behalf of the Township, such papers, contracts, obligations and documents that are properly presented to him or her as may be required by law.
- F. He or she shall report to the Board at the first regular meeting of each month regarding the state of affairs of the Township.
- G. He or she shall have the authority to represent the Township in deliberations with other governmental bodies.
- H. He or she shall supervise, appoint, suspend or remove all Township employees.
- I. He or she shall supervise the administration of all agencies of the Township over which he or she has appointive power.
- J. He or she shall cause to be prepared and shall submit to the Board the annual budget and the capital improvement program for the Township.
- K. He or she shall submit to the Board and shall make available to the public a complete report on the finances and administrative activities of the Township as of the end of each fiscal year, but not later than February 15th of the following year.
- L. He or she shall have the authority, subject to the final ratification of the Board, to negotiate intergovernmental cooperation agreements pursuant to law.
- M. He or she shall have the authority from time to time to appoint and dissolve voluntary committees of interested citizens to assist and advise him or her on issued and matters pertaining to his or her office.
- N. He or she shall be empowered to exercise any emergency powers that the Board may establish by ordinance to suppress mobs, riots and tumultuous assemblies.
- O. He or she shall have the power to veto any item of appropriation made by the Board in adopting or amending the budget or in authorizing any expenditure of funds. This power shall be subject to the same procedural requirements and the same right of the Board to override vetoes as is found in Article III, §3.21, of this Charter.
- P. He or she shall serve as head of the Department of Public Safety.

- Q. He or she shall present to the Board from time to time such information concerning the business and affairs of the municipality as he or she may deem necessary, or as the Board by resolution may request, and to recommend such measures for legislative action as may be in the best interest of the municipality.
- R. He or she shall have all necessary incidental powers to perform and exercise any of the duties and functions as set forth in this Charter or lawfully delegated to him or her.

§5.09. Deputy Mayor.

The Mayor shall appoint a Deputy Mayor with the approval of the Board. The Deputy Mayor shall serve as head of the Department of Administration, shall administer the Township's finances (upon receipt from the Township Treasurer), and shall have such other duties, powers and authority relating to the office of Deputy Mayor as may be determined by the Board by ordinance. His or her appointment shall be in writing filed with the Secretary of the Township. The Deputy Mayor shall exercise all of the powers and discharge all of the duties of the Mayor during any absence or disability of the Mayor, except the power to appoint, suspend or remove employees, staff or professional consultants, and except such powers, duties and authority which the Board may, by resolution, determine shall not be exercised by the Deputy Mayor during any absence or disability of the Mayor. The Mayor may suspend or remove the Deputy Mayor at any time, with or without cause.

ARTICLE VI

TOWNSHIP SOLICITOR

**[Amended 6-25-1979 by Ord. No. 1310, approved 11-6-1979;
12-28-1989 by Ord. No. 1661, approved 5-15-1991**

§6.01. Appointment. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The Mayor, with the approval of the Board by a majority vote of the total number thereof, shall appoint and fix the compensation of one person learned in the law, who shall be styled the Township Solicitor. In lieu of the appointment of one person, the Mayor, with the approval of the Board by a majority vote of the total number thereof, may appoint a law firm which shall act as the Township Solicitor.

§6.02. Qualifications.

Any individual person appointed Township Solicitor shall possess at least 5 years experience in the active legal practice in the Commonwealth of Pennsylvania prior to his or her appointment.

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§6.03. Removal. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The Mayor may dismiss the Township Solicitor at any time, with or without cause.

§6.04. Powers and Duties.

The Township Solicitor shall be the chief legal officer of the Township. The Township Solicitor, in addition to any other powers, duties and authority provided elsewhere in this Charter, by law or by Board action, shall have the following powers, duties and authority:

- A. He or she shall furnish legal advice and opinions to the Mayor, to the Board, to the Chairman of any committee of the Board and to all officers and agencies concerning any legal matter arising in connection with the exercise of their official powers or performance of their official duties. **[Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]**
- B. He or she shall supervise, direct and control all Township law matters, except the representation of the Zoning Hearing Board. No official, officer or agency shall employ other legal counsel, except as may be permitted by law, without the approval of the Board.
- C. He or she shall collect, by suit or otherwise, all debts, taxes and accounts due the Township which shall be placed with him for collection by any officer or agency and shall represent the Township and every officer or agency in all litigation.
- D. He or she shall prepare or approve all contracts, bonds and other instruments in writing in which the Township is concerned and shall approve all surety bonds required to be given for the protection of the Township.
- E. At the direction of the Mayor, he or she shall investigate any violation or alleged violation within the Township of statutes of the Commonwealth of Pennsylvania, of the United States of America or of ordinances of the Township or of the County and shall take such steps and adopt such means as may be reasonably necessary or appropriate to enforce or cause the enforcement within the Township of such statutes and ordinances. **[Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]**
- F. Upon the request of the Board, the Chairman of any committee of the Board or of the Mayor, the Township Solicitor shall prepare or assist in preparing any ordinance or resolution for presentation before the Board. **[Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]**
- G. With the approval of the Mayor and the Board, the Township Solicitor may retain special counsel for a particular proceeding. **[Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]**

- H. He or she shall do all and every professional act incident to the office which he or she may be lawfully authorized and required to do by the Mayor or by an ordinance or resolution of the Board. **[Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]**

§6.05. Access to Records.

The Township Solicitor shall have the right to inspect at reasonable times the records of any officer and agency of the Township in connection with the performance of his, her or its powers and duties.

ARTICLE VII

TREASURER

[Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

§7.01. Election, Term and Vacancy. [Amended 8-3-1998, approved 11-3-1998]

- A. The Treasurer shall be elected at large by the qualified electors of the Township for a term of four years.
- B. The election of the Treasurer shall be held at a municipal general election at four-year intervals, except for when a vacancy occurs as provided in Subsection F of this section, below.
- C. The term of an elected Treasurer shall commence at 8:00 p.m. on the last Monday of January following the year in which he or she is elected.
- D. The term of an elected Treasurer shall end at the commencement of the term for which his or her successor is elected, or when the office of Treasurer becomes vacant, as provided in Section 7.04 of this Charter, as amended from time to time.
- E. If a vacancy in the office of Treasurer occurs, the term of the appointed Treasurer shall commence upon his or her appointment, as provided by Section 7.04 of this Charter, as amended from time to time, and shall end at the commencement of the term of an elected successor Treasurer, or when a vacancy in the office of Treasurer again occurs.
- F. If a vacancy occurs, a successor Treasurer shall be elected at the next municipal election, for which the closing date for filing for the primary election is eight weeks or more after the office of Treasurer becomes vacant.

Transition: This amendment shall become effective with the commencement of the term of the next Treasurer elected at a municipal election following approval of this amendment by referendum.

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§7.02. Qualifications.

The Treasurer shall be a qualified voter of the Township, shall be at least 25 years of age when elected to office, shall have been a resident of the Township continuously for 1 year preceding his or her election and shall reside in the Township throughout his or her term of service.

§7.03. Salary.

The salary of the Treasurer shall be established by the Board by ordinance.

§7.04. Vacancy.

The office of Treasurer shall become vacant upon his or her death, resignation, removal from or forfeiture of office or failure to assume office after election thereto within 45 days after the commencement of the term thereof. The Treasurer shall forfeit his or her office if he or she:

- (1) Lacks at any time during his or her term of office any qualifications of his or her office prescribed by this Charter or by law.
- (2) Is convicted of a felony or a crime involving moral turpitude or a crime relating to the office of the Treasurer.

§7.05. Filling of Vacancy. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The Board shall, by appointment by a majority vote of the total number of the Board, fill any vacancy in the office of Treasurer. Should the Board fail, for any reason whatsoever, to fill a vacancy within 45 days after the vacancy occurs, then the Court of Common Pleas of Lehigh County shall, upon petition of any member of the Board, or the Mayor, or of any five citizens of the Township, fill the vacancy in such office by appointment. Any person appointed to fill the vacancy shall possess all the qualifications required of the Treasurer as set forth in this Charter.

§7.06. Staff.

The Treasurer may appoint such employees of his office in such manner and at such compensation as he shall determine. All such compensation shall be paid by the Treasurer.

§7.07. Powers and Duties of the Township Treasurer.

The Township Treasurer shall be the chief fiscal officer of the Township. The Township Treasurer, in addition to any other powers, duties and authority provided elsewhere in this Charter, by law or by Board action, shall have the following powers, duties and authority:

- A. He or she shall receive, collect, account for and deposit into the Township treasury all taxes, fees, funds, assessments or charges that are levied, established or received by the Township 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.
 - (1) Exception: The Township Bureau of Police may receive and collect police-related fees and Recreation personnel may receive monies necessarily collected at the site of recreation facilities.
 - (2) All such Bureau collections shall be remitted to the Township Treasurer on the first business day following receipt of monies.
- B. He or she shall disburse Township funds pursuant to valid payment authorizations made in accordance with §11.10 hereof.
- C. He or she shall arrange for temporary investments of Township funds and shall make such investments as directed by ordinances.
- D. He or she shall deposit the funds of the Township in various depositories as designated by the Board. All such accounts shall be in the name of the Township.
- E. He or she shall monthly state the accounts and present the same, together with the books and the vouchers, to the Board for inspection or audit.
- F. He or she shall appoint a deputy or deputies who may sign checks or drafts of the Township during any absence or disability of the Treasurer. Written notice of such appointment or appointments shall be filed with the Secretary of the Township.

§7.08. Prohibitions. [Amended as approved 4-23-1996; 6-9-2008 by Ord. No. 2727, approved 11-4-2008]

The Treasurer may act as collector of taxes for the Township and other municipal corporations, municipalities or political subdivisions. Except where authorized by law or by this Charter, the Treasurer, during his or her term in office, shall not hold any other compensated Township governmental office or Township governmental employment, until one year after the expiration of the full term for which he or she was elected or appointed, unless he or she is elected to such Township office by the citizens in a public election.

ARTICLE VIII

SECRETARY

§8.01. Salary.

The salary of the Commissioner serving as Township Secretary shall be determined by the Board.

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§8.02. Powers and Duties of the Secretary.

The Secretary, in addition to any other powers and duties provided elsewhere in this Charter, by law or by Board action, shall have the following powers and duties:

- A. He or she shall attend all meetings of the Board and shall keep full minutes of its proceedings.
- B. He or she shall assure transcription and placement of the by-laws, rules, regulations, motions, resolutions and ordinances of the Board in to appropriate books kept for those purposes.
- C. He or she shall preserve the records and documents of the Township and shall have custody of the corporate seal.
- D. He or she shall certify copies of any book, paper, record, by-law, rule, regulation, resolution, ordinance or other proceedings of the Township under the seal of the Township.
- E. He or she shall attest the execution of all instruments and record all ordinances.
- F. He or she shall file record proof of service of all notices required by law or ordinance and his or her certificate thereof shall be good evidence of such notice.

ARTICLE IX

DEPARTMENTS, ADMINISTRATIVE UNITS, BOARDS, BUREAUS, COMMITTEES AND COMMISSIONS [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

§9.01. Departments.

The Township shall have the following departments:

- A. Department of Administration.
- B. Department of Public Safety.

C. Department of Operations.

§9.02. Department Heads. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The Department of Administration shall be headed by the Deputy Mayor as Director. The Department of Safety shall be headed by the Mayor as Director. The Department of Operations shall be headed by the director who shall be appointed by the Mayor, with the approval of the Board by a majority vote of the total number of the Board. The Director of the Department of Operations shall possess bona fide operations, public works or engineering experience at the time of selection.

§9.03. Powers and Duties of Departments.

The Board shall, by ordinance, determine the powers and duties to be performed by the departments and bureaus thereof.

§9.04. Removal. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

A director of a department or a bureau chief may be suspended or dismissed by the Mayor at any time, with or without cause.

§9.05. Personnel Merit System.

All appointments and promotions of Township officers and employees which do not require the approval of the Board shall be made on the basis of merit and fitness demonstrated by examination or other evidence of competence.

§9.06. Police Civil Service. [Amended 11-11-1991 by Ord. No. 1748, approved 4-28-1992; 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

- A. All full-time Township police, including managerial persons (which are defined as those persons with the rank of Lieutenant and above) in the Township Police Department, whether or not part of any employee bargaining units for that Department, but excluding the Chief of Police, shall be appointed by the Mayor pursuant to civil service testing, and shall be entitled to the protection of the provisions, rules, regulations, and procedures of the Township Civil Service Commission, as amended from time to time, applicable to hiring, promotion, demotion, suspension, removal, firing, and all other personnel matters, but only in their capacity as full-time police.
- B. Part-time police shall not be entitled to such civil service protection, but shall be supervised, appointed, hired, promoted, demoted, suspended, and removed by the Mayor, pursuant to the provisions of Section 5.08H of the Home Rule Charter, as amended from time to time.

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- C. The Chief of Police shall be nominated by the Mayor, and the nomination shall then be subject to confirmation by a majority vote of the total number of the Board of Commissioners. Thereafter, the nominated Chief of Police shall be subject to a noncompetitive examination by the Civil Service Commission, which shall be functioning solely as a testing agency. If such nominated person shall be certified by the Civil Service Commission as qualified, which certification shall not be an entitlement to civil service protection, then that person may be appointed as Chief of Police by a majority vote of the total number of the Board of Commissioners. The Chief of Police shall not be entitled to civil service protection, and may be suspended, dismissed, and removed by the Mayor for cause as set forth in the Administrative Code of Whitehall Township, Pennsylvania, as amended from time to time. And further provided, that any existing officer who is appointed as an acting, interim, or temporary Chief of Police and who serves in that capacity for a period of less than one year shall not forfeit the civil service protections, if any, previously accorded to that officer. This Section 9.06C shall apply to the Chief of Police who is incumbent at the time of this amendment to the Home Rule Charter.

§9.07. Procedures for Suspension or Removal of Board, Commission and Committee Members. [Amended 3-14-1994 by Ord. No. 1872, approved 5-16-1995]

- A. Any member of a Board, Commission or Committee established under authority of the statutes of the Commonwealth, the Home Rule Charter, or other ordinance of Whitehall Township may be removed from their position only for malfeasance, misfeasance, or nonfeasance in office or for other just cause. Such removal shall be by majority vote of the total membership of the Board of Commissioners. Such motion may be presented to the Board of Commissioners only after the member and all Commissioners have received 15 days advance notice of the intent to take such vote and has had the opportunity to request a hearing in front of the Board of Commissioners. Procedures for a hearing shall be in conformity with 2 Pa. Cons. Stat. § 101 et seq. The member who is subject to removal may make a request to the Board of Commissioners for a hearing in writing within 10 calendar days of the date when the party knew or should have known that the motion for removal had been submitted for consideration by the Board of Commissioners. If a hearing is requested, any vote on removal shall be postponed until the Applicant has had an opportunity for a hearing.
- B. Procedures for hearings. Hearings for members of Boards, Commissions and Committees shall be conducted in the following manner:
- (1) Each hearing shall be open to the public unless a closed hearing is requested by the member subject to removal.
 - (2) All testimony presented at the hearing shall be given under oath. Oaths may be administered by a Court Reporter engaged to record the hearing testimony or the Chairperson, or in his or her absence, the Vice-Chairperson shall have the power to administer oaths.

- (3) The President or Vice President of the Board of Commissioners shall state the general purpose of the hearing and have the Secretary read the allegations, charges, or statement for which the member is being removed, together with the record of any other action taken against such member. In addition, the Secretary shall read any written reply or response received from the member subject to removal.
 - (4) The Chairperson shall afford each person making charges, or his or her counsel, an opportunity to make further statements in support of such allegations of cause, charge, or example of misfeasance, malfeasance, or nonfeasance. Any party shall have the opportunity to produce witnesses, with the proponent of removal advancing first with the burden of proof by a preponderance of the evidence, and the member subject to removal shall go last.
 - (5) The Chairperson shall afford the member to be removed, or his or her counsel, an opportunity to question or cross-examine any persons or parties making allegations, and shall also afford the opportunity to question or cross-examine any witnesses produced by such person.
 - (6) The Chairperson shall afford each person making charges an opportunity to produce any witnesses and to cross-examine any witnesses produced by the member subject to removal.
 - (7) The Board of Commissioners shall determine the admissibility of any evidence and procedures and shall not be bound by technical rules of evidence.
 - (8) A stenographic transcript of the proceedings shall be kept and filed in the archives of the Board of Commissioners, together with any and all documents, exhibits, or records pertinent to the case. The records shall be retained or disposed of in accordance with the Township's Record Retention Ordinance and Schedule.
 - (9) At any time during the course of the hearing, the Board of Commissioners may question or cross-examine the person making charges, the accused, and any witness.
 - (10) Within 20 calendar days after the hearing, the Board of Commissioners shall issue a decision in the form of a written order. This written decision shall be forwarded to the member subject to removal. Following the hearing, the Board of Commissioners may then take action on a motion to suspend or remove the member.
 - (11) Decisions of the Board of Commissioners may be appealed to the Lehigh County Court of Common Pleas.
- C. Grounds for "just cause" removal. For "just cause" removal shall include, but not be limited to:
- (1) Non-attendance at three consecutive regular meetings of the group or more than one half of the total number of regular meetings during a calendar year, without acceptable excuse.

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- (2) Conviction of a crime of the third degree or above, a crime involving moral turpitude, or a crime involving the office of the member.
- (3) Moving domicile to a location other than Whitehall Township.
- (4) Such other cause as the Board of Commissioners might deem appropriate, so long as the conduct of the person would make him or her unfit to continue to hold public office.

This procedure shall prevail over any other policy or ordinance to the contrary, and shall further apply to positions created by state statute unless this procedure is deemed to be specifically preempted by state statute by a court of competent jurisdiction.

This provision shall apply only to appointed uncompensated offices, and shall not be construed to apply to any employee or independent contractor of the Township, whether or not covered by a collective bargaining agreement, civil service, or otherwise.

ARTICLE X

INFORMATION AND COMPLAINTS OFFICE

[Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

§10.01. Establishment.

The Board may, by ordinance, establish the Office of Information and Complaints headed by an Information and Complaints Officer. The functions, powers and duties of the office of Information and Complaints shall be determined by ordinance, which functions, powers and duties shall include, but shall not be limited to, the following:

- A. To receive and reply to requests for information.
- B. To receive complaints concerning Township services and acts of Township agencies, authorities, officials and employees which aggrieve any person, to investigate on complaint or on his or her own initiative and to make recommendations to remedy the complaints.
- C. To obtain such information and make such inquiries from any agency, authority or person as shall be required for the discharge of the duties of the Information and Complaints Officer.
- D. To compel the attendance of witnesses and the production of files and documents, by subpoena or otherwise.
- E. To examine the records and documents of any agency or authority and to enter and inspect, without notice, the premises of any agency or authority.

- F. To recommend such policies or changes in policies that might lead to improvements in the functioning of Township offices, agencies and authorities.
- G. To report at least annually to the Board, the Mayor and the public. **[Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]**
- H. To adopt rules of procedure and regulations for the operation of the Office.

§10.02. Appointment and Removal.

The Information and Complaints Officer shall serve at the pleasure of the Board of Commissioners. The Officer shall be appointed by majority vote of the Board, but may only be dismissed by two-third majority vote of the Board.

§10.03. Compensation.

The compensation of the Officer shall be established by the Board annually, by resolution. Compensation shall not be diminished during the tenure of the Officer.

ARTICLE XI

BUDGET AND FISCAL MATTERS

[Amended 8-6-1984 by Ord. No. 1458, approved 11-6-1984; 7-8-1985 by Ord. No. 1507, approved 11-5-1985; 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

§11.01. Fiscal Year.

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

§11.02. Submission of Budget and Budget Messages. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

At a regular or special public meeting of the Board held on or before the 15th day of October of each year, the Mayor shall submit to the Board a proposed budget for the ensuing fiscal year and an accompanying message.

§11.03. Budget Message. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The Mayor'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 Township for the ensuing fiscal

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year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the Township's debt position and include such other supporting or explanatory material as the Mayor deems necessary or appropriate.

§11.04. Budget. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The budget shall provide a complete financial plan of all Township funds and activities for the ensuing fiscal year and, except as required by this Charter, shall be in such form as the Board may require. In organizing the budget, the Mayor shall 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. A general summary of its contents.
- B. A detailed statement of all estimated income, indicating the existing and proposed tax levies, as well as other assessments, fees and charges.
- C. A detailed statement of all proposed expenditures, including debt service, for the ensuing fiscal year.
- D. The number of proposed employees in every job classification.
- E. Comparative figures for actual and estimated income and expenditures for the current fiscal year and actual income and expenditures of the preceding fiscal year.
- F. A statement of all proposed expenditures during the ensuing fiscal year, detailed by offices, departments and bureaus, in terms of their respective work programs and the methods of financing such expenditures.
- G. All proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and bureaus when practicable and the proposed method of financing each such capital expenditure.

§11.05. Budget Limitations.

The total proposed expenditures shall not exceed the total estimated income.

§11.06. Public Record.

The annual budget shall be a public record and shall be available for public inspection after submission, prior to adoption, and after adoption at the Township Municipal Building during the Township's regular business hours.

The Board shall publish in one or more newspapers of general circulation in the Township the general summary of the budget and a notice stating:

- A. The times and places where copies of the message and budget are available for inspection by the public.
- B. The time and place for a public hearing on the proposed budget. The public hearing on the proposed budget shall be held not less than 1 week after publication of notice of the hearing.

§11.07. Adoption of Budget. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The annual budget shall be adopted by ordinance, subject to the approval or veto of the Mayor and the power of the Township Commissioners to override the veto, as provided in Article III, §3.21, of this Charter. Final adoption of the budget shall occur prior to the commencement of the year for which it is prepared, but only after it has been available for public inspection at reasonable hours, after public notice thereof, at least 6 days prior to the time fixed by the Board for adoption of the budget ordinance.

§11.08. Modification of Budget. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

At the request of the Mayor, the Board may modify the budget on or before the 15th day of February of the fiscal year for which the budget was approved, provided, however, that where the aggregate of modifications results in an increase or decrease of a departmental appropriation by more than 15% of the original approved budget, such modifications shall be made only by ordinance finally adopted on or before the 15th day of March of the fiscal year for which the budget was approved and pursuant to procedures required for the adoption of the original budget.

§11.09. Appropriations.

Adoption of the budget and modifications thereof shall constitute appropriations for the expenditures set forth therein.

§11.10. Payment of Funds. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

No expenditure or payment of any funds of the Township shall be made except upon approval of the Mayor or the Deputy Mayor. Directives for payment as so approved shall be certified to the Treasurer. All checks or drafts of the Township shall be signed by the Treasurer or, in his absence or disability, by a duly designated deputy.

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§11.11. Independent Audit.

The Board shall provide for an independent annual audit of all fiscal affairs of the Township by a Certified Public Accountant or a firm of Certified Public Accountants who have no personal financial interest, direct or indirect, in the fiscal affairs of the Township government. The Board may provide for more frequent audits, as well as special audits, as deemed necessary. The results of the annual audit and a financial statement of the fiscal affairs of the Township shall be presented to the Board and a summary of the audit published in a newspaper of general circulation in the Township by April 1st of the year following the fiscal year audited.

§11.12. Bonds. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

Before entering upon the duties of their respective offices or positions, the Township Treasurer, Mayor and Deputy Mayor, as well as any other officer (elected or appointed), agent or employee of the Township as the Board may determine, shall execute and file with the Township corporate surety bonds, conditioned for the honest and faithful performance of their respective duties, in such sums as shall be fixed by the Board. All such bonds and sureties thereon, before being accepted by the Township, shall be approved by the Township Solicitor. The agency placing such bonds shall be determined by the Board and the premium therefor shall be paid by the Township. Such bonds may provide for one or more additional obligees in the event that the officer bonded is acting in a dual or similar capacity with other political subdivisions or governmental or quasi-governmental entities.

§11.13. Tax Limitations. [Amended 12-19-2005 by Ord. No. 2602; approved 11-8-2005]

No taxes levied under the provisions of this Charter shall be levied by the Township of Whitehall on the following subjects exceeding the rates specified in this Section:

Tax	Tax Limitations
Real Estate	20 mills
Earned Income	1%
Occupation Tax	1/2 mill
Business Tax on Gross Income	1 1/2 mills
Deed Transfer	1% up to \$40,000 inclusive 2% of the amount over \$40,000
Per Capita	\$10
Emergency and Municipal Services Tax Exemption: Any person whose total income from all sources is less than \$2,500 per annum	\$52 per year

ARTICLE XII

CONTRACTS

[Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

§12.01. Powers of Mayor. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

All contracts or purchases of the Township involving sums in excess of those limits as established by the First Class Township Code of the Commonwealth of Pennsylvania shall be in writing and shall be executed on behalf of the Township by the Mayor. The Mayor shall also execute all contracts, regardless of amount, for the purchase, sale, leasing or use of real estate with approval of the Board. Unless otherwise provided by ordinance, the Mayor may execute contracts or make purchases on behalf of the Township which do not require competitive bidding under the terms of the First Class Township Code of the Commonwealth of Pennsylvania. Authorization for contracts for the construction of public capital improvements shall be granted by ordinance regardless of the amount involved. The Mayor, when required to execute a written contract, shall request the Township Solicitor to approve the same as to form.

§12.02. 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 for the Township, shall be authorized on behalf of the Township except with the lowest responsible bidder after competitive bidding. All specifications shall be written so as to be applicable to more than one supplier.

§12.03. Bidding Procedure.

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

§12.04. Exceptions to Competitive Bidding.

Competitive bidding shall not be required under this Charter for:

- A. Labor or services rendered by any Township officer or employee.
- B. Labor, material, supplies or services furnished by one Township department to another Township department.
- C. Contracts where particular types, models or pieces of new equipment, articles, apparatus, appliances, vehicles or parts thereof are desired which are patented and available from only one source.

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- D. Contracts for labor, materials, supplies or services not requiring competitive bids pursuant to the terms of the First Class Township Code of the Commonwealth of Pennsylvania.
- E. Contracts relating to the acquisition or use of real property.
- F. Contracts relating to the sale of real or personal property for value less than an amount to be established, from time to time, by the Board of Commissioners.
- G. Contracts for professional or unique services.
- H. Contracts for emergency repair of public works of the Township.
- I. Contracts with other governmental entities, authorities, agencies or political subdivisions.

§12.05. Maximum Term of Certain Contracts.

The term of contracts for the purchase of supplies shall not exceed 1 year.

§12.06. Eminent Domain.

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

§12.07. Officials with Personal Interest in Contracts.

No elected or appointed Township official or employee, or any corporation, partnership, association, joint venture or other entity of which he or she is a member, officer, official, partner, stockholder, joint venturer, associate, director, employee or consultant, shall solicit, benefit by or be financially interested, directly or indirectly, in any contract for the purchase of property or services to be paid from the Township treasury. The provisions of this Section shall not apply where such official or employee is an employee of the entity (to which money is to be paid) in a capacity with no possible influence on the transaction and in which he or she cannot possibly be benefited thereby, either financially or in any other material manner.

§12.08. Conflict of Interest.

- A. No elected or appointed official or employee of the Township or any corporation, partnership, joint venture, association or other entity of which he or she is a member, officer, official, joint venturer, partner, stockholder, associate, director, employee or consultant shall represent any person on any matter before the Township, Township Board or any of its agencies or officers.

- B. No elected or appointed official or employee of the Township shall have any interest as a member, officer, official, joint venturer, partner, stockholder, associate, director, employee or consultant of any corporation, partnership, association, joint venture or other entity which has a matter pending before the Township, Township Board or any of its agencies or officers. The provisions of this §12.08(B) shall not apply where such official or employee is an employee of the entity (which has the matter pending) in a capacity with no possible influence in the matter and in which he or she cannot be benefited thereby, either financially or in any other material manner.

ARTICLE XIII

RECALL

§13.01. Officers Subject to Recall.

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

§13.02. Recall Procedure. [Amended 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The recall of an incumbent of an elective office shall be initiated upon petition signed by registered electors of the Township at large equal in number to at least 30% of the vote cast for the office of Mayor at the last preceding Mayor election. Every recall petition shall name the office and officer against whom it is directed.

Each elector signing a recall petition shall add to his or her signature, his or her residence, election district and the date of signing. Signatures on a recall petition may be on separate sheets, but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that, to the best of the affiant's knowledge and belief, the persons whose signatures appear on the sheet are registered electors of the Township, that they signed with full knowledge of the contents of the petition and that their residences are correctly given.

A recall petition shall be tendered for filing to the County Board of Elections. No signature shall be counted as valid which is dated more than 60 days prior to the date the petition is tendered for filing. Upon tender to the County Board of Elections, the petition shall be available for examination by any interested person. Within 15 days after tender of the petition, the County Board of Elections shall have authority to pass upon the validity of the petition and the validity and number of signatures required thereon. The decision of the County Board of Elections may be appealed to the Court of Common Pleas of Lehigh County.

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§13.03. Notice to Incumbent.

As soon as the County Board of Elections has accepted a recall petition for filing and determined its validity and sufficiency, the Chairman of the Election Board shall notify the incumbent named in the petition that the petition has been filed. Upon receipt of such notice, the incumbent may resign from office and thereupon the recall proceedings shall terminate.

§13.04. Recall Elections.

If the incumbent against whom a recall petition is directed does not resign from office within 10 days after notice of the filing of such petition shall have been given to him or her, the County Board of Elections shall arrange a recall election. If a regular or special election is to be held not less than 30 days nor more than 90 days after the 10 days have expired, the recall question shall be placed before the electors at such an election. Otherwise a special recall election shall be fixed by such Election Board for a date not earlier than 30 days nor later than 90 days after the 10 days have expired. The incumbent against whom a recall petition is directed may resign at any time prior to the recall election and thereupon the election shall not be held.

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

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

The above question shall appear as to every officer whose recall is to be voted upon and provision shall be made for the elector to vote “Yes” or “No” on the question.

If a majority of the registered electors who vote on the question at a recall election shall vote “Yes,” the incumbent shall be deemed recalled and removed from office, but if a majority of such registered electors shall vote “No,” he or she shall remain in office.

Should the results of such election be affirmative, the date of the removal and vacancy in the office shall be 7 days subsequent to the date when the results of election are certified by the County Board of Elections, unless such date is further postponed by order of court.

§13.05. Disqualification for Office.

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 election or appointment to any office of the Township within 2 years after his or her removal or resignation.

§13.06. Limitations.

No recall petition shall be filed against any incumbent of an elective office within the first year or the last 9 months of the term of his or her office or within 9 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 also during the first year of such term.

ARTICLE XIV

INITIATIVE AND REFERENDUM

§14.01. General Authority.

- A. Initiative. The qualified voters of the Township shall have power to propose ordinances to the Board and, if the Board fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a Township election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of Township officers or employees. No proposed initiative ordinance shall contain more than one subject and the subject thereof shall be clearly expressed in the title of such ordinance.
- B. Referendum. The qualified voters of the Township shall have power to require reconsideration by the Board of any adopted ordinance and, if the Board fails to repeal an ordinance so reconsidered, to approve or reject it at a Township election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

§14.02. Commencement of Proceedings; Petitioners' Committee; Affidavit.

Any ten qualified voters may commence initiative or referendum proceedings by filing with the Township Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the Township Secretary shall issue the appropriate petition blanks to the petitioners' committee.

§14.03. Petitions.

- A. Number of Signatures. Initiative and referendum petitions must be signed by qualified voters of the Township equal in number to at least 15% of the total number of qualified voters registered to vote at the last regular Township 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 shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall

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contain, or have attached thereto, throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

- C. Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- D. Time for Filing Referendum Petitions. Referendum petitions must be filed within 45 days after final adoption by the Board of the ordinances sought to be reconsidered.

§14.04. Procedure After Filing.

- A. Certificate of Secretary; Amendment. Within 20 days after the petition is filed, the Township Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Township Secretary within 2 days after receiving the copy of his or her certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (B) and (C) of §14.03, and within 5 days after it is filed, the Township Secretary shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail, as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient, and the petitioners' committee does not elect to amend or request Board review under subsection (B) of this Section within the time required, the Township Secretary shall promptly present his or her certificate to the Board and the certificate shall then be final determination as to the sufficiency of the petition.
- B. Board Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient, the committee may, within 2 days after receiving the copy of such certificate, file a request that it be reviewed by the Board. The Board shall review the certificate at its next meeting following the filing of such request and approve or disapprove it.
- C. Court Review; New Petition. A determination as to the sufficiency of a petition by the Board may be appealed to the Court of Common Pleas. A determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

§14.05. Referendum Petitions; Suspension of Effect of Ordinance.

When a referendum petition is filed with the Township Secretary, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate:

- A. When there is a determination of insufficiency of the petition; or
- B. When the petitioners' committee withdraws the petition; or
- C. Upon certification of the election results, where a majority of the qualified voters have voted in favor of maintaining the referred ordinance.

§14.06. Action of Petitions.

- A. Action by Board. When an initiative or referendum petition has been finally determined sufficient, the Board shall promptly consider the proposed initiative ordinance in the manner provided in Article III of the Charter, or reconsider the referred ordinance by voting its repeal. If the Board fails to adopt a proposed initiative ordinance without any change in substance within 60 days, or fails to repeal the referred ordinance within 45 days after the date the petition was determined sufficient, it shall submit the proposed or referred ordinance to the voters of the Township.
- B. Submission to Voters. A vote by the electorate of the Township on a proposed or referred ordinance shall be held not less than 45 days and not later than 1 year from the date of the final Board vote thereon. If no regular Township election is to be held within the period prescribed in this subsection, the Board shall petition the County Board of Elections for a special election; otherwise, the vote shall be held at the same time as such regular election. Copies of the proposed or referred ordinance shall be made available at the polls.
- C. Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote by the electorate of the Township by filing with the Township Secretary a request for withdrawal signed by at least seven members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

§14.07. Results of Election.

- A. Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Board. 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.

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

§14.08. Repeal.

Any ordinance proposed under the provisions of Article XIII of this Charter, whether passed by the Board or adopted by a vote of the electors, cannot be repealed or amended within 2 years of its effective date except by a vote of the electors.

ARTICLE XV

GENERAL PROVISIONS

§15.01. Amendments.

Amendments to this Charter shall be in conformity with the provisions of the "Home Rule Charter and Optional Plan Law," Act of April 13, 1972, No. 62, and as said Act may be amended from time to time.

§15.02. Election Procedures.

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

§15.03. Severability.

It is the intention of the electors of the Township that if this Charter cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding invalid any part or parts thereof, 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.

§15.04. Oath of Office. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991; 6-8-2009 by Ord. No. 2776, approved 11-3-2009]

The Commissioners, the Mayor and such other officers and employees as the Board may be ordinance determine, prior to assuming office, shall take and shall sign an oath of office as shall from time to time be prescribed by the laws of the Commonwealth of Pennsylvania. Such oath may be taken and signed before any district magistrate 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 Secretary of the Township.

§15.05. Public Documents. [Amended 12-28-1989 by Ord. No. 1661, approved 5-15-1991]

All officers, officials or employees of the Township, upon ceasing to hold office or employment within the Township, shall deliver to his or her successor or agency head, or to the Township Secretary, all original documents, models, pictures, plans, photographs, plats, maps, films, seals and other objects or materials which were prepared for or originated by such officers, officials or employees in connection with the transaction of Township business.

ARTICLE XVI

TRANSITION

§16.01. Transition Procedure.

[Reserved].

§16.02. Continuity.

- A. All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the Township shall continue, except as modified pursuant to the provisions of this Charter.
- B. All Township ordinances, resolutions, rules and regulations which are in force at the time this Charter is adopted, not inconsistent with the provisions of this Charter, shall continue in force until amended, modified or repealed.
- C. All agencies shall continue until modified by the provisions of this Charter.
- D. All elected officers whose terms do not expire upon the effective date of the 1989 Charter update shall continue in office.
- E. The Township shall continue to own, possess and control all rights and property, of every kind and nature, owned, possessed or controlled by it when this Charter takes effect and the Township shall be subject to all of its debts, obligations, liabilities and duties.