

**ORDINANCE NO. 2012-21**

**AN ORDINANCE OF THE RADNOR TOWNSHIP BOARD OF COMMISSIONERS, DELAWARE COUNTY, PENNSYLVANIA, PROPOSING AMENDMENTS TO THE RADNOR TOWNSHIP HOME RULE CHARTER IN ACCORDANCE WITH THE PENNSYLVANIA HOME RULE CHARTER AND OPTIONAL PLANS LAW, AMENDING ARTICLE IV PERTAINING TO THE ELECTED TREASURER AND REQUESTING THE BOARD OF ELECTIONS TO PLACE THE PROPOSED REFERENDUM QUESTIONS ON THE MAY 21, 2013 PRIMARY BALLOT.**

*WHEREAS*, the Radnor Township Home Rule Charter was approved by the voters in November, 1976 and became effective January 1, 1977; and

*WHEREAS*, the Board of Commissioners of Radnor Township has determined that the Charter should be reviewed and updated in order to increase the efficiency of Radnor Township government; and

*WHEREAS*, the Radnor Township Board of Commissioners appointed ten members to the Radnor Township Charter Review Committee on April 11, 2011; and

*WHEREAS*, the Report of the Charter Review Committee was issued to the Board of Commissioners on May 31, 2012 recommending revisions to the existing Radnor Township Home Rule Charter.

*NOW, THEREFORE*, be it *ORDAINED* and *ENACTED* by the Board of Commissioners of Radnor Township that the following amendments to the Radnor Township Home Rule Charter are proposed in accordance with the Home Rule and Optional Plans Law and the Pennsylvania State Election Code.

**Section 1. Article IV, Treasurer.**

The Radnor Township Board of Commissioners hereby initiates a referendum to amend §4.03 and §4.05 of the Radnor Township Home Rule Charter to read as follows:

§ 4.03. Vacancy in Office.

The office of Treasurer shall become vacant upon death, resignation, removal of residence from the Township, or determination of mental disability by a court of competent jurisdiction of the Commonwealth of Pennsylvania. [or recall under the provisions of this Charter] A vacancy in the office of Treasurer might also occur upon the filing of a petition or complaint by any Commissioner or any 5 registered electors of the Township and then upon final determination of

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forfeiture of office by any court of competent jurisdiction of the Commonwealth of Pennsylvania, upon any of the grounds which follow.

- A. Lack, at any time during the term of office, of any qualification for the office prescribed by this Charter or by law.
- B. Willful violation of any specific prohibition of this Charter.
- C. Conviction of any crime punishable by imprisonment for a term exceeding one year under the laws of this Commonwealth or conviction of any comparable crime under the laws of any other State or of the United States during the term of office.

§ 4.05. Powers and Duties.

The Treasurer shall have the powers and general oversight of [perform] the functions which follow.

- A. Receipts. The Treasurer shall receive all Township taxes, revenues, fines, fees, and all other money paid to, owed, or due the Township. This money shall be deposited promptly in the name of the Township in such depositories as the Board shall specify by ordinance. In addition, the Treasurer shall maintain records of receipts in accordance with the uniform classification of accounts established by the Administrative Code. The Treasurer shall keep a complete record of these deposits and accounts which shall be open to inspection and verification at any time by the Township Finance Director and the Board. The Treasurer shall submit such reports as are requested by the Board. The independent auditor, retained by the Board, shall audit the Treasurer's accounts, books, and records annually, or more frequently, if the Board directs.
- B. Disbursements. The Treasurer shall disburse Township money only upon order in the manner prescribed by ordinance. Payment shall be made and records maintained in accordance with generally accepted accounting principles; no payment shall be made unless there is an unencumbered balance in the applicable appropriation.
- C. Tax collection. The Treasurer shall collect such Township taxes as the Board shall direct by ordinance. Such ordinance shall set forth the procedures for the collection of the specified tax. The Treasurer may collect County and school taxes levied within the Township, subject to applicable law, and nothing in this Charter shall prohibit the Treasurer from receiving compensation for such collection.
- D. Surcharge. The Treasurer's power to surcharge shall be as follows: [The Treasurer shall surcharge the amount of any balance or shortage, or of any prohibited or otherwise unlawful expenditure which causes a financial loss to the Township, against any elected or appointed Township official or Township employee against whom such a balance or shortage shall appear, or who by vote, act, or neglect has permitted or approved such expenditure, to the extent of the actual financial loss sustained by the Township. Any such surcharge shall be

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entered and collected by the Treasurer in accordance with the procedures specified in the Administrative Code.]

- (1) The Treasurer shall surcharge any elected or appointed official for the amount of any financial loss to the Township caused in whole or in part by the official's act or omission in violation of law or beyond the scope of the official's authority. If the Treasurer finds an absence of intent to violate the law or exceed the scope of authority, and further finds that the result of the official's act could have been achieved by legal means and authorized procedures, the surcharge imposed shall be limited to the difference between the losses and costs actually incurred by the Township and the costs that would have been incurred had legal means and authorized procedures been employed. Provisions of this section which limit the amount of surcharge do not apply to cases involving fraud or collusion, or other criminal acts on the part of the official.
- (2) Within 10 days after notification of a surcharge amount against any elected or appointed official, the Treasurer shall file with the Delaware County Office of Judicial Support the surcharge amount as a judgment against the official in favor of the Township. The Township or any elector of the township may enforce the collection of a judgment entered for a surcharge for the benefit of the Township by any appropriate action or execution.

E. Additional Authority.

- (1) The Treasurer shall have access to all financial accounts and reports of the Township upon request to the Township Manager or Township Finance Director. If the Treasurer determines that there are significant errors or irregularities in the course of reviewing such records, the Treasurer shall immediately report such matters in writing to the Township Board of Commissioners and the Township Manager.
- (2) The Treasurer has the right to make an oral presentation to the Township Board of Commissioners at a regular public meeting concerning any indications of significant irregularities, deficiencies, abuse, or illegal acts relating to the overall finances of the Township. If the Treasurer issues a written report, the Township will promptly and prominently post that report on its website or successor form of general communication with the public.
- (3) The Treasurer may prepare a written annual report to the people of Radnor Township and may publically present it in person at a Township Board of Commissioners meeting during the first quarter of each calendar year. The Township will promptly and prominently post the Treasurer's annual report on its website or successor form of general communication with the public.

**Section 2. Ballot Question.**

A. The Radnor Township Board of Commissioners proposes that the Question to be submitted to the voters at the election shall be substantially in the following form:

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***“Shall the Radnor Township Home Rule Charter be amended to: 1) provide that the elected Township Treasurer shall have general oversight of receipts, disbursements and tax collection in the township; 2) provide the Treasurer with additional authority to access all financial accounts and reports upon request and be permitted to make oral presentations and an annual written report to the Township Board of Commissioners and Township residents concerning any irregularities, deficiencies, abuse or illegal acts pertaining to the overall finances of the Township; and 3) provide for a revised surcharge procedure with specific authority to file any surcharge amount in the Delaware County Office of Judicial Support.*”**

**YES OR NO**

B. Plain English Version: The ballot question, as authorized by Township Ordinance No. 2012-21, asks the voters of Radnor Township to revise the powers and duties of the Township Treasurer authorizing general oversight of the functions of the Treasurer’s office regarding receipts, disbursements and tax collection, and to further provide additional authority to the Treasurer to access all financial accounts and reports of the Township and to make oral and/or written reports to the Township Board of Commissioners and the residents of Radnor Township in instances where there are significant irregularities, deficiencies, abuse or illegal acts relating to the overall finances of the Township. Additionally, the question provides for a revised surcharge procedure where the Treasurer finds that any elected or appointed official has caused a financial loss to the Township due to either a violation of law or an act beyond the scope of the official’s authority.

**Section 3. Calling for Election.**

In accordance with the Pennsylvania State Election Code, a certified copy of this Ordinance and the election question shall be forwarded to the Board of Elections on or prior to the thirteenth Tuesday before the May 21, 2013 primary election so that the question may be placed on the ballot for the primary election.

**Section 4. Repealer.** All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

**Section 5. Severability.** If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

**Section 6. Effective Date.** This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

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**ENACTED** and **ORDAINED** this 7<sup>th</sup> day of January, 2013.

RADNOR TOWNSHIP

By: Elaine P. Schaefer

Name: Elaine P. Schaefer

Title: President

ATTEST:

Robert A. Zienkowski  
Robert A. Zienkowski, Secretary