

# **THE CHARTER**

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**[*HISTORY*: Adopted by vote of the qualified electors of the Borough of Whitehall 5-21-74; effective 1-1-75. Amendments noted where applicable.]**

**Preamble**

We, the people of the Borough of Whitehall, in order to exercise the right of local self-government to the fullest extent, do hereby ordain and establish this Home Rule Charter.

**ARTICLE I**  
**General Provisions**

**§ C-101. Name.**

This municipality shall continue to be known as the "Borough of Whitehall," a body politic located in the County of Allegheny and Commonwealth of Pennsylvania.

**§ C-102. Boundaries.**

The boundaries of the Borough of Whitehall shall be those in existence at the time this Charter becomes effective.

**§ C-103. Powers of the borough.**

The borough shall have and may exercise any power and may perform any function not specifically denied it by the Constitution of Pennsylvania, by the General Assembly of Pennsylvania or by this Charter.

**§ C-104. Construction.**

The powers of the borough shall be construed liberally in favor of the borough and the specific mention of any particular powers in this Charter shall not be construed as limiting in any way the general power granted by this Article. All possible powers of the borough are to be considered as though specifically and individually set forth in this Charter, whether such powers are presently available to the borough or may hereafter become available.

**§ C-105. Residual powers in Borough Council.**

All powers of the borough now existing or hereafter acquired, unless otherwise specifically set forth in this Charter, shall be vested in the Borough Council.

**§ C-106. Joint government agreements.**

The borough may exercise any of its powers or perform any of its functions or duties, and participate in the financing thereof, jointly or in cooperation with the United States of America or any agency thereof or the Commonwealth of Pennsylvania and any political subdivision or agency thereof. The borough may accept services from or provide services to any such entity.

**§ C-107. Severability.**

Should any provision of this Charter be held invalid by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect as though the invalid provisions had not been a part thereof.

**§ C-108. Charter amendment.**

Amendments to this Charter may be framed and proposed in accordance with the provisions of the laws of the commonwealth governing home rule charters as presently enacted or thereafter amended.

**§ C-109. Effective date.**

This Charter shall become effective on the first day of January 1975.

**ARTICLE II  
Council****§ C-201. Composition of Council.**

There shall be a Borough Council of seven members elected at large by the qualified electors of the borough.

**§ C-202. Term of office.**

The members of Council shall serve four-year terms commencing on the first Monday in January following their election. There shall be elected three Councilmen at the municipal election to be held in the year 1975 and every four years thereafter, and four Councilmen at the municipal election to be held in the year 1977 and every four years thereafter.

**§ C-203. Compensation.**

The compensation of the Councilmen shall initially continue at that rate in effect at the time of the adoption of this Charter. Thereafter, the rate of compensation may be increased or decreased by ordinance of Council; provided, however, that any increase shall be limited to fifteen percent (15%) of the compensation rate then in effect, and provided further that compensation cannot be increased more often than once in four years. There shall be no limitation with regard to decreasing compensation. Only an increase or decrease in compensation need be fixed by ordinance.

**ARTICLE III  
Operation and Procedures of Council****§ C-301. Organization of Council.**

The Borough Council shall organize on the first Monday of January of each even-numbered year. At such time it shall elect one of its members as President and another of its members as Vice President, who shall hold those offices at the pleasure of Council. If the first Monday is a legal holiday, the meeting and organization shall take place on the first day following. If a quorum is not present, the organization meeting shall be held on the earliest succeeding day at which a quorum can be assembled. The Council may transact any further business it deems necessary or appropriate at the organization meeting.

**§ C-302. Meetings.**

Council shall hold regular meetings at least once a month on such day and at such time as Council shall from time to time determine and schedule. Council may adjourn to a stated time for general business or for special business. If no quorum is present at a regular or adjourned meeting, a majority of the members of the Council who are present may agree upon another date and hour for a meeting and members so present may continue to so agree until a

meeting can be held with a quorum in attendance.

Special meetings shall be called by the presiding officer of Council upon written request by at least three (3) members of Council. Members shall have at least twenty-four (24) hours' notice of special meetings unless waived. The notice shall contain a statement of the nature of the business to be considered. Presence at such special meeting constitutes waiver of notice.

All meetings of Council shall be open to the public and shall be conducted according to rules of procedure that shall be adopted from time to time by Council. Such rules shall be designed to assure full and equal participation in the deliberations of Council by all of its members.

**§ C-303. Quorum.**

A majority of the members of Council in office shall constitute a quorum. The Council shall conduct no business except in the presence of a quorum.

**§ C-304. Form of action by Council.**

Official actions of the Council may be taken by adoption of an ordinance, of a resolution or by motion. All ordinances and resolutions must be in written form. All actions of a legislative character shall be by ordinance. All other actions of Council shall be by resolution or motion, unless otherwise provided in this Charter. All final action in adopting ordinances or resolutions shall be by roll call vote and the vote of each member shall be entered in the minutes of the meeting.

**§ C-305. Majority action.**

The action of a majority of the Council present and entitled to vote, unless otherwise stated in this Charter, shall be binding upon and constitute the action of the Council.

**§ C-306. Councilmen required to vote.**

Each member of Council in attendance shall be required to cast an affirmative or negative vote on any matter of borough business brought to a vote at a lawful meeting of Council. However, if by so voting any member would be violating any provision of this Charter or the laws of the Commonwealth of Pennsylvania, then this section shall not apply to such member.

**§ C-307. Minutes of proceedings.**

Council shall cause minutes of all its proceedings to be made and preserved. The minutes shall be opened to public inspection in the borough offices during regular business hours.

**ARTICLE IV**  
***Powers and Duties of Council***

**§ C-401. Legislative power.**

All legislative power of the borough shall be vested in the Council.

**§ C-402. Councilmatic authority.**

All Councilmatic authority shall be exercised by the Council body only. No individual Councilman shall have any authority unless such authority is permitted by this Charter or specifically delegated by the Council acting as a body.

**§ C-403. General powers.**

1. Council shall have the power to enact, amend or repeal all ordinances and resolutions, provided they do not violate this Charter or the laws of the Commonwealth.
2. Council shall have the power to create or abolish all boards, commissions, committees, offices, departments, agencies or positions, except as may be mandated by this Charter, and to appoint any individual thereto or remove any individual therefrom.
3. Council shall have the power to receive and accept all gifts or donations of real or personal property or interest therein, in the name of the borough.
4. Council shall have the power to hold public hearings on any matter. Notice of every such hearing and the procedure thereof shall be in such manner as prescribed by Council.
5. Council shall have the power to authorize, by resolution, inquiries and investigations which may be conducted by the entire Council or any committee thereof. The Council may compel the attendance of witnesses and the production of books, records, papers, documents or any other evidence at any meeting of the Council or any committee thereof, and for that purpose may issue subpoenas signed by the President of Council or the Chairman of the committee involved, as the case may be, and may cause the same to be served in any part of this Commonwealth. Any person called as a witness as provided in this section shall testify and be examined under oath, which shall be administered by the presiding officer of Council or the committee involved, as the case may be.

**§ C-404. Appointment of Solicitor, Engineer and Secretary.**

Council shall appoint a Borough Secretary, a Borough Engineer, who shall be a professional engineer registered with the Commonwealth of Pennsylvania, and a Borough Solicitor, who shall be an attorney at law or firm of attorneys. The Secretary, Engineer and Solicitor and any subordinates that may be authorized shall be under the control of the Council.

**§ C-405. Adoption of Administrative Code.**

Council shall adopt, by ordinance, an Administrative Code establishing and defining the responsibilities of the borough departments, agencies and offices as well as such procedures as it shall deem to be of basic importance in the operation of the borough government. Council shall have the continuing authority thereafter, by amendment of the Administrative Code, to make changes in departmental and administrative organizations and procedures and to abolish

or alter any department, board, commission, agency or position, except as may be otherwise required by law or this Charter.

**§ C-406. Adoption of personnel system.**

Subject to any applicable civil service provisions, Council shall adopt, by ordinance, a personnel system which shall provide for the compensation, appointment, promotion, suspension or removal of all appointed officers and employees of the borough. Such system shall provide, *inter alia*, that all appointments and promotions shall be made solely on the basis of merit and fitness as demonstrated by examination or other competent evidence. Race, creed, color, sex, political affiliation or religious belief shall not be a factor in any appointment or promotion.

**§ C-407. Citizens' right to be heard.**

Council shall provide reasonable opportunity for interested citizens and taxpayers to address the Council on matters of general or special concern. This opportunity may be afforded to the public either at a regular Council meeting or at another meeting specially set for this purpose.

**§ C-408. Citizens' petition.**

Whenever a petition shall be presented to Council signed by a number of residents of the borough equal to at least two percent (2%) of the number of registered electors in the borough at the time of the most recent general or municipal election, as the case may be, requesting that Council consider and take action on the subject matter of the petition, it shall be the duty of the Council to place the subject matter thereof on its agenda for a regular or special meeting taking place within two (2) months after receipt of the petition. However, the same subject matter shall not be presented to the Council by petition pursuant to this section more often than one (1) time in any period of two (2) years.

**ARTICLE V**  
**Mayor**

**§ C-501. Election and term.**

The qualified electors of the borough shall elect one person as Mayor at the municipal election in the year 1977 and every four years thereafter. The term of office shall be for four years commencing on the first Monday in January following each such election.

**§ C-502. Compensation.**

The compensation of the Mayor shall initially continue at that rate in effect at the time of the adoption of this Charter. Thereafter, the rate of compensation may be increased or decreased by ordinance of Council; provided, however, that any increase or decrease shall be limited to fifteen percent (15%) of the compensation rate then in effect; and provided further that compensation cannot be increased or decreased more often than once in four years. Only an increase or decrease in compensation need be fixed by ordinance.

**§ C-503. Participation in Council meetings.**

The Mayor may attend all meetings of the Council, regular or special, and take part in the discussions and deliberations of Council.

**§ C-504. Voting.**

In all cases where, by reason of a tie or split vote, the Council is unable to take any action on a matter brought before it, the Mayor may cast the deciding vote.

**§ C-505. Approval and veto powers.**

The Mayor shall approve or veto every ordinance or legislative resolution as provided in this Charter.

**§ C-506. General powers and duties.**

The Mayor shall have the following powers and duties:

1. He shall see that order is preserved in the borough.
2. He shall enforce all ordinances and regulations of the borough.
3. He shall sign such papers, documents or contracts as may be required by law.
4. He shall have all the powers established by Council during a time of emergency unless otherwise designated by Council.
5. He shall report to the Council from time to time on the state of the borough.
6. He shall have direct supervision over the Police Department as to the time during which, the place where and the manner in which the police shall perform their duties, except that Council shall determine the total weekly hours of employment that apply to the policemen. He shall have the power to suspend any police officer for cause and without pay, subject to affirmation by Council.

**§ C-507. Absence of Mayor.**

Whenever the Mayor is absent or incapacitated, the duties of his office shall be discharged by the President of Council, or in the event of the absence or incapacity of the President of Council, by the Vice President of Council. The President or Vice President of Council, when acting as Mayor, shall have no power to veto any proposed ordinance or to break a tie, but shall have power to vote as a Councilman.

**ARTICLE VI  
Tax Collector****§ C-601. Election and term.**

The qualified electors of the borough shall elect one person as Tax Collector at the

municipal election in the year 1977 and every four years thereafter. The term of office shall be for four years commencing on the first Monday in January following each such election.

**§ C-602. Duties.**

The Tax Collector shall be responsible for the collection of all taxes levied within the borough unless otherwise designated by the levying body.

**§ C-603. Bond.**

Any person elected Tax Collector shall give bond as provided by Council before assuming office.

**§ C-604. Compensation.**

Compensation of the Tax Collector shall be fixed by ordinance of Council. However, no ordinance increasing or decreasing such compensation shall become effective until the date of commencement of the term of Tax Collector elected at the first election which follows the adoption of such ordinance by at least one (1) year.

**§ C-605. Reports to Council.**

The Tax Collector shall make monthly reports of tax collections to Council and shall make such additional reports pertaining to the activities of his office as the Council may require.

**ARTICLE VII**

***Auditors***

***[Amended 2-3-93 by Ord. No. 796<sup>1</sup>]***

**§ C-701. Appointment of certified independent auditors.**

Council shall appoint a certified independent auditor who shall be a Certified Public Accountant or a firm of Certified Public Accountants. The appointment shall be made annually.

**§ C-702. Duties.**

The certified independent auditor shall audit all of the borough funds and books of account including the Whitehall Public Library and elected Tax Collector.

**§ C-703. Compensation.**

The compensation of the certified independent auditor shall be fixed by Borough Council annually.

**§ C-704. Reports.**

The certified independent auditor shall submit a comprehensive report to Council within ninety (90) days after the close of each fiscal year. The auditor's report shall be prepared in

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<sup>1</sup> Editor's Note: This ordinance passed at referendum on May 18, 1993.

accordance with generally accepted accounting principles (GAAP). A summary of the report, which shall include the financial statement, shall be published in a newspaper of general circulation within the borough. The certified independent auditor shall submit interim or special reports as Council may, from time to time, require. The certified independent auditor shall also prepare and file the annual audit and financial report as required by the Commonwealth of Pennsylvania.

**§ C-705. Procedures.**

In performing its duties, the auditor shall only utilize techniques and procedures acceptable to Council which must be in accordance with generally accepted government auditing standards (GAGAS).

**§ C-706. (Reserved)**

**ARTICLE VIII**  
***Elected Officials***

**§ C-801. Qualifications.**

Only registered electors of the borough shall be eligible to hold an elective borough office.

**§ C-802. Prohibitions.**

(1) No individual shall hold more than one elective borough office at a time. (2) No director of a school district of which the Borough of Whitehall is a part shall be eligible to hold an elective borough office. (3) No elected borough official shall hold any appointive borough office or receive compensation from the borough in any manner other than that due him in his elected capacity. (4) No former elected borough official shall be appointed to any borough office or receive compensation from the borough in any manner until after the expiration of any term of office for which he had been elected.

**§ C-803. Oath of office.**

Before entering upon the duties of their office, the elected officials shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth of Pennsylvania and to perform the duties of their office with fidelity, together with such loyalty oath as is prescribed and required by law. The oath or affirmation may be taken before any Judge or District Magistrate of the county and shall be filed with the Borough Secretary and be preserved among the records of the borough for a period of six (6) years.

**§ C-804. Forfeiture of office.**

An elected official may be removed from office by vote of Council if he:

1. Lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law; or
2. Violates any express provision of this Charter; or

3. Is convicted of a crime more serious than a summary offense as defined by the laws of the Commonwealth of Pennsylvania; or
4. Except in the case of the Tax Collector and Borough Auditors, fails to attend three (3) consecutive regular meetings of Council without having been excused by the Council.

No office shall be declared vacant unless the holder thereof shall have been given the opportunity of a public hearing before Council, at which time he shall show cause why he should not be removed. He shall be given at least ten (10) days' written notice of the time and place of such hearing.

**§ C-805. Filling of vacancies.**

If a vacancy occurs in any elective office it shall be filled by the Council, which shall appoint a person qualified under this Charter to hold such office. Should the Council fail for any reason whatever to fill such vacancy within forty-five (45) days after the vacancy occurs, then the Court of Common Pleas shall, upon petition of the Council or any five (5) citizens of the borough, fill the vacancy by appointing a qualified person to such office. The person appointed by the Council or the court to fill the vacancy shall serve until the first Monday in January following the first general or municipal election at which a successor can be elected. The term to be served by such elected successor shall be for the remaining portion of the original term which became vacant.

**ARTICLE IX**  
***Ordinances and Resolutions***

**§ C-901. Passage by Council.**

Passage of ordinances and resolutions shall be a lawful meeting of Council and be by majority vote of the members present. All ordinances shall contain the following enacting clause:

"The Council of the Borough of Whitehall hereby ordains as follows."

All ordinances and resolutions shall be signed by the President of Council and the Borough Secretary, dated and have the Municipal Seal affixed thereto.

**§ C-902. Approval or veto by Mayor.**

Every ordinance passed by the Council shall be presented to the Mayor for his approval. If he approves he shall sign it. If he does not approve he shall return it to the Council with his written objections at the Council's next regular meeting occurring not less than ten (10) days after the presentation of the proposed ordinance to him and the ordinance shall be considered vetoed. Should the Mayor not return the proposed ordinance with his written objections within the required time, the ordinance shall become effective without his approval.

**§ C-903. Passage by Council over Mayor's veto.**

Should the Mayor veto any proposed ordinance, Council may reconsider the ordinance at its next regular or special meeting occurring not less than ten (10) days after the Mayor has

returned it to the Council. If, at such meeting, two-thirds (2/3) of the Councilmen in office vote to pass the ordinance, it shall become effective without the Mayor's approval.

**§ C-904. Publication and effective date.**

Upon adoption, every ordinance shall be published in a newspaper of general circulation within the borough within thirty (30) days after adoption. The full text of the ordinance need not be published but a summary setting forth the substance of the ordinance shall be sufficient. The publication shall state where the full text of the ordinance may be examined and copies obtained. The effective date of the ordinance shall be the publication date unless otherwise specified by the ordinance or the laws of the Commonwealth of Pennsylvania.

**§ C-905. Recording.**

All ordinances and resolutions shall be entered verbatim in permanent separate record books for ordinances and resolutions. No ordinance shall be considered in force until the same is recorded in the ordinance book. The ordinance and resolution books shall be open and available for public inspection during normal business hours. The ordinance book shall show the date of publication of each ordinance and the name of the newspaper in which publication was made.

**§ C-906. Codes of technical regulations.**

Any ordinance which adopts a standard code of technical regulations may do so by reference in lieu of restating the entire code, and the publication of the ordinance likewise need not restate the entire code. However, a copy of such code shall be attached to the recorded ordinance and copies of the code shall be available for inspection by or sale to the public.

**§ C-907. Ordinances requiring prior public notice.**

No final action shall be taken on the following types of ordinances and amendments to ordinances without public hearing thereon pursuant to prior public notice by publication in a newspaper of general circulation within the borough:

1. Zoning ordinance and amendments thereto.
2. Adoption of a zoning map and amendments thereto.
3. Subdivision regulations.
4. Land development and land use regulations.

**§ C-908. Penalty provisions.**

The penalty for the violation of any ordinance shall not exceed five hundred dollars (\$500.) for each violation or thirty (30) days' imprisonment in default of payment of any such fine. However, 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 limit on fines may be increased by Council to the extent of the maximum fine that may be levied by any noncharter municipality in the Commonwealth of Pennsylvania at the time.

**ARTICLE X**  
**Contracts**

**§ C-1001. Competitive bids required.**

All contracts in excess of one thousand dollars (\$1,000.), except those hereinafter mentioned, shall be entered into only with the party submitting the best responsible bid after competitive bidding.

**§ C-1002. Bidding procedure.**

Council shall establish comprehensive competitive bidding procedures as a part of the Administrative Code referred to in **§ C-405** herein.

**§ C-1003. Exceptions to competitive bidding.**

Competitive bidding shall not be required under this Charter for:

1. Labor or services rendered by any borough officer or employee.
2. Contracts where the purchase sought is available from only one vendor.
3. Contracts involving the acquisition or use of real property.
4. Contracts for professional or personal services.
5. Contracts for insurance or surety company bonds.
6. Contracts necessitated by an emergency.
7. Contracts with other governmental entities, authorities, agencies or political subdivisions.
8. Contracts negotiated under comprehensive bidding procedures by a joint municipal purchasing group of which the borough is a member.

In all cases where the Council enters into a contract in excess of \$5,000.00 without competitive bidding, the ordinance, resolution or motion authorizing the contract shall contain a statement specifying the factual basis for invoking one of the exceptions set forth in this section.

**§ C-1004. Evasion of bidding requirements.**

Council shall not evade the provisions of **§ C-1001** herein by contracting piecemeal for the purpose of having individual transactions under five thousand dollars (\$5,000.), which transactions would avoid the competitive bidding requirements when such transactions should, in the exercise of reasonable discretion and prudence, be conducted as one transaction.

**§ C-1005. Personal interest prohibited.**

No elected borough official or appointed borough official receiving compensation shall

personally benefit, financially or otherwise, from any contract to which the borough is a party. Should any official have a financial interest in, or a personal relationship with, any party contracting with the borough, such official shall make known that interest or relationship and shall refrain from voting for, or otherwise participating in his normal official capacity in, the consummation of the contract. Violation of this section by any borough official shall be cause for removal from office and the contract shall be voidable at the election of Council.

## **ARTICLE XI** ***Fiscal Matters***

### **§ C-1101. Fiscal year.**

The fiscal year of the borough shall commence on the first day of January and terminate on the last day of December. Council, by ordinance, may change the fiscal year upon the affirmative vote of two-thirds (2/3) of the Councilmen in office. Should such a change be made, Council shall determine the procedures and fiscal arrangements for the transition.

### **§ C-1102. Preparation of budget.**

On or before the 30th day prior to the end of the fiscal year, the Council shall cause to be prepared a proposed budget for the ensuing fiscal year.

### **§ C-1103. Budget content.**

The budget shall provide a complete financial plan of all borough funds and activities for the ensuing fiscal year, and except as required by this Charter, shall be in such form as the Council deems desirable or may require. The budget shall contain an outline of the proposed financial policies of the borough for the ensuing fiscal year. It shall indicate the major changes proposed from the current year in financial policies, expenditures and revenues, together with the reasons for such changes.

The budget shall be organized so as to use the most feasible combination of expenditure classification by fund, organization unit, program, purpose of activity and objective. The budget shall contain, *inter alia*, the following:

1. It shall begin with a general summary of its contents.
2. It shall show, in detail, all estimated income, indicating the existing and proposed tax levies, as well as other assessments, fees and charges.
3. It shall show all proposed expenditures, including debt service.
4. It shall show the number of proposed employees in every job classification.
5. It shall be so arranged as to show comparative figures for actual and estimated income and expenditures for the current fiscal year and actual income and expenditures of the preceding fiscal year.
6. It shall indicate proposed expenditures during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs,

and the methods of financing such expenditures.

7. It shall indicate proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies, when practicable, and the proposed method of financing each such capital expenditure.

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

**§ C-1104. Public record.**

The proposed budget shall be a public record and shall be available for public inspection after submission and prior to adoption and after adoption, during regular business hours.

**§ C-1105. Notice and hearing.**

Council shall publish a notice in a newspaper of general circulation within the borough setting forth the times and place where copies of the budget can be obtained or inspected and the time and place of a public hearing on the budget.

Council shall conduct a public hearing on the budget, which shall be held not less than seven (7) days after the publication of the aforementioned notice nor later than seven (7) days prior to the adoption of the budget.

**§ C-1106. Adoption.**

Following the public hearing Council, by resolution, shall adopt the budget with or without further amendment on or before the last day of the fiscal year then ending. Adoption of the budget and any amendments thereto shall constitute appropriations for the expenditures included therein and shall further constitute the levy of the taxes therein proposed.

**§ C-1107. Amendments.**

So long as the fiscal year remains as initially established by § C-1101 herein, Council shall have the right to amend the budget subsequent to its adoption on or before the 15th day of February of any even-numbered year. Such amendment shall only be done pursuant to public notice being given at least ten (10) days prior to public hearing which shall be held not later than ten (10) days prior to the adoption of the amendment.

No amendment to the budget shall increase the total authorized expenditures to an amount greater than the total of estimated revenues.

All amendments to the budget shall be by resolution.

**§ C-1108. Modification during fiscal year.**

The Council, in its reasonable discretion, may, by motion, modify the budget during the fiscal year. New appropriations, supplementary appropriations and transfers from one appropriation to another may be made either before or after an expenditure is authorized or ratified, provided the appropriations are within the current year's revenues. Appropriations may be eliminated in order not to exceed available revenues or for any other reason.

**§ C-1109. Lapse of appropriations.**

Unencumbered and unexpended appropriations shall lapse at the close of the fiscal year, but the Council may annually continue an appropriation for a capital expenditure until the purpose for which it was made has been accomplished.

**§ C-1110. Payment of funds.**

No payment of any funds of the borough shall be made unless provided for in the budget and specifically approved by the Council. However, payroll and utility expenditures may be made where based on a prior ordinance or contract.

**ARTICLE XII**  
***Initiative and Referendum***

**§ C-1201. General authority.**

1. Initiative. The qualified electors of the borough shall have the right to propose ordinances to the Council by an initiative petition in accordance with the procedures set forth herein. Should the Council fail to adopt the proposed ordinance without any change in substance, the proposed ordinance shall be placed on the ballot at a regular or special election, as provided herein, for adoption or rejection by the voters of the borough.
2. Referendum. (a) The qualified electors of the borough shall have the right to require the Council to reconsider any adopted ordinance in accordance with the procedures set forth herein. Should the Council fail to repeal an ordinance so reconsidered, the ordinance shall be placed on the ballot at a regular or special election, as provided herein, for adoption or rejection by the voters of the borough. (b) The Council may refer any ordinance proposed by it to the qualified electors of the borough for approval. The proposed ordinance shall be placed on the ballot at a regular or special election for adoption or rejection by the voters of the borough.

**§ C-1202. Applicability and exceptions.**

Only matters of legislation may be subjected to initiative and referendum. The rights of initiative and referendum shall not extend to the budget, to any ordinance relating to the appropriation of money, levy of taxes or salaries of borough officials and employees, or to any matter which the Council itself is prohibited from legislating upon.

**§ C-1203. Petitioners' committee.**

Any five qualified electors may begin initiative or referendum proceedings by filing with the Borough Secretary an affidavit stating that they will constitute the petitioners' committee, stating their names and addresses and the address to which all notices to the committee are to be sent. The affidavit shall also include the full text of the proposed ordinance or cite the ordinance sought to be reconsidered. The petitioners' committee shall be responsible for circulating the petition and filing it in proper form within thirty (30) days after filing the

committee's affidavit, except in the case of a referendum petition, which must be filed within thirty (30) days after passage by the Council of the ordinances sought to be reconsidered. Upon the filing of the committee's affidavit the Borough Secretary shall issue the appropriate petition blanks if so requested by the petitioners' committee.

**§ C-1204. Petitions.**

Initiative and referendum petitions must be signed by qualified electors of the borough equal in number to twenty-five percent (25%) of the registered electors in the borough at the time of the most recent general or municipal election.

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

Each paper of the petition shall have attached to it when it is filed an affidavit of the circulator which states that he personally circulated the paper, the number of signatures it contains, that all signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity to read the full text attached before signing the petition.

**§ C-1205. Certification of petitions.**

Within twenty (20) days after the petition is filed the Borough Secretary shall certify its sufficiency, specifying in exactly which ways, if any, it is deficient, and shall immediately send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be supplemented by an additional petition, which shall be filed within five (5) days after receipt of the certificate. The supplemental petition shall comply with all the requirements of **§ C-1204** herein. The Borough Secretary shall certify the original and supplemental petition, which shall be treated as one, within five (5) days after the supplemental petition is filed, and shall notify the petitioners' committee in the same manner as previously set forth in this section. Should the petitioners' committee be dissatisfied with the certification of the Borough Secretary, it may, within five (5) days of receipt of the certification, file a written request to the Council to review the certification. The Council shall review the certification and approve or disapprove it at its next regular meeting.

**§ C-1206. Suspension of ordinance's effect.**

When a referendum petition is filed with the Borough Secretary the ordinance sought to be reconsidered shall be suspended from taking or continuing in effect. The suspension shall end when:

1. There is a final determination of the insufficiency of the petition; or
2. The petitioners' committee withdraws the petition; or
3. The Council repeals the ordinance; or

4. Thirty days have elapsed after a vote of the borough on the ordinance.

**§ C-1207. Action by Council.**

When any initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the same manner as other ordinances or reconsider the ordinance cited in the referendum petition. Should the Council fail to adopt the proposed initiative ordinance without any change in substance within sixty (60) days after the date the petition was finally certified as being sufficient, or fail to repeal the ordinance cited in the referendum petition within thirty (30) days after the date the petition was finally certified as being sufficient, it shall submit the proposed or cited ordinance to the voters of the borough.

**§ C-1208. Submission to voters.**

The vote of the borough on a proposed or cited ordinance shall be at the first regular or special election at which the question can be placed on the ballot in accordance with the election laws of the Commonwealth of Pennsylvania. Copies of the proposed or cited ordinance shall be made available by the Council to the public at least ten (10) days before the scheduled election and at the polls.

**§ C-1209. Withdrawal of petition.**

An initiative or referendum petition may be withdrawn by the written request of any four of the petitioners' committee at any time prior to the deadline set by the election bureau for the removal of such questions from the ballot. Should a petition be withdrawn, all proceedings thereunder shall be terminated.

**§ C-1210. Election results.**

If a majority of the votes cast on the question are in favor of the proposed initiative ordinance, the ordinance shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as those ordinances adopted by the Council pursuant to this Charter.

If a majority of the votes cast on the question are in favor of repeal of the ordinance cited in the referendum petition, the ordinance shall be considered repealed upon certification of the election results.

**§ C-1211. Repeal of initiative ordinance.**

Any initiative ordinance approved by the voters may not be amended or repealed by the Council for two (2) years from its adoption.

**§ C-1212. Rejected initiative ordinances.**

Should any initiative ordinance be rejected by the voters, such ordinance may not be again submitted to the voters for five (5) years.

**ARTICLE XIII**  
***Creation of Authorities***

**§ C-1301. Notice and hearing.**

No ordinance creating a municipal authority or providing for the participation with other municipalities in the creation of a joint authority shall be passed by the Council unless a public hearing is held thereon and the proposed ordinance is approved by the voters of the borough. The public hearing shall be held not less than twenty (20) days prior to the election at which the question appears on the ballot. Notice of the public hearing shall be published in a newspaper of general circulation within the borough at least ten (10) days prior to the hearing. Copies of the full text of the proposed ordinance shall be made available to the public at the time of the publication of the hearing notice.

**§ C-1302. Question on ballot.**

The question to be placed on the ballot shall be substantially in one of the following forms:

"Shall an authority to be known as the \_\_\_\_\_  
(insert name)

Authority be created for the purpose of \_\_\_\_\_  
(insert purpose)

"Shall the Borough of Whitehall participate with other municipalities in the creation of a joint authority to be known as the \_\_\_\_\_ Authority which is being created for  
(insert name)  
the purpose of \_\_\_\_\_."  
(insert purpose)

The voters shall vote "yes" or "no" on the question.

**§ C-1303. Approval by electors.**

Should a majority of the votes cast on the question be in the affirmative, then the Council shall adopt the ordinance in the manner provided in this Charter for the adoption of ordinances. Notwithstanding any other provision in this Charter to the contrary, the Mayor shall not have the right to veto the ordinance.

**ARTICLE XIV**  
***Transition Provisions***

**§ C-1401. Existing departments and offices.**

All departments, boards, commissions and offices of the borough in existence at the date of enactment of this Charter shall continue until the Council provides otherwise unless contrary to this Charter.

**§ C-1402. Continuation of ordinances and resolutions.**

All ordinances, resolutions and regulations of the borough in effect at the time this

Charter becomes effective and not in conflict with any provision of this Charter shall continue in force until amended or repealed by the Council.

**§ C-1403. Rights and liabilities to continue.**

The borough shall continue to own, possess, exercise and control, as the case may be, all rights, property and franchises of every kind or nature which it does at the time this Charter becomes effective under the same conditions that apply at such time, and shall continue to be subject to all debts, obligations and liabilities to which it is subject at the time this Charter becomes effective under the same conditions that apply at such time.