

**REPORT
AND
RECOMMENDED HOME RULE CHARTER
FOR
THE BOROUGH OF MAHANOEY CITY
SCHUYLKILL COUNTY, PENNSYLVANIA**

Prepared and adopted by:

The Borough of Mahanoy City Government Study Commission
239 East Pine Street
Mahanoy City, PA 17948

Date of Adoption
February 12, 2020

**BOROUGH OF MAHANOEY CITY
GOVERNMENT STUDY COMMISSION**

Francis P. Burke, Chair
Thomas C. McCabe, Vice-Chair
Anthony Aschman
Michael A. Connolly
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REPORT
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FOR
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SCHUYLKILL COUNTY, PENNSYLVANIA

I. INTRODUCTION

The Borough of Mahanoy City’s present system of representative government, which includes seven (7) elected council members, one (1) elected mayor and one (1) elected tax collector, is established by state law in the Borough Code, Act 37 of 2014, as amended. Many provisions of the Borough Code are identical to, or derived from laws, rules, and procedures which were first adopted by the Pennsylvania legislature in the 1800s.

The provisions of the Borough Code apply to all boroughs without regard to a borough’s unique history, geography, population, demographics, political climate, or economic makeup. Under a home rule charter form of government, the authority to act in municipal affairs is transferred from state law set forth by the General Assembly to the citizens of the municipality. A home rule municipality can craft a home rule charter to meet the unique needs and circumstances of the municipality.

II. HISTORICAL BACKGROUND

The Borough of Mahanoy City was incorporated as a Borough on December 16, 1863. The Borough has a total area of 0.5 square miles, all land. The Borough was a major center for anthracite coal production in the early 20th century. The Borough’s population peaked at 15,936 in 1910 and steadily declined over the next century. The Borough’s population in 2010 was 4,162. The Mahanoy Area School District serves the Borough and Mahanoy Township.

On December 8, 2015, the Borough Council of the Borough of Mahanoy City passed a resolution approving the submission of an application to the Pennsylvania Department of Community and Economic Development (DCED) seeking a determination of municipal financial distress. On February 18, 2016, by order of the Secretary of DCED, the Borough was declared a financially distressed municipality pursuant to the Municipalities Financial Recovery Act, Act 47 of 1987, as amended. DCED determined that the Borough met one of the enumerated statutory criteria in Act 47 that qualifies a municipality for admission into the Act 47 program—failure to make its 2015 Minimum Municipal Obligation of \$69,069. DCED also identified many past due bills owed by the Borough which included a \$164,878 balance due to its garbage contractor,

\$44,478 in various accounts payable and an outstanding 2015 Tax Anticipation Note balance of \$260,000. In total, the Borough's general fund had a debt of \$538,425 in early 2016.

Pursuant to Act 47, the Borough Council unanimously passed an ordinance on September 22, 2016, adopting the *Act 47 Financial Recovery Plan for the Borough of Mahanoy City* which was prepared by the DCED appointed Act 47 Coordinator, the Pennsylvania Economy League (PEL), in consultation with Borough officials. Upon adoption of the *Act 47 Financial Recovery Plan*, Borough Council applied to DCED for a \$800,000 interest-free loan to be repaid over 10 years. The Borough received the DCED loan proceeds in October 2016 to pay all of its outstanding accounts payable. One of the initiatives included in the *Act 47 Financial Recovery Plan* required Borough Council to increase its resident earned income tax rate by 1.0% to generate additional revenue to meet the Borough's general fund expense obligations. PEL and Borough officials agreed that generating this additional revenue to maintain the Borough's provision of necessary and vital public services to Borough citizens was the preferred alternative to severely decreasing or eliminating these public services.

The *Act 47 Financial Recovery Plan* also included an initiative for Borough Council to consider placing a referendum question before the Borough's electorate on whether or not to form a government study commission to examine the current form of Borough government. PEL and Borough officials agreed that initiating the government study commission process was the only way to sustain the Borough's financial progress without severely decreasing or eliminating vital public services upon the Borough's exit from the Act 47 program in 2021. On May 21, 2019, the Borough's electorate approved the formation of a government study commission and elected seven individuals of the Borough to be members of the Borough of Mahanoy City Government Study Commission.

III. THE BOROUGH OF MAHANOY CITY GOVERNMENT STUDY COMMISSION

The law governing the Borough of Mahanoy City Government Commission is the Pennsylvania Home Rule Charter and Optional Plans Law, 53 Pa.C.S. Sec. 2901 *et seq.*, which sets forth as the duties of the Commission as follows:

to study the form of government of the municipality to compare it with other available forms under the laws of this Commonwealth and *determine whether or not in its judgment the government could be strengthened or made more clearly responsible or accountable to the people or whether its operation could become more economical or efficient under a changed form of government.* 53 Pa.C.S. Sec. 2918 (italics added).

The Commission has held fifteen (15) public meetings and one (1) public hearing since its election in May 2019. At two scheduled meetings there was a lack of a quorum. All meetings were held at Borough Hall, 239 East Pine Street, Mahanoy City except for the January 22, 2020, public hearing and meeting which were held at the Good American Hose Company, 738 East Mahanoy Street, Mahanoy City. On the following page is a list of the scheduled meetings of the Commission.

- June 12, 2019 (initial meeting)
- July 2, 2019
- July 23, 2019 (no quorum)
- August 5, 2019
- August 27, 2019
- September 11, 2019 (no quorum)
- September 25, 2019
- October 2, 2019
- October 16, 2019
- November 6, 2019
- November 20, 2019
- December 4, 2019
- December 18, 2019
- January 8, 2020
- January 22, 2020 (public hearing)
- January 22, 2020
- January 29, 2020
- February 12, 2020

IV. GOVERNMENT STUDY COMMISSION PROCEEDINGS

Between June and October of 2019, the Commission conducted comprehensive examinations of the current form of Borough government and other forms of government available to the Borough. The Commission began by reviewing the Borough's current form of government under the Borough Code. It reviewed other statutes applicable to the current operation of the Borough government with attention to the Local Tax Enabling Act, Act 511 of 1965, as amended. The Commission also reviewed the Borough's general fund budget and the budgets for the Borough's six (6) special funds: debt reduction, blight, streetlights, library, sinking/capital and liquid fuels.

The Commission then proceeded to examine the other forms of government available. The Commission examined the Second Class Township Code, the First Class Township Code, the Third Class City Code, the traditional Executive/Legislative form of government and the Council/Manager form of government. While examining these other forms of government the Commission members were comparing and evaluating the Borough Code's strengths and weaknesses against the different governing provisions contained in these alternative forms of government.

Upon the Commission's completion of examining and comparing other forms of government, the Commission members debated whether the drafting of a home rule charter for the Borough could make the Borough government stronger and more economical. The Commission members concluded that it would be in the best interest of the Borough to modify the current form of Borough government by drafting a home rule charter to address the issues it

identified in its examination. The Commission voted unanimously at its October 16, 2019, meeting to prepare and submit a home rule charter to the voters of the Borough of Mahanoy City.

The Commission then began the process of drafting a home rule charter. The Commission members reviewed different proposals and ideas to include in the home rule charter. Much effort was spent on crafting each and every provision of the recommended home rule charter to address the weaknesses the Commission identified during its examination. By early January 2020, a first full draft of the home rule charter had been completed.

A public hearing was held on January 22, 2020, at the Good American Hose Company in Mahanoy City. Over 30 members of the public had the opportunity to ask questions of the Commission members. The Commission members evaluated the public's input provided at the public hearing.

A second full draft of the home rule charter was reviewed by the Commission members at its January 29, 2020, meeting. At the Commission's February 12, 2020, meeting the Commission approved the draft of the recommended home rule charter included in this Report as the version to be presented as a referendum question to the Borough's voters for their approval at the April 28, 2020, primary election.

V. ISSUES IDENTIFIED BY THE COMMISSION

As the Commission drafted the home rule charter it purposely sought to craft a home rule charter that would address issues it identified during the examination and comparison phase of its work. The following is a list of issues the Commission identified.

- The Borough has experienced a significant population decline over the past 50 years
- The Borough government is oversized in relation to its smaller population base
- The Borough's demographics have changed over the past 20 years
- Property assessed values in the Borough have been steadily declining over past 20 years leading to less property tax revenue at a constant property tax millage rate
- The Borough has a low property tax collection rate
- There exists a significant amount of blighted properties in Borough
- The Borough has a large amount of vacant housing units
- The Borough has a high poverty rate
- The Borough was declared an Act 47 financially distressed municipality by the Commonwealth in February 2016
- The Borough adopted by ordinance an Act 47 financial recovery plan that recommended Borough Council increase the Borough resident earned income tax rate by 1%
- The additional revenue generated by the Act 47 1% resident earned income tax increase has stabilized the Borough's finances allowing the Borough to maintain its current level of services to citizens
- The additional Act 47 1% resident earned income tax revenue generates 30% of revenues for general purposes
- The additional Act 47 1% resident earned income tax revenue is 20% greater than the annual general fund property tax revenue received

- The Borough’s ability to levy the additional Act 47 1% resident earned income tax ceases when Borough exits the Act 47 program in 2021
- Without the additional Act 47 1% resident earned income tax revenue the Borough would have to increase the general fund property tax rate and significantly reduce public services to its citizens

VI. SUMMARY OF THE PROVISIONS OF THE RECOMMENDED HOME RULE CHARTER

The following is a summary of the provisions of the Recommended Home Rule Charter for the Borough of Mahanoy City. A complete copy of the Recommended Home Rule Charter is included in Article IX of this Report.

- Establishes a 5-member legislative body known as the Mahanoy City Council
- Council members must be 18 years old; a registered elector of the Borough; and must reside continuously in the Borough for 1 year prior to date of their election
- Council members must continue to reside in the Borough while in office
- All Council members are elected at-large
- A Council member is permitted to miss 1 Council meeting per year—more than 1 absence will not be paid for missing a Council meeting
- Council maintains authority to pass ordinances, resolutions and set Borough policies
- Maintains office of elected Tax Collector
- All elected Borough officials are prohibited from holding any other elected Borough office or being employed by the Borough while in elected office
- All former elected Borough officials are prohibited from holding any Borough compensated position for 1 year after the end of their term
- Maintains appointed offices of Borough Manager, Borough Secretary and Borough Treasurer with a provision permitting one individual to simultaneously hold both the Borough Secretary and Borough Treasurer offices
- Borough Manager appointment and removal by a majority plus one vote by Council (4 votes)
- Employees maintain job and benefits under current employment terms and conditions of any labor contract, where applicable.
- Civil service provisions remain applicable to police
- Limits the number of years of an independent auditor’s contract to 4 years and an independent auditor may not be appointed to more than 2 consecutive 4-year contract terms
- All Borough adopted budgets must be balanced
- 10% limit on annual tax revenue increases; majority plus one vote by Council (4 votes) is necessary to raise taxes above this 10% annual limit
- Creates an operating reserve fund with limited use of reserve funds
- Mandates adoption of an Administrative Code within 10 months of the Charter’s effective date
- Charter will become effective on January 1, 2021, if approved by the Borough electorate at the April 28, 2020 primary election

- Abolishes 2 current Borough Council positions and the Mayor’s position at end of their current term on December 31, 2021
- The Mayor will maintain control of police department until end of his term in 2021
- All existing Borough ordinances, resolutions, regulations and litigation continue in force upon effective date of the Charter
- All existing Borough property remains property of the Borough upon the effective date of the Charter
- All existing Borough commissions and boards continue in existence
- Establishes a Transition Committee from date of certification of April 28, 2020 election results until the Charter’s effective date when Transition Committee terminates

VII. LIST OF RESOURCES USED

The Borough of Mahanoy City allocated \$15,225 for the operations of the Borough of Mahanoy City Government Study Commission. As of February 12, 2020, the Commission had expended \$12,350.17. It is expected the Commission will expend approximately \$2,150.00 more to fulfill its requirements under the law. This would bring the Commission’s total spending to approximately \$14,850.17.

The following is a list of resources used by the Borough of Mahanoy City Government Study Commission as of February 12, 2020, as well as estimates of additional resources to be used.

Actual and Estimated Expenditures

<u>Item or Service</u>	<u>Supplier</u>	<u>Amount</u>
Legal Advertising (6/8/19)	<i>Republican-Herald</i>	\$ 86.69
Legal Advertising (6/25/19)	<i>Republican-Herald</i>	100.40
Legal Advertising (7/29/19)	<i>Republican-Herald</i>	59.27
Legal Advertising (8/8/19)	<i>Republican-Herald</i>	228.36
Legal Advertising (8/30/19)	<i>Republican-Herald</i>	118.25
Legal Advertising (1/3/20)	<i>Republican-Herald</i>	205.08
Legal Advertising (1/3/20)	<i>Republican-Herald</i>	77.12
Secretary Services	Susan Kester/Francis P. Burke	425.00
Notary Service	Joseph Grutza	50.00
Legal Services	Eric M. Lieberman of Lieberman, Tamulonis & Hobbs	3300.00
Professional Consulting Services	Pennsylvania Economy League	7700.00
Total as of 2/12/20		\$12,350.17
Public Forums (3)	Eric M. Lieberman of Lieberman, Tamulonis & Hobbs	900.00
	Pennsylvania Economy League	900.00
Legal Advertising (meeting)	<i>Republican Herald</i>	150.00
Legal Advertising (public forums)	<i>Republican Herald</i>	150.00
Legal Advertising (election notices)	<i>Republican-Herald</i>	400.00
Total (estimated)		<u>\$14,850.17</u>

We, the members of the Borough of Mahanoy City Government Study Commission, being duly sworn according to law, depose and say the foregoing statement of funds, goods, materials, services, and suppliers used by the Borough of Mahanoy City Government Study Commission is correct to the best of our knowledge and belief.

Borough of Mahanoy City Government Study Commission:

Francis P. Burke, Chair _____

Thomas C. McCabe, Vice-Chair _____

Anthony Aschman _____

Michael A. Connolly _____

Kayla Henninger _____

Louis Huber _____

Kenneth R. Soult, Jr. _____

Sworn to and subscribed before me this _____ day of February, A.D., 2020

Notary Public

Seal

VIII. QUESTION TO BE PLACED ON THE APRIL 28, 2020, BALLOT

Pursuant to 53 Pa.C.S. Sec. 2923(2), the Borough of Mahanoy City Government Study Commission recommends that a referendum shall be held to submit to the electors of the Borough of Mahanoy City the question of adopting the Recommended Home Rule Charter for the Borough of Mahanoy City, Schuylkill County, Pennsylvania prepared by the Commission and as authorized by 53 Pa.C.S. Chapter 29, Subpart B (the Pennsylvania Home Rule Charter and Optional Plans Law, Act of April 13, 1972, PL 883, as amended).

By action of the Borough of Mahanoy City Government Study Commission, the following question shall appear on the ballot or voting machine and be submitted to the voters of the Borough of Mahanoy City for adoption at the election to be held on April 28, 2020:

“Shall the Home Rule Charter contained in the report, dated February 12, 2020, of the government study commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by the Borough of Mahanoy City?”

Yes _____ No _____

IX. RECOMMENDED HOME RULE CHARTER FOR THE BOROUGH OF MAHANoy CITY, SCHUYLKILL COUNTY, PENNSYLVANIA

**HOME RULE CHARTER
OF THE
BOROUGH OF MAHANoy CITY,
SCHUYLKILL COUNTY,
PENNSYLVANIA**

Adopted by the voters of the Borough of Mahanoy City

YES _____ NO _____

April 28, 2020

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ARTICLE I
GENERAL PROVISIONS

§101. Names and Authority. Pursuant to Home Rule Charter and Optional Plans Law, Act 177 of 1996, as amended, the Borough of Mahanoy City shall continue to be a Pennsylvania municipal corporation under its present name and shall have and may exercise all powers and authority of local self-government and shall have complete powers of legislation and administration in relation to its municipal functions, including any additional powers and authority which may hereafter be granted to it. This Home Rule Charter of the Borough of Mahanoy City, Schuylkill County, Pennsylvania shall be known and may be cited as the "Charter." As used in this Charter, the word "Borough" shall mean the Borough of Mahanoy City in Schuylkill County, Pennsylvania.

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

§103. Powers of the Borough. The Borough shall have all powers possible for it to have under the constitution and laws of Pennsylvania as fully and completely as though they were specifically enumerated in this Charter.

§104. Construction of Charter Generally. The powers of the Borough under this Charter shall be construed liberally in favor of the Borough, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this Article.

§105. Constitutional Construction. The provisions of this Charter are severable. If any provision of this Charter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Charter which can be given effect without the invalid provision or application.

§106. Intergovernmental Relations. The Borough may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more municipalities, states or civil divisions or agencies thereof, or the United States or any agency thereof.

§107. Legal Advertising. When notice is required to be published by the Borough in one or more newspapers, unless otherwise specified, publication shall be made in the legal notice section in a newspaper of general circulation in the Borough.

ARTICLE II
ELECTION OF OFFICIALS; VACANCIES IN OFFICE

§201. Officials to be Elected. The electors of the Borough shall elect five (5) council members and one (1) tax collector. Each elected official shall be considered a distinct, individual office.

§202. Eligibility.

- (a) No person shall be eligible for an elected office in the Borough unless the person:
 - (1) is a registered elector of the Borough;
 - (2) is at least 18 years of age as of the date of their election to office; and
 - (3) has been a resident of the Borough continuously for a period of one (1) year prior to the date of their election to office.
- (b) Prior to being sworn into office each elected Borough official shall present a signed affidavit to the Borough Secretary that states that the elected official resides in the Borough and has resided in the Borough continuously for at least one (1) year immediately prior to the official's election.
- (c) Each elected Borough official shall continue to reside in the Borough during their term of office.

§203. Officials Elected At-Large. All elected Borough officials shall be elected at-large by the registered voters of the Borough.

§204. Term of Office. Except as otherwise provided by this Charter, every eligible person elected to a Borough office shall serve a term of four (4) years. There shall be no limit on the number of terms of office an elected Borough official may serve. The term of an elected official of the Borough shall begin on the first Monday of January succeeding the individual's election. If the first Monday is a legal holiday, the term shall begin the following day.

§205. Oath of Office. All elected Borough officials shall be required to take an oath or affirmation before a district justice or a common pleas judge to support the Constitution of the United States and the Constitution of Pennsylvania and to perform the duties of office with fidelity. A copy of the oath or affirmation shall be filed with the Borough Secretary before assuming the duties of the office.

§206. Prohibitions. No elected Borough official shall at the same time hold any other elected Borough office, appointed Borough office, nor serve as a compensated employee of the Borough. No elected Borough official shall hold any other elected or appointed political office.

§207. Forfeiture of Office.

- (a) An elected Borough official shall be required to forfeit their office if they should:
 - (1) No longer meet any of the eligibility requirements prescribed by this Charter or any applicable state law;
 - (2) Be found incapacitated or incompetent by an appropriate court; or
 - (3) Be convicted of misbehavior in office or any infamous crime.
- (b) Council may petition the court of common pleas to remove an office holder and have the office declared vacant if the individual does not forfeit their office after due written notice from the Mahanoy City Council.

§208. Vacancy in Office; Appointment.

- (a) Vacancy in Office. If a vacancy occurs in any elected Borough office due to the death, resignation, failure to meet any eligibility requirements, failure to give the required affidavit or bond, failure to take the required oath, or for any other manner whatsoever, the Council shall have thirty (30) days from the vacancy to appoint a successor. Council shall advertise the vacancy and appeal to eligible electors to submit an application for review for appointment.
- (b) Vacancy Board. Upon the failure of the Council to make the appointment within thirty (30) days after the vacancy occurs, the vacancy shall be filled within an additional thirty (30) days by the vacancy board. The vacancy board shall consist of the remaining members of Council and one elector of the Borough, who shall be appointed by the Council at Council's organizational meeting or as soon after that as practical and who shall act as chair of the vacancy board.
- (c) Court of Common Pleas. If the vacancy board fails to fill the position within thirty (30) days, the chair of the vacancy board, or if there is a vacancy in the chair of the vacancy board then the remaining members of the vacancy board, shall petition the court of common pleas to fill the vacancy without regards to political party.
- (d) Vacancy in Majority of Council Offices. If vacancies exist in three (3) or more offices of Council at the same time, the court of common pleas shall fill the vacancies upon presentation of a petition signed by not less than fifteen (15) registered electors of the Borough.
- (e) Eligibility of Appointment. Any appointment to a vacant office pursuant to this §208 shall meet the elected official eligibility criteria set forth in this Charter.
- (f) Term of Appointment. Any appointment made pursuant to this §208 shall be for the unexpired term of the vacant office.

§209. Other Service. Unless there is incompatibility by law, an elected official of the Borough shall be eligible to serve on any board, commission, bureau or other agency created by or for the Borough or created by or authorized by statute.

§210. Post-Office Restriction. No former elected official shall hold any Borough compensated appointive office or employment until one (1) year after the expiration of the term for which they were elected or the expiration of their term through appointment under §208 of this Charter.

ARTICLE III COUNCIL

§301. Governing Body. The legislative powers of the Borough of Mahanoy City shall be vested in the Mahanoy City Council, referred to hereafter as “Council”. The Council shall consist of five (5) members. Except as may otherwise be provided by this Charter, the terms of office for members of Council shall be staggered to require three (3) council seats be elected at a municipal election and two (2) Council seats to be elected at the following municipal election.

§302. Powers of Council. The Council shall have the corporate power to lawfully adopt any ordinance, resolution or motion and to make any rule or regulation or appointment that it deems necessary and proper to execute the provisions of this Charter and to conduct the public affairs of the Borough, unless otherwise prohibited by the Pennsylvania Constitution, applicable state statute or this Charter.

§303. Duties of Council. The Council shall be charged with the general governance of the Borough and the execution of all legislative, executive and administrative powers in order to ensure sound fiscal management and to secure the health, safety and welfare of the citizens of the Borough.

§304. Organization of Council; Officer Appointments. The Council shall organize on the first Monday of January of each even-numbered year. If the first Monday is a legal holiday, the meeting to organize shall take place the following day. The Council members shall appoint one member of Council physically present to preside over the organization of Council, provided that, should the members fail to appoint one member to preside over the organization of Council the presiding officer of the organization of Council shall be chosen by lot among the physically present members of Council. The Council shall proceed to elect one member as Chairperson and another as Vice-Chairperson.

§305. Chairperson and Vice-Chairperson. The Chairperson of Council shall preside at meetings of Council, be recognized as the head of the Borough government for ceremonial purposes, declare emergencies and perform other duties as specified by this Charter, the Council, or applicable law. The Vice Chairperson shall act as Chairperson during the Chairperson’s absence and/or inability to serve.

§306. Quorum. A quorum shall be three (3) members of Council physically present at the designated meeting place in order to conduct the business of Council.

§307. Meetings. The Council shall conduct a regular meeting for the transaction of business at least once each month at a time and place determined by the Council. Council may conduct workshops at its discretion in conformance with notice requirements pursuant to the act of July 3, 1986 (P.L.388, No. 84), as amended, and known as the Sunshine Act.

§308. Voting. Unless otherwise provided in this Charter or by applicable law, an affirmative vote of a majority of the members of Council participating in a meeting in which a quorum is present is necessary in order to transact any business. A member shall not be disqualified from voting on any issue before Council solely because the member has previously expressed an opinion on the issue in either an official or unofficial capacity.

§309. Special Meetings. Upon call of the Chairperson or upon a written request signed by three (3) members of Council, the Council may schedule special meetings of the Council after notice required under the act of July 3, 1986 (P.L.388, No. 84), as amended, and known as the Sunshine Act. Notice of a special meeting shall state the nature of the business to be conducted at the meeting and include the date, time and location of the special meeting.

§310. Emergency Meetings. Emergency meetings of Council shall be called by either the Chairperson of Council or upon a written request signed by three (3) members of Council. Council may conduct an emergency meeting without public notice for the purpose of dealing with an officially declared emergency.

§311. Participation by Telecommunication Device.

A member of Council may participate in Council meetings by means of telecommunication devices, such as telephones, or computer terminals, which permit, at a minimum, audio communication between locations, if the following apply:

- (a) A majority of the members of Council then in office is physically present at the advertised meeting place within the Borough and a quorum is established at the convening or reconvening of the meeting. If, after the convening or reconvening of a meeting, a member of Council has been disqualified from voting as a matter of law, but is still physically present, the members of Council participating by telecommunication device in accordance with this section shall be counted to maintain a quorum.
- (b) The telecommunication device used permits the member or members of Council not physically present at the meeting to:
 - (1) speak to and hear the comments and votes, if any, of the members of Council who are physically present, as well as other members of Council who may not be physically present and are also using a telecommunication device to participate in the meeting; and
 - (2) speak to and hear the comments of the public who are physically present at the meeting.
- (c) The telecommunication device used permits the members of Council and the members of the public who are physically present at the meeting to speak and hear the comments and the vote, if any, of the member or members of Council who are not physically present at the meeting.
- (d) Council may only authorize participation by telecommunication device for one or more of the following reasons:
 - (1) illness or disability of the member of Council;
 - (2) care for the ill or newborn in the member's immediate family;
 - (3) emergency; or
 - (4) family or business travel.
- (e) A member of Council may participate in Council meetings by means of telecommunication devices no more than three (3) times annually.
- (f) Nothing in this section shall be construed to limit the protections and prohibitions contained in any law or regulation relating to the rights of the disabled.

§312. Minutes and Records.

- (a) The Council shall provide for the recording of minutes of its official meetings transacting Borough business and any other official action it deems necessary to record the minutes thereof.

- (b) Any member of Council who leaves office shall deliver immediately all official Borough records, equipment, keys or other Borough property in their possession to the Borough Secretary.

§313. Compensation of Members of Council.

- (a) Members of Council may receive compensation to be fixed by ordinance not to be in excess of the annual maximum amount provided in the Borough's classification under the provisions of the Borough Code in effect on the date of the enabling compensation ordinance. Members of Council shall be paid monthly. Members of Council shall only receive a monthly compensation upon their attendance, either physically or by telecommunication device, at the regularly scheduled Council meeting required by this Charter, provided that, a member of Council shall be permitted one (1) absence annually from a regularly scheduled monthly Council meeting without loss of compensation.
- (b) Any change in compensation amount shall only become effective at the beginning of the next term of the member of Council.
- (c) A member of Council shall not receive any additional compensation in any form nor be eligible for any benefits whether or not provided to employees of the Borough.
- (d) A member of Council may be reimbursed for expenses incurred on Borough business, provided that, Council is provided prior notice at a Council meeting and Council provides prior approval of the member of Council's intended incurring of such expenses.

**ARTICLE IV
TAX COLLECTOR**

§401. Tax Collector; Powers, Duties and Liabilities. The Tax Collector shall collect all Borough real estate taxes levied within the Borough. The Tax Collector may also be designated in the tax-levying ordinance or resolution to collect taxes levied under the act of December 31, 1965 (P.L. 1257, No. 511), as amended, and known as The Local Tax Enabling Act. In addition to the powers, duties and responsibilities under this Charter, the Tax Collector shall exercise all the powers and perform all the duties and be subject to all the obligations and responsibilities for the collection of taxes as are conferred upon tax collectors under Pennsylvania law, including the act of May 25, 1945, (P.L 1050, No. 394), as amended, and known as the Local Tax Collection Law.

§402. Tax Collector Compensation. Council shall set the Tax Collector's compensation in accordance with the provisions of compensating a borough tax collector contained in the Local Tax Collection Law.

ARTICLE V
APPOINTED OFFICERS AND EMPLOYEES

§501. Borough Officers and Employees. Council shall have the power to appoint, promote, suspend, discipline and remove all appointed officers and employees of the Borough.

§502. Compensation; Job Descriptions; Working Hours; Prohibition.

- (a) All appointed officers and employees of the Borough shall receive compensation for their services as the Council shall prescribe.
- (b) Council shall be responsible for prescribing the job duties of appointed officers and employees.
- (c) Council shall establish the regular hours and days of work of appointed officers and employees.
- (d) Council may prohibit the outside employment of appointed officers and employees of the Borough.

§503. Benefits. Unless otherwise expressly prohibited by this Charter, Council may provide benefits to appointed officers and employees of the Borough, including, but not limited to, insurance covering life, health, hospitalization and accident and post-employment annuities and pensions.

§504. Bonds. If an appointed officer or employee of the Borough is required by law or action of Council to give bond for the faithful performance of the officer's or employee's duties, the Borough shall pay the premium on the bond. The amount of the bond shall equal the highest amount of Borough funds estimated by the Council to be available to the Borough appointed officer or employee at any time during the current year. All bonds shall be filed with the Borough Secretary.

§505. Appointments. Unless there is incompatibility by law, an appointed officer of the Borough shall be eligible to serve on any board, commission, bureau or other agency created by or for the Borough or created by or authorized by statute.

§506. Civil Service. The civil service provisions of the Borough Code shall be applicable to the eligible Borough employees.

§507. Creation of Borough Departments; Supervisory Rank. Council shall have the power to create and eliminate any Borough department. Council shall be responsible for establishing the supervisory rank of Borough employees in each Borough department.

**ARTICLE VI
BOROUGH MANAGER**

§601. Appointment, Qualifications, Compensation, Powers and Duties, Bond and Removal.

- (a) Appointment. The Council shall appoint by a majority plus one vote a person to fill the office of Borough Manager. The Borough Manager shall serve at the pleasure of the Council.
- (b) Qualifications. The Borough manager shall be chosen on the basis of their executive and administrative abilities with special reference to their integrity and actual experience in or knowledge of accepted practices in respect to the duties of the Borough Manager's office.
- (c) Compensation. The salary of the Borough Manager shall be negotiated by Council and approved by a majority vote of Council.
- (d) Chief Administrative Officer. The Borough Manager shall be the chief administrative officer of the Borough.
- (e) Residency. The Borough Manager shall not be required to be a resident of the Borough during the term of their employment by the Borough.
- (f) Acting Borough Manager. Should the Borough Manager be absent from office for any reason for at least fifteen (15) consecutive days, Council may appoint an Acting Borough Manager until the Borough Manager returns from their absence. If the Borough Manager provides notice to the Chairperson of Council that they are terminating their employment with the Borough the appointed Acting Borough Manager shall remain Acting Borough Manager until Council appoints a Borough Manager pursuant to the provisions of this Charter.
- (g) Suspension of Borough Officials and Employees. The Borough Manager may, for cause and without pay, suspend any other Borough appointed official or employee until the succeeding regular meeting of Council at which time the Council may, subject to any civil service or contractual provision, suspend, discharge, reduce in rank or reinstate with pay the other Borough appointed official or employee.
- (h) Powers and Duties. The powers and duties of the Borough Manager shall include the following:
 - (1) Manage all Borough business, including the implementation of policies adopted by Council.
 - (2) Prepare and submit to Council on or before November 15th of each fiscal year a general fund budget for the next fiscal year and an explanatory budget message.
 - (3) Administer all Borough budgets after their adoption by Council.
 - (4) Supervise all Borough department directors and the activities of Borough departments.
 - (5) Administer the Borough's personnel system.
 - (6) Attend all meetings of Council with the right to take part in the discussion and attend Council committee meetings as requested by Council.
 - (7) Prepare the agenda for each meeting of Council and supply facts pertinent thereto.
 - (8) Negotiate all contracts which shall be subject to Council approval.

- (9) Manage compliance with the provisions of all contracts, franchises, leases, permits and privileges granted by the Borough.
- (10) Inform Council as to the conduct of Borough affairs; submit monthly reports on the condition of the Borough's finances and such other reports as Council may request; and make such recommendations to Council as they deem necessary.
- (11) Establish and maintain the Borough's accounting system and information technology system.
- (12) Ensure that all money owed to the Borough is promptly paid and that proper proceedings are taken for the security and collection of all Borough claims for payment.
- (13) Purchase all supplies and equipment for the Borough departments and offices.
- (14) Perform any other powers and duties approved by Council.
- (i) Removal. Council may remove the Borough Manager from office for any reason. Such removal shall be by a majority plus one vote of Council.
- (j) Office Incompatibility. The office of Borough Manager is incompatible with the office of Borough Treasurer.

**ARTICLE VII
BOROUGH SECRETARY**

§701. Borough Secretary. The Council shall appoint by a majority vote one person to be the Borough Secretary who shall serve at the pleasure of the Council.

§702. Duties. The Borough secretary is a clerk to the Council. The Borough Secretary shall be responsible for, but not limited to, the following:

- (a) Attend all Council meetings and maintain the minutes of Council proceedings.
- (b) Attest to the execution of all instruments, including ordinances.
- (c) Record the rules and regulations of the Borough.
- (d) Maintain custody of the Borough's corporate seal.
- (e) Certify copies of any rule, resolution, ordinance, etc.
- (f) Inform Council and the public of all Council meetings including special meetings.

§703. Compensation. The Council shall determine the compensation of the Borough Secretary.

§704. Assistant Secretary. Council may appoint an assistant secretary to assist the Borough Secretary in the performance of the Borough Secretary's duties or perform the Borough Secretary's duties in case of absence or disability of the Borough Secretary.

**ARTICLE VIII
BOROUGH TREASURER**

§801. Borough Treasurer. The Council shall appoint by a majority vote one person to be the Borough Treasurer who shall serve at the pleasure of the Council.

§802. Duties. The Borough Treasurer shall be responsible for, but not limited to, the following:

- (a) Receive all moneys due the Borough or received by any Borough officer and deposit them promptly in a designated depository appointed by Council in the name of the Borough.
- (b) Keep distinct and accurate accounts of all moneys received from taxes and other sources, which accounts shall be open to the inspection of the Council.
- (c) Pay out all moneys of the Borough only on order by the Council. An order shall not be executed unless there is money in the treasury available.
- (d) Annually state the accounts and make them available to the independent auditor for examination.
- (e) Preserve the account books, papers, documents and other records of the office and turn them over to their successor in office.

§803. Compensation. The Council shall determine the compensation of the Borough Treasurer.

§804. Secretary and Treasurer. The offices of Borough Secretary and Borough Treasurer may be held by the same person if authorized by Council

**ARTICLE IX
BOROUGH SOLICITOR**

§901. Borough Solicitor. The Council may appoint and determine the compensation of a Borough Solicitor. The Borough Solicitor shall be licensed to practice law in this Commonwealth and may be one person or a law firm, partnership, association or professional corporation. The Borough Solicitor shall serve at the pleasure of the Council. The Borough Solicitor shall not receive any additional compensation in any form nor be eligible for any benefits whether or not provided to other appointed officials and employees of the Borough.

§902. Duties. The Solicitor shall furnish legal advice to the Council and the Borough Manager concerning any matter arising in connection with the exercise of their official powers or performance of their official duties and shall prepare any ordinance or resolution for presentation before the Council. The Solicitor shall, at the direction of Council, collect, or cause to be collected, by suit or otherwise, all debts, taxes and accounts due the Borough. The Solicitor shall prepare or approve all contracts, bonds and other instruments in writing in which the Borough is concerned and shall approve all surety bonds required to be given for the protection of the Borough.

§903. Special Legal Counsel. The Council may appoint and determine the compensation of special legal counsel in any matter in which Council deems representation by special legal counsel is in the best interest of the Borough. Any appointed special legal counsel shall be licensed to practice law in this Commonwealth and may be one person or a law firm, partnership, association or professional corporation. Special legal counsel shall serve at the pleasure of the Council and shall not receive any additional compensation in any form nor be eligible for any benefits whether or not provided to other appointed officials and employees of the Borough.

ARTICLE X
AUDIT

§1001. Annual Financial Audit.

- (a) Annual Audit. The Council shall provide for an annual independent audit of all financial transactions to be conducted by a certified public accountant or a firm of certified public accountants. This audit shall be made in accordance with generally accepted professional auditing standards and procedures and shall be completed no later than nine (9) months after the close of the fiscal year.
- (b) Term of Contract. No contract for auditing services may exceed a four (4) year term.
- (c) Letting of Contract. At the end of a contract term or the termination of a contract by the parties before the end of a contract term, all contracts for the appointment of a certified public accountant or a firm of certified public accountants shall not be made except with and from the lowest qualified and responsible bidder after due notice in one newspaper of general circulation in the Borough.
- (d) Contract Limit. No certified public accountant or a firm of certified public accountants shall be granted more than two (2) consecutive four (4) year contracts, unless no other qualified accountant or firm competes for the contract.
- (e) Compensation. Council shall determine the compensation to be received by the certified public accountant or firm of certified public accountants. The certified public accountant or firm of certified public accountants shall not receive any additional compensation in any form nor be eligible for any benefits whether or not provided to other appointed officials and employees of the Borough.

**ARTICLE XI
BOROUGH ENGINEER**

§1101. Borough Engineer. The Council may appoint and determine the compensation of a Borough Engineer who shall be a registered professional engineer. The Borough engineer shall serve at the pleasure of the Council. The Borough Engineer shall not receive any additional compensation in any form nor be eligible for any benefits whether or not provided to other appointed officials and employees of the Borough.

§1102. Duties. The Borough Engineer shall perform their duties as the Council may direct and shall be responsible for, but not limited to, the following:

- (a) Control of all matters related to the construction, reconstruction, maintenance and repair of Borough capital assets which shall include the preparation of plans, specifications and estimates of work to be undertaken by the Borough.
- (b) Certify in writing the commencement and completion of all projects undertaken by the Borough Engineer.
- (c) Manage all Borough capital projects as designated by Council.
- (d) Provide a monthly report to Council and furnish Council with any other information requested by Council.

ARTICLE XII ORDINANCES

§1201. Ordinances.

- (a) Power to Enact. The Council shall have the power to enact ordinances in accordance with this Article and the laws of the Commonwealth through which the powers of the Borough shall be exercised and enforced. Council may amend, repeal or revise existing ordinances by the enactment of subsequent ordinances.
- (b) Notice. Except as provided by other applicable law, Council may not vote on a proposed ordinance, whether original, amended, repealed, revised, consolidated or codified, unless the proposed ordinance is published at least once in one newspaper circulating generally in the Borough not more than sixty (60) days nor less than seven (7) days before action by Council. Public notices shall include either the full text or a brief summary of the proposed ordinance which lists the provisions in reasonable detail and a reference to a place within the Borough where copies of the proposed ordinance may be examined. If the full text is not included, a copy shall be supplied to the publishing newspaper when the notice is published, and an attested copy shall be filed within thirty (30) days after enactment in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing the ordinances. The date of such filing shall not affect the effective date of the ordinance, the validity of the process of the enactment or adoption of the ordinance; nor shall a failure to record within the time provided be deemed a defect in the process of the enactment or adoption of such ordinance.
- (c) Notice of Amendments. If the Borough Solicitor deems that substantial amendments are made to a proposed ordinance by Council, then before voting upon enactment, the Council shall at least seven (7) days before enactment re-advertise in one newspaper of general circulation in the Borough a brief summary setting forth all the provisions in reasonable detail, together with a summary of the amendments.
- (d) Recording. Ordinances shall be recorded by the Borough Secretary in the ordinance book of the Borough.
- (e) Effective Date. An ordinance shall become effective upon the date of enactment by Council or upon a date certain determined by Council that is expressly stated in the ordinance.
- (f) Codification of Ordinances. Council may enact a consolidation, codification or revision of Borough ordinances or recorded resolutions as a single ordinance of the Borough.
- (g) Fines and Penalties. The fines and penalties of any Borough ordinance shall comply with the ordinance fines and penalties provision of the Borough Code.

§1202. Emergency Ordinances.

- (a) Notwithstanding the provisions of this Article, Council may, in the event of an officially declared emergency affecting the life, health, property and peace of the Borough residents, adopt one or

more emergency ordinances by a majority vote, but such emergency ordinances shall not levy taxes or change tax rates.

- (b) An emergency ordinance shall be so designated as an “Emergency Ordinance” and shall clearly state the nature of the emergency in specific terms.
- (c) No prior publication of an emergency ordinance shall be required and Council may adopt an emergency ordinance at any regular, special or emergency Council meeting during which it is introduced.
- (d) An emergency ordinance shall become effective immediately and shall automatically stand repealed at the end of the thirtieth (30th) day following the date of its adoption, but may be reenacted as provided in this §1202 if the declared emergency still exists.
- (e) An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.
- (f) An emergency ordinance shall be advertised as soon as possible after the date on which it is enacted, as shall any ordinance repealing an emergency ordinance.

§1203. Appeals from Ordinances. Complaints as to the legality of any ordinance adopted by Council must be made to the court of common pleas.

**ARTICLE XIII
BUDGET, TAXATION AND FINANCE**

§1301. Fiscal Year. The fiscal year of the Borough shall begin on January 1 and end on December 31.

§1302. Borough Budgets.

- (a) Submission of Budgets. On or before November 15th of each year the Borough Manager shall present to Council the proposed Borough general fund budget and budgets for all Borough created special funds for the ensuing fiscal year. The budgets shall provide a complete financial plan for all Borough funds and activities. Each budget shall include all proposed expenditures and other uses and all anticipated revenues and other sources of income. Any unreserved fund balance expected to be used should be specifically identified. The total of all budgeted expenditures and other uses in each budget shall not exceed the total of all budgeted revenues and other sources of income, including any unreserved fund balance that is expected to be used. The budgets shall clearly define all rates of taxation for the ensuing fiscal year.
- (b) Public Inspection Notice. Upon the presentation of the proposed general fund budget to Council, the Council shall give public notice by advertisement once in one newspaper of general circulation in the Borough that the proposed general fund budget is available for public inspection at a designated place in the Borough. The proposed general fund budget shall be available for public inspection for ten (10) days after notice is provided.
- (c) Budget Format. The budget format shall be determined by the Borough Manager and approved by Council.
- (d) Budget Message. The proposed budgets submitted by the Borough Manager shall include a budget message that shall serve as a simple and clear general summary of the various budgets and describe their important features; explain the Borough's programs, goals, and objectives for the ensuing fiscal year and their financial implications; indicate any major changes from the current year in financial policies, expenditures, revenues, and personnel complement together with the reasons for such changes; summarize the Borough's debt position; and include such other information as the Borough Manager deems appropriate or as required by Council.
- (e) Council Action on Budget. Council may not take any action on the proposed general fund budget until the expiration of the ten (10) day public inspection period. Council may make any revisions to the proposed general fund budget as it deems necessary by a majority vote.
- (f) Adoption of Budgets; Deadline. Council shall adopt the general fund budget by ordinance. All other special fund budgets may be adopted by resolution. All Borough budgets shall be adopted no later than December 31st of the current fiscal year.

§1303. Tax Levies.

- (a) Adoption. After Council has adopted the budgets, it shall be the duty of Council to enact ordinances levying the taxes referred to in the budgets by ordinance, unless applicable law provides otherwise.

(b) Tax Increase Limit.

- (1) In no fiscal year shall the proposed sum of budgeted general and special purpose tax revenues exceed ten (10) percent of the preceding year's sum of budgeted general and special purpose tax revenues. The calculation of this limitation shall exclude real estate tax revenues dedicated to debt service. If necessary, Council shall take appropriate action to reduce the proposed budgeted tax rates to accomplish this total tax revenue increase limit.
- (2) Notwithstanding the tax revenue limitation set forth in paragraph (1), the proposed sum of budgeted general and special purpose tax revenues in a fiscal year may be increased by an amount greater than ten (10) percent of the preceding year's sum of budgeted general and special purpose tax revenues upon the adoption by Council of a resolution stating due cause for such an increase and approval by Council of such resolution by a majority vote plus one.

§1304. Failure to Adopt Budget; Expenditure Prohibition. If Council fails to adopt a general fund budget by December 31st of the year in which it is submitted, the authority to expend any general fund revenues for expenses incurred by the Borough on or after January 1st of the new fiscal year is prohibited until Council adopts a general fund budget for the new fiscal year. This expenditure prohibition shall not be applicable to any expenditures incurred or previously incurred for the payment of debt or other special purpose expenses.

§1305. Supplemental Appropriations and Transfers.

(a) Supplemental Appropriations. The Council may, by resolution, modify the adopted budget to make supplemental appropriations for any purpose from any funds on hand or estimated to be received within the fiscal year and not otherwise appropriated, including the proceeds of any borrowing authorized by law. Supplemental appropriations may be made whether or not an appropriation for that purpose was included in the original budget as adopted.

(b) Transfers.

- (1) The Borough Manager may transfer up to five (5) percent of the funds in a budgeted line item during a fiscal year that they deem is unencumbered. The Borough Manager shall notify Council of any transfer made pursuant to this paragraph (1) no later than the next regularly scheduled Council meeting.
- (2) Any transfer of funds in a budgeted line item greater than five (5) percent shall be approved by a resolution of Council prior to the transfer of funds.
- (3) All transfers of funds between Borough funds that are not approved by Council in an adopted budget shall be approved by a resolution of Council which resolution shall state the terms of repayment to the crediting fund.

§1306. Amendment of Budget and Tax Levies.

(a) Power to Amend. During the month of January next following any municipal election, the Council may amend the adopted general fund budget ordinance or any special fund budget resolution. Council may also amend at this time any adopted tax ordinance.

- (b) Notice. Any amendment to the general fund budget ordinance shall comply with the public inspection notice procedures in §1302(b). Any amendment to the general fund budget ordinance or any amendment to a tax levy ordinance shall comply with the ordinance adoption procedures in Article XII of this Charter.
- (c) Adoption Deadline. Any amended budget ordinance or resolution and any amended tax ordinance shall be adopted by the Council on or before the fifteenth (15) day of February following any municipal election.

§1307. Capital Plan and Budget. On or before August 1st of each fiscal year, the Borough Manager shall submit to Council a capital plan and a capital budget covering the three (3) subsequent fiscal years. The capital plan and capital budget shall include all current and proposed Borough capital improvement projects. The budget format of the capital budget and the information contained in it shall be determined by the Borough Manager as approved by Council. Council may amend the capital plan and capital budget proposed by the Borough Manager. The Council shall adopt by ordinance the capital plan and capital budget no later than October 1st of the fiscal year. The Borough shall comply with the budget public inspection notice procedures in §1302(b) and the ordinance adoption procedures in Article XII of this Charter.

§1308. Payment of Borough Funds. All Borough orders for payment shall be signed by the Chairperson of Council, or in the Chairperson's absence, by the Vice-Chairperson of Council and attested to by the Borough Secretary. Each payment made by the Council from Borough funds must be made by proper Borough orders, drawn upon the Borough Treasurer. No Borough order may be authorized by Council or signed by the Chairperson of Council unless there are sufficient funds in the treasury of the Borough to pay the order. A separate order must be drawn for each account or payment.

§1309. Investment of Borough Funds. The Council may invest Borough funds as enumerated in the Borough Code or other applicable state law.

§1310. Depository of Borough Funds. The Council shall designate by resolution a depository or depositories for Borough funds. Any funds deposited with any banking institution shall meet the requirements of the Borough Code and be sufficiently collateralized.

§1311. Operating Reserve Fund.

- (a) Council shall create and maintain an operating reserve fund from which appropriations may be made to meet any of the following:
 - (1) Declared emergencies involving the health, safety and welfare of the residents of the Borough;
 - (2) To counterbalance potential or actual budget deficits resulting from shortfalls in anticipated revenues or program receipts from whatever source; or
 - (3) To counterbalance potential or actual budget deficits resulting from increases in anticipated costs for goods or services.
- (b) Council may annually make appropriations from the Borough general fund to the operating reserve fund, but no appropriation may be made to the operating reserve fund if the effect of the appropriation would cause the operating reserve fund to exceed twenty-five (25) percent of the estimated total revenues of the Borough's general fund budget for the current fiscal year.

**ARTICLE XIV
BOROUGH POLICE**

§1401. Creating or Disbanding Police Force. The Council may by ordinance create, maintain or disband a police force within the Borough.

§1402. Appointment of Police. The Council shall provide for the organization, supervision, appointment, number and compensation of Borough police officers. The position of chief of police or police officer is incompatible with the office of member of Council, Tax Collector and Borough Manager. The Chair of Council may swear in police officers.

§1403. Chief of Police. The chief of police shall be under the direct supervision of the Borough Manager.

§1404. Contract to Secure Police Service. The Borough may contract with any other municipal corporation, consortium of municipal corporations, Commonwealth of Pennsylvania, other states or the Federal government to secure police services within the Borough. When any contract is made, the police officers of the employing municipal corporation, consortium of municipal corporations, Commonwealth of Pennsylvania, other states and agencies thereof, or the Federal government and agencies thereof, shall have all the powers and authority conferred by law on Borough police officers.

§1405. Contract to Provide Police Service. The Borough may contract with any other municipal corporation, consortium of municipal corporations, Commonwealth of Pennsylvania, other states or the Federal government to provide police services to these other governmental entities. When a contract is made, the Borough police shall have all the powers and authority conferred by law on police in the municipal corporation, consortium of municipal corporations, Commonwealth of Pennsylvania, other states and agencies thereof, or the Federal government and agencies thereof, which has contracted to secure Borough police services.

§1406. Powers. Each Borough police officer has those powers and abilities as are granted to police officers under the laws of this Commonwealth or the rules of the Supreme Court or the ordinances of the Borough for which a fine or penalty is imposed. Each police officer when on duty shall wear a shield or badge with the words "Mahanoy City Borough Police" inscribed thereon.

ARTICLE XV
FIRE PREVENTION AND PROTECTION

§1501. Authority of Council. The Council shall provide for fire protection services within the Borough. Council may contribute Borough funds or any other in-kind service to any volunteer fire company that provides fire protection services to the Borough.

§1502. Contract to Secure Fire Protection Service. The Borough may contract with any other municipal corporation or any volunteer fire company to secure fire protection services within the Borough.

**ARTICLE XVI
ADMINISTRATIVE CODE**

§1601. Administrative Code.

- (a) No later than eight (8) months after the effective date of this Charter, the Borough Manager shall propose and submit to Council at a scheduled Council meeting an Administrative Code for the Borough government consistent with the provisions and purpose of this Charter. Council shall adopt an Administrative Code by ordinance, with or without amendments, within sixty (60) days after its submission by the Borough Manager. If Council fails to adopt the Administrative Code with sixty (60) days, the Administrative Code as proposed by the Borough Manager shall be deemed adopted and shall become effective immediately.
- (b) Council may amend the Administrative Code only by the ordinance adoption procedures in Article XII of this Charter.

§1602. Contents.

- (a) The Administrative Code shall set forth a plan for the organization, administrative structure, procedures, and operations of the Borough government. The Administrative Code shall include, but shall not be limited to, the following:
 - (1) An enumeration of the departments, offices, boards, authorities, and other administrative units of the Borough government, their scope of responsibility, and the internal procedures for their operations;
 - (2) Budgeting and other financial procedures;
 - (3) Purchasing and acquisition procedures;
 - (4) Policies and procedures governing job descriptions, employee recruitment, selection, orientation, training, benefits, promotion, discipline and discharge and employee use of Borough property; and
 - (5) Any other policies, practices, and procedures desirable for the efficient and effective administration of Borough government.

**ARTICLE XVII
INITIATIVE AND REFERENDUM**

§1701. General Powers.

- (a) In accordance with the procedures hereinafter provided, the registered voters of the Borough shall have the power to petition to:
 - (1) initiate an ordinance to the Council for its consideration; or
 - (2) repeal an ordinance adopted by the Council.

§1702. Initiative and Referendum Petition.

- (a) All petition papers for the purpose of initiating an ordinance or repealing an ordinance shall:
 - (1) Bear in ink the name, address, date of signing and signature of registered Borough electors which total signatures is equal to or greater than at least ten (10) percent of the total number of votes cast in the Borough for the office of Governor of Pennsylvania in the most recent gubernatorial election for that office.
 - (2) Contain the names and addresses of at least three (3) but no more than seven (7) Borough registered voters designated as the Committee of Petitioners and includes one (1) person designated as the contact person of the Committee and an appropriate mailing address for the Committee.
 - (3) In the case of initiating an ordinance, identify the title and full text of the proposed ordinance which shall be limited to one subject.
 - (4) Contain on each page an affidavit executed by the circulator of the petition that all signatures thereon are genuine and were affixed in the presence of the circulator on the date indicated only after the signer had an opportunity to read the full text of the petition prior to signing.
 - (5) Be circulated and signed within a period of thirty (30) days between the date of the first signature and the date at which the petition papers are filed with the Borough Secretary.
 - (6) Be filed with the Borough Secretary, who shall take the action specified in this Charter.

§1703. Action by Borough Secretary.

- (a) Upon receipt of an ordinance initiation petition or an ordinance repeal petition, the Borough Secretary must take the following action:
 - (1) The Borough Secretary shall examine the petition for compliance with the provisions of this Charter with respect to the form and sufficiency of signatures and no later than twenty (20) days after receiving a petition the Borough Secretary shall issue a written report to the Chairperson of the Committee of Petitioners by registered mail of the results of such examination.
 - (A) If the purpose of the petition is to initiate an ordinance, the Borough Secretary shall immediately refer a copy of the ordinance to the Borough Solicitor, who shall, within five (5) days of receipt, certify to the Borough Secretary whether or not the

proposed ordinance is lawful under general law or this Charter and whether or not the proposed ordinance is in proper form or can be so written without changing the substance of the ordinance. If the Solicitor considers the proposed ordinance to be lawful but defective in form, the Solicitor shall provide a draft in proper form. The Borough Secretary shall report the findings of the Solicitor in their report to the Chairperson of the Committee of Petitioners.

- (2) Within ten (10) days of receiving the written report from the Borough Secretary, the Chairperson of the Committee of Petitioners shall notify the Borough Secretary in writing of the Committee's acceptance of the report and the revised draft, if any, of the ordinance and shall remedy any minor procedural deficiencies, if any, cited by the Borough Secretary in the report to the Committee of Petitioners. Failure to notify the Borough Secretary will be considered abandonment of the petition and any further action must be initiated by a new petition.
- (3) Within five (5) days of receipt of the notification from the Chairperson of the Committee of Petitioners, the Borough Secretary shall advertise the proposed ordinance or repeal of the adopted ordinance in the same manner as required for ordinance adoption and repeal by this Charter. The Secretary shall place the proposed ordinance or repeal of the adopted ordinance on the agenda for consideration at the next regularly scheduled meeting of the Council after the ordinance advertising requirements are satisfied.

§1704. Action by Council. Unless the petition is rescinded by action of the Committee of Petitioners as provided in this Article, the Council shall accept or reject the proposed ordinance or repeal the adopted ordinance at the scheduled meeting. No amendments may be made by Council which materially change the substance or effect of a proposed ordinance or the ordinance to be repealed.

§1705. Rejection, Failure to Repeal or Failure to Act.

- (a) If Council votes to reject the proposed ordinance or fails to repeal the ordinance, or should Council fail to take any action on either the proposed ordinance or the repealing ordinance within seventy (70) days of submission of the petition to the Borough Secretary, the Chairperson shall, within ten (10) days of either Council's rejection of the proposed ordinance or Council's failure to repeal the ordinance or Council's failure to act on the proposed ordinance or repealing ordinance, request in writing that the Borough Secretary certify and file a copy of the petition with the proper election officials of Schuylkill County which shall cause the petition to be placed upon the ballot or voting machine for referendum before the voters of the Borough at the next election—municipal, general or primary—which shall occur not less than ninety (90) days from the date of the Borough Secretary's certification of the petition to the proper election officials of Schuylkill County.
- (b) The Borough Secretary shall file the petition with the proper election officials of Schuylkill County within ten (10) days of being notified by the Chairperson of the Committee of Petitioners.
- (c) Prior to the election, the proposed ordinance or ordinance to be repealed shall be published as required by the Pennsylvania Election Code. See 25 P.S. § 2600 et seq.
- (d) No referendum shall be taken under this Article other than at the time of a regularly scheduled election.

§1706. Effect of Repeal Petition on Ordinance.

- (a) If the petition calls for the repeal of an ordinance which was not in effect at the time the petition was filed with the Borough Secretary, the effective date of the ordinance shall be suspended until a final decision has been made on the petition.
- (b) If the ordinance was in effect at the time the petition was filed with the Borough Secretary, the ordinance will remain in effect until repealed by Council or by referendum.

§1707. Results of Election.

- (a) If a proposed ordinance or repeal of an ordinance is rejected in the referendum, no further action may be initiated by petition on the same subject within five (5) years from the date of the election at which the proposal was defeated, provided that, the Council shall retain the option of adopting a similar ordinance or repealing previous ordinances at its discretion.
- (b) If a majority of the qualified electors voting on the question favor the adoption of a proposed ordinance or repeal of an ordinance previously enacted, the new ordinance shall become effective or the repealed ordinance shall become void upon certification of the election results. The Borough Secretary shall add the new ordinance to or delete the repealed ordinance from the record book and the Code of Ordinances. The Council shall take no action to repeal or significantly modify an ordinance adopted by initiative and referendum within a period of two (2) years from the date of the certification of the election results.

§1708. Rescinding Petition. Before action is taken by the Council or by the election officials of Schuylkill County if the matter has been certified to them for referendum, the Committee of Petitioners may, by majority vote of its members, elect to rescind the petition and thereupon notify, in writing, the Borough Secretary and, if necessary, the election officials of Schuylkill County of such decision. If such action is taken, the matter will be closed and any further action may be taken only by a new petition.

§1709. Limitations on Initiative and Referendum.

- (a) Initiative and referendum may not be used to:
 - (1) Alter ordinances enacting or amending the annual operating budget, capital budgets or other fund budgets of the Borough; however, such action may be taken with respect to any ordinance authorizing the establishment of specific programs and projects.
 - (2) Alter the salaries or benefits of Borough elected or appointed officials and Borough employees.
 - (3) Alter or rescind any ordinance providing for the levy and collection of taxes, special assessments, service charges, fees, rates or other charges for Borough services.
 - (4) Alter the Borough administrative code.
 - (5) Adopt an ordinance for which the procedures for adoption or amendment are established by an applicable law.

**ARTICLE XVIII
TRANSITION**

§1801. Charter Effective Date. The Effective Date of this Charter shall be January 1, 2021, except for the transition provisions of this Article which transition provisions shall become effective upon the Borough's receipt from the Schuylkill County Election Bureau certifying the election results of the April 28, 2020, primary election.

§1802. Effect on Current Elected Borough Office Holders. Except as otherwise provided in this Charter, all elected Borough officeholders in office on the date this Charter becomes effective shall continue in office for the remainder of the term for which they were elected.

§1803. Elective Offices Abolished; Duties.

- (a) The following elective offices are abolished effective with the end of the term of office to which the officeholder was elected in 2017:
 - (1) Two (2) Council offices.
 - (2) One (1) Mayor office.
- (b) The aforesaid officeholders shall continue to perform their duties subject to the provisions of this Charter, provided that, the duties of the Mayor during the remainder of their term shall be limited and restricted to administering the Borough police as provided by the provisions of §1123.1 of Act 37 of 2014, as amended, and known as the Borough Code or by the terms of any applicable collective bargaining agreement.
- (c) The officeholders of the abolished elective offices shall continue to receive the same compensation at the rate in effect at the time of their election or appointment until end of their term, provided that they shall be subject to the monthly compensation meeting attendance provisions of §313(a) of this Charter.
- (d) If any of these officeholders shall vacate their office for any reason after the Effective Date of this Charter and prior to the expiration of their term, the vacancy shall not be filled and the office shall be abolished.

§1804. Council Members.

- (a) At next municipal election following the adoption of this Charter, the electors of the Borough shall elect one (1) member of Council to serve a term of four (4) years to begin on the first Monday of January succeeding the municipal election. If the first Monday is a legal holiday, the term shall begin the following day.
- (b) At the second municipal election following the adoption of this Charter, the electors of the Borough shall elect three members of Council to serve terms of four years and one (1) member of Council to serve a term of two (2) years with all terms to begin on the first Monday of January succeeding the municipal election. If the first Monday is a legal holiday, the term shall begin the following day. The four (4) members of Council holding the Council offices available for this second municipal election following the adoption of this Charter shall draw lots at the January 2023 regular meeting of Council of this municipal election year to determine which office of Council shall be subject to the two (2) year term limit.

- (c) At the third municipal election following the adoption of this Charter the electors of the Borough shall elect two (2) members of Council for a term of four years to begin on the first Monday of January succeeding the municipal election. If the first Monday is a legal holiday, the term shall begin the following day.

§1805. Tax Collector.

- (a) At the municipal election in the year 2021, and at the municipal election every four years after that, the electors of the Borough shall elect one tax collector to serve a term of four years to begin on the first Monday of January succeeding the municipal election. If the first Monday is a legal holiday, the term shall begin the following day.
- (b) If the electors of the Borough fail to choose a tax collector or if any person elected to the office fails to give the required bond or to take the required oath, the vacancy shall be filled under §208 of this Charter.

§1806. Legal Continuity.

- (a) Borough Laws. All Borough ordinances, resolutions, rules and regulations or provisions thereof which are in force on the Effective Date of this Charter that are not inconsistent with the provisions of this Charter shall continue in force until amended or repealed. Any Borough ordinance, resolution, rule or regulation which is in force on the Effective Date of this Charter that is inconsistent with the provisions of this Charter shall be resolved in favor of the provisions of this Charter. If any provision of any Borough ordinance, resolution, rule or regulation which is in force on the Effective Date of this Charter is inconsistent with the provisions of this Charter then the inconsistency shall not affect the other provisions of an otherwise valid ordinance, resolution, rule or regulation.
- (b) Legal Actions. All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the Borough shall continue in force and effect except as may be modified pursuant to the provisions of this Charter.
- (c) Property, Records and Equipment. All property, records and equipment of the Borough existing on the Effective Date of this Charter shall remain the property, records and equipment of the Borough of Mahanoy City.

§1807. Specific Transfer of Functions. All duties, functions and powers assigned by law and not inconsistent with this Charter are hereby transferred to the Mahanoy City Council in accordance with this Charter. All Borough departments and offices shall continue until abolished or modified.

§1808. Personnel. Nothing in this Charter shall affect or impair the rights or privileges of any Borough employee or the terms of any collective bargaining agreement in effect on the Effective Date of this Charter as to salary, tenure, residency, retirement or pension benefits; leave with pay; or any other personal or contractual rights. Nothing in this Charter shall diminish the rights and privileges of any former employee in their pension or retirement benefits.

§1809. Continuation of Boards and Commission. All boards and commissions established for or under the authority of the Borough before the Effective Date of this Charter shall continue to exist and operate until amended or abolished by the Mahanoy City Council. Members of the boards and commissions existing on the Effective Date of this Charter shall remain in office for as long as their respective terms provide or until the status of their respective boards or commission shall be amended by the Mahanoy City Council.

§1810. Administrative Procedures. Upon the Effective Date of this Charter and until an Administrative Code is adopted by the Borough, unless otherwise provided in this the Charter, the Borough shall utilize the relevant provisions of the Borough Code applicable to the administration of Borough government including, but not limited to, purchasing and letting of contracts, eminent domain, streets, parks and playgrounds, health and sanitation, etc. Any conflict or inconsistency between the Charter and the Borough Code shall be resolved in favor of the provisions of this Charter. Nothing in this §1810 shall be construed as interfering with the governing structure of elected and appointed offices created by this Charter.

§1811. Transition Committee.

- (a) Establishment and Purpose. If this Charter is approved by the electors at the April 28, 2020, general primary, then within ten (10) days of the certification of the election results there shall be established a Transition Committee consisting of three (3) persons to facilitate the transition from the existing form of government to the form of government established by this Charter.
- (b) Membership. The Transition Committee shall include:
 - (1) One (1) member and one (1) alternate member of the Council in office as of April 2020, said members to be selected by Council.
 - (2) Two (2) members of the Borough of Mahanoy City Government Study Commission and one (1) alternate member, said members to be selected by the Commission.
 - (3) A Transition Committee member may only serve in the official capacity as a member of Council or as a member of the Commission.
- (c) Duties. The Transition Committee shall commence the process of engaging a consultant to assist the Borough in preparing the Administrative Code. The Borough shall provide the Transition Committee with funding for this project from the general fund or any other available third-party funding source. The Transition Committee may prepare any other necessary documents in order that they may be considered for adoption by Council on or after the Effective Date of this Charter.
- (d) Vacancies. Any vacancy on the Transition Committee shall be filled by the respective alternate member previously appointed. In the event the alternate member is unable to serve for any reason, the vacancy shall be filled by the remaining members of the Transition Committee.
- (e) Compensation. The Transition Committee members shall serve without compensation but shall be reimbursed for legitimate expenses, if any.
- (f) Termination. The Transition Committee shall terminate and cease to exist on January 1, 2021.

§1812. Inconsistencies. Where inconsistent with any of the preceding Articles of this Charter, the provisions of this Article shall constitute temporary exceptions.

X. CERTIFICATION

The Recommended Home Rule Charter for the Borough of Mahanoy City, Schuylkill County, Pennsylvania as stated above is certified to be the true and correct copy as approved by the Borough of Mahanoy City Government Study Commission at its meeting held on February 12, 2020, for submission to the voters of the Borough of Mahanoy City at the primary election to be held on April 28, 2020.

Borough of Mahanoy City Government Study Commission*

Francis P. Burke, Chair _____

Thomas C. McCabe, Vice-Chair _____

Anthony Aschman _____

Michael A. Connolly** _____

Kayla Henninger _____

Louis Huber _____

Kenneth R. Sout, Jr. _____

* Larry Levy served as an elected member of the Commission until his resignation on November 6, 2019.

** Michael A. Connolly was appointed to the Commission on November 20, 2019.

Attorney Eric M. Lieberman served as the Commission’s Solicitor.

The Pennsylvania Economy League, Central PA Division, served as the Commission’s Professional Consultant.

Susan Kester served as the Commission’s secretary until her resignation on December 4, 2019. Francis P. Burke was appointed secretary at the Commission’s January 8, 2020.
