

# TOWAMENCIN TOWNSHIP HOME RULE CHARTER

## PREAMBLE

We, the people of Towamencin Township in Montgomery County, under authority granted by the Constitution and the Laws of the Commonwealth of Pennsylvania to adopt Home Rule Charters do hereby ordain and adopt this Home Rule Charter to establish a council-manager form of government with full rights of local self-government. We do so primarily to reaffirm our right to public ownership of water, wastewater and storm sewer systems as given to us in Article I, § 27 of the Constitution of the Commonwealth of Pennsylvania.

## ARTICLE I

### NAME, BOUNDARIES, DEFINITIONS, AND POWERS

#### SECTION 101. NAME.

Towamencin Township is continued as a municipality in Montgomery County, Pennsylvania, and is hereby established as a municipal corporation under the name of Towamencin Township and shall herein be referred to as the "Township."

#### SECTION 102. BOUNDARIES.

The boundaries of Towamencin Township shall be the actual boundaries of the Township at the time this Charter takes effect and as they may be lawfully changed thereafter.

#### SECTION 103. DEFINITIONS.

Unless otherwise expressly stated in this Charter, the following words and

phrases shall be construed to have the following meanings:

- a. The term “Charter” shall refer to the Home Rule Charter of Towamencin Township, Montgomery County, Pennsylvania.
- b. The term “Potable Water System” shall refer to all real property, appurtenant interests, and facilities necessary for diverting, developing, pumping, impounding, distributing or furnishing water to customers for compensation.
- c. The term “Wastewater System” shall refer to all real property, appurtenant interests, and facilities necessary for wastewater collection, conveyance, treatment or disposal to customers for compensation.
- d. The term “Storm Water System” shall refer to all real property, appurtenant interests, and facilities necessary for storm water collection, conveyance, treatment and disposal.

#### SECTION 104. POWERS.

The Township has, and may exercise, any powers, and may perform any function not denied by the Constitution of the United States or the Constitution of the Commonwealth of Pennsylvania, by this Charter, or by an act of the General Assembly at any time. It is the intent of this Charter that the Township shall have all powers possible under the Constitution and Laws of this Commonwealth, except as may be set forth herein, whether or not such powers and functions are being exercised at the time of the adoption of this Charter.

#### SECTION 105. RESIDUAL POWERS.

All powers of the Township, including any such power which may hereafter be conferred on the Township by an amendment of the Constitution of the United States or of the Constitution of Pennsylvania or of this Charter or by act of the General Assembly, unless otherwise specifically set forth in this Charter, shall be vested in the Township’s governing body. The governing

body shall be elected, shall organize, and shall function as provided in this Charter.

#### SECTION 106. MUNICIPAL CLASS RETENTION.

Unless otherwise expressly stated in this Charter, the Township will retain the structure, privileges, rights, and duties and limitations thereon of a Township of the Second Class, as provided by 53 P.S. §§ 65101, et seq., not subject to this Charter. The Township may change its underlying class in any way that is provided to Townships of the Second Class by the Laws of this Commonwealth. If the Township changes its underlying class, all references to the Second Class Township Code in this Charter will thereafter refer to the new class and all references to the Board of Supervisors in this Charter will refer to the new form of governing body.

#### SECTION 107. CONSTRUCTION.

The powers of the Township under this Charter shall be liberally construed in favor of the Township, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power stated in this article. All possible powers of the Township, except as limited in Section 104 and Section 106 above, are to be considered as if specifically and individually set forth in this article, whether such powers are presently available to the Township or may hereafter from time to time become available.

## ARTICLE II

### ELECTED OFFICES

#### SECTION 201. ELECTED OFFICE RETENTION.

Unless otherwise expressly stated in this Charter, the Township shall retain the elected offices of a Township of the Second Class. All privileges, election procedures, terms, rights and duties of said offices and limitations thereon shall be retained unless otherwise stated in this Charter.

SECTION 202. GOVERNING BODY.

The Township is a Township of the Second Class and its governing body is a Board of Supervisors consisting of five (5) at-large members elected to six-year terms.

ARTICLE III

FINANCIAL PROCEDURES

SECTION 301. FINANCIAL PROCEDURE RETENTION.

Unless otherwise expressly stated in this Charter, the Township shall retain the financial procedures of a Township of the Second Class.

SECTION 302. LIMITATIONS ON THE RATES OF TAXATION.

Until this Charter is amended or such time as the General Assembly shall provide uniform laws on rates of taxation which apply to a municipality with a Home Rule Charter that are stricter to such limitations of a Township of the Second Class, the Township shall continue to be subject to the limitations on the rates of taxation which apply to a Township of the Second Class.

ARTICLE IV

INITIATIVE AND REFERENDUM

SECTION 401. GENERAL AUTHORITY.

401.1. Ordinance Initiative: The qualified voters of the Township shall have the power to propose ordinances to the Board of Supervisors and, if the Board of Supervisors fails to adopt an ordinance so proposed, shall have the power to adopt or reject it at a Township election.

401.2. Ordinance Reconsideration: The qualified voters of the Township shall have the power to require reconsideration by the Board of Supervisors of any adopted ordinance and, if the Board of Supervisors fails to repeal an ordinance so reconsidered, to approve or reject it at a Township election.

401.3. Board of Supervisors Proposal: The Township shall have the power to propose an ordinance directly on a ballot, allowing Township voters to adopt or reject the ordinance at a Township election.

## SECTION 402. INITIATIVE.

Any five (5) qualified voters, designated as a Committee of the Petitioners, may commence initiative and referendum proceedings by filing with the Township Manager an affidavit stating their names and addresses and specifying the address to which all notices to the Petitioners' Committee are to be sent, and setting out in full the proposed ordinance or citing the ordinance sought to be reconsidered. Promptly, but no more than five (5) days after the submission of the petition, after the affidavit of the Petitioners' Committee is filed, the Township Manager shall issue the appropriate blank petitions to the Petitioners' Committee, at the committee's expense.

## SECTION 403. PETITIONS.

403.1. Initiative and referendum petitions must be signed by qualified voters of the Township in number equal to at least fifteen (15%) per cent of the total number of qualified voters registered to vote at the last municipal election.

403.2. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Petitions may be executed in separate parts provided all executed versions contain all required information. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

403.3. Each petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that they personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulators presence, that the circulator believes them to be the genuine signatures of those whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

403.4. Petitions for referendum must be filed within thirty (30) days after the effective date of the ordinance sought to be reconsidered. Petitions for initiative must be filed within thirty (30) days of filing a petitioners' committee.

#### SECTION 404. PROCEDURE AFTER FILING.

404.1. Township Manager Review. Within twenty (20) days after the petition is filed, the Township Manager shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, and shall promptly send a copy of the certificate to the Petitioners' Committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the Petitioners' Committee files a notice of intention to amend it with the Manager within two business (2) days after receiving the copy of their certificate, and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Section 403 herein; and within five days after it is filed, the Township Manager shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the Petitioners' Committee by registered mail as in the case of an original petition. If a petition is certified insufficient and the Petitioners' Committee does not elect to amend or request Board of Supervisors review (under Section 404.2 to follow) within the time required, the Township Manager shall promptly present their certificate to the Board of Supervisors and the certificate shall then be a final determination as to the sufficiency of the petition.

404.2. Board of Supervisors Review. If a petition has been certified insufficient and the Petitioners' Committee does not file notice of intention to amend or if an amended petition has been certified insufficient, the

Petitioners' Committee may, within two business (2) days after receiving a copy of the certificate, file a request that it be reviewed by the Board of Supervisors. The Board of Supervisors shall review the certificate at its next meeting following the such request. The Board of Supervisors shall provide an opportunity for the Petitioners' Committee to present the petition to the Board of Supervisors. Thereafter, the Board of Supervisors shall approve or disapprove the petition. The Board of Supervisors' determination shall then be a final determination as to the sufficiency of the petition.

404.3. Court Review; New Petition. A final determination as to the insufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

#### SECTION 405. EFFECT OF REFERENDUM PETITION ON ORDINANCE.

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

- a. There is a final determination of insufficiency of the petition, or
- b. The Petitioners' Committee withdraws the petition, or
- c. The Board of Supervisors repeals the ordinance, or
- d. Thirty (30) days have elapsed after a vote of the Township electorate on the ordinance.

#### SECTION 406. ACTION ON PETITIONS.

406.1. By the Board of Supervisors. When an initiative or referendum petition has been determined sufficient, the Board of Supervisors shall promptly consider the adoption of the proposed initiative ordinance, or reconsider the referred ordinance as requested and vote upon its repeal. If the Board of Supervisors fails to adopt a proposed ordinance without change in substance within sixty (60) days or fails to repeal a reconsidered ordinance within thirty (30) days after the date on which the petition was finally determined sufficient, the Board of Supervisors shall submit the proposed ordinance or the reconsidered ordinance to the voters of the Township.

406.2. Submission to Voters. Consideration of a proposed or referred ordinance by the qualified voters of the Township shall be held not less than sixty (60) days and not more than one year after the date of the final the Board of Supervisors vote thereon. If no regular election or primary is to be held within the period so prescribed, the Board of Supervisors shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Board of Supervisors may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

#### SECTION 407. BOARD OF SUPERVISORS PROPOSAL.

The Board of Supervisors may enact an ordinance that authorizes an election to be submitted to voters on an ordinance proposed by the Board of Supervisors. The election shall be held not less than sixty (60) days and not more than one year after authorization.

#### SECTION 408. ASSET MONETIZATION TRIGGER.

An ordinance authorizing the Township to enter an asset purchase agreement or an asset lease agreement of Township owned property to a non-governmental entity that would result in the Township receiving compensation that exceeds twenty-five (25%) percent of that year's budgeted revenue shall be required to be presented to voters in the manner described by Section 407 of this Charter.

#### SECTION 409. RESULTS OF ELECTION.

409.1. Initiative or Board of Supervisors Proposal. If a majority of the qualified electors voting on a proposed ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by the Board of Supervisors. If conflicting ordinances are approved at the



same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

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

#### SECTION 410. EXEMPTIONS.

The following types of ordinances shall be exempt from the processes described in this Article.

- a. Ordinances related to the budget or capital program
- b. Ordinances related to the compensation of Township personnel
- c. Emergency ordinances
- d. Ordinances authorizing elections
- e. Ordinances related to powers of the Township that are preempted from home rule
- f. An initiative or referendum that would violate applicable Laws of the Commonwealth of Pennsylvania

## ARTICLE V

### TRANSPARENCY

#### SECTION 501. AVAILABILITY OF DOCUMENTS.

After the effective date of this Charter, any ordinance or any other document that is required to be advertised and made available at the Township for public review must also be made available on the publicly accessible Township website. The Township shall make adopted ordinances available on the publicly accessible Township website by their effective date.

## SECTION 502. TERM INFORMATION.

The Township shall make available on the publicly accessible Township website the names, any vacancies, and the dates of the end of terms of all Township elected officials and Township appointed members of authorities, boards, and commissions.

## SECTION 503. CONTACT INFORMATION.

The Township shall make available on the publicly accessible Township website the contact information of all Township elected officials. The Township shall make available on the publicly accessible Township website the contact information of the chairs of all Township appointed authorities, boards, and commissions.

## SECTION 504. BALLOT QUESTION PUBLIC MEETING.

Any time there is at least one Township specific ballot question in pursuit of Article IV of this Charter or Applicable Laws of the Commonwealth of Pennsylvania, the Township shall hold at least one advertised public meeting, not more than thirty (30) days nor fewer than fourteen (14) days prior to the date of the election that the ballot question(s) shall appear. Prior to the date of the meeting the Township shall send mail that list the date and location of the meeting and the text of the ballot question(s) in full. The Board of Supervisors may provide an explanation of the ballot question(s) at this meeting. If a ballot question was commenced by Section 402, the Petitioner's Committee shall be allowed at least 10 minutes to motivate the ballot question. At least one (1) hour of public comment shall be made available if there are residents or taxpayers who would like to speak.

## ARTICLE VI

### RIGHT TO PUBLIC OWNERSHIP OF POTABLE WATER SYSTEMS, WASTEWATER SYSTEM, AND STORM SEWER SYSTEMS

#### SECTION 601. POTABLE WATER, WASTEWATER, AND STORM SEWER SYSTEM SALE PROHIBITION.

The Township, municipal authorities incorporated by the Township, or any other governmental entity that owns and/or operates a Potable Water System, a Wastewater system, or a Storm Water System in the Township, shall not permanently sell, transfer, assign, or deliver ownership or operation of the Potable Water System, the Wastewater System, or the Storm Water System to a non-governmental entity.

#### SECTION 602. POTABLE WATER, WASTEWATER, AND STORM SEWER SYSTEM LEASE RESTRICTION.

The Township, municipal authorities incorporated by the Township, or any other governmental entity that owns and/or operates a Potable Water System, a Wastewater system, or a Storm Water System in the Township, shall not lease, transfer, assign, or deliver ownership or operation of the Potable Water System, Wastewater system, or Storm Water System to a non-governmental entity for a period of longer than 2 years.

#### SECTION 603. MUNICIPAL AUTHORITY.

Any Municipal Authority that exists as of the date of adoption of this Home Rule Charter or that is hereafter created or modified pursuant to the 53 Pa.C.S. §§5601, et. seq., shall be created, renewed or modified in such a way that the Articles of Incorporation or other governing document(s) shall prohibit any activity of such Municipal Authority from acting or failing to act in a manner that is inconsistent with or frustrates the intent and/or terms of this Home Rule Charter. Any Municipal Authority that acts or fails to act in such

a manner shall be dissolved and all assets owned by the Municipal Authority shall be deeded, conveyed and transferred to Towamencin Township.

SECTION 604. SALE OF ANY SYSTEM TO A GOVERNMENTAL ENTITY.

Any sale by the Township of its Potable Water System, Wastewater System or Storm Water System shall be predicated upon and include a covenant between Township as seller and the buyer that the purchasing governmental entity is prohibited from transferring ownership of the system to be sold to a non-governmental entity upon or after purchase. Furthermore, any creation, extension, renewal or modification of Article of Incorporation of a Municipal Authority on or after the date of adoption of this Home Rule Charter, in accordance with Section 603 of this Charter, shall include a similar prohibition against the sale of any assets of the Municipal Authority to a non-governmental entity.

SECTION 605. NORTH PENN WATER AUTHORITY.

The provisions of this Charter shall not apply to the North Penn Water Authority or any future proposed sale, transfer or lease of its assets except that, to the extent that the North Penn Water Authority's Articles of Incorporation, as they exist now or as they may be amended in the future, require the Township's approval for the sale, transfer or lease of the assets of the North Penn Water Authority, the Township shall be prohibited from approving or supporting the sale, transfer or lease of the assets of the North Penn Water Authority to a non-governmental entity as set forth herein. Nothing herein shall be construed to require the dissolution or re-incorporation of the North Penn Water Authority or the Township's withdrawal therefrom or from prohibiting the Township from satisfying its obligations with regard to the Articles of Incorporation. If the North Penn Water Authority is dissolved and any portion of its assets are transferred or sold to the Township, the provisions of this Charter shall apply.

## ARTICLE VII

### GENERAL PROVISIONS

#### SECTION 701. TRANSITION.

701.1. Rights and Liabilities of the Township. Except as provided in this Charter, the Township shall continue to own, possess, and control all rights and property of every kind and nature, owned, possessed or controlled by it when this Charter takes effect, and shall be subject to all its debts, obligations, liabilities, and duties.

701.2. Elected Officers. In accordance with Article 2 hereof, all persons elected as Supervisors under the provisions of the Second Class Township Code, 53 P.S. §§ 65101, et seq., shall continue to be called Supervisors on the effective date of this Charter. They shall have the responsibilities, duties, compensation, and authority only as set forth in and in pursuance of this Charter. All other elected officials of the Township in office at the time this Charter becomes effective shall remain in office for the full term for which they were elected and they shall continue to perform the duties and receive the same compensation which they received prior to the adoption of this Charter. Nothing herein shall be construed to prohibit the Board of Supervisors or the Township from adjusting the compensation of any elected or appointed official as permitted by all applicable laws, or adjusting the salary or compensation of any employee or contractor as permitted by applicable law and/or any applicable contract.

701.3. Township Employees. Employees of the Township shall retain all rights and privileges held at the time this Charter becomes effective.

701.4. Continuation of Ordinances. All ordinances, resolutions, rules and regulations, or portions thereof, in force when this Charter takes effect and not in conflict herewith, are hereby continued in force and effect until amended, repealed, superseded, or expired by their own terms. All ordinances and resolutions in continued effect as of the effective date of this Charter shall be construed as if enacted under this Charter, but as of the date of their original enactment.

701.5. Members of Boards, Commissions, and Authorities. Members of boards, commissions, and authorities in office at the time this Charter takes effect shall remain in office for as long as their respective terms of appointment continue.

SECTION 702. SEVERABILITY.

It is the intention of the electors of the Township that if this Charter cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding invalid any part or parts hereof, the remaining provisions of the Charter shall be given full force and effect as completely as if the part or parts held invalid had not been included herein.

SECTION 703. AMENDMENTS TO THE CHARTER.

Amendments to this Charter shall be in conformity with the provisions of applicable Laws of this Commonwealth.

SECTION 704. EFFECTIVE DATE.

This Charter shall become effective and shall be deemed operative on July 1st, 2023.