

No. 2015-67

AN ACT

SB 775

Amending Title 11 (Cities) of the Pennsylvania Consolidated Statutes, consolidating The Third Class City Code; making revisions concerning records of ordinances maintained by the city clerk, bond, insurance and salary, qualifications for office of city treasurer, committee preparation of uniform financial report forms, observances, celebrations and recognition, selection of appointee from certified list of applicants and support of Pennsylvania National Guard units; making an editorial change; and making a related repeal.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 11 of the Pennsylvania Consolidated Statutes is amended by adding parts to read:

**PART I
PRELIMINARY PROVISIONS**

(Reserved)

**PART II
FIRST CLASS CITIES**

(Reserved)

**PART III
SECOND CLASS CITIES**

(Reserved)

**PART IV
SECOND CLASS A CITIES**

(Reserved)

**PART V
THIRD CLASS CITIES**

Chapter

- 101. Preliminary Provisions**
- 102. Procedures for Incorporation**
- 103. Change of Corporate Title**
- 104. Creation and Division of Wards**
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- 107. Elected Officers and Elections**
- 108. Vacancies in Office**
- 109. City Officers and Employees**
- 110. Council**
- 111. Executive Department**
- 112. Mayor**
- 112A. City Administrator**
- 114. City Treasurer**
- 115. City Engineer**
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- 117. *City Controller and Independent Auditor*
- 118. *Accounts and Finances*
- 119. *Contracts*
- 120. *Police Force*
- 121. *Fire Bureau*
- 122. *Surveys and Surface Support in Coal Mining Areas*
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- 127A. *Nuisance Abatement*
- 128. *Eminent Domain*
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- 134. *Watercourses, Flood Protection Projects and Storm Water Systems*
- 135. *Utility Service*
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CHAPTER 101
PRELIMINARY PROVISIONS

Sec.

- 10101. *Short title of part.*
- 10102. *Definitions.*
- 10103. *Excluded provisions.*
- 10104. *Construction of part.*
- 10105. *Constitutional construction.*
- 10106. *(Reserved).*
- 10107. *Applicability and ability.*
- 10108. *(Reserved).*
- 10109. *Publication of notices.*

§ 10101. *Short title of part.*

This part shall be known and may be cited as the Third Class City Code.

§ 10102. *Definitions.*

The following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Bill." A proposed ordinance introduced in council.

"City." A city of the third class.

"Council." A council of a city.

"Highway." A State highway of the Commonwealth.

"Home Rule Charter and Optional Plans Law." The provisions of 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government) and, where applicable, the former act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law.

"Municipal authority" or "municipality authority." A body politic and corporate created under any of the following:

(1) 53 Pa.C.S. Ch. 56 (relating to municipal authorities).

(2) The former act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945.

(3) The former act of June 28, 1935 (P.L.463, No.191), known as the Municipality Authorities Act of one thousand nine hundred and thirty-five.

"Municipal Claim and Tax Lien Law." The act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law.

"Municipal corporation." A city, borough, incorporated town or township.

"Municipalities Planning Code." The act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

"Municipality." A county, city, borough, incorporated town or township.

"Newspaper of general circulation." As defined in 45 Pa.C.S. § 101 (relating to definitions).

"Pennsylvania Construction Code Act." The act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act.

"Pennsylvania Election Code." The act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

"Street." Any of the following:

(1) A street, avenue, boulevard, parkway, road, lane, court, alley or public square within a city.

(2) A highway within a city to the extent that the city is legally responsible for it pursuant to agreement or by other means.

§ 10103. Excluded provisions.

This part shall not be construed to repeal an act relating to:

(1) The collection of municipal and tax claims by lien.

(2) The method of incurring and increasing city indebtedness.

(3) The conduct of an election.

(4) A public school, except for the collection of a school tax by the city treasurer.

(5) (Reserved).

(6) A constable.

(7) The provision of municipal consent to a public utility.

(8) *A weight and measure.*

(9) *A validation of an election, bond, ordinance and act of a corporate officer.*

(10) *A joint city and county building.*

(11) *A library.*

(12) *A highway.*

(13) *A joint or several authority or duty which applies to a city and to other classes of political subdivisions by virtue of general acts of Assembly.*

§ 10104. Construction of part.

(a) *Existing law.—*

(1) *The provisions of this part that are the same as the provisions of existing laws are intended as a continuation of the existing laws and not as new enactments.*

(2) *The repeal under this part of a statutory provision shall not revive a repealed or superseded statutory provision or affect the corporate existence of an incorporated city.*

(3) *The provisions of this part shall not affect any of the following:*

(i) *An act that was taken, a liability that was incurred or a right that accrued or vested.*

(ii) *A suit or prosecution that is pending or to be instituted to enforce a right or penalty or punish an offense under the authority of the repealed law.*

(4) *Each ordinance, resolution, regulation and rule made under a statute repealed under this part shall continue with the same force and effect as if the statute had not been repealed.*

(5) *An individual holding an office or position under or by virtue of a statute repealed under this part shall continue to hold the office or position until the expiration of the term of office, subject to the conditions and tenure attached to the office or position prior to July 1, 1931.*

(b) *Powers.—A city shall possess, and council and other city officials may execute, the corporate powers and duties as provided in this part and in other laws to the extent that the powers and duties are not repealed by this part.*

§ 10105. Constitutional construction.

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

§ 10106. (Reserved).

§ 10107. Applicability and ability.

(a) *Applicability.—This part shall apply to:*

(1) *All cities which have been incorporated under or which have accepted the provisions of the act of May 23, 1874 (P.L.230, No.152), entitled "An act dividing cities of this State into three classes; regulating the passage of ordinances; providing for contracts for supplies and work for said cities; authorizing the increase of indebtedness, and the creation of a sinking fund to redeem the same;*

defining and punishing certain offenses in all of said cities; and providing for the incorporation and government of the cities of the third class."

(2) All cities which have been incorporated under the provisions of the former act of May 23, 1889 (P.L.277, No.247), entitled "An act providing for the incorporation and government of cities of the third class."

(3) All cities which have been incorporated under the provisions of the former act of June 27, 1913 (P.L.568, No.367), entitled "An act providing for the incorporation, regulation, and government of cities of the third class; regulating nomination and election of municipal officers therein; and repealing, consolidating, and extending existing laws in relation thereto."

(4) All cities formed by the consolidation of boroughs having voted separately to become cities in accordance with the provisions of the former act of May 24, 1917 (P.L.262, No.143), entitled "An act to enable two or more boroughs that are contiguous or in close proximity to be united and to become one city, wherever each of said boroughs shall have heretofore voted or shall hereafter vote to become a city of the third class, under laws now enacted or which may hereafter be enacted; and wherever each of said boroughs has duly received or shall hereafter duly receive letters patent constituting it a city of the third class, but where sufficient time shall not have elapsed after the granting of such letters patent for the holding of a municipal election; providing for the consequences of such consolidation, the government of such consolidated city, the payment of the indebtedness of each of the united territories and the enforcement of debts and claims due to and from each, and fixing the jurisdiction over the said consolidated city in the courts of the county in which the majority of its inhabitants shall reside."

(5) All cities incorporated under the provisions of the former act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code.

(6) All cities incorporated under the provisions of this part.

(b) Ability.—This part shall not be construed as a limitation on the ability of a city to do any of the following:

(1) To continue operating under the form of government previously selected and exercising powers previously acquired by the city in accordance with the act of July 15, 1957 (P.L.901, No.399), known as the Optional Third Class City Charter Law.

(2) To adopt or continue utilizing a form of government and to acquire or continue exercising powers pursuant to an optional plan or a home rule charter which has been or may be adopted in accordance with the Home Rule Charter and Optional Plans Law.

§ 10108. (Reserved).

§ 10109. Publication of notices.

(a) General newspaper.—

(1) If advertisement, notice or publication is required to be published in a newspaper under this part, the publication must be made one time, unless the provision requiring publication specifies other

times, in at least one newspaper of general circulation published in the city. If a newspaper of general circulation published in the city does not exist, publication must be made in a newspaper of general circulation in the city.

(2) If notice is required to be published in more than one newspaper, it must be published in at least one newspaper of general circulation published in the city. If a newspaper of general circulation published in the city does not exist, publication must be made in a newspaper of general circulation in the city.

(b) Legal newspaper.—

(1) Except as provided under paragraph (2) and in addition to the requirements of subsection (a), if a notice relates to a proceeding or matter in a court, the holding of an election for the increase of indebtedness or the issue and sale of bonds to be financed by taxation, the notice must be published in the legal newspaper designated by the rules of court of the proper county for the publication of legal notices and advertisements, unless publication is not required by special order of court.

(2) An ordinance, auditor's statement, summary of an auditor's statement, advertisement inviting a proposal for public contract and for bid for material and supplies or a list of delinquent taxpayers shall be published only in newspapers of general circulation.

CHAPTER 102 PROCEDURES FOR INCORPORATION

Sec.

10200. Definitions.

10201. Creation of cities.

10203.1. Incorporating resolution.

10204. Resolution certification and form.

10204.1. Notice of election.

10205. Returns of election.

10206. Vote against incorporating as city.

10207. Letters patent and boundaries.

10208. Property of entities vested in city.

10209. Temporary preservation and city organization.

10210. Existing liabilities, debts and claims.

§ 10200. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Incorporation resolution." A resolution to submit at a general or municipal election a referendum question to the registered voters of a municipal corporation.

"Municipal corporation." A borough, a township of the first class, a township of the second class or an incorporated town.

"Referendum question." The question of whether a municipal corporation shall become incorporated as a city of the third class to be known as the "City of"

§ 10201. Creation of cities.

A city shall be chartered as follows:

(1) A single municipal corporation having a population of at least 10,000 according to the last preceding United States census may be incorporated as a city in accordance with this chapter if a majority of the registered voters in the municipal corporation cast an affirmative vote in favor of the referendum question.

(2) Two or more contiguous municipal corporations having a combined population of at least 10,000 according to the last preceding United States census may, under 53 Pa.C.S. Ch. 7 Subch. C (relating to consolidation and merger), incorporate as a city and determine whether the newly incorporated city shall be governed by this part and other general laws applicable to and governing cities.

§ 10203.1. Incorporating resolution.

(a) Governing body.—The governing body of a municipal corporation may adopt an incorporation resolution.

(b) Petition.—If at least 200 registered voters of a municipal corporation petition the governing body of the municipal corporation for the adoption of an incorporation resolution, the governing body shall adopt the incorporation resolution.

§ 10204. Resolution certification and form.

The governing body of a municipal corporation that adopts an incorporation resolution shall certify the incorporation resolution to the county board of elections of each proper county. The county board of elections shall, at the general or municipal election in the manner required by the Pennsylvania Election Code, submit a referendum question to the registered voters of the municipal corporation that has certified an incorporation resolution.

§ 10204.1. Notice of election.

Notice of the election at which registered voters of a municipal corporation will be voting on a referendum question shall be given by the secretary or other person designated by the municipal corporation. The notice required under this section shall be published once a week for four successive weeks in a newspaper of general circulation in the municipal corporation in which the referendum question will be submitted to the registered voters.

§ 10205. Returns of election.

In each county in which a referendum question is submitted to the registered voters of a municipal corporation, the county board of elections shall return the vote cast on the referendum question to the following:

- (1) The clerk of the court for the county.*
- (2) The governing body of the municipal corporation in which registered voters voted on a referendum question.*
- (3) If a majority of the votes cast by the registered voters of the municipal corporation are in favor of incorporating as a city, the*

Secretary of the Commonwealth and the Department of Community and Economic Development.

§ 10206. Vote against incorporating as city.

If the returns of an election under section 10204.1 (relating to notice of election) show that a majority of registered voters in a municipal corporation voted "no" on the referendum question, further proceedings may not occur, and another election on the referendum question may not be held in the municipal corporation until the third ensuing general or municipal election.

§ 10207. Letters patent and boundaries.

If the returns of an election under section 10204.1 (relating to notice of election) show that a majority of registered voters in a municipal corporation voted "yes" on the referendum question, within 60 days after the election, the governing body of the municipal corporation shall furnish to the Secretary of the Commonwealth the necessary information with respect to the boundaries of the new city, and the Governor shall issue letters patent, under the Great Seal of the Commonwealth, reciting the facts, defining the boundaries of the city and constituting the city as a body corporate and politic by the name of the "City of....."

§ 10208. Property of entities vested in city.

The property and estates of the municipal corporations which have become a city in accordance with this chapter are severally and respectively vested in the corporation or body politic of the city for the use and benefit of the citizens of the city.

§ 10209. Temporary preservation and city organization.

(a) *Existing government.—The government of the municipal corporation shall continue in full force and operation until the first Monday of January next succeeding the municipal election under section 10702 (relating to first elections in newly created cities). On the first Monday of January next succeeding the municipal election under section 10702, the officers of the city chosen at the municipal election shall begin their terms of service, and the city government shall be organized under this part.*

(b) *Service.—If, in the organization of the city government of a newly incorporated city, an individual is appointed by council to an office which, under this part, has a definite term and a definite time for the election of an individual to the office, the individual appointed shall serve only for the time intervening between the individual's appointment and the day set under this part for the regular election or appointment of the officer for a full term.*

§ 10210. Existing liabilities, debts and claims.

If a municipal corporation is incorporated as a city in accordance with this part, the following shall apply:

(1) *Each suit, prosecution, debt and claim shall be transferred to the newly incorporated city.*

(2) *Each pending suit involving the municipal corporation shall be under the management and control of the newly incorporated city which shall be substituted as a party in the suit.*

(3) *Each valid claim and demand existing against the municipal corporation shall be enforceable against the city.*

(4) *Each bond and floating indebtedness and the interest on a bond and floating indebtedness existing at the time a municipal corporation became incorporated as a city in accordance with this part must be paid by the newly incorporated city in a manner that taxes are uniform throughout the territorial limits of the whole city.*

CHAPTER 103 CHANGE OF CORPORATE TITLE

Sec.

10301. *Resolution and petition.*

10302. *Hearing and decree.*

10303. *Recording decree.*

10304. *Existing rights and liabilities.*

§ 10301. *Resolution and petition.*

Council may initiate proceedings to change the corporate title of a city by doing all of the following:

(1) *Adopting a resolution proposing to make the change in the corporate title of a city.*

(2) *Presenting to the court of common pleas of the county in which the city is located a petition, along with a certified copy of the resolution, requesting the change in the corporate title of the city.*

§ 10302. *Hearing and decree.*

(a) *Date and publication.*—*Upon presentation to the court of the petition and resolution under section 10301 (relating to resolution and petition), the court shall set a day for a hearing on the question of the change in the corporate title of the city and shall direct that notice of the hearing be published once a week for three weeks in a newspaper of general circulation.*

(b) *Testimony.*—*A court shall permit a resident of the city to give testimony at the hearing in support of or in opposition to the change of the corporate title of the city.*

(c) *Order.*—*A court shall order a change of the corporate title of the city in accordance with the petition and resolution of council or dismiss the petition.*

§ 10303. *Recording decree.*

A change in the corporate title of a city that is ordered in accordance with section 10302(c) (relating to hearing and decree) may not take effect until a certified copy of the decree of court is filed in the office of the Secretary of the Commonwealth and is recorded in the office of the recorder of deeds of the county in which the city is located.

§ 10304. *Existing rights and liabilities.*

A change in the corporate title of a city shall not affect any of the following:

(1) *A liability incurred.*

(2) *A right accrued or vested.*

(3) *An obligation issued or contracted.*

(4) A suit or prosecution pending or instituted to enforce a right or penalty accrued or to punish an offense committed prior to the change.

**CHAPTER 104
CREATION AND DIVISION OF WARDS**

Sec.

10401. General power of council.

10401.1. Petition of registered voters.

10402. (Reserved).

10403. Appointment of commission.

10403.1. Expenses of commissioners.

10403.2. Report.

10404. Election.

10405. Notice of election and review of report.

10406. Election laws.

10407. Voting procedures.

10408. Change of ward lines by council.

10409. Pennsylvania Election Code.

§ 10401. General power of council.

(a) Power.—In addition to reapportionment of wards under 53 Pa.C.S. Ch. 9 (relating to municipal reapportionment) and section 11 of Article IX of the Constitution of Pennsylvania, a council may, with or without a petition as provided under section 10401.1 (relating to petition of registered voters) and subject to approval by the registered voters as provided under section 10407 (relating to voting procedures), create a new ward, divide a ward or wards or detach¹ part of a ward and attach it to another ward, in accordance with this chapter.

(b) Registered voter requirement.—A new ward must contain at least 300 registered voters according to the last general or municipal election.

(c) Size.—Each ward in a city shall be numbered and composed of compact and contiguous territory as nearly equal in population as practicable and as officially and finally reported in the most recent Federal decennial or special census.

§ 10401.1. Petition of registered voters.

(a) Initiation of proceedings.—Registered voters may petition council to initiate proceedings under section 10401 (relating to general power of council) to create new wards, divide a ward or wards or detach part of a ward and attach it to another ward as follows:

(1) One hundred registered voters may petition council to create or divide a ward if:

(i) In the case of a petition proposing to create a ward, the petitioners reside in the portion of the city which the petition proposes to create as a ward.

(ii) In the case of a petition proposing to divide a ward, the petitioners reside in the ward which the petition proposes to divide.

¹"a ward or detach" in enrolled bill.

(2) *Twenty-five registered voters may petition to detach part of one ward and attach the detached part to another ward if the petitioners reside in the part of the ward that is proposed to be detached.*

(b) *Council.—Council shall determine, by motion approved by a majority of council and within 90 days of presentment of the petition, whether to initiate proceedings under section 10401. If the motion is in favor of initiating proceedings, council shall appoint a commission in accordance with section 10403 (relating to appointment of commission).*

(c) *Court of common pleas.—If council has not approved a motion within 90 days after the presentment of a petition under subsection (a), 10 registered voters may petition the court of common pleas and contest the existing apportionment as violating section 10401. The proceedings before the court shall be conducted in accordance with 53 Pa.C.S. §§ 906 (relating to contest of reapportionment by governing body) and 907 (relating to costs and expenses of contest).*

§ 10402. *(Reserved).*

§ 10403. *Appointment of commission.*

(a) *Report and recommendation.—If council initiates proceedings under section 10401 (relating to general power of council), council shall appoint as commissioners five impartial registered voters who are residents of the city to make a report and recommendation concerning the necessity, desirability and feasibility of proposed wards.*

(b) *Residency.—Except as provided under subsection (c), a commissioner under subsection (a) may not be a resident of a ward which will be affected by the petition.*

(c) *Exception.—If a city has less than four wards, a commissioner appointed under subsection (a) must be selected from the city at large and may be a resident of a ward which will be affected by the petition.*

§ 10403.1. *Expenses of commissioners.*

Council must make an appropriation for reasonable expenses incurred by commissioners for service under this chapter. Each commissioner shall submit for approval an itemized account of the commissioner's expenses to the city controller.

§ 10403.2. *Report.*

(a) *Contents.—*

(1) *The commissioners appointed by council under section 10403(a) (relating to appointment of commission) shall examine the premises and prepare a report which shall include a draft of each ward affected by the proposed creation, division or detachment showing the following:*

(i) *The division or change or the lines of each ward as affected by the separation and attachment.*

(ii) *The population contained within each affected ward using figures officially and finally reported in the most recent Federal decennial or special census.*

(2) *The report under paragraph (1) shall be submitted to council and shall include a recommendation reflecting the decision of a majority of the commissioners concerning the proposed creation, division or detachment of a ward.*

(b) Territory.—Consistent with the standards applied in municipal reapportionment under 53 Pa.C.S. § 903(b) (relating to reapportionment by governing body), a report under subsection (a) may not recommend the creation, division or detachment of a ward unless the result of implementing the report and recommendation would be that each ward in the city is composed of compact and contiguous territory as nearly equal in population as practicable as officially and finally reported in the most recent Federal decennial or special census.

(c) Submittal.—Upon receipt of a report under subsection (a), council shall, by motion, determine whether to submit the question of the proposed creation, division or detachment of a ward as provided in the report to the registered voters of the city in accordance with section 10404 (relating to election).

§ 10404. Election.

(a) Certification.—If, based upon the report under section 10403.2 (relating to report), council decides to proceed, council shall certify to the county board of elections the question of the creation, division or detachment of the ward to be submitted to the registered voters of each ward which are the subject of the report at the general or municipal election occurring not less than 90 days after the report was approved by council.

(b) Ballot.—The county board of elections shall place the question of approving the creation, division or detachment of a ward on the ballot in each ward or parts of a ward that will be affected by the question at the appropriate election in the manner provided under the Pennsylvania Election Code.

§ 10405. Notice of election and review of report.

(a) Publication.—A city must publish a notice of election in a newspaper of general circulation at least 15 days prior to the date that the question of approving the creation, division or detachment of a ward is to be presented at the specified general or municipal election.

(b) Contents.—An election notice under subsection (a) must contain a statement of the issue to be submitted to the registered voters at the election, including each ward or parts of a ward to be affected and the date on which the election is to be held. The notice shall reference the report and specify that it is available for review and copying as a public record under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 10406. Election laws.

Each matter relating to the election at which the question of approving the creation, division or detachment of a ward or is to be presented to the voters shall be governed by the Pennsylvania Election Code.

§ 10407. Voting procedures.

(a) Publication.—The county board of elections must tabulate and publish the results of the referendum in a newspaper of general circulation within 30 days of the election. A certified copy of the results shall be placed on record with the minutes of council.

(b) Positive vote.—If a majority voted in favor of creating or dividing a ward or the detachment of a part of a ward to be attached to another ward,

council shall proceed to create or divide a ward or detach a part of a ward to be attached to another ward in accordance with the report and shall number the new wards if necessary.

(c) Negative vote.—If a majority voted against creating or dividing a ward or the detachment of a part of a ward to be attached to another ward, further action may not be taken and a new petition on the same question may not be resubmitted until two years from the date of the election.

§ 10408. Change of ward lines by council.

If council determines during proceedings for the division or creation of a ward that any of the boundaries or divisions are uncertain, council must determine the relocation of the line to conform as nearly as possible to the previously determined boundary lines so that each ward in the city is composed of compact and contiguous territory as nearly equal in population as practicable as officially and finally reported in the most recent Federal decennial or special census.

§ 10409. Pennsylvania Election Code.

Nothing under this chapter shall be construed as affecting the powers and duties of the court of common pleas or the county board of elections and restrictions on alteration of election districts as provided under Article V of the Pennsylvania Election Code.

CHAPTER 106 CITY BOUNDARIES

Sec.

10601. Navigable stream boundaries.

10602. Court establishment of disputed boundaries.

10603. Petition, commissioners and report.

10604. Exceptions and procedure.

10605. Pay and expenses of commissioners.

10606. Boundary monuments.

§ 10601. Navigable stream boundaries.

If a city is bounded by the nearest margin of a navigable stream and an opposite municipal corporation is bounded by the nearest margin of the same stream, the boundaries of the city shall extend to the center line of the stream. Nothing under this section shall be construed to repeal a local or special law providing for a different boundary.

§ 10602. Court establishment of disputed boundaries.

(a) Establishment.—If a city or a municipal corporation contiguous to a city disputes the boundary between the city and the municipal corporation, the court of common pleas, after petition of the city or the contiguous municipal corporation, may establish the disputed boundary.

(b) County boundary.—In a dispute involving the boundary of a county, this chapter shall not supersede the application of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, or any other law applicable to the fixing of county boundaries.

§ 10603. Petition, commissioners and report.

(a) *Appointment.*—After petition under section 10602(a) (relating to court establishment of disputed boundaries), the court shall appoint three impartial commissioners who may employ a professional engineer or surveyor.

(b) *Hearing.*—After giving notice to interested parties by publication once in at least one newspaper of general circulation or as directed by the court, the commissioners shall hold a hearing and view the disputed boundaries.

(c) *Report.*—A majority of the commissioners shall make a report and recommendations to the court, accompanied by a plot or draft of the lines and boundaries proposed to be established if the lines and boundaries cannot be fully designated by natural lines or boundaries.

(d) *Order.*—After the filing of the report, it shall be confirmed nisi, and the court may make a further order.

§ 10604. Exceptions and procedure.

(a) *Filing.*—An exception to the report under section 10603(c) (relating to petition, commissioners and report) may be filed by an interested person or municipal corporation within 30 days after the filing of the report.

(b) *Date and notice.*—The court must set a date for the hearing of an exception under subsection (a) and must provide notice of the hearing.

(c) *Referral or confirmation.*—

(1) After completion of the hearing under subsection (b), the court may sustain or dismiss the exceptions and confirm the report or refer the report back to the same or new commissioners with the authority to make another report.

(2) If no exceptions are filed within 30 days after the filing of the report, the court must confirm the report in its entirety.

(3) If a report is confirmed in its entirety, the court must enter a decree establishing the lines and boundaries as shown in the report.

§ 10605. Pay and expenses of commissioners.

Each commissioner shall receive reasonable compensation as established by the court and reasonable expenses incurred for surveying services, which must be paid equally by the city and any interested municipal corporation.

§ 10606. Boundary monuments.

If a boundary, ascertained and established under this chapter, cannot be fully described by natural lines, the court must enter an order requiring the boundary to be marked with permanent monuments, placed at intervals of not more than 1,500 feet and at the end of a course. The expense of placing the monuments, as approved by the court, shall be paid equally by the city and any interested municipal corporation.

CHAPTER 107 ELECTED OFFICERS AND ELECTIONS

Sec.

10701. Elected officers, term, reelection and vacancy.

10702. First elections in newly created cities.

10703. Nominations and elections.

10704. Certificates of election.**§ 10701. Elected officers, term, reelection and vacancy.****(a) Elected officer and term.—**

(1) Except as provided under subsection (c), the elected officers of a city shall be a mayor, four council members, a controller and a treasurer.

(2) Except as provided under section 10702 (relating to first elections in newly created cities) with respect to the first election of members of council, each elected officer shall serve for a term of four years from the first Monday of January next succeeding the officer's election.

(3) An officer shall be eligible for reelection.

(b) Disqualification.—An individual elected to a city office who fails to qualify in accordance with sections 10904 (relating to offices to be held until qualification of successors) and 10905 (relating to oath of office, violation of oath and penalty) and, as applicable, section 11101 (relating to executive departments), 11201 (relating to qualifications), 11401 (relating to qualifications) or 11701 (relating to qualifications, bond and compensation) shall be ineligible to qualify. A vacancy shall exist in the office, and an individual shall be appointed to fill the vacancy in the manner provided under this part.

(c) Addition of council members.—Two additional council members may be elected to form a seven-member council comprised of six council members and the mayor, as follows:

(1) After petition of at least 5% of the registered voters of the city or pursuant to a resolution of council, and approval by a majority of voters at the next municipal or general election, two additional council members shall be elected.

(2) The referendum petition or resolution of council certified by the city clerk must be filed with the county board of elections not later than the thirteenth Tuesday before the next municipal or general election. The county board of elections must place the question before the electors as provided under the Pennsylvania Election Code. The form of the question shall be as follows:

Should two additional council members be elected to serve in this city, so that council shall be comprised of six council members and the mayor

Yes

No

(3) The county board of elections must tabulate and publish in a newspaper of general circulation the results of the referendum within 30 days of the election.

(4) The question of additional council members may not be voted on more than once in a three-year period.

(5) The terms of a council member elected under this subsection shall be as follows:

(i) At the first municipal election following approval at a general election of the question providing for the election of two additional council members, one of the additional council members shall be elected for a term of four years and one for a term of two

years. Each council member shall serve from the first Monday of January after the election.

(ii) At the first general election following approval at a municipal election of the question providing for the election of two additional council members, one of the additional council members shall be elected for a term of three years and one for a term of one year. Each council member shall serve from the first Monday of January after the election.

(iii) After the term listed under subparagraph (i) or (ii), each additional council member shall be elected for a term of four years beginning service from the first Monday of January after the election.

(6) In a city divided into wards, each council member elected under paragraph (5) shall represent the city at large. No earlier than four years after the election adding two additional council members, the city may change the representation of either or both of the two additional seats from at large to ward representation in accordance with Chapter 104 (relating to creation and division of wards) or any other law.

(d) Reduction of council members.—A city that has opted for a seven-member council may reestablish a five-member council comprised of four council members and the mayor, as follows:

(1) In a city in which the electorate has opted for a seven-member council comprised of six council members and the mayor, the city must return to a five-member council, including the mayor, upon petition of at least 5% of the registered voters of the city or pursuant to a resolution of council and after approval by a majority of electors voting at the next municipal or general election. The referendum petition or resolution must be filed with the county board of elections not later than the thirteenth Tuesday before the next municipal or general election. The county board of elections shall place the question before the electors as provided under the Pennsylvania Election Code. The form of the question shall be as follows:

Should this city return to a five-member council comprised of four council members and the mayor

Yes

No

(2) The county board of elections shall tabulate and publish in a newspaper of general circulation the results of the referendum within 30 days of the election. The question of reducing the seven-member council may not be voted on more than once in a five-year period.

(3) The following shall apply:

(i) At the first municipal election following approval of the question providing for the return to a five-member council comprised of four council members and the mayor, four council members shall be elected to serve from the first Monday of January after the election.

(ii) The terms of the six council members serving on the seven-member council shall cease on the first Monday of January after the election under subparagraph (i).

(iii) *The four candidates receiving the highest number of votes for the office of council member shall be elected.*

(iv) *The two candidates receiving the first and second highest number of votes shall serve for a term of four years.*

(v) *The two candidates receiving the third and fourth highest number of votes shall serve for a term of two years.*

(vi) *After the terms listed under subparagraphs (iv) and (v), a council member shall serve a term provided under subsection (a).*

§ 10702. First elections in newly created cities.

(a) *Election.—At the first municipal election occurring at least 90 days after the date of the letters patent issued by the Governor incorporating the city, the registered voters of the city shall elect city officials as provided under section 10701(a)(1) (relating to elected officers, term, reelection and vacancy).*

(b) *Highest votes.—The two candidates for council receiving the highest number of votes at the election shall serve for terms of four years from the first Monday of January next succeeding the candidate's election.*

(c) *Next highest votes.—The two candidates for council receiving the next highest number of votes shall serve for terms of two years from the first Monday of January next succeeding the election.*

§ 10703. Nominations and elections.

Each matter relating to a nomination of a candidate and election of a city officer shall be governed by the Pennsylvania Election Code.

§ 10704. Certificates of election.

After the election of city officers under this chapter, the county board of elections must issue and the officer-elect must procure a certificate of election. The officer-elect must present the certificate of election to council on the date and time provided under law for council's organization. The certificate must be filed with the city archives, and the certificate's presentation must be noted in the minutes.

CHAPTER 108 VACANCIES IN OFFICE

Sec.

10801. Council and office of mayor.

10802. Controller and treasurer.

§ 10801. Council and office of mayor.

(a) *Appointment.—Within 30 days of a vacancy in the office of mayor or other member of council or if an elected mayor or council member has failed to qualify under section 10701 (relating to elected officers, term, reelection and vacancy) prior to taking office, council must, by a majority of council's remaining members, appoint a qualified individual to fill the vacant office.*

(b) *President judge.—If a council does not fill a vacancy within 30 days under subsection (a) or if a vacancy exists in the offices of at least a majority of the members of council, including the position of mayor, the president judge of the court of common pleas having jurisdiction within the city, must fill each vacancy upon either the petition of at least 10*

qualified electors of the city or the petition of a majority of the remaining members of council.

(c) *Term.*—A individual appointed under subsection (a) or (b) shall serve for the lesser of the following terms:

(1) The remainder of the unexpired term of the office to which the individual is appointed.

(2) Until the first Monday of January after the next municipal election occurring at least 30 days after the vacancy occurred.

(d) *Unexpired term.*—If necessary to fill the unexpired term of the individual originally elected to an office that has become vacant, an individual shall be elected at the municipal election referred to under subsection (c)(2) to serve from the first Monday of January after the election for the remainder of the unexpired term.

§ 10802. *Controller and treasurer.*

(a) *Appointment.*—Within 30 days after a vacancy occurs in the office of city controller or in the office of city treasurer or if an elected city controller or city treasurer has failed to qualify under section 10701 (relating to elected officers, term, reelection and vacancy) prior to taking office, council must appoint a qualified individual to fill the vacant office.

(b) *President judge.*—If a council does not fill a vacancy within 30 days under subsection (a), the president judge of the court of common pleas having jurisdiction within the city must fill the vacancy upon the petition of at least 10 registered voters of the city.

(c) *Term.*—An individual appointed under subsection (a) or (b) shall serve for the lesser of the following terms:

(1) For the remainder of the unexpired term of the controller or treasurer whose office has become vacant.

(2) Until the first Monday of January after the next municipal election occurring at least 200 days after the vacancy occurs.

(d) *Unexpired term.*—If necessary to fill the unexpired term of the controller or treasurer whose office has become vacant, an individual shall be elected at the municipal election referred to under subsection (c)(2) to serve from the first Monday of January after the election for the remainder of the unexpired term.

(e) *Bond.*—If an individual is elected or appointed to fill an office for which a bond is required and if within 14 days of the date the individual is scheduled to take the oath of office at the organizational meeting of council the individual fails to post a bond, the office shall be deemed to be vacant and the resulting vacancy shall be filled as provided under this chapter.

CHAPTER 109
CITY OFFICERS AND EMPLOYEES

Sec.

10901. *Appointment, removal and prohibition.*

10902. *Number, duties and compensation.*

10903. *Salary, compensation and emoluments of officers.*

10904. *Offices to be held until qualification of successors.*

10905. Oath of office, violation of oath and penalty.

10906. Bond to be given by officers and agents.

10907. Surety bonds, insurance and premiums.

10908. Officers not to become surety on bonds given to city and penalty.

10909. Money and accounts to be delivered by officer to successor.

10916. Pennsylvania Municipal League and other municipal affairs organizations.

10917. Powers of subpoena and compelling testimony.

10918. Consolidation or integration of fire and police personnel prohibited.

§ 10901. Appointment, removal and prohibition.

(a) Powers and duties.—Council:

(1) May appoint and dismiss any city officer and employee, except for an elected officer.

(2) Shall provide for the removal of an officer of the city whose office is established by ordinance, except as provided under this chapter.

(b) Elective city office.—The following shall apply to an individual holding an elective city office:

(1) The individual must be removed from office in accordance with the Constitution of Pennsylvania as follows:

(i) by impeachment;

(ii) by the Governor for reasonable cause after due notice and full hearing on the advice of two-thirds of the Senate; or

(iii) upon conviction of misbehavior in office or of any infamous crime.

(2) This chapter and other provisions of law requiring a forfeiture of office upon the conviction of a crime shall apply only if the court determines that the conviction is for misbehavior in office or for an infamous crime.

(3) Nothing under this section shall prevent title to an elected city office from being tried by proceedings of quo warranto as provided under law.

(c) Appointed office or position.—The following shall apply to an individual who is appointed to a city office or position, except for elective offices:

(1) The individual may be removed by the appointing power, except as limited under law or the Constitution of Pennsylvania.

(2) The individual must be removed on conviction of misbehavior in office or of an infamous crime.

(d) Prohibition.—Except as otherwise provided under law, an individual may not concurrently hold elective city office and be an employee of the same city.

§ 10902. Number, duties and compensation.

(a) Prescription.—Except as otherwise provided under this chapter, council may prescribe, by ordinance, the number, duties and compensation of the officers and employees of the city.

(b) Limitations.—The following shall apply to compensation paid to an officer or employee of the city:

(1) *A payment may not be authorized from the city treasury to an officer or employee of the city unless that officer or employee has been elected or appointed in accordance with law.*

(2) *Unless previously authorized under law, an ordinance may not give extra compensation to an officer or employee of the city.*

(c) *Offense.—An officer drawing or countersigning a document authorizing payment or passing or paying a voucher contrary to this section commits a misdemeanor and shall, upon conviction, be:*

(1) *subject to forfeiting office in accordance with section 10901(b)(2) (relating to appointment, removal and prohibition); and*

(2) *sentenced to pay a fine of not more than \$5,000 or to imprisonment for not more than one year, or both.*

§ 10903. *Salary, compensation and emoluments of officers.*

(a) *Prohibition.—A city may not increase or diminish the salary, compensation or emoluments of an elected officer after the officer's election. A change in salary, compensation or emoluments of an elected office shall take effect at the beginning of the next term of the member of council or other elected official.*

(b) *Retirement benefits.—Nothing under subsection (a) shall be construed to limit retirement benefits applicable to each employee and officer.*

§ 10904. *Offices to be held until qualification of successors.*

(a) *Successor.—An officer of a city, who has been elected or appointed and has qualified under this chapter, shall hold office until the officer's successor meets all of the following:*

(1) *Is elected or appointed and takes the oath of office.*

(2) *Provides the necessary bond.*

(3) *Takes other necessary actions required by law to qualify to assume office.*

(b) *Failure to appear.—If an elected official fails to appear at the organizational meeting of council to demonstrate the official's qualifications for office and to take the oath of office either:*

(1) *the official must fully qualify for office and take the oath of office within 14 days of the date of the organizational meeting of council; or*

(2) *the office of that elected official shall be deemed to be vacant and the vacancy shall be filled in the manner provided by this chapter.*

(c) *Multiple terms expiring.—Members whose terms have expired and who are to be replaced shall draw lots to determine which of the members shall continue to serve on council until the member's successor duly qualifies or takes the oath of office when all of the following apply:*

(1) *The terms of office of more than one council at-large member expire.*

(2) *More than one seated council member is to be replaced as the result of an election.*

(3) *Only one of the newly elected council members fails to qualify to assume office.*

(d) *Continuing to hold office.*—An individual continuing to hold office under this section after the first Monday of January, which would have marked the end of the individual's term, may not participate in:

- (1) The deliberations concerning the individual's successor.
- (2) A vote appointing the individual's successor.

§ 10905. *Oath of office, violation of oath and penalty.*

(a) *Oath required.*—Each officer of the city, whether elected or appointed, shall, before entering upon the officer's respective duties, take and subscribe an oath or affirmation of office pursuant to 53 Pa.C.S. § 1141 (relating to form of oaths of office).

(b) *Oath as qualification.*—An individual who refuses to take the oath shall be deemed not to have met the qualifications to hold office.

(c) *Violation.*—An individual who violates the individual's oath:

- (1) commits a misdemeanor; and
- (2) upon conviction shall be:
 - (i) sentenced to pay a fine of not more than \$1,000 or to imprisonment for not more than one year, or both; and
 - (ii) subject to forfeiting office in accordance with section 10901 (relating to appointment, removal and prohibition).

§ 10906. *Bond to be given by officers and agents.*

(a) *Bond.*—In addition to the requirements for bonding that may be imposed by this chapter or any other law, council may require from each elected or appointed officer and agent of the city a lawful bond with corporate surety for the faithful performance of his or her duties.

(b) *Requirement.*—An officer or agent required by law or ordinance to give bond may not be sworn into office or enter upon the duties of office until the bond has been approved by the proper authority.

§ 10907. *Surety bonds, insurance and premiums.*

(a) *Bonds.*—Unless otherwise provided by this chapter or any other provision of law, the following shall apply when an elected or appointed officer or employee of a city is required to give a bond:

- (1) The bond shall be for the faithful performance of the duties of the elected or appointed officer or employee.
- (2) The bond shall be endorsed by a surety or other company that is:

- (i) Authorized by law to act as a surety.
- (ii) Qualified to do business in this Commonwealth.

(3) The bond of an elected or appointed officer or employee shall be with a corporate surety and not with an individual or personal surety.

(4) The city shall pay the premium on the bond, unless either:

- (i) all or a portion of the premium on the bond is to be paid by the Commonwealth or political subdivisions other than the city; or
- (ii) provisions are otherwise made in law for payment of the premium on the bond, in which case the city shall pay the unpaid portion of the premium.

(5) The bond shall be approved by the city solicitor.

(6) In addition to any other conditions required by law, the bond shall be in the sum and with conditions as council may direct.

(b) Exception.—Except as may be otherwise provided in section 11402 (relating to bond, insurance and salary), when an elected or appointed officer or employee of a city is required to give a bond for the faithful performance of the officer's or employee's duties, in lieu of the bond council may:

(1) Purchase one or more blanket bonds for elected or appointed officers or employees.

(2) Purchase insurance provided that the insurance covers the same events of loss and insures the city against the same misconduct as the bond required under this chapter.

(c) Insurance.—In addition to a bond required by this chapter or insurance in lieu of the bond, council may require insurance in accordance with the following:

(1) A city officer or employee who as part of the officer's or employee's official duties handles money or has money in the officer's or employee's possession may be required to be covered by adequate insurance which provides the types of protection against loss as may be designated by council.

(2) Council may require the insurance to include protection against loss through robbery, burglary or larceny.

(3) The cost of the insurance shall be paid by the city and the amount of the insurance shall be fixed by council.

§ 10908. Officers not to become surety on bonds given to city and penalty.

(a) Surety.—A city officer or member of council may not become the surety on a bond or obligation given to the city by an agent or contractor for the faithful performance of a trust, agency or contract.

(b) Penalty.—An individual violating a provision of this section commits a misdemeanor and shall, upon conviction, be:

(1) Subject to forfeiting office in accordance with section 10901 (relating to appointment, removal and prohibition).

(2) Sentenced to pay a fine of not more than \$100.

§ 10909. Money and accounts to be delivered by officer to successor.

(a) Delivered.—All money, accounts, property, documents or effects belonging to the city in the possession of an officer of the city shall be either:

(1) returned to the city upon the officer's termination of office; or

(2) delivered to the officer's qualified successor.

(b) Violation.—An individual violating the provisions of this section shall be subject to prosecution in accordance with the applicable provisions of 18 Pa.C.S. (relating to crimes and offenses).

(c) Limitation.—Nothing set forth in this section may limit any other remedies at law or in equity available to the city.

§ 10916. Pennsylvania Municipal League and other municipal affairs organizations.

(a) Unification.—A city may:

(1) unite with:

(i) one or more cities;

(ii) cities of two or more classes; and

(iii) one or more municipalities;

(2) *form and organize a league of cities and municipalities; and*
 (3) *hold annual conventions for the study and consideration of municipal affairs of concern that pertain to the cities and municipalities comprising the league.*

(b) *Delegates.*—*A city that is a member of the league may do the following:*

(1) *Send delegates to the league.*

(2) *Pay the necessary expenses, including:*

(i) *Incidental expenses to attend the annual convention.*

(ii) *Dues to the league.*

(iii) *Appropriate money to join and participate in any of the various business and training programs of the league designed to address municipal needs in a cost-efficient manner.*

(3) *Provide a fund for the necessary costs and expenses of the league and league conventions.*

(c) *Accounting.*—*Each delegate shall submit to the city controller for approval an itemized account of the delegate's expenses to be paid under the authority of this section.*

(d) *Appropriation.*—*Council is authorized to appropriate money for support of and participation in other organizations at the national and State level concerned with municipal affairs.*

§ 10917. *Powers of subpoena and compelling testimony.*

(a) *Applicability.*—*This section shall apply to any of the following which are specifically empowered to conduct hearings and investigations:*

(1) *an officer or official of the city; or*

(2) *a city agency created or authorized to be created by this part.*

(b) *Issuance.*—*For the purposes of a hearing or investigation, the officer, official or city agency under subsection (a) shall have the authority to issue subpoenas for the following:*

(1) *attendance and giving of testimony by witnesses as are subject to the subpoenas of the courts of record of this Commonwealth; and*

(2) *as duces tecum as to the witnesses.*

(c) *Format.*—*In the case of a city agency, the subpoenas shall be issued in the name of the city and of the agency upon the signature of the presiding officer of the city and the official seal, if any, of the agency.*

(d) *Service.*—*Subpoenas shall be served by an individual 18 years of age or older, as directed by the city or city agency, in accordance with the Rules of Civil Procedure, and return of service shall be filed in accordance with law and applicable rules of court.*

(e) *Enforcement.*—*Subpoenas issued by an officer or official of the city or a city agency shall be enforced in the same manner, and violations of a subpoena shall be subject to the same penalties, as provided by general law for subpoenas of the courts of common pleas of the Commonwealth.*

§ 10918. *Consolidation or integration of fire and police personnel prohibited.*

A city may not consolidate, integrate or reorganize the paid members of the fire force and the paid members of the police force into one bureau or organization.

**CHAPTER 110
COUNCIL**

Subchapter

A. General Provisions

A.1. Ordinances

B. Initiating Ordinances by Electors

C. Reconsidering Ordinances by Electors

**SUBCHAPTER A
GENERAL PROVISIONS**

Sec.

11001. Qualifications of council members.

11002. Vesting of legislative power.

11003. Organization of council.

11004. Oath of council members, quorum and rules.

11005. Meetings of council, notice and participation by telecommunication device.

11015. Attendance of witnesses and production of books before council or committee of council.

11016. Salaries.

11016.1. Appointment of city clerk.

§ 11001. Qualifications of council members.

(a) Requirements.—A council member shall:

(1) Be at least 18 years of age.

(2) Be elected by the electors at large, subject to the creation of wards pursuant to Chapter 104 (relating to creation and division of wards).

(b) Residency.—

(1) A council member shall reside in the city from which elected and shall have resided in the city continuously for at least one year before election.

(2) Prior to being sworn into office and as a condition to qualifying for office, each elected council member shall present a signed affidavit to the city clerk that either:

(i) states the individual resides in the city and has resided in the city continuously for at least one year preceding the individual's election; or

(ii) in the case of election to a ward office, states the individual resides in the ward from which elected and has resided in the ward continuously for at least one year preceding the individual's election.

(c) Incompatible offices.—The following individuals may not serve as a council member while continuing to hold the incompatible office or employment, except as provided in this chapter:

(1) An officer of the United States or of the Commonwealth, except notaries public or officers of the militia.

(2) A county officer.

(3) *An officer of a school district located in the city.*

(4) *An officer or employee of the city or of a department of the city.*

§ 11002. Vesting of legislative power.

The legislative power of every city shall be vested in a council composed of the mayor and council members.

§ 11003. Organization of council.

(a) *Organization.—On the first Monday of the January following the regular municipal election, the members of council shall assemble at the usual place of meeting for the purpose of organizing.*

(b) *Holiday.—If the first Monday is a legal holiday, the meeting shall be held the first day following.*

(c) *Mayor.—The mayor shall:*

(1) *Be the president of council.*

(2) *Be a member of council.*

(3) *Have the same rights and duties, including introducing bills and making motions, as pertain to other council members.*

(d) *Vice president.—Unless otherwise provided by ordinance in accordance with section 11101 (relating to executive departments), the vice president of council shall either be:*

(1) *the member of council designated as the director of the department of accounts and finance; or*

(2) *the member of council appointed by council as its vice president, if the member of council is not the director of the department of accounts and finance.*

§ 11004. Oath of council members, quorum and rules.

(a) *Oath.—The members of council shall take the oath of office provided for in section 10905 (relating to oath of office, violation of oath and penalty).*

(b) *Quorum.—*

(1) *A majority of the number of members of council shall constitute a quorum.*

(2) *A smaller number may compel the attendance of absent members, under penalties to be prescribed by ordinance.*

(3) *Only members physically present at a meeting place within the city shall be counted in establishing a quorum.*

(c) *Rules.—In accordance with law, council may determine and adopt rules for procedure and conduct of business.*

§ 11005. Meetings of council, notice and participation by telecommunication device.

(a) *Meetings.—*

(1) *Council shall hold stated meetings at least once each month, and at other times as may be fixed by ordinance, and continue them as long as the transaction of the public business demands.*

(2) *Special meetings must be held in accordance with the following:*

(i) *The mayor, as president of council, may call special meetings of council.*

(ii) *A special meeting of council shall be called by the mayor upon the request of:*

(A) two council members in the case of a five-member council; or

(B) three council members in the case of a seven-member council.

(iii) In addition to any notice required by 65 Pa.C.S. Ch. 7 (relating to open meetings), 24-hour notice of a special meeting shall be given to each member.

(iv) A special meeting can be a special purpose meeting or a general purpose meeting, as advertised.

(v) Notice of a special meeting shall state the nature of the business to be conducted at the meeting.

(b) **Telecommunication.**—Council may provide for the participation of council members in meetings of council by means of telecommunication devices, including telephones or computer terminals which permit audio communication, between locations if:

(1) A quorum under section 11004 (relating to oath of council members, quorum and rules) is established at the convening or reconvening of the meeting. If, after the convening or reconvening of the meeting, a member has been disqualified from voting as a matter of law but is still physically present, council members participating by telecommunication device in accordance with this section shall be counted to maintain a quorum.

(2) The telecommunication device used permits the member or members of council not physically present at the meeting to:

(i) 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 who are also using a telecommunication device to participate in the meeting; and

(ii) speak to and hear the comments of the public who are physically present at the meeting.

(3) The telecommunication device used permits members of council and the members of the public who are physically present at the meeting to speak to and hear the comments and votes, if any, of the member or members of council who are not physically present at the meeting.

(4) Council may only authorize participation by telecommunication device for any of the following reasons for physical absence:

(i) Illness or disability of the member of council.

(ii) Care for the ill or newborn in the member's immediate family.

(iii) Emergency.

(iv) Family or business travel.

(5) Nothing in this subsection may be construed to limit the protection and prohibition contained in any law or regulation relating to the rights of the disabled.

(c) **Public access.**—All meetings of council, whether regular or special, shall be open to the public.

(d) Previous councils.—Council shall be a continuous body and it shall be lawful for a council to complete unfinished business or legislation begun by the preceding council.

§ 11015. Attendance of witnesses and production of books before council or committee of council.

(a) Subpoenas.—Council may compel the attendance of witnesses and the production of books, papers and other evidence at a meeting of the body or a committee of council. A subpoena signed by the mayor or the chairperson of the committee may be issued in a pending case of inquiry or investigation. The subpoena may be served and executed in this Commonwealth.

(b) Oaths.—A member of council and the city clerk shall have power to administer oaths to the witnesses.

(c) Refusal.—

(1) If a witness refuses to testify as to a fact within the witness' knowledge, or to produce a book or paper within the witness' possession or under the witness' control required to be used as evidence in the case, the city clerk shall report the facts relating to the refusal to the court of common pleas. The court:

(i) May hear new evidence which may be offered on behalf of or against the witness.

(ii) Shall hear all questions arising from the refusal and new evidence not included in the clerk's report.

(2) If the court determines that the testimony or evidence required by the witness is legal, properly competent and ought to be given or produced by the witness, the court shall order the witness to testify or produce books or papers, or both, as the case may be.

(3) If the witness refuses to testify or to produce the books or papers, the court shall have power to hold the witness for contempt.

(d) Penalties and reimbursement.—An individual called as a witness and examined under oath shall be liable to indictment, conviction and punishment for perjury as if the witness had been called and examined before a committee of the General Assembly or in a judicial proceeding before a court of record, in accordance with existing laws. An individual outside of the city subpoenaed under this section shall be entitled to:

(1) Be reimbursed for mileage to and from the city at the maximum mileage rate periodically established by the United States Internal Revenue Service.

(2) A per diem allowance as established by council for the individual's time in the city.

§ 11016. Salaries.

(a) Salary.—Except as provided in subsection (b), a council member shall receive an annual salary for the member's service during the member's term. The salary shall be fixed by ordinance and payable in regular installments. Council may, by an ordinance fixing the salaries, provide for the assessment and retention from the salaries of reasonable fines for absence from regular or special meetings of council or committees of council.

(b) *Compensation.*—As an alternative to the annual salary method in subsection (a), council may provide that a member of council will receive compensation, based on attendance, on a per-meeting basis. The compensation shall only be payable for duly advertised public meetings in which a council member participated. If council has provided that members of council will receive compensation on a per-meeting basis, council may provide for the forfeiture of up to 1/12th of the annual compensation of a council member or impose another appropriate penalty for each unexcused absence from a regularly scheduled meeting.

(c) *Range.*—The salary paid to a council member shall be in accordance with the following:

(1) Until changed by ordinance, for the term of council members in newly created cities, each council member may receive a salary as follows:

(i) Not more than \$1,875 per year in cities having a population of less than 5,000.

(ii) Not more than \$2,500 per year in cities having a population of 5,000 or more but less than 10,000.

(iii) Not more than \$3,250 per year in cities having a population of 10,000 or more but less than 15,000.

(iv) Not more than \$4,125 per year in cities having a population of 15,000 or more but less than 25,000.

(v) Not more than \$4,375 per year in cities having a population of 25,000 or more but less than 35,000.

(vi) Not more than \$5,000 per year in cities having a population of 35,000 or more.

(2) The compensation to be received by council members and elected officials in cities other than newly created cities shall be fixed by ordinance of council finally enacted at least two days prior to the last day fixed by law for candidates to withdraw their names from nominating petitions.

§ 11016.1. Appointment of city clerk.

(a) *Appointment.*—Council shall appoint a city clerk, whose compensation shall be fixed by ordinance, who meets all the following criteria:

(1) Is an at-will employee.

(2) Has no property interest in the city clerk's position.

(b) *Powers and duties.*—Council may, by ordinance or resolution, prescribe duties of the city clerk in addition to those established by law. The city clerk shall have the power of a notary public to administer oaths in any matter pertaining to the business of the city or in a legal proceeding in which the city is interested.

(c) *Custody.*—The records of council shall be in the actual or constructive custody of the city clerk and shall be subject to inspection and copying in accordance with the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Sec.**11018.1. Ordinances and resolutions.****11018.2. Voting, no veto and vote necessary to enact ordinances or adopt resolutions.****11018.3. Journal of proceedings, recording and withholding of vote.****11018.4. Signing and attesting ordinances.****11018.5. Proposed ordinances and titles.****11018.6. Reading of proposed ordinances and final enactment.****11018.7. Payments not authorized by law.****11018.8. Time of taking effect of ordinances.****11018.9. Publication of proposed ordinances.****11018.10. Filing of proposed ordinances.****11018.11. Records of ordinances maintained by city clerk.****11018.12. Proof and evidence.****11018.13. Standard or nationally recognized codes.****11018.14. Maps, plans or drawings.****11018.15. Codification of ordinances.****11018.16. Enforcement of ordinances, recovery and payment of fines and penalties.****11018.17. Penalty.****§ 11018.1. Ordinances and resolutions.****(a) Ordinances.—With regard to ordinances, the following shall apply:****(1) Council shall enact ordinances as may be necessary to carry out the requirements of this part and impose fines and penalties for the violation of the ordinances, recoverable in the manner provided in this part and subject to limitations as to the amount of the fines and penalties.****(2) Every legislative act of council shall be by ordinance and the legislative acts shall include:****(i) Tax ordinances.****(ii) General appropriation ordinances.****(iii) All ordinances that:****(A) Exercise the police power of the city.****(B) Regulate land use, development and subdivision.****(C) Impose building, plumbing, electrical, property maintenance, housing and similar standards.****(D) Otherwise regulate the conduct of persons within the city.****(iv) Imposition of penalties for the violation of ordinances.****(3) A proposed ordinance may be introduced by a council member and council may require that the introduction of a proposed ordinance by a council member be by motion.****(b) Resolutions.—With regard to resolutions, the following shall apply:****(1) Council shall adopt resolutions in accordance with the provisions of this part.****(2) The purposes for which resolutions may be adopted shall include, but not be limited to, the following:**

(i) *Ceremonial or congratulatory expressions of the goodwill of council.*

(ii) *Statements of public policy of council.*

(iii) *Approval of formal agreements of the city, except when an agreement arises under a previously approved purchasing system of the city.*

(iv) *Approval of the acquisition, disposition and leasing of real property.*

(v) *Approval of administrative rules and regulations arising under State statutes or city ordinances.*

(3) *When eminent domain proceedings are instituted by resolution, notice of the resolution, including a description of the subject properties, must be published once in a newspaper of general circulation not more than 60 days nor fewer than seven days prior to adoption.*

§ 11018.2. *Voting, no veto and vote necessary to enact ordinances or adopt resolutions.*

(a) *Voting generally.—Members of council present or participating via a telecommunication device shall vote on each question before council, except:*

(1) *As may be required by the provisions of a public official ethics law which may be applicable to members of council.*

(2) *As may be excused by a simple majority vote of the members of council present at a council meeting, for cause, which shall be entered in the journal, as may be deemed appropriate.*

(b) *Veto.—The mayor shall have no right of veto.*

(c) *Majority vote.—Except as otherwise provided in this part, an ordinance may not be enacted and a resolution may not be adopted by council without an affirmative vote of a majority of the number of the members of council.*

§ 11018.3. *Journal of proceedings, recording and withholding of vote.*

(a) *Journal.—Council shall keep a journal of the proceedings. The journal shall be in the possession of the city clerk and shall, at all times, be open to public inspection.*

(b) *Recording.—For every vote, the yeas and nays shall be called and recorded by the city clerk. An ordinance shall and a resolution may be reduced to writing before the vote is taken on the ordinance or resolution.*

(c) *Withholding.—A member of council shall not withhold the member's vote on a question before council unless permitted to do so in accordance with section 11018.2(a) (relating to voting, no veto and vote necessary to enact ordinances or adopt resolutions).*

§ 11018.4. *Signing and attesting ordinances.*

A legislative act of council shall be by ordinance. An ordinance enacted by council shall be signed by the mayor and attested by the city clerk.

§ 11018.5. *Proposed ordinances and titles.*

(a) *Format.—A proposed ordinance shall be presented to council in written form as a bill and shall be numbered sequentially for the calendar year.*

(b) Single subject.—An ordinance, except for a general appropriation ordinance, may not be enacted containing more than one subject, which shall be reasonably identified in the title.

(c) Original purpose.—An ordinance may not be altered or amended upon enactment by council as to change the original purpose.

(d) Title.—The title of an ordinance shall not be considered in the construction or interpretation of the ordinance by a court of competent jurisdiction.

§ 11018.6. Reading of proposed ordinances and final enactment.

(a) Reading.—The title of every proposed ordinance shall be read at least twice, once when introduced and again before final enactment by council. Amendments or other changes to the proposed ordinance shall be read in their entirety.

(b) Public availability.—A complete copy of every ordinance introduced shall be available for public inspection at the city clerk's office during regular office hours.

(c) Time frame.—An ordinance may not be finally enacted by council the same day it was introduced. At least three days shall intervene between the ordinance's introduction and final enactment by council.

(d) Numbering.—Upon enactment, ordinances shall be numbered sequentially.

§ 11018.7. Payments not authorized by law.

An ordinance may not be enacted and a resolution may not be adopted providing for the payment of money by the city without previous authority of law. An officer executing a document authorizing payment, making a payment or passing a voucher for a payment not authorized by law commits a misdemeanor. The officer shall, upon conviction, be sentenced to pay a fine of not more than \$5,000 and to imprisonment for not more than one year.

§ 11018.8. Time of taking effect of ordinances.

Unless otherwise provided by law, an ordinance, except those pertaining to the subjects set forth in section 11050(b) (relating to time ordinances go into effect), shall take effect after:

- (1) The tenth day after enactment.*
- (2) Being signed by the mayor.*
- (3) Being attested by the city clerk.*

§ 11018.9. Publication of proposed ordinances.

(a) Publication required.—A proposed ordinance, except as otherwise provided in this chapter, shall be published in a newspaper of general circulation not more than 60 days nor fewer than seven days prior to enactment.

(b) Contents.—

(1) Except as otherwise provided by law, the publication of a proposed ordinance shall include either:

- (i) the full text; or*
- (ii) the title and a summary of the ordinance setting forth the provisions in reasonable detail and a reference to a place within the city where copies of the proposed ordinance may be examined.*

(2) *If the full text is not published, the newspaper in which the proposed ordinance is published shall be furnished a copy of the ordinance, upon request.*

(c) *Readvertisement.—In the event substantial amendments are made in the proposed ordinance, before voting upon enactment, council shall, within 10 days, readvertise in one newspaper of general circulation a brief summary setting forth all provisions and amendments in reasonable detail.*
§ 11018.10. *Filing of proposed ordinances.*

(a) *Place of filing.—If the full text is not published, an attested copy of the proposed ordinance shall be filed when the summary of the ordinance is published in the county law library or other county office designated by the county commissioners. The county commissioners may impose a fee no greater than necessary to cover the actual costs of storing the proposed ordinances. Filing with the county may be completed by the submission of an electronic copy of the ordinance through a method available, in the sole discretion of the county, to permit receipt by the office storing municipal ordinances. Upon request by the city, the county shall notify the city of the method by which electronic copies may be submitted. The county may store the ordinance electronically, provided that the public is able to access the electronically stored city ordinances during regular business hours at the office or at a remote location. The city shall retain a printed copy of the e-mail and ordinance as transmitted.*

(b) *Date of filing.—The date of filing the proposed ordinance with the county shall not affect the effective date of the ordinance or the validity of the process of enactment of the ordinance.*

§ 11018.11. *Records of ordinances maintained by city clerk.*

(a) *Records.—Within one month after enactment, each ordinance shall be certified and recorded by the city clerk in a book provided by the city which shall, at all times, be open to the inspection of the public. A standard or nationally recognized code or a portion of the standard or nationally recognized code enacted by reference need not be recorded in or attached to the ordinance book but shall be deemed to have been legally recorded if the ordinance by which the code was enacted by reference is recorded, with an accompanying notation stating where the full text of the code is filed. A failure to record within the time provided shall not be deemed a defect in the process of the enactment or adoption of the ordinance.*

(b) *Compilation or codification.—At the close of each year, with the advice and assistance of the city solicitor, the city clerk shall bind, compile or codify all the ordinances of the city, or true copies of the ordinances, which remain in force and effect.*

(c) *Indexing.—The city clerk shall also properly index the record books, compilation or codification of ordinances.*

(d) *Retention.—The retention of ordinances shall be in accordance with 53 Pa.C.S. Ch. 13 Subch. F (relating to records).*

(e) *Attachment.—A city ordinance or portion of a city ordinance which prior to June 6, 1963, is attached to the city ordinance book shall be considered in force as if the ordinance or portions of the ordinance were recorded directly upon the pages of the ordinance book.*

§ 11018.12. *Proof and evidence.*

(a) *Proof.*—An ordinance, resolution, motion or other proceeding of council may be proved by the certificate of the city clerk under the corporate seal.

(b) *Evidence.*—When an ordinance, resolution, motion or proceeding of council is printed or published in book or pamphlet form by authority of the city, it shall be read and received as evidence in all courts and elsewhere without further proof.

§ 11018.13. *Standard or nationally recognized codes.*

(a) *Authority to enact.*—In the same manner as other ordinances, and except as otherwise provided in this chapter or the Pennsylvania Construction Code Act, council may enact, by reference to a standard or nationally recognized code, all or a portion of the standard or nationally recognized code as an ordinance of the city. Three copies of the proposed standard or nationally recognized code, portion of the code or amendment to the code shall be filed in the office of the city clerk at least 10 days before council considers the proposed ordinance. Upon enactment, a copy shall be kept with the ordinance book and available for public use, inspection and examination.

(b) *Time frame.*—

(1) Except as otherwise provided by the Pennsylvania Construction Code Act and regulations adopted pursuant to the act, an ordinance adopting, by reference, a standard or nationally recognized code shall be enacted within 60 days after introduction and shall encompass subsequent changes in the code unless otherwise specified in the ordinance.

(2) An ordinance which incorporates standard or nationally recognized code amendments by reference shall become effective after the same procedure and in the same manner as is specified in this section for original adoption of the code.

(c) *Technical regulations or code.*—An ordinance that incorporates, by reference, standard technical regulations or code shall be subject to the provisions of the Pennsylvania Construction Code Act, if applicable.

§ 11018.14. *Maps, plans or drawings.*

(a) *Adoption.*—Except as otherwise provided under the Municipalities Planning Code, if maps, plans or drawings are to be adopted as part of an ordinance, council, instead of publishing the maps, plans or drawings as part of the ordinance may make reference to, in publishing the ordinance or a summary of the ordinance, the location where the maps, plans or drawings are on file and may be examined.

(b) *Amending.*—Once enacted as part of an ordinance, a map, plan or drawing shall be amended by ordinance.

§ 11018.15. *Codification of ordinances.*

(a) *Preparation authorized.*—Council may prepare a consolidation or codification of the general body of city ordinances or the ordinances on a particular subject. Council may adopt the consolidation or codification as an ordinance of the city in the same manner prescribed for the adoption of an ordinance, except as follows:

(1) A consolidation or codification to be enacted as a single ordinance shall be introduced in council at least 30 days before its final

enactment. At least 15 days before final enactment, notice of introduction of the consolidation or codification specifying the general nature and content shall be given, by advertisement, in a newspaper of general circulation.

(2) The required advertised notice of the proposed adoption of the consolidation or codification shall include:

(i) A listing of the table of contents.

(ii) A place within the city where a copy of the proposed consolidation or codification may be examined.

(b) Additional procedure.—The procedure for the consolidation or codification of city ordinances as a single ordinance may also be followed in enacting a complete group or body of ordinances repealing or amending existing ordinances as may be necessary in the course of preparing a consolidation or codification of the city ordinances. The advertisement giving notice of the proposed adoption shall list, in lieu of a table of contents, only the titles of each of the ordinances in the complete group or body of ordinances.

(c) Adoption by reference.—The consolidation or codification may contain provisions which will operate to adopt, by reference, a building, fire prevention or other standard or model code or zoning ordinance and zoning map in accordance with section 11018.13 (relating to standard or nationally recognized codes) and, if applicable, section 11018.14 (relating to maps, plans or drawings).

§ 11018.16. Enforcement of ordinances, recovery and payment of fines and penalties.

(a) Enforcement.—An action, prosecution, complaint or proceeding for the violation of an ordinance of the city and for the fine, penalty and forfeiture imposed shall be instituted in the corporate name of the city and be conducted in the manner prescribed by law.

(b) Proceedings.—Unless otherwise provided by law, a proceeding for the violation of the ordinances of the city shall be conducted as a summary conviction proceeding, or a proceeding for the recovery of penalties, before a magisterial district judge with the same right of appeal from a final judgment entered.

§ 11018.17. Penalty.

A person who violates an ordinance enacted under the authority of this chapter for which no penalty is specified commits a summary offense and, upon conviction, shall be sentenced to pay a fine of not more than \$1,000 or to imprisonment for not more than 90 days, or both.

SUBCHAPTER B INITIATING ORDINANCES BY ELECTORS

11030. Initiation of proposed ordinances by petition and exceptions.

11031. Petition and notice.

11032. Signing and oath.

11033. Number of signatures, examination and certificate by city clerk.

11034. Submission to council.

11035. Actions by council and notices.

11036. Form of ballot on submission to vote.

11037. Effect of majority vote.

11038. No repeal within two years.

11039. Number of proposed ordinances to be submitted and elections limited.

11040. Submission for repeal by council.

11041. Publication of proposed ordinance, repeal or amendment.

§ 11030. Initiation of proposed ordinances by petition and exceptions.

(a) *Submission.*—Except as provided in subsection (b), a proposed ordinance may be submitted to council by a petition signed by the electors of a city in accordance with this subchapter.

(b) *Exclusions.*—The following proposed ordinances may not be submitted by petition to council in accordance with this subchapter:

(1) *Proposed ordinances dealing with the subjects set forth in section 11050(b) (relating to time ordinances go into effect).*

(2) *Proposed ordinances to repeal, amend or modify an ordinance which took effect after having been subject to the provisions of the referendum for reconsideration of the ordinance.*

§ 11031. Petition and notice.

If the city clerk receives a written request for the preparation of a petition for the submission of a proposed ordinance to council by at least 100 qualified electors of the city and the request is accompanied by a copy of the proposed ordinance, within 10 days of receipt the city clerk shall do each of the following:

(1) *Prepare the requested petition.*

(2) *Publish notice at least once in a newspaper of general circulation that provides at least the following information:*

(i) *The date on which the request for the petition was received and that the petition will be ready for signing at the expiration of 10 days from that date.*

(ii) *The purpose for which the petition is made.*

(iii) *The place at which and the dates and times during which the petition may be signed, with 15 business days being allowed for signatures.*

§ 11032. Signing and oath.

(a) *Petition.*—A petition for the submission of a proposed ordinance shall be signed in the city clerk's office. The petition shall be retained in the city clerk's office at all times for a period of 15 days. Each signer shall:

(1) *Add to the signer's signature the signer's address.*

(2) *Make oath before the city clerk that the signer is a qualified elector of the city and resides at the address given.*

(b) *Hours.*—The city clerk shall keep the city clerk's office open, at a minimum, from 9 a.m. through 7 p.m. Monday through Friday, except holidays, for the purpose of permitting electors to sign the petition. The city clerk shall not permit an individual to sign the petition after 7 p.m. on the last day for signing the petition.

§ 11033. Number of signatures, examination and certificate by city clerk.

(a) *Signatures.*—Within 10 days after the period of time for signing the petition has elapsed, the city clerk shall:

(1) *Examine the petition.*

(2) *Ascertain whether or not the petition is signed by electors of the city, equal in number to at least 20% of the entire votes cast by registered electors for all candidates for mayor at the last preceding municipal election at which a mayor was elected.*

(b) *Employees.—If necessary, council may allow the city clerk additional help for the purpose of complying with this section.*

(c) *Results.—The city clerk shall attach to the petition the clerk's certificate showing the result of the examination.*

(d) *Failure.—If less than the required 20% under subsection (a)(2) is certified, the petition shall fail and shall be filed in the office of the city clerk.*

§ 11034. Submission to council.

If the petition is certified to contain signatures as required in section 11033(a)(2) (relating to number of signatures, examination and certificate by city clerk), the city clerk shall submit the petition to council without delay.

§ 11035. Actions by council and notices.

If the petition accompanying the proposed ordinance is signed by electors of the city as required in section 11033(a)(2) (relating to number of signatures, examination and certificate by city clerk), council shall do one of the following:

(1) *Enact the proposed ordinance without alteration within 20 days, except as otherwise provided in this chapter, after attachment of the city clerk's certificate to the accompanying petition.*

(2) *Call for a referendum to be held at the time of the next general, municipal or primary election occurring at least 90 days thereafter, at which election the proposed ordinance must be submitted, without alteration, to the electors of the city for a vote, after attachment of the city clerk's certificate to the accompanying petition. Notice of the election and the text of the question to be submitted to the electors shall be published in the same manner as publication is required in section 1201 of the Pennsylvania Election Code.*

§ 11036. Form of ballot on submission to vote.

The question to be submitted to the electors on the proposed ordinance shall be framed to state the nature of the proposed ordinance, followed by the words "yes" and "no". The question shall be placed on the ballot which shall be counted, returned and computed in accordance with section 11062 (relating to computing and filing returns) and the election laws of this Commonwealth.

§ 11037. Effect of majority vote.

If the majority of the qualified electors voting on the proposed ordinance vote in favor of the ordinance, the ordinance shall become a valid and binding ordinance of the city.

§ 11038. No repeal within two years.

An ordinance proposed by petition, whether enacted by council or adopted by a vote of the electors, shall not be repealed or amended within two years of the effective date except by a vote of the electors.

§ 11039. Number of proposed ordinances to be submitted and elections limited.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this subchapter. Proposed ordinances on the same subject matter shall not be submitted by petition more frequently than once every three years.

§ 11040. Submission for repeal by council.

Council may submit a proposition for the repeal or amendment of an ordinance to be voted upon at a succeeding municipal, general or primary election occurring at least 90 days after council's submission of the proposition. Should the submitted proposition receive a majority of the votes cast on the proposition at the election, the ordinance shall be repealed or amended accordingly.

§ 11041. Publication of proposed ordinance, repeal or amendment.

Whenever a proposed ordinance is to be submitted to the electors of the city at an election or an ordinance is submitted by council for repeal or amendment, notice of the election and text of the question to be submitted to the electors shall be published in the same manner as publication is required in section 1201 of the Pennsylvania Election Code.

**SUBCHAPTER C
RECONSIDERING ORDINANCES BY ELECTORS**

Sec.

11050. Time ordinances go into effect.

11051. Petition and reconsideration of ordinance.

11052. Preparation of petition by city clerk and notice.

11053. Additional petitions.

11054. Signatures, oath and time of signing.

11055. Presentation of petition to council.

11056. Ascertainment of number of signers and report.

11059. Effect of petition and submission to electors.

11060. Certification to county board of elections, ballots or ballot labels and expense of elections.

11061. Form of ballot or ballot label.

11062. Computing and filing returns.

11063. Effect of vote.

11064. Publication of ordinance before election.

§ 11050. Time ordinances go into effect.

(a) Timing.—Except as provided in subsection (b), an ordinance enacted by council may not go into effect before 10 days from the time of the ordinance's final enactment by council.

(b) Immediate enactment.—The following may be made effective upon final enactment:

(1) An ordinance:

(i) Expressly required to be enacted by the general laws of this Commonwealth.

(ii) Expressly required to be enacted by the provisions of any act of the General Assembly.

- (iii) *That contains provisions and matters which are subject to the approval of an officer or tribunal of the Commonwealth.*
- (2) *An ordinance providing for any of the following:*
 - (i) *Tax levies or fees.*
 - (ii) *Annual and other appropriations.*
 - (iii) *The exercise of the right of eminent domain.*
- (3) *An ordinance providing for any of the following:*
 - (i) *The preservation of the public peace, health, morals and safety.*
 - (ii) *The exercise of the police powers of the city government.*
 - (iii) *The prevention and abatement of nuisances.*
- (4) *An ordinance providing for an election to increase indebtedness and any other ordinance which by law must be submitted to an election before it shall take effect.*
- (5) *An ordinance providing for the opening, paving, grading or other improvement of streets or highways if the improvement is petitioned for by a majority, in number or interest, of the abutting property owners.*
- (6) *An ordinance providing for either:*
 - (i) *the construction of sewers; or*
 - (ii) *streets, highways and sidewalks to be kept in:*
 - (A) *Good order and repair.*
 - (B) *In a safe and passable condition.*

§ 11051. Petition and reconsideration of ordinance.

With the exception of an ordinance dealing with the subjects set forth in section 11050(b) (relating to time ordinances go into effect), an ordinance shall be suspended from going into operation and shall be reconsidered by council if all of the following occur:

- (1) *A petition is presented to council:*
 - (i) *within 10 days after the ordinance's final enactment;*
 - (ii) *in accordance with this subchapter; and*
 - (iii) *which protests against enactment of the ordinance.*
- (2) *The petition must be signed by electors as required in section 11033(a)(2) (relating to number of signatures, examination and certificate by city clerk).*

§ 11052. Preparation of petition by city clerk and notice.

(a) Petition.—A petition under section 11051 (relating to petition and reconsideration of ordinance) shall be prepared by the city clerk immediately upon receipt by the clerk of the written request of 100 qualified electors of the city asking that the petition be prepared. Upon preparation of the petition, the clerk shall give notice by publication in a newspaper of general circulation:

- (1) *That the petition is ready for signing.*
- (2) *The purpose of the petition.*
- (3) *The place and time when the petition may be signed.*

(b) Signing.—The signing shall be done only in the city clerk's office where the petition shall be retained during the period of 10 days after the enactment of the ordinance.

§ 11053. Additional petitions.

(a) Petitions.—In order to facilitate the signing of the petition, the city clerk shall make at least two additional similar petitions for signing by the qualified electors. Signing an additional similar petition shall have the same force and effect as signing the original petition. The city clerk is authorized to employ at least two individuals to take charge of the additional petitions.

(b) Employees.—The city clerk and employees hired under this section are empowered to administer the oath required to be taken by the electors. This section also shall apply to petitions initiating ordinances under Subchapter B (relating to initiating ordinances by electors).

§ 11054. Signatures, oath and time of signing.

(a) Signers.—Each signer of a petition under section 11051 (relating to petition and reconsideration of ordinance) shall also do all the following:

(1) Include the signer's address.

(2) Make an oath before the city clerk or other person authorized under section 11053 (relating to additional petitions) that the signer:

(i) Is a qualified elector of the city.

(ii) Resides at the address given.

(b) Office hours.—The city clerk shall keep the city clerk's office open, at a minimum, from 9 a.m. through 7 p.m. Monday through Friday, except holidays, for the purpose of receiving signatures to the petitions. The city clerk shall not permit an individual to sign a petition after 7 p.m. of the tenth day following the enactment of the ordinance on which the referendum vote is requested.

§ 11055. Presentation of petition to council.

At the expiration of 10 days, the petition shall be filed with council and presented by the city clerk at council's next meeting.

§ 11056. Ascertainment of number of signers and report.

After presentation of the petition to council, the city clerk shall ascertain whether or not the referendum petition is signed by a number of registered electors equal to 20% of all the votes cast for all candidates for mayor at the last preceding municipal election at which a mayor was elected. Council may allow the clerk additional help for that purpose. After the clerk has made the examination, the clerk shall report the result to council.

§ 11059. Effect of petition and submission to electors.

(a) Petition lacking signatures.—If it appears that the petition under this subchapter has not been signed by the required number of electors, no action shall be taken. The ordinance shall be taken to be in full force from the time or times it would have gone into effect had there been no petition against the ordinance.

(b) Reconsideration.—Council must reconsider an ordinance if the petition is signed by a number of electors equal to 20% of all the votes cast for mayor. If the ordinance is not entirely repealed by council on reconsideration, council must call a referendum to be held at the time of the next general, municipal or primary election occurring at least 60 days after the reconsideration.

(c) Submission.—At the election, the ordinance shall be submitted without alteration in accordance with the Pennsylvania Election Code.

§ 11060. Certification to county board of elections, ballots or ballot labels and expense of elections.

(a) *Certification.*—The city clerk, after consultation with the city solicitor, shall certify to the county board of elections a copy of the ordinance and the proceedings of council directing the referendum vote. The county board of elections shall cause the question to be printed for use in the election districts of the city.

(b) *Preparation.*—The preparation of ballots or ballot labels for and the holding of a referendum shall be conducted in the manner as provided in the Pennsylvania Election Code.

(c) *Number.*—Any number of ordinances may be referred and voted on at the same election.

§ 11061. Form of ballot or ballot label.

The ballot used when voting on the ordinance shall contain a question stating the nature of the referred ordinance followed by the words "yes" and "no" and shall be conducted in the manner as provided in the Pennsylvania Election Code.

§ 11062. Computing and filing returns.

(a) *Computing.*—An officer holding an election shall keep a tally sheet and make a return of votes on the referendum question in the same manner as a tally sheet is kept and a return is made in an election of officers and the submission of other questions as provided by the Pennsylvania Election Code.

(b) *Filing.*—A return shall be filed with the county board of elections which shall compute the return and certify the results to council. The return and certification of a referendum question shall be conducted in the manner as provided in the Pennsylvania Election Code.

§ 11063. Effect of vote.

If a majority of the electors vote in favor of the ordinance, the ordinance shall take effect when the results of the election are certified by council. If a majority of the electors vote against the ordinance, the ordinance shall be nullified.

§ 11064. Publication of ordinance before election.

Before any referendum is held on any ordinance in accordance with this subchapter, the city shall provide notice of the ordinance by publishing a copy of the ordinance in a newspaper of general circulation. Publication in accordance with this section shall be in addition to the publication requirements of the Pennsylvania Election Code.

**CHAPTER 111
EXECUTIVE DEPARTMENT**

Sec.

11101. Executive departments.

11102. Determination of powers and duties of departments.

11103. Designation of department directors.

11104. Department directors responsible for city property and supplies and reports.

11105. Quarterly reports from department directors.

§ 11101. Executive departments.

The city may enact an ordinance establishing departments to implement administrative functions of the city. If the city fails to adopt an ordinance, powers and duties of the city shall be allocated and assigned among the following:

- (1) The department of public affairs.*
- (2) The department of accounts and finance.*
- (3) The department of public safety.*
- (4) The department of streets and public improvements.*
- (5) The department of parks and public property.*

§ 11102. Determination of powers and duties of departments.

Council may, by ordinance, do all of the following:

- (1) Determine the powers and duties to be performed by each department.*
- (2) Prescribe the powers and duties of officers and employees.*
- (3) Assign particular officers and employees, including directors of departments, to one or more of the departments.*
- (4) Require an officer or employee to perform duties in two or more departments.*
- (5) Adopt rules and regulations as deemed necessary for the efficient and economical conduct of the business of the city.*

§ 11103. Designation of department directors.

(a) Duties of mayor.—

- (1) If a department of public affairs is established by ordinance, the mayor shall be director of the department of public affairs.*
- (2) Regardless of whether or not a department of public affairs is established by ordinance, the mayor shall supervise city police.*

(b) Designations.—

(1) Council shall, at its organizational meeting, designate, by resolution, a council member to be a director of any of the following, if established by ordinance:

- (i) The department of accounts and finance.*
- (ii) The department of public safety.*
- (iii) The department of streets and public improvements.*
- (iv) The department of parks and public property.*

(2) A designation under paragraph (1) may be changed at council's discretion.

§ 11104. Department directors responsible for city property and supplies and reports.

A department director shall be responsible for the property and supplies of the city within the director's department. The department director shall prepare and maintain a perpetual inventory of the property and supplies for which the department director is responsible and, from time to time during the fiscal year, file the inventory with the city clerk or other official designated by council. The city clerk or other designated official with whom the inventory is filed shall, upon request, transmit a copy of the inventory to the chief fiscal officer and council.

§ 11105. Quarterly reports from department directors.

(a) Report.—At the close of each quarter of the fiscal year, a department director shall prepare and submit to the director of the department of accounts and finance, if a department of accounts and finance is established by ordinance, or to the business administrator or other official designated by council, a comprehensive and detailed report of all expenditures and operations of the director's department during the quarter.

(b) Review.—Not later than the date of the second meeting of council, the director of the department of accounts and finance, if the department of accounts and finance is established by ordinance, or the business administrator or other official designated by council, shall:

(1) review and consolidate the quarterly reports submitted under subsection (a); and

(2) prepare and submit to council a consolidated report on the expenditures and operations of the city government, including recommendations.

CHAPTER 112 MAYOR

Sec.

11201. Qualifications.

11202. Inauguration.

11203. Execution of laws, powers of sheriff conferred and emergency powers.

11204. Official seal of mayor.

11205. Supervision of conduct of city officers.

11206. City government reports.

11207. Acknowledgments and oaths.

11208. Salary.

11209. Powers and duties of acting mayor.

§ 11201. Qualifications.

The qualifications for office of mayor shall be as follows:

(1) An individual must be at least 18 years of age.

(2) An individual must be elected at large by the qualified electors of the city.

(3) An individual must be a resident of the city where the individual was elected for not less than one year before the date of the individual's election.

(4) Before being sworn into the office of mayor, an individual elected to mayor must present a signed affidavit to the city clerk certifying that the individual is in accordance with the requirement under paragraph (3).

(5) An individual elected to the office of mayor must reside in the city for the duration of the individual's term of service.

§ 11202. Inauguration.

The mayor shall be the chief executive of the city. The mayor shall be inaugurated and take the oath of office in accordance with sections 10904 (relating to offices to be held until qualification of successors) and 10905

(relating to oath of office, violation of oath and penalty) on the first Monday of January after the regular municipal election. If the first Monday is a legal holiday, the mayor shall be inaugurated and take the oath the first day after that day or as soon after that day as possible.

§ 11203. Execution of laws, powers of sheriff conferred and emergency powers.

(a) Execution.—The mayor shall execute and enforce the ordinances of the city and all general laws applicable to the ordinances.

(b) Report.—The mayor shall submit an annual report to council and the public that includes recommendations on ways to improve efficiency of the city government based on the prior fiscal year and any other recommendations the mayor deems to be in the public interest.

(c) Police powers.—In order to enable the mayor to effectively preserve the public peace within the city, all the powers conferred by the law upon sheriffs to prevent and suppress mobs, riots and unlawful and tumultuous assemblies shall be conferred upon the mayor.

(d) Emergency proclamations issuance.—If the mayor determines that a state of emergency exists, the mayor may issue a proclamation in writing declaring a state of emergency. The mayor shall provide notice of the contents of the proclamation to council and to the news media within the city.

(e) Emergency proclamations contents.—Upon the issuance of a proclamation declaring a state of emergency under subsection (d), the following shall apply:

(1) The state of emergency shall not exceed five days, unless extended by council.

(2) In the case of a declaration of a state of emergency by the mayor for a citywide or site-specific emergency, a city department may temporarily implement the department's emergency assignments without complying with procedures required by law pertaining to the incurring of obligations and the employment of temporary workers.

(3) The proclamation may prohibit, for all or any part of the city where there is a clear and present danger to life or property through civil disorder:

(i) an individual from being on public streets, in public parks or at any other public place during the hours declared by the mayor to be a period of curfew;

(ii) the assembling or gathering of a group of individuals, in numbers to be designated by the mayor, upon public streets, parks or other public places;

(iii) the entry or departure of an individual into or from any restricted area;

(iv) the sale, purchase or dispensing of any commodities or goods designated by the mayor;

(v) the transportation, possession or use of gasoline, kerosene or other combustible, flammable or explosive liquids or materials, except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use; and

(vi) any other activities as the mayor reasonably believes would cause a clear and present danger to the preservation of life, health, property or the public peace.

(f) *Time and location.*—A proclamation declaring a state of emergency shall describe any restricted area with particularity and specify the hours when the restrictions are to be in effect.

(g) *Penalties.*—An individual who violates a proclamation declaring a state of emergency commits a summary offense and shall, upon conviction, be sentenced as provided by law.

§ 11204. *Official seal of mayor.*

Council shall provide an official seal for the mayor in a form, as reasonably requested by the mayor, which shall not be changed during the mayor's term of office.

§ 11205. *Supervision of conduct of city officers.*

(a) *Supervision.*—The mayor shall supervise the conduct of all city officers, examine the grounds of all reasonable complaints against them and cause all of their violations or neglect of duty to be promptly punished or reported for correction as council may direct.

(b) *Implementation.*—In order to implement the provisions of subsection (a), the mayor may issue subpoenas and compulsory processes, under the mayor's official seal, for the attendance of individuals and the production of documentation. A subpoena shall be enforced in the manner as provided for council under section 11015 (relating to attendance of witnesses and production of books before council or committee of council).

§ 11206. *City government reports.*

The mayor may request a report from a city official or department director containing information pertaining to administrative functions under the control and management of the city official or department director. The mayor may submit a report pertaining to all matters of city government to council as the mayor deems necessary.

§ 11207. *Acknowledgments and oaths.*

The mayor may take acknowledgments of any instruments in writing pertaining to the business of the city, solemnize marriages and administer oaths and affirmations as to city business and shall attest all the mayor's acts with the mayor's official seal.

§ 11208. *Salary.*

(a) *Payment.*—

(1) The mayor shall receive for the mayor's services during the term of service an annual salary to be fixed by ordinance, payable in equal installments as council shall provide.

(2) Council shall, by ordinance, fix the amount of salary to be paid to the mayor for the mayor's services and may provide for the assessment and retention from the salary of reasonable fines for absence from regular or special meetings of council or committees of council.

(3) The amount of the mayor's salary shall be at least \$2,500 annually.

(b) *Amounts.*—Until changed by ordinance, the salary of mayors in newly created cities shall be as follows:

(1) *In cities with a population of less than 5,000, a maximum of \$2,500 per year.*

(2) *In cities with a population of 5,000 or more but less than 10,000, a maximum of \$5,000 per year.*

(3) *In cities with a population of 10,000 or more but less than 15,000, a maximum of \$7,500 year.*

(4) *In cities with a population of more than 15,000, a maximum of \$500 per every thousand residents per year as determined by the most recent census data provided by the United States Census Bureau.*

(c) *Administration.—*

(1) *The salary to be received by a mayor in a city other than a newly created city shall be fixed by ordinance of council enacted not less than two days before the last day fixed by law for candidates to withdraw their names from nominating petitions.*

(2) *The compensation to be received by the mayor shall not be increased or diminished after the mayor's election unless the increase or decrease was included in an ordinance enacted not less than two days before the last day fixed by law for candidates to withdraw their names from nominating petitions.*

(d) *Marriage ceremonies.—*

(1) *Subject to paragraph (2) and notwithstanding any other provisions of law, a mayor may receive a honorarium, fee or reimbursement of expenses related to the performance of a marriage ceremony in this Commonwealth if the mayor first notifies council in writing of the mayor's intention to perform a marriage ceremony. Notice under this paragraph shall remain in effect for the term of the mayor or until the notification is rescinded by the mayor.*

(2) *The honorarium, fee or reimbursement under paragraph (1) shall not exceed \$150 for each ceremony performed. The mayor shall keep accurate accounts of the fees received relating to the performance of marriage ceremonies and submit a quarterly report of money received for that period to council. The quarterly report shall include the amount of money received, the names of individuals from whom money was received and the date and location of the performed ceremony. The quarterly report shall be a public record in accordance with the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.*

(3) *The receipt of a honorarium, fee or reimbursement under this subsection shall not be a violation of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) and shall not be part of a salary received in accordance with this section.*

§ 11209. *Powers and duties of acting mayor.*

(a) *Absence or inability to act.—During the absence of the mayor or the inability of the mayor to act, the vice president of council shall be the acting mayor who shall exercise all the rights and powers of the mayor.*

(b) *Death, resignation or otherwise.—In the event of a vacancy in the office of the mayor by reason of death, resignation or otherwise, the vice president of council shall be the acting mayor. The vice president of council shall receive the salary of mayor as specified under section 11208*

(relating to salary) but may not receive a salary as a council member until the successor of the mayor is duly appointed and qualified in accordance with section 10901 (relating to appointment, removal and prohibition).

(c) Acting mayor designation.—During the absence or inability of the vice president of council to act as mayor, council shall designate another one of its members to act as mayor.

CHAPTER 112A CITY ADMINISTRATOR

Sec.

112A00. Definitions.

112A01. Office of city administrator.

112A02. Appointment of city administrator.

112A03. Employment agreement.

112A04. Residency and elective city office.

112A05. Powers and duties.

§ 112A00. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"City administrator." The term includes a city administrator or a city manager.

"Office of city administrator." The term includes an office of a city administrator or an office of a city manager.

§ 112A01. Office of city administrator.

(a) Establishment.—Council may enact an ordinance by a majority vote of all the members of council establishing the office of city administrator.

(b) Abolishment.—Council may enact an ordinance by a majority vote of all the members of council abolishing the office of city administrator.

§ 112A02. Appointment of city administrator.

(a) Appointment.—In a city that has established an office of city administrator, council shall appoint an individual to be city administrator. The appointment of an individual to be city administrator shall be by a majority vote of all the members of council.

(b) Selection.—Council shall select a city administrator on the basis of executive and administrative qualifications, education and experience and may give special consideration to applicants with training and experience in municipal government operation. The city administrator shall serve at the pleasure of council, subject to contractual rights that may arise under an employment agreement that may be entered in accordance with section 112A03 (relating to employment agreement).

§ 112A03. Employment agreement.

(a) Agreement.—Council may enter into an employment agreement with the city administrator. The employment agreement may set forth the terms and conditions of employment. The employment agreement shall remain in effect for a specified period terminating not later than two years after the effective date of the employment agreement or the date of the

organizational meeting of council after the next municipal election, whichever is earlier.

(b) Conditions.—

(1) An employment agreement under subsection (a) may specify conditions under which a city administrator may be entitled to severance compensation.

(2) An employment agreement under subsection (a) may not guarantee employment through the term of the employment agreement or confer upon the city administrator any legal remedy based on specific performance.

(3) An employment agreement under subsection (a), executed on or after a municipal election but before the first meeting in January the year after the municipal election, shall be void.

§ 112A04. Residency and elective city office.

At the time an individual is appointed to fill the office of city administrator, the appointee does not have to be a resident of the city. After appointment, the city administrator may reside outside the city only with the approval of council. The city administrator may not hold any elective city office.

§ 112A05. Powers and duties.

(a) Powers and duties generally.—Council may, by ordinance, vest in the city administrator powers and duties relating to the general management of city business and to the enforcement of city ordinances and regulations. Nothing in this section shall be construed to diminish the powers granted to other city officers by law.

(b) Specific powers.—The powers and duties conferred upon a city administrator by council may include the following:

(1) Appointment as chief administrative officer of the city, responsible to council for the proper and efficient administration of the affairs of the city.

(2) Directing and supervising the administration of all departments and functions of the city, except as otherwise provided by law.

(3) Except as otherwise provided by this chapter, appointing city employees on the basis of merit system principles and suspending, removing or otherwise disciplining employees, in accordance with the following:

(i) The city administrator may make recommendations to council concerning appointments or removals at the department-head level.

(ii) Before taking any action with regard to appointments or removals at the department-head level, the city administrator shall confer with council.

(iii) Council shall confirm appointments or removals at the department-head level.

(4) Designating a qualified administrative officer of the city to perform the city administrator's duties during the city administrator's temporary absence or disability. In the event the city administrator fails or is unable to make the designation or if the city administrator's absence or disability continues more than 30 days, council may, by

resolution, appoint an officer of the city to perform the duties of the city administrator during the city administrator's absence or disability until the city administrator is able to return to work.

(5) Negotiating contracts for the city, subject to the approval of council, making recommendations concerning the nature and location of municipal improvements and executing municipal improvements as determined by council.

(6) Ensuring that all terms and conditions imposed in favor of the city or its residents in any law, franchise or contract are faithfully kept and performed and, upon knowledge of any violation, informing council.

(7) Attending all meetings of council and participating in discussions with council. Nothing in this paragraph shall be construed to permit the city administrator to vote with council.

(8) Recommending the adoption of measures to council as the city administrator may deem necessary or expedient, keeping council advised of the financial condition of the city and making reports to council as requested by council.

(9) Investigating, at any time, the affairs of any officer or department of the city that is under the city administrator's jurisdiction.

(10) Preparing and submitting the annual city budget for review and approval by council. The recommended budget and an enabling ordinance shall be submitted to council for its review not later than the last stated meeting in November of each year. The city administrator may include an explanatory comment or statement of the recommended budget. The recommended budget shall be in a form as required by law for city budgets and shall contain information explaining the various items of expenditure and revenue as may be required by council.

(11) Performing other duties as may be designated by council by ordinance.

CHAPTER 114 CITY TREASURER

Sec.

11401. Qualifications.

11402. Bond, insurance and salary.

11402.1. City treasurer to be tax collector.

11402.2. Delivery of duplicates of taxes.

11402.3. Tax liens and liability for false returns.

11403. Receipt and payment of money.

11404. Method of keeping accounts.

11405. Restrictions on money paid out.

11406. Depositories of city funds.

11407. Delivery of city property.

11408. Appointment of deputy city treasurer and employees.

§ 11401. Qualifications.

The qualifications for the office of city treasurer shall be as follows:

(1) An individual must be an accountant.

- (2) *An individual must be at least 21 years of age.*
- (3) *An individual must be a resident of the city for at least one year before the individual's election.*
- (4) *Before being sworn into office, an elected city treasurer must present a signed affidavit to the city clerk certifying that the individual is in accordance with the requirements under paragraph (3).*
- (5) *An elected city treasurer must reside in the city throughout the city treasurer's term of office.*
- (6) *An individual must be a qualified tax collector or, in the case of an individual appointed to fill a vacancy in the office of treasurer, become a qualified tax collector, in accordance with the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law.*

§ 11402. Bond, insurance and salary.

(a) *Conditioning.*—*The city treasurer shall provide lawful fidelity bond, covering the full term of office, for the faithful performance of official duties, including duties as tax collector of city, county, institution district and school taxes. In addition to being subject to other conditions as council may direct, the bond of the city treasurer shall be conditioned upon the following:*

- (1) *The accounting for and paying over of all money received as city treasurer.*
- (2) *The accounting for and paying over of all money received, including taxes, penalties and interest, as tax collector of city, county, institution district and school taxes.*
- (3) *The safekeeping and paying over of all public money entrusted to the city treasurer's care.*

(b) *Required bonds.*—

- (1) *Except as provided for in paragraph (2), council may require the following bonds from the city treasurer:*
 - (i) *A bond for the faithful performance by the city treasurer of official duties other than those of tax collector.*
 - (ii) *A bond covering the duties of the city treasurer as collector of city, county, institution district and school taxes.*
- (2) *In lieu of the bond required for the faithful performance by the city treasurer of official duties other than those of tax collector under paragraph (1)(i), council may purchase insurance that covers the same events of loss and insures the city against the same misconduct as the bond under paragraph (1)(i) in compliance with this chapter.*

(c) *Liability discharged.*—*The city treasurer and the city treasurer's surety shall be discharged from further liability on any bond as tax collector if:*

- (1) *the tax items contained in the duplicates delivered to the city treasurer under section 11402.2 (relating to delivery of duplicates of taxes) have been:*
 - (i) *collected and paid over;*
 - (ii) *assigned to third-party assignees;*
 - (iii) *certified to council for entry as liens in the office of the prothonotary or as claims in the tax claim bureau; or*

(iv) returned to the county treasurer or city treasurer for sale;

or

(2) in the case of taxes not levied upon real estate, a record of the taxes which remain uncollected has been filed with the tax authority.

(d) Insurance protection.—Council may require the city treasurer to be covered by insurance protection in accordance with section 10907(c) (relating to surety bonds, insurance and premiums).

(e) Bond insurance petition.—

(1) The taxing district may petition the court of common pleas having jurisdiction in the city to have the city treasurer furnish an additional bond and insurance. Upon petition, the city treasurer shall furnish an additional bond and insurance as the court may prescribe. The premium on the bond and insurance shall be shared on a pro rata basis by the taxing districts interested, according to each taxing district's respective tax interests under the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law.

(2) The city treasurer shall not be required to provide bond and insurance in an amount in excess of the taxes to be collected by the treasurer. The bond and insurance provided by the city treasurer shall be for the use of the city and the taxing districts involved.

(f) Salary.—The city treasurer shall receive a fixed annual salary as provided by ordinance. The salary as a tax collector for the city, county, institution district and school district shall be as provided under the Local Tax Collection Law.

§ 11402.1. City treasurer to be tax collector.

Except as otherwise provided by the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, the city treasurer, by virtue of the city treasurer's office, shall be the collector of the city, county, school and institution district taxes assessed or levied in the city by the proper authorities in the city. As tax collector, the city treasurer shall maintain and keep an office which may be the same as that of the city treasurer for the purpose of receiving taxes during regular business hours.

§ 11402.2. Delivery of duplicates of taxes.

(a) Duplicate delivery.—

(1) Not later than 30 days after the adoption of the budget or not later than 30 days after receipt of the assessment roll from the county, whichever is later, council and county and county institution district authorities shall compile and deliver the duplicates of taxes assessed to the city treasurer to be collected.

(2) The proper school authorities shall compile and deliver the school duplicates of taxes in the city at the time and in the manner as provided by law.

(b) Inspection.—All duplicates of taxes provided to or received by the city treasurer shall be open to proper inspection by the public and auditing and examining officers of the city, county or school district and shall be delivered by the city treasurer at the expiration of the city treasurer's term to the city treasurer's successor.

§ 11402.3. Tax liens and liability for false returns.

(a) *Tax liens.*—Upon the settlement of the duplicates of city, county, institution district and school taxes which by law are made a lien on real estate, the city treasurer as tax collector shall make out schedules of the city, county, school or institution district taxes uncollected upon the duplicates, including a brief description of the properties against which the taxes are assessed for the purpose of entering a lien or selling the properties.

(b) *Failure to collect.*—The failure of the city treasurer to collect the taxes from personal property shall not impair the lien of the taxes or affect any sale made for the collection of the taxes.

(c) *False returns.*—If the city treasurer makes a willfully false return, the city treasurer shall be liable to any individual injured by the false return.

§ 11403. *Receipt and payment of money.*

(a) *Payments.*—The city treasurer shall receive all money payable to the city from the sources as council may assign. Upon request, the city treasurer shall issue a receipt to an individual making the payment. The city treasurer shall pay all documents authorizing payment duly countersigned.

(b) *Duplicates.*—All receipts for money received on behalf of the city by the city treasurer shall be numbered serially and made in duplicate. Not later than the next succeeding business day, the city treasurer shall transmit the duplicates to the city controller.

§ 11404. *Method of keeping accounts.*

The accounts of the city treasurer shall clearly exhibit all the items of receipts and expenditures of the city, the sources from which the money is received and the objects for which the expenditures are disbursed. The city treasurer shall keep separate and distinct accounts of the receipts and expenditures of the city, including the sinking fund, each department providing a utility service and each special fund.

§ 11405. *Restrictions on money paid out.*

Money may not be paid out of the city treasury unless the money has been previously approved, duly authorized and appropriated by council for its intended purposes as explicitly mentioned in the document authorizing payment.

§ 11406. *Depositories of city funds.*

(a) *Depositories.*—The city treasurer shall keep public funds in banks or financial depositories as directed by council and under the restrictions and safeguards as provided by council. The city treasurer shall verify the city treasurer's accounts as requested by council.

(b) *Liability prohibited.*—The city treasurer, acting in accordance with law, shall not be liable for the loss of city funds caused by the insolvency or negligence of any city depositories.

§ 11407. *Delivery of city property.*

The city treasurer shall, upon leaving office, deliver to the city or to the city treasurer's duly qualified successor all money, accounts, property or effects in the city treasurer's possession belonging to the city.

§ 11408. *Appointment of deputy city treasurer and employees.*

(a) *Appointments.*—The city treasurer may appoint the following:

(1) *A deputy city treasurer who, in the case of the sickness, absence or inability of the city treasurer to act, shall have the same powers and shall perform the same duties as are imposed by law upon the city treasurer. The appointment under this paragraph shall be in compliance with the requirements of the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law.*

(2) *Employees of the city treasurer's office. The number and compensation of the assistants shall be fixed by council and the assistants shall be employees of the city.*

(b) *Insurance.—Individuals appointed under subsection (a) shall be covered by bond, blanket bond or insurance in accordance with section 10907 (relating to surety bonds, insurance and premiums).*

CHAPTER 115 CITY ENGINEER

Sec.

11501. *Appointment of city engineer.*

11502. *Control of engineering matters.*

11503. *Duties.*

11504. *Certifying commencement and completion of municipal improvements.*

11505. *Entering upon property for surveys.*

§ 11501. *Appointment of city engineer.*

Council shall provide for the manner of appointment and compensation of the city engineer. The city engineer shall be a registered professional engineer in this Commonwealth and shall serve at the pleasure of council. Nothing in this section shall be construed to prohibit council from designating an engineering firm of registered professional engineers from performing the duties and functions of the city engineer.

§ 11502. *Control of engineering matters.*

The city engineer shall have the supervision, direction and control of the engineering matters of the city. Unless authorized by council, a department of the city may not employ or retain any additional engineers.

§ 11503. *Duties.*

As authorized by council, engineering work undertaken by the city shall be performed or supervised by the city engineer or by another registered professional engineer employed by the city for a particular purpose. The duties of the city engineer may include all of the following:

(1) *Preparing plans, specifications and estimates and undertaking other engineering work relating to constructing, reconstructing, maintaining and repairing streets, pavements, sewers, bridges, culverts and other municipal improvements.*

(2) *Making reports, giving estimates, supplying information and responding to questions concerning city engineering work to city officials and employees. Council may regulate the manner, number and method of making questions under this paragraph.*

(3) *Conducting, supervising or directing surveys relating to city property and improvements authorized by law or as directed by council.*

(4) *Preparing a topographical survey of the city or a general plan of city streets, marking the lines of streets, including streets already opened and streets intended to be opened for public use, as council may deem necessary.*

(5) *Surveying, making a draft or plan of and laying out new or proposed streets, as council may deem necessary.*

(6) *Reporting a grade for any proposed or new streets, as council may deem necessary.*

(7) *Making reports, as deemed expedient by the city engineer or as council shall direct, of the surveys and plans of city streets in convenient locations without awaiting the completion of the entire survey.*

(8) *Keeping and maintaining books and records and providing for certified copies of books and records, as provided by council or required by law.*

§ 11504. *Certifying commencement and completion of municipal improvements.*

(a) *Certification.—Within a reasonable time after the completion of any municipal improvement, the cost and expense of which, in whole or in part, is to be paid by the abutting property owner, the city engineer or employees designated by the city engineer shall:*

(1) *certify the day or time of the completion of work;*

(2) *file the certification under paragraph (1) with the city clerk, who shall maintain a centralized book or listing of certifications; and*

(3) *provide notice of the filing to the city solicitor.*

(b) *Evidence of completion.—Information filed with the city clerk under subsection (a)(2) shall be conclusive evidence of the day or time when the improvement commenced and was completed.*

(c) *Definition.—As used in this section, the term "the day or time of the completion of the work" means the time of the completion of the whole contract for the improvement.*

§ 11505. *Entering upon property for surveys.*

For the purposes of carrying out authorized surveys, laying out streets or other engineering work of the city, the city engineer or other persons engaged in city engineering work may enter upon any property occupied by any person within the city.

CHAPTER 116
CITY SOLICITOR

Sec.

11601. *Appointment of city solicitor.*

11602. *Direction of legal matters.*

11603. *Duties.*

11604. *Written opinions to be furnished.*

11607. *Satisfaction of liens due city.*

11609. *Assistant solicitor.*

11610. *Special counsel.*

§ 11601. *Appointment of city solicitor.*

Council shall provide, by ordinance, for the manner of appointment and compensation of the city solicitor, which may be a law firm.

§ 11602. Direction of legal matters.

The city solicitor shall have the direction and control of the legal matters of the city. Unless authorized by council, a department of the city may not employ or retain any additional counsel in any matter or cause.

§ 11603. Duties.

The city solicitor shall have the following duties:

(1) Overseeing, as directed by resolution or ordinance, the preparation of all bonds, obligations, contracts, leases, conveyances and assurances to which the city or a municipal department is a party.

(2) Overseeing litigation by or against the city or a municipal officer, in the municipal officer's official capacity, including:

(i) filing of a municipal claim or lien; and

(ii) administrative practice.

(3) Performing any action incident to the office which the city solicitor may be lawfully authorized and required to do by the mayor or by any ordinance or resolution of council.

(4) Performing duties as council directs.

§ 11604. Written opinions to be furnished.

(a) Opinions.—Subject to regulation by council in accordance with subsection (b), the city solicitor shall submit a written opinion on questions of law submitted by any of the following:

(1) Council.

(2) The mayor.

(3) Any other elected city official.

(4) Any appointed city official designated by council as authorized to request a written legal opinion.

(b) Regulation.—Council may provide for the regulation of the manner in which questions are presented to the city solicitor by any elected or appointed city official and may limit the questions submitted in the manner as council may direct.

§ 11607. Satisfaction of liens due city.

Upon the payment of any lien or other debt of record due to the city to a city employee, city official or any other person authorized to receive the payment, the person who received the payment shall, as soon as practicable, notify the city solicitor. The city solicitor or the solicitor's designee, as soon as practicable, shall cause the satisfaction to be entered upon the proper record of the lien or debt of record.

§ 11609. Assistant solicitor.

Council may appoint one or more assistant city solicitors to assist the city solicitor in the performance of all duties and shall provide for the compensation of assistant solicitors by resolution.

§ 11610. Special counsel.

Council may retain special counsel for particular proceedings or matters of the city and shall provide for the compensation of special counsel by resolution.

CITY CONTROLLER AND INDEPENDENT AUDITOR

Subchapter

- A. City Controller**
- B. Independent Auditor**

**SUBCHAPTER A
CITY CONTROLLER**

Sec.

11701. Qualifications, bond and compensation.

11704. Powers and duties of city controller.

11704.1. Deputy controller and employees.

11704.2. Temporary deputy controller.

11704.3. Continuation of office.

§ 11701. Qualifications, bond and compensation.

(a) Qualifications.—*The qualifications for the position of city controller shall be as follows:*

- (1) The individual must be an accountant.**
- (2) The individual must be at least 21 years of age.**
- (3) The individual must be a resident of the city for at least one year before the individual's election to the position of city controller.**
- (4) Before being sworn into office, the elected city controller must present a signed affidavit to the city clerk certifying that the individual is in accordance with the requirement under paragraph (3).**
- (5) An elected city controller must reside in the city throughout the individual's term of office.**

(b) Bond.—*The city controller shall provide a bond in accordance with section 10907 (relating to surety bonds, insurance and premiums) for the faithful performance of official duties as the city controller. The bond shall cover the full term of office and shall be conditioned upon the following:*

- (1) The accounting for and payment over¹ of all money received as city controller.**
- (2) The safekeeping and payment over of all public money entrusted to the city controller's care.**

(c) Salary.—*The city controller shall receive a fixed annual salary set by ordinance in an amount not less than the compensation paid to members of council.*

§ 11704. Powers and duties of city controller.

(a) Payment authorization.—*The city controller shall countersign all documents authorizing the payment of money from the city treasury, if satisfied of the legality of the payment.*

(b) Oaths or affirmations.—*The city controller may administer oaths or affirmations in relation to any matter pertaining to the authentication of any account, claim or demand of or against the city. The city controller may not receive any fee for administering oaths or affirmations under this subsection.*

¹and paying over" in enrolled bill.

(c) Account examination.—The city controller may examine the following accounts:

(1) The accounts in which the city is concerned either as a debtor or creditor.

(2) The accounts of all city bureaus, officers and departments which collect, receive and disburse public money or are charged with management, control or custody of public money.

(3) The accounts of a city officer upon the death, resignation, removal or expiration of the term of the officer.

(4) The accounts of any library to which the city makes appropriations, any institution owned by the city and any Pennsylvania National Guard units to which the city makes an appropriation.

(d) Subpoenas.—In the same manner in which subpoenas may be issued and enforced in accordance with section 10917 (relating to powers of subpoena and compelling testimony), the city controller may issue subpoenas to obtain the attendance of officers whose accounts the city controller is authorized to examine and any other individuals whom it may be necessary to examine as witnesses.

(e) Statements.—The city controller may present council with annual or periodic statements concerning the results of the city controller's examination of accounts, which shall be public records in accordance with the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 11704.1. Deputy controller and employees.

The city controller may appoint a deputy controller and may select individuals to serve as assistants and employees in the city controller's office. The number of assistants and employees permitted, if any, shall be fixed by council. Assistants and employees in the city controller's office shall, in all other respects, be considered employees of the city. The deputy controller, assistants and employees appointed under this section shall be bonded and their compensation shall be fixed by council.

§ 11704.2. Temporary deputy controller.

In case of the sickness, absence or inability of a city controller to perform the city controller's duties, if no deputy controller has been appointed by the city controller, council may appoint a temporary deputy controller to serve during the sickness, absence or inability of the city controller or until the city controller shall appoint a deputy controller. A deputy controller shall be bonded and receive the compensation fixed by council.

§ 11704.3. Continuation of office.

The appointment of an independent auditor in accordance with Subchapter B (relating to independent auditor) shall not abolish the office of city controller. The elected controller shall continue to exercise the powers retained for the controller in this subchapter.

**SUBCHAPTER B
INDEPENDENT AUDITOR**

Sec.

11704.11. Appointment of independent auditor.

11704.12. Powers and duties of independent auditor.

11705. Annual report to council and appeals.

§ 11704.11. Appointment of independent auditor.

Council shall provide, by resolution, for the appointment of an independent auditor. The independent auditor may be a certified public accountant or a firm of certified public accountants.

§ 11704.12. Powers and duties of independent auditor.

(a) Annual audit.—The independent auditor shall conduct an annual audit of all accounts of city officers, departments and offices which collect, receive and disburse public money or are authorized with the management, control or custody of public money on which the independent auditor is required to report under this subchapter. The annual audit, as directed by council, shall also include any accounts subject to examination by the city controller under Subchapter A (relating to city controller).

(b) Subpoenas.—The independent auditor may issue subpoenas to obtain the attendance of officers whose accounts the independent auditor is authorized to examine and any other individuals whom it may be necessary to examine as witnesses.

§ 11705. Annual report to council and appeals.

(a) Audit report.—

(1) At council's first meeting in March of each year, the independent auditor shall submit a report to council that includes the audits made of the accounts of the officers authorized with the custody, control or disbursement of public money. The report shall provide the balance of each officer's accounts.

(2) Within 90 days of the end of each fiscal year, the independent auditor shall file a copy of the annual report under paragraph (1) with the clerk of court or the prothonotary, as provided by local rule of court.

(b) Financial condition report.—The independent auditor shall submit an annual report to council summarizing the fiscal condition of the affairs of the city. Council may require advisory interim reports from the independent auditor.

(b.1) Right-to-know.—Reports prepared under this section shall be public in accordance with the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(c) Appeals.—Not later than 45 days after the annual report to council has been filed, the city, a taxpayer of the city on the city's behalf or any officer whose account is settled or audited may file an appeal from the settlement or audit to the court of common pleas of the county in which the city is located. If the appellant is a taxpayer of the city or an officer, the taxpayer of the city or the officer shall file a bond, with one or more sufficient sureties, conditioned to pay reasonable attorney fees and court costs if the appellant fails in the appeal.

Sec.**11801. Fiscal year.****11802. Powers and duties of chief fiscal officer.****11803. Deputy chief fiscal officer.****11804. Regulations concerning appropriation.****11804.1. Investment of city money.****11805. Countersigning documents, money available and evidence required.****11806. Record of assets, property, trusts, debts due, receipts and expenditures.****11807. Supervision of accounts of departments.****11808. Suggestions for improvement of city finances.****11809. Annual budget, presentation to council, notice, revision and adoption.****11810. Amending budget and notice.****11811. Appropriations, tax rate and limitations.****11811.2. Borrowing in anticipation of current revenue.****11812. Annual reports, publication, filing report with Department of Community and Economic Development and penalty.****11813. Committee to prepare uniform forms.****11814. Annual reports to council on insurance and bonds.****§ 11801. Fiscal year.**

The fiscal year of each city shall begin on January 1 and end on December 31.

§ 11802. Powers and duties of chief fiscal officer.

(a) Appointment.—Council shall appoint a chief fiscal officer. In filling the position of chief fiscal officer, council may appoint the director of the department of accounts and finance or the city administrator if one is appointed under Chapter 111 (relating to the executive department) or 112A (relating to city administrator).

(b) Bond.—The chief fiscal officer shall furnish a bond in accordance with section 10907 (relating to surety bonds, insurance and premiums).

(c) Powers.—

(1) The chief fiscal officer may administer oaths and affirmations pertaining to the authentication of an account with the city or a claim by or demand against the city.

(2) The chief fiscal officer may not receive any additional compensation for the administration or oath and affirmations under paragraph (1).

§ 11803. Deputy chief fiscal officer.

(a) Appointment.—Council may authorize the chief fiscal officer to appoint, subject to the approval of council, a deputy chief fiscal officer whose compensation shall be fixed by council.

(b) Bond.—The deputy chief fiscal officer shall furnish a bond in accordance with section 10907 (relating to surety bonds, insurance and premiums).

(c) Powers.—

(1) *The deputy chief fiscal officer may administer oaths and affirmations pertaining to the authentication of an account with the city or a claim by or demand against the city.*

(2) *The deputy chief fiscal officer may not receive any additional compensation for the administration or oath and affirmations under paragraph (1).*

(d) *Temporary deputy chief fiscal officer.—If no deputy chief fiscal officer has been appointed, council may appoint a temporary deputy chief fiscal officer to serve during the chief fiscal officer's illness, absence or inability to serve. The temporary deputy chief fiscal officer may be required to furnish a bond as required by council.*

§ 11804. Regulations concerning appropriation.

(a) *Debt.—Debt may not be incurred by any department of the city except in accordance with law.*

(b) *Appropriations.—Money may not be paid out of the city treasury except by an appropriation made in accordance with law and a document authorizing payment drawn by the proper officer.*

(c) *Expenditures.—The city may not hire employees, purchase materials, execute contracts or issue orders for the payment of any money if it would result in the total expenditure of money for a specific purpose to exceed the amount appropriated for that purpose.*

(d) *Expense reports.—If an appropriation is entirely expended and the object of the appropriation is not completed, not later than the next regularly scheduled council meeting, the chief fiscal officer shall report the fact to council and accompany the report with a statement of the money which has been drawn on the appropriation and the particular purpose for which the money was drawn.*

(e) *Supplemental appropriations.—Council may, by ordinance, make supplemental appropriations for any lawful purpose from any money in the city treasury or estimated to be deposited in the city treasury within the fiscal year and not appropriated for any other purpose, including the proceeds of any borrowing authorized by law.*

(f) *Transfers.—*

(1) *Council may authorize the transfer of any unexpended balance of an appropriation item.*

(2) *Before authorizing a transfer under paragraph (1), council shall seek comments from any director of a department negatively affected by the proposed transfer.*

(g) *Methods of transfers.—Council shall determine the manner and method of all intradepartmental and interdepartmental financial transfers.*

§ 11804.1. Investment of city money.

(a) *General rule.—Council shall have power to provide the following:*

(1) *The investment of city sinking funds as authorized by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing).*

(2) *The investment of money in the general fund and in special funds of the city, other than the sinking funds as authorized by this chapter.*

(3) *The liquidation of any investment, in whole or in part, by disposing of securities or withdrawing money on deposit. Any action*

taken to make or to liquidate any investment shall be made by the officers designated by action of council.

(b) Investment.—Council shall invest city money consistent with sound business practices.

(c) Restrictions.—Council shall provide for an investment program subject to restrictions contained in this chapter and in any other applicable statute and any rules and regulations adopted by council.

(d) Authorized investments.—Authorized types of investments of city money shall be any of the following:

(1) United States Treasury bills.

(2) Short-term obligations of the United States Government or its agencies or instrumentalities.

(3) Deposits in savings accounts, time deposits, other than certificates of deposit, or share accounts of institutions insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund to the extent that the accounts are so insured and, for any amounts above the insured maximum, provided that approved collateral as prescribed by law shall be pledged by the depository.

(4) Obligations of:

(i) The United States Government or any of its agencies or instrumentalities backed by the full faith and credit of the United States.

(ii) The Commonwealth or any of its agencies or instrumentalities backed by the full faith and credit of the Commonwealth.

(iii) Any political subdivision of the Commonwealth or any of its agencies or instrumentalities backed by the full faith and credit of the political subdivision.

(5) Shares of an investment company registered under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.), whose shares are registered under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.), provided that the only investments of the company are in the authorized investments of city money under paragraphs (1), (2), (3) and (4).

(6) Certificates of deposit purchased from institutions insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund to the extent that the accounts are so insured. However, for any amounts above the insured maximum, the certificates of deposit shall be collateralized by a pledge or assignment of assets of the institution, and the collateral may include loans, including interest in pools of loans, secured by first mortgage liens on real property. Certificates of deposit purchased from commercial banks shall be limited to an amount equal to 20% of a bank's total capital and surplus. Certificates of deposit purchased from savings and loan associations or savings banks shall be limited to an amount equal to 20% of an institution's assets minus liabilities.

(7) For any pension or retirement fund, any investment authorized by 20 Pa. C.S. Ch. 73 (relating to municipalities investments).

(8) Repurchase agreements which are fully collateralized by obligations of the United States Government or its agencies or instrumentalities, which are free from other liens and backed by the full faith and credit of the United States or are rated in the highest category by a nationally recognized statistical rating organization.

(9) Deposits in investment pools established by the State Treasurer or established by local governments pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) and related statutes, provided that the investment pools are rated in the highest category by a nationally recognized statistical rating organization.

(e) Authority.—In making investments of city money, council shall have authority to do any of the following:

(1) Permit assets pledged as collateral under subsection (d)(3) to be pooled in accordance with the act of August 6, 1971 (P.L.281, No.72), entitled "An act standardizing the procedures for pledges of assets to secure deposits of public funds with banking institutions pursuant to other laws; establishing a standard rule for the types, amounts and valuations of assets eligible to be used as collateral for deposits of public funds; permitting assets to be pledged against deposits on a pooled basis; and authorizing the appointment of custodians to act as pledgees of assets."

(2) Combine money from more than one fund under city control for the purchase of a single investment, provided that each of the funds shall be accounted for separately in all respects and that the earnings from the investment are separately and individually computed and recorded and credited to the accounts from which the investment was purchased.

(3) Join with one or more other political subdivisions and municipal authorities in accordance with 53 Pa.C.S. Ch. 23 Subch. A in the purchase of a single investment, provided that the requirements of paragraph (2) are adhered to.

§ 11805. *Countersigning documents, money available and evidence required.*

(a) General rule.—The chief fiscal officer shall countersign all documents, in the form approved by council, authorizing payment from the city treasury.

(b) Prohibition.—In countersigning documents authorizing payment from the city treasury, the chief fiscal officer shall not permit any appropriation made by council to be overdrawn and shall not countersign unless there is money in the treasury to pay the appropriation.

(c) Evidence.—Except in the case of documents authorizing payment to volunteer fire companies, whenever a document authorizing payment from the city treasury is presented to the chief fiscal officer to be countersigned, the person presenting the document shall be required to produce evidence of each of the following:

(1) That the amount expressed in the document is due to the person in whose favor it is drawn.

(2) That the supplies, services or other consideration for payment have been furnished, performed or given according to law and the terms of the contract, if any, were satisfied.

§ 11806. Record of assets, property, trusts, debts due, receipts and expenditures.

The chief fiscal officer or other official or employee of the city designated by council shall have charge and keep a record of accounts, under appropriate titles, to show separately and distinctly the following:

- (1) All of the assets and property vested in the city.*
- (2) All trusts in care of the city.*
- (3) Debts owed by the city.*
- (4) All of the receipts and expenditures of the various departments.*

§ 11807. Supervision of accounts of departments.

The chief fiscal officer shall have the supervision and control of the accounts of all of the departments and may require at any time a statement in writing of all money or property of the city under any department's control.

§ 11808. Suggestions for improvement of city finances.

The chief fiscal officer may, and when council directs shall, suggest plans to council for the management and improvement of the city finances.

§ 11809. Annual budget, presentation to council, notice, revision and adoption.

(a) Introduction.—Each year at the last stated meeting in November, the chief fiscal officer shall, on behalf of council, present to council for introduction a proposed budget ordinance. The proposed budget ordinance shall show the estimated receipts, expenditures and liabilities for the ensuing year, with the balance of unexpended appropriations and all other information of value as a basis for fixing the levy and tax rate for the next fiscal year. Council shall, upon introducing the proposed budget ordinance, fix a date for adoption, which shall be not later than December 31 of that year.

(b) Estimate.—The departments of the city government shall, before the proposed budget ordinance is introduced as provided under subsection (a), furnish to council an estimate of the probable receipts and expenditures and an estimate of the amount required by each of the departments for public service during the ensuing fiscal year as a basis for making the annual appropriations.

(c) Inspection.—

(1) When the proposed budget ordinance is submitted to council and has been introduced, the city clerk shall immediately make the proposed budget ordinance available for public inspection at the city clerk's office and shall publish a notice to that effect once in a newspaper of general circulation in accordance with the provisions of section 10109 (relating to publication of notices).

(2) The notice shall state the date fixed by council for enactment of the proposed budget ordinance and notice shall be published at least 20 days prior to the time fixed by council for enactment of the proposed budget ordinance. The proposed budget ordinance shall be available for

public inspection at the city clerk's office for at least 10 days after the newspaper notice is published.

(d) Enactment.—Council shall, after making the changes and modifications as appear proper, enact the budget and any appropriation measures required to put it into effect upon the date fixed for enactment. The budget shall reflect as nearly as possible the estimated revenues and expenditures of the city for the year for which the budget is prepared. Should it appear upon any revision of the budget that the estimated expenditures in the enacted budget would be increased more than 10% in the aggregate or more than 25% in any individual item over the proposed budget, the budget shall not be enacted with any of the increases unless the budget is made available for public inspection for a period of at least 10 days after notice to that effect is published as provided under subsection (c).

§ 11810. Amending budget and notice.

(a) General rule.—During the month of January following the expiration of a past fiscal year, in furthering its fiduciary responsibility, council may amend the budget and the levy and tax rate to conform to its amended budget ordinance. A period of 10 days' public inspection at the city clerk's office of the proposed amended budget ordinance, after notice by the city clerk to that effect is published in a newspaper of general circulation as provided in section 10109 (relating to publication of notices), shall intervene between council's introduction of the proposed amended budget ordinance and its enactment. Any amended budget ordinance must be enacted by council on or before February 15.

(b) Prohibition.—After introduction, no proposed amended budget ordinance shall be revised upward in excess of 10% in the aggregate or as to an individual item in excess of 25% of the amount of the individual item in the proposed amended budget ordinance.

§ 11811. Appropriations, tax rate and limitations.

(a) General rule.—When all estimates for the receipts, liabilities and expenditures for the ensuing year are made, council shall proceed to make the annual appropriations and shall fix the tax rate at the figure that will, in combination with all other estimated receipts of the city, fully meet and cover the aggregate amount of the estimates of liabilities and expenditures for the ensuing year.

(b) Exceptions.—

(1) No appropriation shall be made for any purpose until the following are provided for:

(i) Interest accruing on the funded debt of the city and the principal of that part of the debt as may be coming due in that fiscal year.

(ii) The salaries of officers.

(iii) The ordinary and necessary expenses of the city.

(2) No appropriation shall be made for any purpose in excess of the estimated receipts and revenues for the fiscal year for which the appropriations are made.

§ 11811.2. Borrowing in anticipation of current revenue.

In accordance with 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing), cities may:

(1) borrow money in anticipation of current revenues to an amount of not more than the anticipated current revenues, which shall be pledged for the payment of the loan or loans; and

(2) issue notes or other forms of obligation in evidence of the debt.

§ 11812. Annual reports, publication, filing report with Department of Community and Economic Development and penalty.

(a) Annual report.—The chief fiscal officer shall make a report, verified by oath or affirmation to council at a stated meeting in April of each year, of the public accounts of the city and of the trusts in its care for the preceding fiscal year, exhibiting all of the expenditures of the accounts, respectively, and the sources from which the revenue and funds are derived and in what measures the revenue and funds have been disbursed. Each account shall be accompanied by a statement detailing all of the following:

(1) The appropriations made by council.

(2) The amount drawn and encumbered on each appropriation.

(3) The unencumbered balance outstanding to the debit or credit of the appropriation at the close of the fiscal year.

(b) Publication.—

(1) The report shall be accompanied by a concise financial statement setting forth all of the following:

(i) The balance in the treasury at the beginning of the fiscal year.

(ii) All revenues received during the fiscal year, by major classifications.

(iii) All expenditures made during the fiscal year, by major functions.

(iv) The current resources and liabilities of the city at the end of the fiscal year.

(v) The gross liability and the net debt of the city.

(vi) The amount of the assessed valuation of the taxable property in the city.

(vii) The assets of the city.

(viii) The character and value of the assets.

(ix) The date of the last maturity of the respective forms of funded debt.

(x) The assets in each sinking fund.

(2) The report and financial statement shall be published in a newspaper of general circulation as required by section 10109 (relating to publication of notices) at least 10 days prior to the April meeting scheduled pursuant to subsection (a).

(3) Before the report or statement is made or published, it shall be approved by the independent auditor, who may approve it, subject to exceptions. Council may cause the statement to be printed in pamphlet form in addition to the publications made.

(c) Filing.—The chief fiscal officer shall annually report the financial condition of the city to the Department of Community and Economic

Development within 90 days after the close of the fiscal year. The report shall be signed and duly verified by the oath of the chief fiscal officer and approved by the independent auditor, as provided above. Any chief fiscal officer appointed by the city refusing or willfully neglecting to file the report shall, upon conviction in a summary proceeding brought by the Department of Community and Economic Development, be sentenced to pay a fine of \$5 for each day delayed beyond 90 days and costs. All fines recovered shall be for use by the Commonwealth.

(d) Form.—The report to the Department of Community and Economic Development shall be presented in a form as provided for in section 11813 (relating to committee to prepare uniform forms).

§ 11813. Committee to prepare uniform forms.

(a) General rule.—The uniform financial report forms under this chapter shall be prepared by a committee consisting of four representatives of the Pennsylvania Municipal League and the Secretary of Community and Economic Development, or the secretary's agent or designee who shall be an individual trained in the field of municipal finance.

(b) Appointment.—The representatives shall be appointed by the president of the Pennsylvania Municipal League within 60 days of notification by the Secretary of Community and Economic Development or the secretary's agent or designee that the committee will convene. The representatives shall be chosen from among chief fiscal officers of cities or other officers of cities who have knowledge of fiscal procedures and shall be chosen to represent cities in the various population groups. The president of the Pennsylvania Municipal League and other designated participants shall supply to the Secretary of Community and Economic Development the names and addresses of the representatives immediately upon their appointment.

(c) Compensation and meetings.—The representatives shall serve without compensation, but they shall be reimbursed by the Commonwealth for all necessary expenses incurred in attending meetings of the committee. The committee shall meet at the call of the Secretary of Community and Economic Development, or the secretary's agent or designee, who shall serve as chairperson of the committee.

(d) Duty of secretary.—It shall be the duty of the Secretary of Community and Economic Development, or the secretary's agent or designee, to ensure the forms required by this chapter are prepared in cooperation with the committee. In the event that the committee should for any reason fail to furnish the cooperation, the Secretary of Community and Economic Development, or the secretary's agent or designee, shall complete the preparation of the forms. After their preparation, the Secretary of Community and Economic Development, or the secretary's agent or designee, shall issue the forms and distribute them annually, as needed, to the designated officers of each city.

(e) Change or alteration.—No change or alteration in the forms prescribed shall be made by the Secretary of Community and Economic Development or the secretary's agent or designee, except by a majority approval of the committee, unless upon reasonable notice two or more representatives of the committee fail to attend the committee meetings. In

voting upon any change or alteration, each representative and the chairperson of the committee shall have one vote.

§ 11814. Annual reports to council on insurance and bonds.

The chief fiscal officer shall prepare or cause to be prepared and submit to council, as council shall direct, a complete and itemized report of all policies of insurance contracted by the city for the information and consideration of council. The chief fiscal officer shall prepare a report, as council shall direct, of all bonds given for the protection of the city in whole or in part.

CHAPTER 119 CONTRACTS

Sec.

11901. Power to make and regulate contracts.

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§ 11901. Power to make and regulate contracts.

(a) General rule.—Each city may execute contracts for the purpose of carrying out the provisions of this part and the laws of this Commonwealth. In addition to and consistent with the requirements of this chapter, council shall, by ordinance, provide for and regulate the procedures for the award of all contracts, including the purchase of supplies and materials.

(b) Real and personal property.—Contracts for the sale of real and personal property shall conform to the provisions of section 12402.1 (relating to city property and affairs).

§ 11901.1. Contracts or purchases in excess of base amount of \$18,500.

(a) *General rule.*—Except as provided in section 11901.4(b) (relating to contracts or purchases not requiring advertising or bidding), all contracts or purchases in excess of the base amount of \$18,500, subject to adjustment under section 11903.1 (relating to adjustments to base amount based on Consumer Price Index for All Urban Consumers), shall be subject to advertising and competitive bidding as provided in this chapter.

(b) *Contract.*—All services and personal property required by any city municipal department, where the amount exceeds the base amount of \$18,500, subject to adjustment under section 11903.1, shall be furnished and performed under written contract. The contract shall be awarded and given to the lowest responsible bidder after advertising two times, each publication on a different day, in not more than two newspapers of general circulation, in accordance with the provisions of section 10109 (relating to publication of notices). The bids shall not be opened until at least 10 days have elapsed after the first advertisement is published. A copy of the advertisement for contracts or purchases shall be posted in the city office designated by council.

§ 11901.2. Contracts or purchases not in excess of base amount of \$18,500.

With regard to all contracts or purchases not in excess of the base amount of \$18,500, subject to adjustment under section 11903.1 (relating to adjustments to base amount based on Consumer Price Index for All Urban Consumers), the following shall apply:

(1) The purchases or contracts shall be evidenced by note or memorandum in writing, signed by the officer or employee making the purchase or contract.

(2) Council, or the officer designated by council, shall approve all purchases or contracts, except council need not approve those purchases or contracts within the category of small or routine purchases or incidental expenses, as defined by ordinance.

§ 11901.3. Determining amount of contract.

The amount of the contract shall be the entire amount which the city pays to the successful bidder or the successful bidder's assigns in order to obtain the services or property, or both, and shall not be construed to mean only the amount which is paid to acquire title or to receive any other particular benefit or benefits of the whole bargain.

§ 11901.4. Contracts or purchases not requiring advertising or bidding.

(a) *Not in excess of base amount.*—City contracts or purchases, if not in excess of the base amount of \$18,500, subject to adjustment under section 11903.1 (relating to adjustments to base amount based on Consumer Price Index for All Urban Consumers), shall not require advertising or bidding.

(b) *In excess of base amount.*—The following city contracts or purchases involving an expenditure over the base amount of \$18,500, subject to adjustment under section 11903.1, do not require advertising or bidding:

(1) Contracts for maintenance, repairs or replacements for water, electric light or other public works of the city, if they¹ do not constitute new additions, extensions or enlargements of existing facilities and equipment. Security may be required by council as in other cases of work done.

(2) Contracts for improvements, repairs and maintenance of any kind made or provided by any city through its own employees, except that this exception shall not apply to construction materials used in a street improvement.

(3) Contracts for new equipment, articles, apparatus, appliances or vehicles which are patented or copyrighted products.

(4) Contracts involving any policies of insurance or surety company bonds.

(5) Contracts for public utility service and electricity, natural gas or telecommunication services, provided that, in the case of utilities not under tariff with the Pennsylvania Public Utility Commission, contracts made without advertising and bidding shall be made only after receiving written or telephonic price quotations from at least three qualified and responsible providers. In lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified providers exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the provider and the provider's representative, the type of service that was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(6) Contracts entered into with the Federal Government, the Commonwealth, another political subdivision or a county, any agency of the Federal Government or the Commonwealth, any municipal authority, including the sale, leasing or loan of any supplies or materials by the Federal Government or the Commonwealth, or their agencies, but the price shall not be in excess of that fixed by the Federal Government, the Commonwealth or their agencies.

(7) Contracts involving personal or professional services.

(8) Contracts executed during a state of emergency declared by the mayor in accordance with section 11203 (relating to execution of laws, powers of sheriff conferred and emergency powers) or those made during a disaster emergency declared by the Governor or during a local emergency in accordance with 35 Pa.C.S. Pt. V (relating to emergency management services).

§ 11901.5. Receipt, opening, award or rejection of bids.

(a) Advertisement.—If advertisement and bidding are required, the advertisement shall specify the time and place bids will be received and the time and place for the opening of bids.

(b) Bids.—Bids received pursuant to advertisement shall be opened publicly by council or its designated agent. The amount of each bid and

¹city, provided they" in enrolled bill.

any other relevant information as may be specified by council, together with the name of each bidder, shall be disclosed and recorded, and the record shall be open to public inspection.

(c) *Award or rejection.*—At a public meeting of council, not more than 60 days after the receipt of bids, council shall either award the contract or reject all bids.

§ 11901.6. *Bid, performance and payment security.*

(a) *Bid security.*—The following shall apply to bid security:

(1) Council may require that bids received pursuant to advertisement be accompanied by bid security, in a reasonable amount, which shall be in the form of a certified or bank check or a bond provided by a surety company authorized to do business in this Commonwealth or another form of security as specified in the advertisement for bids.

(2) In the event the successful bidder shall, upon award of the contract, fail to comply with the requirements of subsection (b) as to performance security, the bid security shall be forfeited to the city as liquidated damages.

(b) *Performance security.*—The following shall apply to performance security:

(1) In the case of a contract that had been subject to advertising and bidding, the successful bidder shall be required to furnish performance security in the form of a bond or irrevocable letter of credit in an amount equal to 100% of the contract price with suitable reasonable requirements guaranteeing the performance of the contract. Performance security shall be provided within 20 days after the contract has been awarded, unless council prescribes a shorter period of not less than 10 days. Failure to furnish the security within the required time period shall void the award.

(2) The provisions of this subsection requiring successful bidders to furnish performance security shall not be mandatory as to contracts for the purchase of motor vehicles or other pieces of equipment but only as to those contracts which involve furnishing of labor and materials. Council may, in all cases of contracts or purchases, require security for performance, delivery or other terms.

(c) *Payment security.*—The following shall apply to payment security:

(1) In conformity with the act of December 20, 1967 (P.L.869, No.385), known as the Public Works Contractors' Bond Law of 1967, it shall be the duty of every city to require any individual, partnership, association or corporation entering into a contract with the city for the construction, erection, installation, completion, alteration, repair of or addition to any public work or improvement of any kind, where the amount of the contract is in excess of \$10,000, before commencing work under the contract, to provide payment security in a form acceptable to and approved by the city, which may include, but need not be limited to, any of the following equal to 100% of the contract amount:

(i) A bond.

(ii) Federal or Commonwealth-chartered lending institution irrevocable letters of credit.

(iii) Restrictive or escrow accounts in the lending institutions under subparagraph (ii).

(2) The payment security shall be solely for the protection of claimants supplying labor or materials to the prime contractor to whom the contract was awarded, or to any of the prime contractor's subcontractors, in the execution of the work provided for in the contract. The payment security shall be conditioned for the prompt payment of all material furnished or labor supplied or performed in the execution of the work under the contract.

§ 11901.7. Compliance with other laws.

Every contract subject to this chapter shall comply, as applicable, with the provisions of the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, the act of December 20, 1967 (P.L.869, No.385), known as the Public Works Contractors' Bond Law of 1967, the act of January 23, 1974 (P.L.9, No.4), referred to as the Public Contract Bid Withdrawal Law, the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act, the act of February 17, 1994 (P.L.73, No.7), known as the Contractor and Subcontractor Payment Act, and 62 Pa.C.S. Chs. 37 Subch. B (relating to motor vehicles), 39 (relating to contracts for public works) and 45 (relating to antibid-rigging).

§ 11901.8. Prohibitions.

No individual, consultant, firm or corporation contracting with a city for purposes of rendering personal or professional services to the city shall share with any city officer or employee, and no city officer or employee shall accept, any portion of the compensation or fees paid by the city for the contracted services provided to the city.

§ 11901.9. Lowest responsible bidder.

For purposes of this chapter, the lowest responsible bidder need not be the bidder submitting the lowest dollar amount bid. The city may also consider the quality of goods or services supplied, ease of repair, compatibility with other city equipment or services, responsiveness, past performance of the bidder and any other reasonable factors specified in the advertisement for bids.

§ 11902. Evasion of advertising requirements.

The following shall apply:

(1) No elected or appointed official or officials of any city shall evade the provisions of this chapter requiring advertising for bids by purchasing or contracting for services and personal property piecemeal for the purpose of obtaining prices under the base amount of \$18,500, subject to adjustment under section 11903.1 (relating to adjustments to base amount based on Consumer Price Index for All Urban Consumers), upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than the base amount of \$18,500, subject to adjustment under section 11903.1.

(2) Paragraph (1) is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts, each for less than the advertising requirement price, or by making several simultaneous purchases or contracts, each below the

price, when, in either case, the transactions involved should have been made as one transaction for one price.

(3) Any elected or appointed official who acts in violation of paragraph (1), knowing that the transaction upon which the elected or appointed official acts is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids, shall be jointly and severally subject to surcharge for 10% of the full amount of the contract or purchase. Wherever it shall appear that an elected or appointed official may have acted in violation of this section but the purchase or contract on which the elected or appointed official acted was not executed, this section shall be inapplicable.

§ 11903.1. Adjustments to base amount based on Consumer Price Index for All Urban Consumers.

Adjustments to the base amounts specified under sections 11901.1 (relating to contracts or purchases in excess of base amount of \$18,500), 11902 (relating to evasion of advertising requirements) and 11909 (relating to separate bids for plumbing, heating, ventilating and electrical work, elevators and escalators) shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average, as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12-month period ending September 30.

(2) If the Department of Labor and Industry determines that there is no positive percentage change, no adjustment to the base amounts shall occur for the relevant time period provided for in this section.

(3) (i) If the Department of Labor and Industry determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest \$100 to determine the final adjusted base amounts for purposes of sections 11901.1 and 11902.

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums shall be rounded to the nearest \$100 to determine the new final adjusted base amounts for purposes of sections 11901.1 and 11902.

(5) The determinations and adjustments required under this section shall be made annually after October 1 and before November 15.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective

January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The Department of Labor and Industry shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required under section 11901.1 and advertising is required under section 11902 or separate bids are required under section 11909 for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the Department of Labor and Industry in establishing the unadjusted or final adjusted base amounts under this section for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed 3%.

§ 11906. Designation of appropriations, certification in excess of appropriation and contracts for governmental services for more than one year.

With regard to any contract, council may direct the city administrator, chief fiscal officer or other designated official or employee to furnish information concerning the availability of appropriated money to satisfy required payments under the contract. Nothing in this section shall prevent the making of contracts for governmental services for a period exceeding one year, but any contract shall be executed only for the amounts agreed to be paid for the services to be rendered in succeeding fiscal years.

§ 11908.1. Purchase contracts for petroleum products, fire company and participation.

Council of each city shall have power to permit, subject to any terms and conditions as the city may impose, any fire company, rescue company and ambulance company in the city to participate in purchase contracts for petroleum products entered into by the city. Fire company, rescue company and ambulance company participation in purchase contracts for petroleum products shall be subject to the condition that all prices shall be FOB. If permitted by council, a fire company, rescue company or ambulance company may participate in designated petroleum product contracts entered into by the city, subject to the fire company, rescue company or ambulance company:

(1) Having filed with the city clerk a request that it be authorized to participate in contracts for the purchase of petroleum products of the city.

(2) Having agreed that it will be bound by any terms and conditions imposed by the city.

(3) Having agreed that it will be responsible for payment directly to the vendor under each purchase contract.

§ 11909. Separate bids for plumbing, heating, ventilating and electrical work, elevators and escalators.

The following shall apply:

(1) In the preparation of specifications for the erection, construction and alteration of any public building, when the entire cost of the work shall exceed the base amount of \$18,500, subject to adjustment under section 11903.1 (relating to adjustments to base amount based on Consumer Price Index for All Urban Consumers), the architect, engineer or other person preparing the specifications shall prepare only the following separate specifications:

(i) Plumbing.

(ii) Heating.

(iii) Ventilating.

(iv) Electrical work.

(v) Elevators and escalators.

(vi) One complete set of specifications for all the other work to be done in the erection, construction and alteration.

(2) The project manager, construction manager or other person authorized by council to enter into contracts for the erection, construction or alteration of the public buildings shall receive separate bids upon each of the branches of work and council or the appropriate city officer shall award the contract to the lowest responsible bidder for each of the branches, including the balance of the work, in addition to the plumbing, heating, ventilating and electrical work and elevators and escalators. Where it is desired to install an air conditioning unit, the heating and ventilating may be regarded as one branch of work having only one set of specifications, and bids may be received and a contract awarded on that set as provided under this chapter.

§ 11910. Acceptance by contractor of Workers' Compensation Act.

(a) General rule.—All contracts executed by any city which involve the construction or performance of any work involving the employment of labor shall contain a provision that the contractor shall accept and file with the city, proof of compliance with or exemption from the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, insofar as the work covered by the contract is concerned.

(b) Certificate of exemption.—A certificate of exemption from issuance may be issued on the basis of either individual self-insurance or group self-insurance.

(c) Exception.—A contractor shall file with the city any proof that the Department of Labor and Industry, with respect to certain employees, has accepted the application to be excepted from the provisions of the Workers' Compensation Act on religious grounds.

(d) Violation.—Any contract executed in violation of this section is void.

§ 11911. Contracts for improvements and assignment of assessments.

Where the whole or any part of the cost of an improvement is to be paid by assessments upon the property abutting or benefited, the city may enter into an agreement with the contractor pursuant to which the contractor shall take an assignment of the assessments in payment of the amount due under the terms of the contract, and the city shall not be otherwise liable under the contract.

§ 11912. Architects and engineers in employ of city, prohibitions from bidding on public works and penalty.

(a) *Bidding.*—It shall be unlawful for any architect or engineer in the employ of any city to bid on any public work of the city.

(b) *Award.*—It shall be unlawful for the officers of any city, charged with the duty of letting any public work, to award a contract to any architect or engineer in the employ of the city.

(c) *Violation.*—Any person violating these provisions commits a misdemeanor and shall, upon conviction, be subject to forfeiting office, in accordance with section 10901 (relating to appointment, removal and prohibition), and sentenced to pay a fine of not more than \$500, or to imprisonment for not less than six months, or both. Any contract made in violation of the provisions of this section shall be null and void.

(d) *Construction.*—The provisions of this section shall be in addition to any prohibition in 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

§ 11916. Contracts with passenger or transportation companies.

Except as may be prohibited by 66 Pa.C.S. Pt. I (relating to public utility code) or Federal or other State regulation of transportation or commerce, a city may, as it deems necessary for the public benefit and convenience, contract with a person owning a public transportation service, railroad company, street railway, motor power company or passenger or transportation company.

CHAPTER 120 POLICE FORCE

Sec.

12001. Appointment, number, rank, compensation and qualifications of police officers.

12002. Designation of chief.

12003. Extra police officers and compensation.

12005. Powers of police officers to arrest.

12006. Service of process, fees and payment into treasury.

12007. Supervision by mayor.

12008. Extra compensation prohibited, exception and penalty.

12009. Compensation or insurance for volunteer police officer.

12010. School crossing guards.

§ 12001. Appointment, number, rank, compensation and qualifications of police officers.

(a) *General rule.*—Council shall fix, by ordinance, the number, grades and compensation of the members of the city police force, who shall, except as provided in section 12002 (relating to designation of chief), be appointed in accordance with the civil service provisions of this chapter.

(b) *Demotion.*—No member of the city police force having been promoted in conformity with the civil service provisions of this chapter shall be demoted in rank or discharged from the police force except upon

*proper cause shown as set forth under the civil service provisions of this chapter.*¹

(c) Prohibition.—No police officer, after the police officer's appointment and qualification, shall hold, at the same time, the office of constable.

(d) Rules and regulations.—Council shall promulgate rules and regulations for the organization and governing of the police force.

§ 12002. Designation of chief.

The chief of police shall be designated by the mayor from within the ranks and may be demoted without cause in the same manner, but not to any rank lower than the rank which was held at the time of designation as chief of police. In the event that no qualified officer from within the ranks has applied for the designation, the chief of police shall be designated by the mayor from outside the ranks. The officers, other than the chief of police, shall be designated in accordance with Chapter 144 (relating to civil service).

§ 12003. Extra police officers and compensation.

The mayor may appoint extra police officers, whenever it is necessary in the judgment of the mayor for the public safety or to preserve order, to serve for a period designated by council, not to exceed 30 days and whose compensation shall be fixed by council.

§ 12005. Powers of police officers to arrest.

Police officers shall be ex-officio constables of the city and shall enforce the laws of this Commonwealth or otherwise perform the functions of their office in accordance with 42 Pa.C.S. §§ 8952 (relating to primary municipal police jurisdiction) and 8953 (relating to Statewide municipal police jurisdiction) and upon property owned or controlled by the city or by a municipal authority created by the city. A police officer may, without warrant and upon view, arrest and commit for hearing any and all individuals:

(1) Guilty of:

- (i) breach of the peace;*
- (ii) vagrancy;*
- (iii) riotous or disorderly conduct; or*
- (iv) drunkenness.*

(2) Engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens.

(3) Violating any of the ordinances of the city for the violation of which a fine or penalty is imposed.

§ 12006. Service of process, fees and payment into treasury.

Police officers shall have authority to serve and to execute criminal process or processes issued for the violation of city ordinances and shall charge the same fees and costs as pertain by law to the constables of the city for similar services, but the fees and costs shall be paid into the city treasury monthly.

§ 12007. Supervision by mayor.

¹chapter and section 12002." in enrolled bill.

The chief of police shall obey the orders of the mayor and make report to the mayor, which shall be presented monthly by the mayor to council.

§ 12008. Extra compensation prohibited, exception and penalty.

No police officer shall ask, demand or receive any compensation or reward for the police officer's services other than compensation provided by ordinance, except rewards offered for the arrest of persons accused of crimes committed outside of the city in which the police officer is employed. A police officer violating any of the provisions of this section commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine or imprisonment, or both, to be followed by dismissal from office.

§ 12009. Compensation or insurance for volunteer police officer.

Each city may make necessary appropriations to provide compensation or insurance for volunteer police officers injured or killed while engaged in the performance of duties as may be assigned to them in the city.

§ 12010. School crossing guards.

(a) Request.—Upon request of the board of school directors of the school district in which a city is located, council may appoint school crossing guards who shall control and direct traffic at or near schools. They shall serve at the pleasure of council, except as provided for in subsection (b). The compensation of the school crossing guards, if any, shall be fixed by council and shall be jointly paid by council and the board of school directors, in a ratio to be determined by council and the board of school directors. If council and the board of school directors are unable to determine the ratio of compensation of the school crossing guards to be paid by council and the board, each shall pay one-half of the compensation of the school crossing guards.

(b) Ordinance.—

(1) Council may enact an ordinance allowing a board of school directors to assume the hiring and oversight of the school crossing guards. Before council may enact the ordinance, the board of directors of the school district shall adopt a resolution requesting the authority to assume the hiring and oversight of the school crossing guards. The ordinance enacted by council shall outline how the city police department will provide any necessary training and assistance to the school crossing guards while on duty.

(2) School crossing guards shall not fall under the bargaining unit of the school district or be classified as an employee or under any benefits as provided under the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949. For the purposes of this paragraph, the term employee shall have the same meaning given to the term "employee" under section 1101-A of the Public School Code of 1949.

(3) After the ordinance is enacted by council, the school district shall assume the cost of compensation, including fixing the compensation, if any, of the school crossing guards. The board of school directors shall notify council, the mayor and the police chief or commissioner of those hired to serve as school crossing guards and

request the necessary training or assistance be provided as outlined by the ordinance.

(c) Duties.—Whether council appoints school crossing guards upon the request of the board of school directors or whether council enacts an ordinance allowing a board of school directors to assume the hiring and oversight of the school crossing guards, the following shall apply to school crossing guards:

(1) Their duties and authority shall be restricted to the management of traffic and pedestrians in and around areas identified by the city police force and the school district superintendent or a designee.

(2) They shall be in suitable and distinctive uniforms while performing their duties as school crossing guards.

(3) They shall not be subject to the civil service provisions of this chapter.

(4) They shall not be entitled to participate in any city or school district pension or benefit plan or plans.

(5) Auxiliary police officers lawfully appointed may be designated by council or hired by the school district, as applicable, to serve as school crossing guards.

CHAPTER 121 FIRE BUREAU

Sec.

12101. Organization of fire bureau, maintenance and apparatus.

12101.1. Appointment and demotion of fire chief.

12102. Paid fire bureau, election of officers and companies.

12103. Platoon system and hours of service.

12104. Fire marshal.

12105. Obstructing fire marshal.

12106. Investigation of cause of fire and power of mayor.

12107. Fire chief ex-officio fire marshal.

12108. Compensation insurance for injured volunteer firefighters or special fire police.

12109. Salary of nonunion city fire officers.

§ 12101. Organization of fire bureau, maintenance and apparatus.

With regard to a city fire bureau, council shall have the authority to:

(1) establish and organize a fire bureau by ordinance;

(2) make appropriations for the maintenance of the fire bureau;

(3) promulgate regulations for the governing of the officers and companies belonging to the fire bureau; and

(4) purchase equipment and apparatus for the extinguishment, prevention and investigation of fires and for the public safety.

§ 12101.1. Appointment and demotion of fire chief.

The mayor, by and with approval and consent of council, shall appoint the fire chief who may be demoted without cause but not to any rank lower than the rank which the fire chief held within the fire bureau at the time of designation as fire chief. In the event that no qualified employee of the fire bureau has applied for the appointment, the fire chief shall be appointed

by the mayor, by and with approval and consent of council, from outside the ranks.

§ 12102. Paid fire bureau, election of officers and companies.

When a paid fire bureau is organized by any city, council, except as provided by section 12101.1 (relating to appointment and demotion of fire chief), may provide for the election or appointment of the officers and companies belonging to the fire bureau by ordinance in accordance with civil service provisions, where applicable. The minimum annual starting salary or compensation to be paid to officers and firefighters by any city shall be established by council.

§ 12103. Platoon system and hours of service.

(a) General rule.—The director of the department having charge of the fire bureau in a city may divide the officers and members of companies of the uniformed fire force in the employ of the city, and any other firefighters and drivers regularly employed and paid by the city, except the chief engineer and assistant chiefs, and those employed subject to call, into shifts, bodies or platoons to perform service during the hours as the director shall fix. In cases of riot, serious conflagration, times of war, public celebrations or other emergency, the fire chief or officer in charge at any fire shall have the power to assign all the members of the fire force to continuous duty or to continue any member of the fire force on duty, if necessary.

(b) Schedule after May 19, 2014.—Except as provided in subsection (c), no schedule shall require a member of any shift, body or platoon to perform continuous service for a consecutive period of 24 hours, except in cases of emergency or as otherwise agreed to through collective bargaining or an award pursuant to the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act. The provisions of this subsection shall not be deemed to alter or affect any schedules in existence prior to May 19, 2014.

(c) Schedule before May 19, 2014.—In a city where the work schedule in existence prior to May 19, 2014, required a work shift of less than 24 hours, no schedule shall require a member of any shift, body or platoon to perform continuous service for a consecutive period of 24 hours, except in cases of emergency or as otherwise voluntarily agreed through collective bargaining. Once so modified, no further work schedule may contain provisions reinstating a restriction on duty of less than 24 hours of continuous service.

§ 12104. Fire marshal.

(a) General rule.—A city may, by ordinance, provide for the creation of the office of fire marshal who shall be appointed by the mayor, by and with the approval and consent of council, biennially.

(b) Powers.—

(1) The fire marshal and any authorized assistant shall inspect all construction or buildings within the city or upon property owned or controlled by the city or a municipal authority of the city within this Commonwealth and shall enforce all laws of this Commonwealth and ordinances of the city relating to the construction or buildings, for the prevention, containment or investigation of fire and fire hazards, both

as to the construction or buildings and as to their contents or occupancies.

(2) The fire marshal or the fire marshal's assistants shall report to the director of public safety or to council or other designated official, as council shall by ordinance provide, any faulty or dangerous construction or building or like condition in any building that may constitute a fire hazard or any proposed use or occupation of any construction, building or premises which would create or increase a hazard of fire.

(3) The fire marshal shall investigate and keep a permanent record of the cause, origin and circumstances of every fire and the damage resulting from the fire occurring within the fire marshal's jurisdiction immediately after the occurrence of the fire.

(4) The records of the fire marshal shall be open to public inspection, except as exempted in accordance with the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. The fire marshal shall submit to council an annual report consolidating the information contained in the records as directed by council.

(5) If a fire is deemed suspicious, the fire marshal shall have the authority to investigate the fire.

§ 12105. Obstructing fire marshal.

(a) General rule.—It shall be unlawful for any person to obstruct or prevent or attempt to obstruct or prevent the fire marshal in the discharge of the fire marshal's duties.

(b) Penalties.—Council may, by ordinance, establish the types or grades of the criminal conduct and may establish fines or imprisonment, or both, for the violations. No fine may exceed \$1,000 for any single violation, and no imprisonment shall exceed 90 days.

§ 12106. Investigation of cause of fire and power of mayor.

The mayor of any city may issue a subpoena in the name of the Commonwealth to an individual requiring the attendance of the individual before the mayor or the fire marshal at the time and place as may be named in the subpoena, then and there to testify, under oath or affirmation, which the fire marshal in the absence of the mayor is empowered to administer, as to:

(1) the origin of any fire occurring within the bounds of the city; and

(2) any facts or circumstances that may be deemed important to secure the detection and conviction of any party guilty of the offense of arson or attempted arson.

§ 12107. Fire chief ex-officio fire marshal.

The fire chief of a city shall be ex-officio fire marshal if the office is not separately filled pursuant to ordinance in the city, and, in that case, all the powers and duties given to or imposed upon the fire marshal under this chapter shall be enjoyed and exercised by the fire chief.

§ 12108. Compensation insurance for injured volunteer firefighters or special fire police.

A city may make appropriations to secure insurance or compensation for volunteer firefighters killed or injured while engaged in the performance of their duties or as special fire police.

§ 12109. Salary of nonunion city fire officers.

A fire chief or head of a fire department of a city who has been removed from bargaining units under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, by rulings of the Pennsylvania Labor Relations Board shall receive not less than the same dollar increase, including fringe benefits but excluding overtime and holiday pay, as received by the highest-ranking fire officer participating in the bargaining unit.

**CHAPTER 122
SURVEYS AND SURFACE SUPPORT IN
COAL MINING AREAS**

Sec.

12203. Survey of mines.

12204. Operators to furnish maps and contents.

12205. Extensions to be placed on maps.

12206. Certain surface supports not to be removed.

12207. Penalty for surface support violations.

12209. Enactment of ordinances.

§ 12203. Survey of mines.

(a) General rule.—For the purpose of conducting a survey as may be required by council, the city engineer or other registered professional engineer employed by the city may:

(1) enter and survey a mine or colliery within the limits of the city, in whole or in part, at all reasonable times, either by day or night, without impeding or obstructing the workings of the mine or colliery; and

(2) take with them other persons necessary for the purpose of making a survey.

(b) Duty to provide entry, survey and exit.—The owner, operator or superintendent of the mine or colliery shall furnish the means necessary for the entry, survey and exit.

§ 12204. Operators to furnish maps and contents.

The owner, operator or superintendent of a coal mine or colliery within the limits of the city, in whole or in part, shall, at the request of council, make or cause to be made and furnished to the city engineer an accurate map or plan of the workings or excavations of each coal mine or colliery within the limits of the city.

§ 12205. Extensions to be placed on maps.

(a) Duty to update.—Not less than once every three months, a map that has been provided to a city, at the request of council, pursuant to section 12204 (relating to operators to furnish maps and contents) shall be updated at the direction of the mine owner, operator or superintendent.

(b) Contents.—The updated map shall show all the extensions made in any mine within the limits of the city, in whole or in part, and not already

so placed upon the map, except those made within 30 days immediately preceding the time of placing the extensions upon the map.

§ 12206. Certain surface supports not to be removed.

It shall be unlawful for an individual, partnership, association or corporation to dig, mine, remove or carry away the coal, rock, earth or other minerals or materials forming the natural support of the surface beneath the streets and places of a city to an extent and in a manner as to remove the necessary support of the surface, without having first placed or constructed an artificial permanent support sufficient to uphold and preserve the stability of the surfaces of the streets and places.

§ 12207. Penalty for surface support violations.

An individual, corporation or association violating the provisions of this chapter concerning surface support of streets and places within the city commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not to exceed \$1,000 or imprisonment for a period not to exceed 90 days, or both. Each day in which the violation continues shall constitute an additional and separate offense.

§ 12209. Enactment of ordinances.

Council may enact ordinances necessary for the enforcement of the provisions of this chapter and provide penalties for the violation.

CHAPTER 123 PUBLIC HEALTH

Subchapter

- A. Board of Health**
- B. Public Nuisances Detrimental to Public Health**
- C. Corporations Acting as Boards of Health**
- D. Penalty**

SUBCHAPTER A BOARD OF HEALTH

Sec.

- 12300. Definitions.**
- 12301. Board of health.**
- 12302. Members of appointed boards of health.**
- 12303. Oath of office.**
- 12304. Duties of secretary.**
- 12305. Health officer.**
- 12306. Duties of health officer.**
- 12307. Duties of board of health.**
- 12308. Powers of board of health.**
- 12309. Effect of rules and regulations.**
- 12310. Fees and penalties.**
- 12311. Proceedings of board of health to be public.**
- § 12300. Definitions.**

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Public nuisance" or "nuisance." A nuisance detrimental to the public health, unless a different meaning is specified.

§ 12301. Board of health.

A city shall have a board of health. Council may, by ordinance, create a board of health or council shall be the board of health. If council is the board of health, members of council shall receive no additional compensation for serving on the board.

§ 12302. Members of appointed boards of health.

(a) General rule.—Council shall appoint five members to a board of health created by ordinance. Appointed members shall serve without compensation. Except in the case of an appointed member who is a licensed or certified health care professional with a principal office in the city, members of the appointed board of health must be residents of the city.

(b) Qualifications.—

(1) Two members of the board must be licensed or certified health care professionals, unless council cannot identify two professionals who are willing to serve, in which case, one member must be a licensed or certified health care professional.

(2) If no licensed or certified health care professional can be identified to serve on the board, council may appoint an individual who has experience or is knowledgeable of public health issues.

(c) Licensure and certification required.—Health care professionals pursuant to this section must be licensed or certified by:

(1) the State Board of Medicine;

(2) the State Board of Examiners of Nursing Home Administrators;

(3) the State Board of Podiatry;

(4) the State Board of Veterinary Medicine;

(5) the State Board of Occupational Therapy Education and Licensure;

(6) the State Board of Osteopathic Medicine;

(7) the State Board of Pharmacy;

(8) the State Board of Physical Therapy;

(9) the State Board of Nursing;

(10) the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors;

(11) the State Board of Chiropractic;

(12) the State Board of Dentistry;

(13) the State Board of Optometry;

(14) the State Board of Psychology; or

(15) the State Board of Examiners in Speech-Language and Audiology.

(d) Terms.—After the creation of the board, for initial membership, council shall, by ordinance, designate one appointee for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. For subsequent

membership, one member of the board shall be appointed annually to serve for a term of five years from the first Monday of January succeeding the member's appointment.

(e) Removal.—Council may remove appointed members of the board for official misconduct or neglect of duty.

(f) Vacancies.—A vacancy on an appointed board shall be filled by council. Council shall appoint a qualified individual to membership on the board for the unexpired term of the individual whose membership had been vacated.

§ 12303. Oath of office.

(a) General rule.—Each member of the board of health shall take the oath of office prescribed in section 10905 (relating to oath of office, violation of oath and penalty).

(b) Organization.—The board of health shall organize annually on the first Monday of January and shall elect a president annually from among its members.

(c) Appointment of secretary.—Council shall appoint a secretary of the board of health who is not a member of the board of health. The secretary shall receive a salary as approved by council.

§ 12304. Duties of secretary.

The secretary of the board shall:

(1) Keep the minutes of the proceedings of the board and accurate accounts of the expenditures of the board.

(2) Draw all requisitions for the payment of money on account of the board of health from appropriations made by council to the board and shall present the requisitions to the president of the board for the president's approval.

(3) Render statements of the expenditures to the board at each stated meeting or as frequently as the board may require.

(4) Prepare, under the direction of the board, the annual report to council, together with the estimate of appropriations needed for the ensuing year.

(5) Make reports to the Department of Health as required by law, rule or regulation of the department.

(6) Make other reports and perform other duties as required by law or by the board of health.

§ 12305. Health officer.

(a) Selection and oath.—

(1) Council shall, by ordinance, determine the manner and method of selection of a health officer who shall be an individual with experience or training in public health work and who shall be or shall become certified for the office of health officer by the State Department of Health within six months of taking the oath of office.

(2) The health officer shall take the oath required of members of the board.

(3) The health officer shall be the agent of the board of health but shall not serve as a member of the board of health.

(b) Qualifications.—

(1) Council may appoint, as the principal health officer of the city, the manager or chief administrator employed and compensated by a nonprofit corporation which may be appointed as a board of health in accordance with Subchapter C (relating to corporations acting as boards of health).

(2) The manager or chief administrator, to be eligible for appointment, must be a reputable physician with at least five years' experience in the practice of the physician's profession or in public health work.

(3) The principal health officer, appointed pursuant to this subsection, shall have all the powers, authority and duties prescribed by law upon principal health officers.

§ 12306. Duties of health officer.

(a) General rule.—The health officer shall:

(1) Attend all regular and special meetings of the board of health.

(2) Be available for the prompt performance of the health officer's official duties.

(3) Quarantine places of communicable diseases in accordance with law and with the rules and regulations of the Department of Health or of the city board of health.

(4) Execute all laws, rules and regulations for the disinfection of quarantined places.

(5) Serve written notice on teachers and persons in charge of public, parochial, Sunday and other schools requiring the exclusion of children from school who are suffering from or who reside with individuals who are suffering from communicable diseases.

(6) Make sanitary inspections subject to constitutional standards in a similar manner as provided in section 12308 (relating to powers of board of health).

(7) Execute the orders of the board of health and all other laws, rules, regulations and orders pertaining to the health officer's office.

(b) Issuance of citations.—The health officer shall, to the extent the health officer's duties allow, have the power to issue citations for the violation of applicable laws or ordinances.

§ 12307. Duties of board of health.

(a) General rule.—The board of health shall prevent or diminish the introduction or further spread of infectious or contagious diseases and otherwise to protect and increase the public health by:

(1) regulating access to places of infection or contagion;

(2) isolating carriers of infection or contagion or individuals who have been exposed to any infectious or contagious disease;

(3) abating or removing all nuisances which the board deems prejudicial to the public health; and

(4) enforcing vaccination laws.

(5) promulgating regulations, as it deems proper, for the preservation or improvement of public health, consistent with this chapter and the laws of this Commonwealth.

(b) Enforcement.—In carrying out its duties under this chapter, the board of health shall, if authorized, enforce the laws of this Commonwealth that are relevant to and relate to its duties.

(c) Transmittal of information.—The board of health shall transmit to the Department of Health all of its reports and publications and other information regarding public health in the city as may be requested or required by the department.

§ 12308. Powers of board of health.

The board of health shall:

(1) If authorized by council, employ agents and employees at rates of compensation approved by council.

(2) Enter upon any premises within the city, as a body or by committee or by its agents or employees, which are suspected of infectious or contagious disease or of any other nuisance prejudicial to the public health or which pose danger, for the purpose of examining the premises or of preventing, confining or abating public nuisances.

The following apply:

(i) In the event that entry upon any premises is refused by an owner, an agent of an owner or tenant, the board of health shall obtain an administrative search warrant from a magisterial district judge within the judicial district where the premises to be inspected is located.

(ii) It shall be sufficient to support the issuance of a warrant for the board of health to provide to the magisterial district judge evidence of any of the following:

(A) Reasonable standards and an administrative plan for conducting inspections.

(B) The condition of the premises or general area and the passage of time since the last inspection.

(C) Facts, supported by an oath or affirmation, alleging that probable cause exists that a law, regulation or ordinance subject to enforcement by the board of health has been violated.

(3) Conduct investigations and hold public hearings in the performance of its duties and powers. In a hearing under this paragraph, the president and secretary of the board may administer oaths and affirmations, but shall receive no fee for administration, and the board of health may require the attendance of witnesses and their books and papers in accordance with section 10917 (relating to powers of subpoena and compelling testimony).

(4) Publish and enforce its rules and regulations as approved by council.

(5) If approved by council, provide for or cooperate in providing for general and gratuitous vaccination, disinfection and other public health control programs and make medical relief available to benefit public health.

(6) Provide, in accordance with Subchapter B (relating to public nuisances detrimental to public health), for the prevention, abatement and removal of conditions found to be detrimental to public health as public nuisances or to declare and certify to council that the premises or

places harboring the detrimental condition are public, not private, nuisances.

§ 12309. Effect of rules and regulations.

Rules and regulations adopted by the board of health shall be presented to council for its approval subject to the following:

(1) Council may approve, by ordinance, the rules and regulations submitted by the board of health.

(2) Upon approval by council, the rules and regulations of the board of health shall have the force and effect of ordinances of the city.

(3) The ordinance approving the rules and regulations may incorporate them by reference.

(4) Council shall provide a place for the public to view the rules and regulations.

(5) The ordinance approving the rules and regulations shall prescribe the penalties, fines or imprisonment for violations.

§ 12310. Fees and penalties.

All fees and penalties collected or received by the board of health or a board officer acting in an official capacity shall be paid to the city treasurer for use by the city.

§ 12311. Proceedings of board of health to be public.

The proceedings of the board of health shall be public and its journal of proceedings shall be open to public inspection.

SUBCHAPTER B PUBLIC NUISANCES DETRIMENTAL TO PUBLIC HEALTH

Sec.

12320. Determination of public nuisances.

12321. Abatement of public nuisances by designated department.

§ 12320. Determination of public nuisances.

(a) General rule.—A condition or usage in a city, whether public or private, determined by the board of health to be detrimental to the public health shall constitute a public nuisance.

(b) Powers.—The powers of investigation and entering upon premises vested in the board of health and its agents and employees pursuant to its orders shall be available for the determination of public nuisances.

§ 12321. Abatement of public nuisances by designated department.

(a) Duty to report.—If, in accordance with this subchapter, the board of health determines that a public nuisance exists, it shall report its determination, along with any request for summary abatement, to the department designated by council in section 127A02 (relating to report and investigation of public nuisance).

(b) Procedure.—The report to the designated department that the board of health has determined that a public nuisance exists shall be deemed a determination by the designated department that a public nuisance exists as required by section 127A02(d)(1). Notwithstanding any other provision of Chapter 127A (relating to nuisance abatement), the department designated to abate public nuisances shall proceed as follows:

(1) Summary abatement, if requested by the board of health, shall be pursued if the criteria set forth in section 127A02(d)(2) exists.

(2) If summary abatement is not pursued, proceed with abatement with prior notice in accordance with Chapter 127A.

**SUBCHAPTER C
CORPORATIONS ACTING AS BOARDS OF HEALTH**

Sec.

12330. Board of directors of corporation to be appointed members of board of health.

12332. Power of board.

12333. Health officer.

12334. Secretary.

12335. Filling of vacancies.

12337. No compensation for members.

12338. Applicability of subchapter.

§ 12330. Board of directors of corporation to be appointed members of board of health.

(a) General rule.—Council may, by ordinance, appoint the members of a board of directors of a nonprofit corporation as the board of health for the city for a term of five years, provided that the nonprofit corporation:

(1) Has as its principal purpose to substantially preserve and promote the public health of the city and to control and eliminate disease.

(2) Has sufficient means to render valuable assistance to the city's public health affairs, in the opinion of council and the Department of Health.

(3) Is properly organized and managed.

(4) Has not fewer than five and not more than nine members on the board of directors.

(5) Has at least two reputable physicians on the board, each of whom has not less than five years' experience in the practice of the physician's profession.

(b) Vacancies.—When the office of any member of the board of directors is terminated pursuant to the nonprofit corporation's charter or bylaws, the office of the member of the board of health shall also terminate with the resulting vacancy to be filled under subsection (c).

(c) Additional members to board of health.—

(1) If the number of the board of directors of the nonprofit corporation increases, subject to the limitation of a maximum of nine members, council may appoint any individual added to the corporation's board of directors as an additional member of the board of health for a term equal to the unexpired term of the other members.

(2) An additional appointment under this subsection shall be subject to any subsequent termination resulting from a limitation in the corporation's charter and bylaws.

§ 12332. Power of board.

The board of health under this subchapter shall have all the power and authority and perform the duties prescribed by law upon boards of health of cities.

§ 12333. Health officer.

Pursuant to section 12305(b) (relating to health officer), council may appoint the manager or chief administrator of a nonprofit corporation as the principal health officer of the city.

§ 12334. Secretary.

The secretary of the board of directors of the nonprofit corporation under this subchapter may serve as secretary of the board of health.

§ 12335. Filling of vacancies.

(a) General rule.—Council may appoint successors for vacancies on the board of health that occur:

(1) As five-year terms of board members expire. The successors shall serve for five-year terms.

(2) For any other reason, but a successor appointment shall be for the unexpired portion of the five-year term.

(b) Selection.—Successors, whether appointed for a five-year term or the unexpired portion of a five-year term, shall be selected from the members of the nonprofit corporation's board of directors.

§ 12337. No compensation for members.

The members of the board of health under this subchapter shall serve without compensation from the city.

§ 12338. Applicability of subchapter.

This subchapter shall be effective only under the circumstances set forth in section 12330 (relating to board of directors of corporation to be appointed members of board of health).

SUBCHAPTER D PENALTY

Sec.

12340. Penalty.

§ 12340. Penalty.

Any person who:

(1) violates any provision of this chapter or any order or regulation of the board of health made under the authority of this chapter;

(2) violates any law, regulation or ordinance referred to or authorized by this chapter;

(3) obstructs or interferes with any person in the execution of any order or regulation of the board; or

(4) willfully and illegally refuses to obey any order or regulation of the board;

commits a summary offense punishable in accordance with sections 11018.16 (relating to enforcement of ordinances, recovery and payment of fines and penalties) and 11018.17 (relating to penalty).

CHAPTER 124 CORPORATE POWERS

*Sec.**12402. Powers of cities.**12402.1. City property and affairs.**12403. Payment of debts and expenses.**12404. Creation of reserve funds.**12405. Hiring of employees and salaries.**12406. Creation of necessary offices or boards.**12407. Lockups.**12408. Marketplaces.**12409. Accumulation of ashes, garbage, solid waste and refuse materials.**12410. Regulation of pets and feral animals.**12411. Inspection and regulation of fireplaces and chimneys and smoke regulations.**12412. Fireworks and inflammable articles.**12413. Regulation of division fences, party walls and foundations.**12414. Nuisances.**12415. Regulation of encroachments.**12416. Shade trees.**12417. Numbering of buildings.**12418. Transportation stands.**12419. Police force.**12420. Police regulations.**12421. Rewards.**12422. Prevent riots.**12423. Regulate discharge of guns and deadly weapons.**12424. Racing and dangerous practices.**12425. Bathing, recreational swimming establishments and bathhouses and bathhouses.**12426. Musical entertainment.**12427. Aid to historical societies.**12428. Establishment of institutions to collect educational collections.**12429. Ambulances and rescue and lifesaving services.**12430. Insurance.**12431. Parking lots.**12432. Disorderly conduct.**12433. Official expenses on city business.**12434. Municipal authorities and cooperation with other political subdivisions.**12435. Local self-government.**12436. Historical property.**12437. Appropriations for handling, storage and distribution of surplus foods.**12438. Junk dealers and junk yards.**12439. Appropriations for industrial development.**12440. Nondebt revenue bonds.**12441. Appropriations for urban common carrier mass transportation.**12442. Appropriation for nonprofit art corporation.**12443. Ratification and validation of real estate sales.*

12444. Validation and maintenance of certain records.

12445. Rights within streets and rights-of-way.

12446. Emergency services.

12447. Charitable purposes.

12448. Observances, celebrations and recognition.

§ 12402. Powers of cities.

(a) General rule.—A city is declared to be a body corporate and politic, shall have perpetual succession and may:

(1) Sue and be sued.

(2) Have and use a corporate seal and alter the seal. The seal shall have upon it the word "Pennsylvania," the name of the city and the year of its original incorporation.

(3) Display the flag of the United States, the Commonwealth or any county, city, borough or other municipality in this Commonwealth on the public buildings of the city.

(4) Appropriate money and accept gifts or grants of money, other property or services from public or private sources for the exercise of powers expressed or implied in this chapter or any other applicable law.

(b) Exercise of powers.—The powers granted in this chapter shall be exercised in the manner provided in this chapter.

§ 12402.1. City property and affairs.

(a) General rule.—In exercising its discretion to make decisions that further the public interest under terms it deems most beneficial to the city, council may, subject to any restrictions, limitations or exceptions stated in this chapter:

(1) Purchase, hold, use and manage real and personal property.

(2) Exchange personal property.

(3) Lease, sell and convey real and personal property owned by the city.

(4) Make contracts and do all other acts respecting city property and affairs as council may deem conducive to the public interest and necessary to the exercise of the city's corporate and administrative powers.

(b) Sales of real estate.—

(1) No real estate owned by the city may be sold except upon approval of council by resolution, and no real estate owned by the city may be sold for a consideration in excess of \$1,500, except to the highest bidder after due notice by advertisement for bids or advertisement of a public auction in one newspaper of general circulation in the city.

(2) The advertisement shall be published once not less than 10 days prior to the date fixed for the opening of bids or public auction, and the date for opening bids or public auction shall be announced in the advertisement.

(3) The award of contracts shall be made only by public announcement at a regular or special meeting of council or at the public auction.

(4) All bids shall be accepted on the condition that payment of the purchase price in full shall be made within 60 days of the acceptance of bids.

(5) Council may reject all bids which it deems to be less than the fair market value of the real property.

(6) In the case of a public auction, council may establish a minimum bid based on the fair market value of the real property.

(7) If no compliant bids are received after advertisement, the applicable procedures in the act of October 27, 1979 (P.L.241, No.78), entitled "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received," shall be followed.

(8) Real estate owned by a city may be sold at a consideration of \$1,500 or less without advertisement or competitive bidding only after council estimates the value of the real estate upon receipt of an appraisal by a qualified real estate appraiser.

(9) (i) This section shall not apply if council exercises its authority to exchange real property of the city for real property of equal or greater value, provided that the property being acquired by the city is to be used for municipal purposes.

(ii) If council chooses to exercise its power of real property exchange pursuant to this section, it shall be by resolution adopted by council.

(iii) Notice of the resolution, including a description of the properties to be exchanged, shall be published once in one newspaper of general circulation not more than 60 days nor fewer than seven days prior to adoption.

(c) Sale of personal property.—

(1) No personal property of the city shall be disposed of, by sale or otherwise, except upon approval of council by resolution.

(2) Council shall estimate the sale value of the entire lot to be disposed of.

(3) If council estimates the sale value to be less than \$1,000, council may sell the property, in whole or in part, for the best price or prices obtainable.

(4) If council estimates the sale value to be \$1,000 or more, the entire lot shall be advertised for sale in at least one newspaper of general circulation in accordance with the provisions of section 10109 (relating to publication of notices), and sale of the property advertised shall be made to the best responsible bidder.

(5) The bids shall not be opened until at least 10 days after the newspaper advertisement is published.

(6) The provisions of this subsection shall not be mandatory where personal property of the city is to be traded in or exchanged for other personal property.

(7) Council may sell any personal property of the city at auction pursuant to subsection (d) but shall observe the same notice requirements as contained in this subsection.

(d) Online or electronic auction of personal property.—In regards to the sale of personal property of the city, an auction may be conducted by means of an online or electronic auction sale subject to the following:

(1) Bids shall be accepted electronically at the time and in the manner designated in the advertisement pursuant to the notice requirements in subsection (c).

(2) Each bidder shall have the capability to view the bidder's bid rank or the high bid price.

(3) Bidders may increase their bid prices during the electronic auction.

(4) The record of the electronic auction shall be available for public inspection.

(5) The purchase price shall be paid by the high bidder immediately or at a reasonable time after the conclusion of the electronic auction, as determined by council.

(6) In the event that shipping costs are incurred, they shall be paid by the high bidder.

(7) A city that has complied with the advertising requirements of subsection (c) may provide additional public notice of the sale by bid or auction in any manner deemed appropriate by council.

(8) The newspaper advertisement for electronic auction sales authorized in this section shall include the Internet address or means of accessing the electronic auction and the date, time and duration of the electronic auction.

(e) Nonapplicability.—Any requirement for advertising for bids and sale to the highest bidder imposed by this part or by a city pursuant to this section shall not apply where real or personal property of the city is sold to the following, provided that, when any real property is no longer used for the purpose of the conveyance, the real property shall revert to the city:

(1) The Federal Government, the Commonwealth, a municipality, home rule municipality, institution district or school district.

(2) A volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the city or providing emergency services in the city.

(3) A municipal authority, a housing authority created pursuant to the act of May 28, 1937 (P.L.955, No.265), known as the Housing Authorities Law, an urban redevelopment authority created pursuant to the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law, a parking authority created under 53 Pa.C.S. Ch. 55 (relating to parking authorities) or under the former act of June 5, 1947 (P.L.458, No.208), known as the Parking Authority Law, or a port authority created pursuant to the act of December 6, 1972 (P.L.1392, No.298), known as the Third Class City Port Authority Act.

(4) A nonprofit corporation engaged in community industrial development.

(5) A nonprofit corporation organized as a public library.

(6) A nonprofit medical service corporation.

(7) A nonprofit housing corporation.

(8) A nonprofit museum or historical organization.

(f) Nominal consideration acceptable.—When real or personal property is sold pursuant to subsection (e)(5), (6) or (7), the city may accept nominal consideration as it shall deem appropriate.

§ 12403. Payment of debts and expenses.

Council may provide for the payment of the debts and expenses of the city and appropriate money for the payment.

§ 12404. Creation of reserve funds.

(a) Capital reserve fund.—

(1) Council may create and maintain a separate capital reserve fund for any anticipated capital expenses, which shall be designated for a specific purpose or purposes when created. The money in the fund shall be used for no other purpose unless council declares that conditions in the city make other expenses more urgent than those for which the fund was created.

(2) Council may appropriate money from the general city fund to be paid into the capital reserve fund or place in the fund any money received from the sale, lease or other disposition of any property of the city or from any other source.

(b) Operating reserve fund.—With regard to an operating reserve fund, the following shall apply:

(1) Council shall have the power to create and maintain a separate operating reserve fund in order to:

- (i) minimize future revenue shortfalls and deficits;*
- (ii) provide greater continuity and predictability in the funding of vital government services;*
- (iii) minimize the need to increase taxes to balance the budget in times of fiscal distress; and*
- (iv) provide the capacity to undertake long-range financial planning and to develop fiscal resources to meet long-term needs.*

(2) Council may annually make appropriations from the general city fund to the operating reserve fund, but no appropriation shall be made to the operating reserve fund if the effect of the appropriation would cause the fund to exceed 25% of the estimated revenues of the city's general fund in the current fiscal year.

(3) Council may, at any time by resolution, make appropriations from the operating reserve fund for the following purposes only:

- (i) to address emergencies involving the health, safety or welfare of the residents of the city;*
- (ii) to counterbalance potential budget deficits resulting from shortfalls in anticipated revenues or program receipts from any source;*
- (iii) to counterbalance potential budget deficits resulting from increases in anticipated costs for goods or services; or*
- (iv) to provide for anticipated operating expenditures related either to the planned growth of existing projects or programs or to the establishment of new projects or programs if, for each project or program, appropriations have been made and allocated to a separate restricted account established within the operating reserve fund.*

(c) Investment and administration.—The operating reserve fund shall be invested, reinvested and administered in a manner consistent with the provisions of this part relating to the investment of city funds generally.

§ 12405. Hiring of employees and salaries.

Council may provide for and regulate the manner of hiring and discharging employees and the fixing of their salaries or compensation, consistent with applicable Federal and State law.

§ 12406. Creation of necessary offices or boards.

In addition to the city departments established in accordance with Chapter 111 (relating to the executive department), council may create any city office, public board, bureau or commission, which it may deem necessary for the good of government and interests of the city, and, with regard to an office or membership on a board, bureau or commission, unless otherwise provided by this part, council may make appointments and regulate and prescribe the terms, duties and compensation.

§ 12407. Lockups.

(a) General rule.—Council may provide for lockup facilities as deemed necessary for the detention and confinement of individuals.

(b) Restriction.—No city shall erect or construct a city jail or lockup or use any existing building or lockup for the first time that will be or is located within 500 feet of a public school building.

§ 12408. Marketplaces.

Council may:

- (1) Purchase, lease and own ground for marketplaces.*
- (2) Erect, maintain and establish marketplaces.*
- (3) Provide for and enforce suitable general market regulations.*
- (4) Contract with any person for the erection and regulation of marketplaces on terms and conditions and in the manner as council may prescribe.*
- (5) Levy and collect a license fee from every person who may be authorized by council to occupy any portion of the streets, sidewalks or city property for temporary market purposes.*

§ 12409. Accumulation of ashes, garbage, solid waste and refuse materials.

(a) General rule.—Council in the manner authorized by the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, and the act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act, may prohibit accumulations of ashes, garbage, solid waste and other refuse materials upon private property, including the imposition and collection of reasonable fees and charges for the collection, removal and disposal.

(b) Collection and removal.—

(1) Council may collect and remove, by contract or otherwise, ashes, garbage, solid waste and other refuse materials and recyclables and prescribe penalties for the enforcement.

(2) A contract with refuse haulers may be made for an initial period not to exceed five years with optional renewal periods of up to five years.

(3) The limitation in paragraph (2) does not apply to a contract with a county or municipal corporation.

(c) Disposal.—

(1) Council may dispose of, by contract or otherwise, ashes, garbage, solid waste or other refuse materials.

(2) A contract with the owner of a private facility for the disposal or incineration of ashes, garbage, solid waste or other refuse materials may be made for a period not to exceed 20 years.

(3) The limitation in paragraph (2) does not apply to a contract with a county or municipal corporation.

(d) Acquisition of real property and facilities.—

(1) Council may acquire any real property and erect, maintain, improve, operate and lease, either as lessor or lessee, facilities for incineration, landfill or other methods of disposal, either inside or outside the limits of the city, including equipment, either separately or jointly, with a county or municipal corporation in order to provide for the collection, removal, disposal and destruction of ashes, garbage, solid waste or other refuse materials, for the collection and storage of recyclable materials or for the composting of leaf and yard waste.

(2) Council may provide for the payment of the cost out of the funds of the city.

(3) Council may acquire land for landfill purposes, either amicably or by exercising the power of eminent domain, and may maintain lands and places for the dumping of ashes, garbage, solid waste or other refuse materials.

(4) If council acquires land outside the limits of the city by exercising the power of eminent domain, the taking shall be subject to the limitations in 26 Pa. C.S. § 206 (relating to extraterritorial takings).

(e) Rates and charges.—

(1) Council may establish, alter, charge and collect rates and other charges for:

(i) the collection, removal and disposal of ashes, garbage, solid waste, other refuse materials and recyclable materials; and

(ii) the cost of including the payment of any indebtedness incurred for the construction, purchase, improvement, repair, maintenance and operation of any facilities for collection, removal and disposal; and

(iii) the amount due under a contract with a county or municipal corporation furnishing the services or facilities.

(2) The rates and other charges shall be collected pursuant to the Municipal Claim and Tax Lien Law or by a civil action.

(f) Appropriations.—Council may make appropriations to a county or municipal corporation for the construction, purchase, improvement, repair, maintenance and operation of a facility for the collection, removal, disposal or marketing of ashes, garbage, solid waste, other refuse materials, recyclable materials or composted leaf and yard waste.

(g) Exclusion from other laws.—A city shall not be subject to requirements otherwise imposed by law for the sale of personal property owned by the city when selling recyclable materials or materials separated,

collected, recovered or created by recycling, as provided in the act of April 9, 1992 (P.L.70, No.21), entitled "An act excluding the sale of recyclable material from political subdivision personal property sale restrictions relating to advertising and bidding."

§ 12410. Regulation of pets and feral animals.

Council may, by ordinance, prohibit and regulate the running at large of dogs, cats, other pets and feral animals.

§ 12411. Inspection and regulation of fireplaces and chimneys and smoke regulations.

In conformity with Federal and State laws and regulations, council may regulate and inspect fireplaces, chimneys and other sources of smoke and fly ash to control the production and emission of unnecessary smoke and fly ash.

§ 12412. Fireworks and inflammable articles.

In conformity with Federal and State laws and regulations, council may:

(1) Regulate and prohibit the manufacture of fireworks or inflammable or dangerous articles.

(2) Grant permits for supervised public displays of fireworks and adopt rules and regulations governing the displays.

(3) Adopt rules and regulations not inconsistent with State regulations relating to the storage of inflammable articles.

(4) Impose other safeguards concerning inflammable articles as may be necessary.

§ 12413. Regulation of division fences, party walls and foundations.

(a) Authority.—

(1) Subject to the provisions of and regulations adopted pursuant to the Pennsylvania Construction Code Act and other applicable law, council may provide regulations for party walls and division fences, the foundations of buildings and entering upon the land or lands, lot or lots, of any person within the city at all reasonable hours by its duly appointed city engineer or building inspectors in order to enforce the regulations and set out foundations.

(2) Council may prescribe reasonable fees for the service of city officers in the inspection and regulation of party walls, division fences and foundations and may enforce the payment of the fees.

(3) Council may provide fines or penalties for violations of an ordinance enacted pursuant to this section.

(b) Specifications.—

(1) In setting out foundations and regulating party walls as to breadth and thickness, the city shall require the foundations to be laid equally upon the lands of the persons between whom the party wall is to be made.

(2) The cost of the foundation and party wall shall be divided proportionately among the property owners sharing the wall. The property owners shall either share the expense when the foundation is laid and the party wall is erected or when the subsequent building is erected if all buildings are not erected at the same time.

§ 12414. Nuisances.

Council may prohibit and abate public nuisances in accordance with Subchapter B of Chapter 123 (relating to public nuisances detrimental to public health).

§ 12415. Regulation of encroachments.

In compliance with applicable State laws and city ordinances, council may provide for the regulation of all encroachments in, under or upon sidewalks or other portions of streets in the city.

§ 12416. Shade trees.

(a) Power to regulate.—

(1) Council may, by ordinance, regulate the manner and method, if any, for the planting, trimming, removing, maintaining and protection of shade trees in, on and along or extending over the public streets, sidewalks and rights-of-way of the city and provide for penalties for violations.

(2) The cost of the activities under paragraph (1) may, at council's discretion, be assessed against the owners of the properties abutting the street, sidewalk or right-of-way upon which any tree is located pursuant to Chapter 145A (relating to assessments for public improvements), except that the cost and expense of caring for trees after they have been planted shall be paid by the city.

(b) Shade tree commission.—

(1) Council may, by ordinance, provide for the creation of a shade tree commission and its composition, powers and duties and delegate council's authority for regulating shade trees to the commission.

(2) In lieu of an ordinance under paragraph (1), council may delegate its regulatory powers for shade trees to an existing department.

(3) If a shade tree commission is established, its meeting shall be subject to the provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings).

§ 12417. Numbering of buildings.

Council may require and regulate the numbering of buildings and lots.

§ 12418. Transportation stands.

Council may establish stands for taxis, buses, automobiles and other vehicles for hire and enforce the observance and use of the stands.

§ 12419. Police force.

(a) General rule.—Council may establish and maintain a police force and define the duties of the force in accordance with Chapter 120 (relating to police force).

(b) Method of providing police services.—Subject to the requirements of 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation), council may provide for police services as follows:

(1) by municipal police officers under a contract;

(2) through the purchase of the police services; or

(3) by joining or developing a consolidated regional police service.

§ 12420. Police regulations.

Council may establish and enforce suitable police regulations for the protection of individuals and property.

§ 12421. Rewards.

Council may offer rewards for the arrest and conviction of individuals guilty of capital or other crimes within the city.

§ 12422. Prevent riots.

Council may prevent and restrain riots, noises, disturbances or disorderly assemblies in any street, house or place in the city.

§ 12423. Regulate discharge of guns and deadly weapons.

To the extent permitted by Federal and other State law, council may regulate, prohibit and prevent the discharge of guns and prevent the carrying of concealed deadly weapons.

§ 12424. Racing and dangerous practices.

With regard to streets and public places in the city, council may regulate or prohibit racing or fast driving of vehicles and all games, practices or amusements likely to result in danger or damage to any individual or property.

§ 12425. Bathing, recreational swimming establishments and boathouses and bathhouses.

To the extent permitted by the act of June 23, 1931 (P.L.899, No.299), known as the Public Bathing Law, council may regulate the time and place of bathing in rivers and other public water in and adjoining the city and may construct, maintain and manage municipal boathouses, bathhouses and recreational swimming establishments.

§ 12426. Musical entertainment.

Council may appropriate money to defray the expenses of musical entertainment held under the auspices of the city and for the purpose of having music in any public park or place.

§ 12427. Aid to historical societies.

Council may make annual appropriations for the support and maintenance of the principal historical society located in the city, which shall be incorporated under the laws of this Commonwealth, and shall maintain permanent quarters for the society and keep them open to the public.

§ 12428. Establishment of institutions to collect educational collections.

(a) General rule.—Council may establish institutions authorized to collect and hold certain scientific, educational and economic collections, the object of each being the instruction of the public concerning commerce, manufacturing, mining and agriculture.

(b) Powers.—The institutions may purchase or accept, by gift, any real estate, money or personal property necessary for use and promotion. The institutions may use, convey or transfer the property as if they were bodies corporate and shall be governed by boards of trustees, nominated, appointed and confirmed in the manner council may determine.

§ 12429. Ambulances and rescue and lifesaving services.

Council may:

(1) Acquire, operate and maintain motor vehicles for the purposes of transporting sick and injured individuals to and from hospitals.

(2) Appropriate money toward ambulances and rescue and lifesaving services.

(3) Make contracts relating to rescue and lifesaving services.

§ 12430. Insurance.

(a) Contracts authorized.—Council, in its discretion or as required by law or a collective bargaining agreement, may make contracts of insurance and contracts for annuities or pensions, including the following:

(1) Contracts of insurance with any mutual or other fire insurance company, association or exchange, duly authorized by law to transact insurance business in this Commonwealth, on any building or property owned by the city and contracts to insure against burglary or theft of city property, fire, other disaster and public liability.

(2) Contracts of insurance with any insurance company, nonprofit hospitalization corporation or nonprofit medical service corporation authorized to transact insurance business within this Commonwealth, insuring elected or appointed officers, officials and employees of the city, or their dependents, under a policy or policies of group insurance covering life, health, hospitalization, medical service or accident insurance.

(3) Contracts to purchase annuities or pensions for elected or appointed officers, officials and employees.

(b) Payment of premium and charges.—In the case of a contract for the benefit of elected or appointed officers, officials and employees of the city, or their dependents, the city may, as determined by council or as required by law or a collective bargaining agreement, pay part or all of the premiums or charges for the contract.

§ 12431. Parking lots.

Council may acquire, by lease, purchase or condemnation proceedings, land that in its judgment may be necessary and desirable for the purpose of establishing and maintaining lots for the sole purpose of parking motor vehicles. Council may regulate the use of the land, including the posting of signs, and may establish or designate areas exclusively reserved for parking by individuals with disabilities. Regulation of parking lots shall be consistent with 75 Pa.C.S. (relating to vehicles) and the act of October 27, 1955 (P.L. 744, No. 222), known as the Pennsylvania Human Relations Act.

§ 12432. Disorderly conduct.

Council may, by ordinance, prohibit disorderly conduct within the limits of the city and provide for the imposition of penalties in accordance with this part. If an ordinance is enacted, it shall define disorderly conduct in a manner substantially similar to the provisions of 18 Pa.C.S. § 5503 (relating to disorderly conduct).

§ 12433. Official expenses on city business.

Council may make appropriations for the reasonable expenses of city officials incurred in the conduct of city business.

§ 12434. Municipal authorities and cooperation with other political subdivisions.

(a) Municipal authorities.—Council may, by ordinance, individually or in cooperation with other municipalities or school districts, form municipal authorities as authorized under 53 Pa.C.S. Ch. 56 (relating to municipal authorities).

(b) Cooperative agreements.—Council may, by ordinance, make cooperative agreements with regard to the performance of a city's powers,

duties and functions in accordance with the provisions of 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

§ 12435. Local self-government.

Council shall have the power to enact, make, adopt, modify, repeal and enforce, in accordance with this part, ordinances, resolutions, rules and regulations not inconsistent with or restrained by the Constitution of Pennsylvania and laws of this Commonwealth that are either of the following:

(1) Expedient or necessary for the proper management, care and control of the city and its finances and the maintenance of the peace, good government, safety and welfare of the city and its trade, commerce and manufactures.

(2) Necessary to the exercise of the powers and authority of local self-government in municipal affairs.

§ 12436. Historical property.

Council may acquire, by purchase or gift, repair, supervise, operate and maintain landmarks and other historical properties that are either eligible for listing or listed in the National Register of Historic Places or certified by the Pennsylvania Historical and Museum Commission as having historical significance.

§ 12437. Appropriations for handling, storage and distribution of surplus foods.

(a) Appropriations.—Council may appropriate from city funds money for the handling, storage and distribution of surplus foods obtained through a Federal, State or local agency.

(b) Validity of previous appropriations.—All appropriations of money previously made by council for the handling, storage and distribution of surplus foods obtained through a Federal, State or local agency are validated.

§ 12438. Junk dealers and junk yards.

Council may regulate and license junk dealers and the establishment and maintenance of junk yards and scrap yards, including automobile junk or grave yards.

§ 12439. Appropriations for industrial development.

Council may make appropriations to an industrial development organization as defined in section 2301 of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, when the city is located within the area for which the industrial development organization has been authorized to make application to and receive grants from the Department of Community and Economic Development for the purposes specified in Chapter 23 of the Job Enhancement Act.

§ 12440. Nondebt revenue bonds.

Consistent with and without limitation of any power conferred or duty imposed by 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing), council may issue nondebt revenue bonds pursuant to the provisions of 53 Pa.C.S. Pt. VII Subpt. B.

§ 12441. Appropriations for urban common carrier mass transportation.

Council may make appropriations for urban common carrier mass transportation from current revenues and make annual contributions to

county departments of transportation or to urban common carrier mass transportation authorities to assist the departments or the authorities to meet costs of operation, maintenance, capital improvements and debt service and to enter into long-term agreements providing for the payment of the contributions.

§ 12442. Appropriation for nonprofit art corporation.

(a) *Appropriation.*—Council may appropriate money annually, of not more than an amount equal to one mill of the real estate tax, to any nonprofit art corporation for the conduct of its artistic and cultural activities.

(b) *Definitions.*—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Artistic and cultural activities." The term shall include the display or production of theater, music, dance, painting, architecture, sculpture, arts and crafts, photography, film, graphic arts and design and creative writing.

"Nonprofit art corporation." A local arts council, commission or coordinating agency or any other nonprofit corporation engaged in the production or display of works of art, including the visual, written or performing arts.

§ 12443. Ratification and validation of real estate sales.

(a) *Ratification and validation.*—A deed conveying title to real estate or interests in real estate from a city to any other party is valid and conveys the property and interests described in the deed in accordance with the terms of the deed if:

(1) the deed is executed and delivered pursuant to an ordinance or resolution of council; and

(2) the deed is not contested by an action filed in the court of common pleas of the county in which the city is located within six years of the date the deed is recorded.

(b) *Incontestability.*—A deed shall not, after the time period specified in subsection (a), be subject to attack in any court, agency or proceeding.

§ 12444. Validation and maintenance of certain records.

(a) *Validation of records.*—Except as otherwise provided by law, city records that are required to be recorded or copied shall be deemed valid if recorded or transcribed by any digital, photostatic, photographic, microphotographic, microfilm, microcard, miniature photographic, optical, electronic or other process that accurately reproduces the original and forms a durable medium for recording, storing and reproducing the original in accordance with standards, policies and procedures for the creation, maintenance, transmission or reproduction of images of records approved by the county or local government records committees, as applicable, and as otherwise provided by law. Where recording in a specific book is required, except for minutes or the proceedings of council, the records may be recorded, transcribed or otherwise assembled in an appropriate book, disk or other medium approved by resolution of council, and all records recorded and assembled in any manner are validated.

(b) *Maintenance of records.*—A city shall not be required to retain original or paper copies of documents after the documents are archived by

any of the methods provided for in subsection (a) or as otherwise provided by law.

§ 12445. Rights within streets and rights-of-way.

(a) *Rights within streets.*—Council may consent to a person using city streets and other properties, whether the use is within, on or over the streets or public property in question, for transportation purposes or for the purpose of installing and maintaining pipes, wires, fibers, cables or any other utility or service medium. Council may define a reasonable district within which all electric or telephone wires, cables or any other utility or service medium are to be placed underground.

(b) *Compliance with other law.*—The power granted to a city in subsection (a) shall be exercised in compliance with Federal and State law and shall be subject to the power of the Pennsylvania Public Utility Commission under 66 Pa.C.S. Pt. I (relating to public utility code) to regulate the business, facilities and service of public utilities, including determining the location and installation of utility facilities.

(c) *Rights-of-way.*—A city shall pay just compensation to any property owner whose land has been acquired by the city for use as a right-of-way for purposes of this section. Just compensation shall be determined pursuant to 26 Pa.C.S. (relating to eminent domain).

§ 12446. Emergency services.

(a) *Provision of emergency services.*—A city shall be responsible for ensuring that fire and emergency medical services are provided within the city by the means and to the extent determined by the city, including the appropriate financial and administrative assistance for these services.

(b) *Consultation with providers.*—The city shall consult with fire and emergency medical services providers to discuss the emergency service needs of the city.

(c) *Expenditure report.*—The city shall require any emergency services providers receiving city money to provide an annual itemized listing of all expenditures of city money before the city may consider budgeting additional funding to the provider.

§ 12447. Charitable purposes.

(a) *Creation of city bureau or agency.*—Council may, by ordinance, create a city bureau or agency to receive, in trust, all property bestowed upon the bureau or agency for charitable purposes. Council may control the property for the purposes of the trust.

(b) *Appropriations.*—Council may make appropriations to the agency or bureau for charitable purposes, except as limited by the Constitution of Pennsylvania and laws of this Commonwealth.

(c) *Definition.*—As used in this section, the term "charitable purposes" shall mean the relief of poverty, the advancement of education, the promotion of health, governmental or municipal purposes and other purposes which benefit the community.

§ 12448. Observances, celebrations and recognition.

(a) *Appropriation.*—Council may appropriate funds for any of the following:

(1) *The observance of a holiday, centennial or other anniversary, for a city celebration or for a civic project or program.*

(2) *Flowers, a plaque or other token of tangible personal property other than cash, gift certificates or equivalent items, in an amount not to exceed \$100, recognizing the service or passing of a city official, employee or volunteer.*

(b) *Value.—The value of tangible personal property received by a public official, employee or volunteer as provided under subsection (a)(2) shall be considered of de minimis economic impact, as defined in 65 Pa.C.S. § 1102 (relating to definitions), and shall not be subject to reporting under 65 Pa.C.S. § 1105 (relating to statement of financial interests).*

CHAPTER 125 TAXATION

Subchapter

- A. *Assessments of Property for Taxation*
- B. *Levy and Collection*
- C. *Sales of Real Estate for Delinquent Taxes*

SUBCHAPTER A ASSESSMENTS OF PROPERTY FOR TAXATION

Sec.

12522. *Assessment powers.*

§ 12522. *Assessment powers.*

(a) *Power to appoint assessors.—With regard to the valuing and assessing of property for taxation within a city, the following shall apply:*

(1) *If, on May 19, 2014, a city is utilizing the county assessment office for the valuation and assessment of property, the city shall continue to utilize the county assessment office for this purpose.*

(2) *If paragraph (1) does not apply, council may appoint and employ persons to value and assess property for taxation within a city, following the procedures and methodologies set forth in the assessment law applicable in the county in which the city is located, provided that the act of April 16, 1992 (P.L.155, No.28), known as the Assessors Certification Act, shall apply to persons hired pursuant to this paragraph.*

(3) *If paragraph (2) applies, a city may subsequently elect to utilize the county assessment office to value and assess property.*

(4) *The following shall apply with respect to the established predetermined ratio:*

(i) *A city, conducting its own assessments as authorized by paragraph (2) or utilizing the county assessment office pursuant to paragraph (1) or (3), may, by ordinance, adopt an established predetermined ratio different from that used by the county. The city shall apply the ratio selected to the actual valuation supplied by the county to determine assessed value for tax purposes. The established predetermined ratio selected by the city may not exceed 100% of actual value.*

(ii) As used in this paragraph, the term "established predetermined ratio" shall mean the ratio of assessed value to market value established by council and uniformly applied in determining assessed value in any year.

(5) A city that is utilizing the county assessment office in accordance with paragraph (1) or that elects to utilize the county assessment office in accordance with paragraph (3) may not appoint and employ persons to value and assess property in accordance with paragraph (2).

(b) City-appointed assessors.—In any case in which a city appoints persons to value and assess property, the following shall apply:

(1) If the property being assessed is not wholly within the city limits, it shall be assessed in the same manner and within the same jurisdiction as if the property were being assessed for county purposes.

(2) If a city has established a registry of real estate for purposes of assessment, a city may obtain, from the official in charge of the registry, available information as to the registered owners of real estate, under rules and regulations as may be established by ordinance. It shall be a sufficient description of any real estate in any assessment books or duplicates to designate the real estate by the city lot number, other number or designation, as is used on the registry.

(3) For purposes of assessment appeals, council shall constitute the board of revision of taxes and appeals, and the city clerk shall serve as clerk of the board.

(4) Except as authorized in this section, the city shall not exercise powers contrary to or in limitation or expansion of powers granted by statutes that provide the substantive rules governing the making of assessments and valuations of property that are applicable to the assessment of property for taxation purposes under the county assessment law applicable in the county in which the city is located.

(5) A city conducting its own assessments pursuant to subsection (a)(2) shall establish and follow procedures that are consistent with similar procedures provided in the assessment law or laws applicable in the county in which the city is located, including providing notice of an opportunity to appeal assessments, for taking appeals to and from the board of revision of taxes and appeals and for the conduct of proceedings before the board.

(c) Temporary tax exemption for residential construction.—A temporary tax exemption for residential construction shall be subject to the following:

(1) New single and multiple dwellings constructed for residential purposes and improvements to existing unoccupied dwellings or improvements to existing structures for purposes of conversion to dwellings shall not be valued or assessed for purposes of real property taxes until:

(i) occupied;

(ii) conveyed to a bona fide purchaser; or

(iii) one year from the first day of the month in which falls the 60th day after the building permit was issued or, if no building

permit or other notification of improvement was required, then from the date construction commenced.

(2) The assessment of any multiple dwelling because of occupancy shall be upon the proportion which the value of the occupied portion bears to the value of the entire multiple dwelling.

(3) As used in this subsection, the term "dwelling" means a building or portion of a building intended for permanent use as a home or residence.

SUBCHAPTER B LEVY AND COLLECTION

Sec.

12531. Tax levies.

12531.1. Exemptions from taxation.

12531.2. Certification of schedule.

§ 12531. Tax levies.

(a) Property tax.—Council may, by ordinance, levy and, in accordance with this part, provide for the collection of taxes on all property within the city that is made taxable for city purposes and subject to valuation and assessment by the county assessment office or the city, as provided in Subchapter A (relating to assessments of property for taxation), as follows:

(1) A tax for general revenue purposes of not more than 30 mills.

(2) An annual tax sufficient to pay interest and principal on any indebtedness incurred pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) or any prior or subsequent act governing the incurrence of indebtedness of the city.

(3) An annual tax, not to exceed five mills, to light the highways, roads and other public places in the city.

(4) An annual tax for the purpose of maintaining and operating recreation places and programs.

(5) An annual tax, not to exceed the sum of one-tenth of one mill, for the purpose of defraying the cost and expense of caring for shade trees and the administrative expenses connected with their care, or council may provide for the expenses by appropriation from the city general fund.

(b) Residence tax.—Council may, by ordinance, levy and, in accordance with this part, provide for the collection of a residence tax for general revenue purposes, of not more than \$5 annually, on all inhabitants who are 18 years of age or older.

(c) Property tax rules.—With regard to the taxes authorized in subsection (a), the following shall apply:

(1) Special purpose levies authorized in this section shall not be included in calculating the 30-mill limit imposed by subsection (a).

(2) Any ordinance fixing the rate of taxation for any year at a millage rate shall also include a statement expressing the rate of taxation in dollars and cents on each \$100 of assessed valuation of taxable property.

(3) Council may, by ordinance, in any year levy separate and different rates of taxation for city purposes on all real estate classified as land, exclusive of the buildings on the real estate, and on all real estate classified as buildings on land. When real estate tax rates are so levied:

(i) The rates shall be determined by the requirements of the city budget as approved by council.

(ii) The respective rates levied on land and buildings do not have to be equal but must be fixed so as not to constitute a greater levy in the aggregate than a rate of 30 mills on both land and buildings.

(iii) The rates shall be uniform as to all real estate within the classification.

(4) Where council, by a majority action upon due cause shown, petitions the court of common pleas for the right to levy additional millage for general revenue purposes, the court, after public notice as it may direct and after hearing, may order a greater rate than 30 mills but not more than five additional mills to be levied.

(5) (i) Notwithstanding council's power to authorize the transfer of an unexpended balance of an appropriation item pursuant to section 11804 (relating to regulations concerning appropriation), when money is collected for any special purpose, a city treasurer or council member may not apply the money for any purpose other than that for which it was collected.

(ii) Any city treasurer or council member who violates subparagraph (i) commits a misdemeanor of the third degree and, in addition to the fine or penalty that may be imposed upon conviction, shall be required to pay restitution in the amount of money improperly spent.

§ 12531.1. Exemptions from taxation.

Council may, by ordinance or resolution, exempt any individual whose total income from all sources is less than \$12,000 per annum from any per capita or residence tax levied under this chapter. This exemption shall not apply to real property taxes.

§ 12531.2. Certification of schedule.

For the purpose of delinquent tax collection and the filing of liens on property upon which the taxes, assessed and levied, have not been paid and have become delinquent, the city treasurer shall certify schedules of unpaid taxes. The certification shall be made to the person designated by each taxing district for which the city treasurer collects taxes.

**SUBCHAPTER C
SALES OF REAL ESTATE FOR DELINQUENT TAXES**

Sec.

12542.1. Public sale of property to satisfy tax claims.

12543. Certification of schedules to city treasurer.

12546. Record of sales, purchase and resale.

12552.1. Conduct of tax sales.

§ 12542.1. Public sale of property to satisfy tax claims.

(a) *Public sale.*—Property upon which city real estate taxes have not been paid and have become delinquent may become subject to public sale in accordance with one of the following:

(1) *The act of July 7, 1947 (P.L.1368, No.542), known as the Real Estate Tax Sale Law.*

(2) *The Municipal Claim and Tax Lien Law.*

(b) *Other remedies.*—The remedies authorized in this section shall be in addition to other remedies provided for the collection of delinquent city taxes, including an action in *assumpsit*.

(c) *Date of delinquency.*—Unless otherwise provided for under the statutes listed under subsection (a), taxes shall become delinquent 30 days after the final deadline for payment of the taxes for the current tax year.

§ 12543. Certification of schedules to city treasurer.

At the request of the city treasurer, any person acting on behalf of the city who possesses a schedule of unpaid city taxes shall certify the schedule to the city treasurer along with the description of property against which the unpaid taxes were assessed.

§ 12546. Record of sales, purchase and resale.

(a) *Record of sales.*—The city treasurer shall keep in the treasurer's office, or in another place as council may direct, a record of all the sales made pursuant to section 12542.1 (relating to public sale of property to satisfy tax claims).

(b) *Purchase of property at tax sale.*—Notwithstanding any other provision of law, the city shall have the right to bid on and purchase properties sold pursuant to section 12542.1.

(c) *Resale of property.*—Properties purchased by the city under subsection (b) may be sold in accordance with section 12402.1(b) (relating to city property and affairs).

§ 12552.1. Conduct of tax sales.

The procedures and requirements relating to the sale of property for delinquent taxes, including the advertisement for and the time and conduct of the sale, the payment of the purchase price, the distribution of proceeds, making the return and confirmation of sale and the delivery of deed, shall be governed by the act of July 7, 1947 (P.L.1368, No.542), known as the Real Estate Tax Sale Law, or the Municipal Claim and Tax Lien Law as utilized by the city in accordance with section 12542.1 (relating to public sale of property to satisfy tax claims) and by any applicable rules of court governing procedures for tax sales.

**CHAPTER 126
LICENSES AND LICENSE FEES**

Sec.

12601. Licensing and regulatory powers.

12601.1. Registration of businesses or occupations.

12602. Regulation of motor vehicles.

12603. Licensing of plumbers.

12604. Power to regulate and license transient merchants.

12605. Regulation of special events.

12650. Regulation of parking lot and parking garage operators.

12651. Farmers.

12652. Insurance business.

12653. Persons taking orders by samples.

12654. Commonwealth licenses.

§ 12601. Licensing and regulatory powers.

In addition to all other powers granted by this part and other laws, a city shall have the specific licensing and regulatory authority provided by this chapter.

§ 12601.1. Registration of businesses or occupations.

(a) Registration.—Council may, by ordinance, designate the types or kinds of businesses or occupations located or carried out within the city that are subject to annual registration with the city.

(b) Annual fee.—Unless otherwise provided in this chapter, an ordinance requiring registration in accordance with this section may provide for an annual fee on businesses and occupations in an amount reasonably related to the administration of the registration program, not to exceed \$100.

§ 12602. Regulation of motor vehicles.

(a) General rule.—Subject to subsection (b), a city may regulate transportation by motor vehicle.

(b) Exception.—A city shall have no authority to and shall not regulate transportation by motor vehicle in a manner that is preempted by or is inconsistent with applicable Federal and State laws and regulations, policies or orders of Federal and State regulatory agencies.

(c) Definitions.—The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Regulate." Licensing and making regulations for transportation by motor vehicle, including the designation of streets for transportation by motor vehicle.

"Transportation by motor vehicle." The transportation for pay of passengers and property, within the limits of the city or from points in the city to points beyond the limits of the city, by a motor vehicle that is not operated on tracks.

§ 12603. Licensing of plumbers.

Council may, as provided by ordinance or the laws of this Commonwealth, license and provide for the collection of a license fee from all persons certified as being qualified to engage in the business of plumbing or house drainage.

§ 12604. Power to regulate and license transient merchants.

(a) General rule.—With regard to transient merchants, a city shall have power, by ordinance, to regulate and license the transient merchant, including requiring that a license be procured prior to commencement of transient merchant activity.

(b) Penalty.—An ordinance adopted pursuant to subsection (a) may impose a penalty of not more than \$500 for a violation of its provisions and may provide for other means of enforcement.

(c) License fee.—The fee for a transient merchant license shall not exceed \$250 for each month during which any sale or solicitation is continued.

(d) Definition.—As used in this section, the term "transient merchant" shall:

(1) include all of the following:

(i) Transient wholesale and transient retail businesses for the sale of goods, wares or merchandise within the city.

(ii) Transient charitable solicitors for the solicitation of charitable contributions within the city.

(2) not include any of the following:

(i) Farmers selling their own produce.

(ii) Persons selling donated goods, wares and merchandise if the proceeds of the sale are to be applied to any charitable or philanthropic purpose.

(iii) A person selling bakery products, meat and meat products or milk and milk products, if that person is the manufacturer or producer of the products sold.

§ 12605. Regulation of special events.

(a) Special events.—In addition to other licensing and regulatory powers authorized by this chapter, council shall have the authority, by ordinance, to require a permit for and to reasonably regulate the conduct of a special event, which may include, but are not limited to, the following:

(1) Music festivals.

(2) Concerts.

(3) Dances.

(4) Circuses.

(5) Carnivals.

(6) Arts and craft shows.

(7) Parades.

(8) Public assemblies.

(9) Demonstrations.

(10) Performances.

(11) Exhibitions.

(12) Community events.

(13) Block parties.

(b) Purpose of regulation.—Regulation of a special event pursuant to this section shall be for the purpose of protecting and preserving city and public property or for the purpose of promoting or protecting public health, safety or welfare.

(c) Permit requirement.—Pursuant to this section, a city may reasonably regulate and require a permit for any of the following:

(1) A special event that will result in the obstruction of a city street or sidewalk or that would compromise the ability of the city to respond to a public safety emergency.

(2) A special event on any property wholly or partially owned or maintained by the city.

(3) A special event on private property if, in connection with the event, the city will be providing city services, including those relating to

public safety, fire and sanitary facilities, beyond what is routinely provided by the city.

§ 12650. Regulation of parking lot and parking garage operators.

(a) General rule.—For the purpose of protecting the public, a city may enact suitable ordinances regulating the business of operating for-profit parking lots and for-profit parking garages within the city. Ordinances shall be consistent with 75 Pa.C.S. (relating to vehicles). A city may require for-profit parking lots and for-profit parking garages to reserve areas exclusively for parking by handicapped individuals. Nothing in this section shall be construed to limit the protections and prohibitions contained in section 202 of the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327), the act of October 27, 1955 (P.L.744, No.222), known as the Pennsylvania Human Relations Act, and Federal and State rules and regulations implementing those acts. License and permit requirements may be imposed on for-profit parking lots and for-profit parking garages, and license or permit fees may be charged and collected from the operators of the parking lots and parking garages.

(b) Liability insurance.—A city adopting a regulatory plan applicable to for-profit parking lots and for-profit parking garages shall have the authority to require that each operator maintain insurance from an insurer legally authorized to conduct business in this Commonwealth in amounts not less than that which are prescribed by council for the protection of the public from loss of or damage to the vehicles parked, stored or placed under the jurisdiction of the operator and against liability arising out of the ownership or use of the parking lot or parking garage.

§ 12651. Farmers.

A city may not levy or collect a license fee from a farmer upon sales of the farmer's own produce in or about the streets of the city. This section shall not restrict a city's power to regulate the conduct of a farmer's business.

§ 12652. Insurance business.

A city may not levy or collect a license fee upon an insurance company or its agents or an insurance broker authorized to transact business under the laws of this Commonwealth.

§ 12653. Persons taking orders by samples.

A city may not levy or collect a license fee or mercantile tax upon a person taking orders for merchandise by sample from a dealer or merchant for persons who pay a license or mercantile tax at their primary places of business. Nothing in this section shall authorize a person to sell by retail to persons other than dealers or merchants without payment of a license or permit fee.

§ 12654. Commonwealth licenses.

This chapter shall not be construed to relieve a person from the duty of taking out a license or from the payment of any license tax or fee imposed or authorized by any other statute, nor shall any Commonwealth license tax or fee preempt the registration, licensure or regulatory powers of a city in accordance with this chapter, unless the preemption is expressly authorized.

CHAPTER 127
REAL ESTATE REGISTRY

Sec.

12704. Real estate registry.

§ 12704. Real estate registry.

(a) Registration requirement.—For the purpose of procuring accurate information on the ownership of all real estate, council may provide, by ordinance, for a real estate registry in accordance with the act of October 9, 2008 (P.L.1400, No.110), known as the Uniform Municipal Deed Registration Act. If required by the ordinance, every owner, subsequent purchaser, devisee or person acquiring title by partition, or otherwise, to real estate in the city shall furnish, at the designated city office, descriptions of their respective properties upon blanks to be furnished by the city and, at the same time, present their conveyance to be stamped by the designated city official or employee, without charge, as evidence of its registration. A person who fails to register real estate as required by this chapter shall be liable for a penalty established by ordinance, with costs of suit, in the name and for the use of the city, as penalties for the violation of city ordinances are recoverable.

(b) Registry.—A registry established in accordance with this section shall be in the form provided by council and may include books, maps and plans. The registry shall show the location and dimensions of each property in the city, as well as the street number of and the name of the owner of the properties, and shall allow for the inclusion of the names of future owners and dates of future transfer of title.

(c) Access to records by city officials.—A city official or employee charged with acquiring information necessary to establish and maintain the registry shall have free access, without charge, to any of the public records where the information may be obtained. The official or employee may also search in any other place for documentary or other evidence of title not reported to the city official or employee pursuant to this section if it is necessary for the completion of the registry.

(d) Preservation of registry.—The registry shall be preserved in the manner council shall designate in accordance with 53 Pa.C.S. Ch. 13 Subch. F (relating to records).

(e) Certified copies of registry.—The city official or employee charged with the duty of maintaining the registry shall provide certified copies of any entries to the registry, and the copies shall be received in evidence in the same manner as the original registry would be admissible. Certified copies also shall be furnished to any person for a reasonable fee.

(f) Properties sold at judicial sales.—The sheriff of the county in which the city is situated shall present for registry the deeds of all properties within the city limits sold by the sheriff at judicial sales, whether by execution, in partition or otherwise.

(g) Use of registry as source of owners' names.—A city's registry may be used as the lawful and proper source of property owners' or reputed owners' names for all lawful purposes, including the filing of municipal claims.

(h) Municipal and tax claims.—Nothing in this section shall invalidate any municipal or tax claim by reason of the fact that the claim is not assessed or levied against the registered owner.

**CHAPTER 127A
NUISANCE ABATEMENT**

Sec.

127A01. Definitions.

127A02. Report and investigation of public nuisance.

127A03. Summary abatement.

127A04. Prior notice of abatement.

127A05. Abatement by owner.

127A06. Appeal after notice and hearing.

127A07. Abatement by city after notice and statement of costs.

127A08. Assistance in abatement.

127A09. Salvage of material.

127A10. Notice of assessment and appeal of charges.

127A11. Personal liability of owner.

127A12. Administrative fee and civil penalties.

§ 127A01. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Abatement." The removal, stoppage or destruction by any reasonable means of the cause or constitution of a public nuisance.

"Department." The department designated by council to determine the existence of and to abate a public nuisance in accordance with this chapter.

"Owner." With regard to the property on which the alleged public nuisance exists, the owner of record, based upon the city's real estate registry if the city maintains a registry or, if the city does not maintain a real estate registry on the tax assessment records of the city or of the county in which the city is located. The term may include any person in whom is vested all or any part of the legal or equitable title to the property or who has charge, care or control of the property as agent, executor, administrator, assignee, receiver, trustee, guardian, lessee or mortgagee in possession.

"Property." Personal property or real property and any improvements to real property.

"Public nuisance."

(1) Conduct or property, or the condition or use of property, defined or declared to be a public nuisance under any provision of this part or other law.

(2) Conduct or property, or the condition or use of property, if the department determines that it endangers the health or safety of, or causes hurt, harm, inconvenience, discomfort, damage or injury to, a person or property in the city by reason of the conduct or property or the condition or use of the property, being any of the following:

(i) *A menace, threat or hazard to the general health and safety of the community.*

(ii) *A fire hazard.*

(iii) *A building or structure that is unsafe for occupancy or use.*

(iv) *Property that is so inadequately or insufficiently maintained that it diminishes or depreciates the enjoyment and use of other property in its immediate vicinity to the extent that it is harmful to the community in which the property is situated.*

(3) *Unauthorized accumulations of garbage and rubbish and the unauthorized storage of abandoned or junked automobiles or other vehicles on private or public property, and the carrying on of any offensive manufacture or business.*

"Summary abatement." Abatement of a public nuisance by the city without prior notice to the owner of the property in accordance with this chapter.

§ 127A02. *Report and investigation of public nuisance.*

(a) *Designation of department.—Council shall designate the department to which reports of the existence of a possible public nuisance shall be made.*

(b) *Criteria for investigating reports.—The department shall establish criteria for investigating reports to determine the existence of a public nuisance. The reports may be submitted by a member of the public, city employee or elected or appointed city official or result from inspections made by the department.*

(c) *Notification.—If the department, either as a result of a report or an investigation, reasonably believes the reported property involves a building that appears to be structurally unsafe, the department shall notify the city's building inspector or other appropriate official who shall cause the property to be inspected, subject to constitutional standards in a similar manner as provided in section 12308 (relating to powers of board of health) and submit a written report to the department.*

(d) *Determination.—Upon completing its investigation and receiving any written reports required under subsection (c), the department shall determine all of the following:*

(1) *If a public nuisance exists.*

(2) *If the public nuisance is of such a severe and substantial nature that it presents a clear, immediate and substantial danger to public health or safety or to the health or safety of any occupant of a property on which a public nuisance exists or of any property in the vicinity of the public nuisance that it is sufficient to justify extraordinary and immediate action without prior notice to the owner of the property to avoid personal injury, death or substantial loss of property.*

(e) *Retention of records.—Following an investigation, the department shall retain a copy of its findings, including any reports and any photographs of the property or condition investigated, pursuant to 53 Pa.C.S. Ch. 13 Subch. F (relating to records).*

§ 127A03. *Summary abatement.*

(a) *General rule.—A city shall have the power to utilize summary abatement in accordance with this section.*

(b) Conditions.—In the case of a reported public nuisance, the department shall have authority to utilize summary abatement if all of the following occur:

(1) The department determines the existence of the criteria in section 127A02(d) (relating to report and investigation of public nuisance).

(2) The mayor or the mayor's designee provides express authorization to utilize summary abatement.

(c) Notice not required.—If summary abatement is implemented pursuant to subsection (b), the department shall have the authority to enter upon the property for the purpose of abatement without prior notice to the owner of the property or to the holders of liens on the property.

(d) Procedure.—The following shall apply:

(1) Within 10 days following a summary abatement, the department shall post on the property upon which the abatement has occurred a notice describing the action taken to abate the nuisance.

(2) Within 20 days following a summary abatement, the department shall determine the identity of the owner of the property by reference to the city's real estate registry if the city maintains a registry or, in the absence of a registry, by reference to county assessment records, and the identity of the holders of all liens upon the property which are properly indexed among the records of the county and provide to the owner and to all lienholders written notice, by first class mail or hand delivery, of the action taken to abate the nuisance.

(3) Within 30 days following a summary abatement, the department shall file with the city treasurer or other financial officer of the city designated by council a statement of costs of the abatement, which shall include the administrative fee and civil penalty provided by this chapter. After filing with the city treasurer, notice of the statement of costs shall be provided to the owner and lienholders in accordance with section 127A04(b) (relating to prior notice of abatement).

§ 127A04. Prior notice of abatement.

(a) Abatement authority.—The department shall have the authority to abate a public nuisance with prior notice as provided by this section if, after inspecting the property or condition reported to be a public nuisance, subject to constitutional standards in a similar manner as provided in section 12308 (relating to powers of board of health), the department determines, as provided for in section 127A02(d)(1) (relating to report and investigation of public nuisance), that the public nuisance exists.

(b) Method of notice.—

(1) If the department proceeds with abatement pursuant to this section, it shall identify the owner of the property by reference to the city's real estate registry if the city maintains a registry or, in the absence of a registry, by reference to county assessment records and shall immediately serve a written notice on the owner by any of the following methods:

(i) Personal service.

(ii) Leaving a copy of the notice at the place of residence or business of the owner or the address of the owner shown in the

city's real estate registry or in the records in the office of the recorder of deeds.

(iii) Mailing a copy by United States certified mail, return receipt requested, to the owner at the owner's current address shown in the city's real estate registry or in the records in the office of the recorder of deeds.

(2) If service of the written notice is unable to be perfected by any of the methods under paragraph (1), the department shall publish a copy of the notice in a newspaper of general circulation once a week for two consecutive weeks and shall provide a copy of the notice to the individual in possession of the property on which the department has determined that the public nuisance exists, or, if there is no individual in possession of the property, the department shall post a copy of the notice at the structure, location or premises.

(3) The department shall determine from the records in the offices of the recorder of deeds the identities of all lienholders of the property and serve a written notice on all lienholders by United States certified mail, return receipt requested.

(c) Contents of notice.—The notice to the owner and lienholders shall state clearly and concisely the findings and determination of the department with respect to the existence of a public nuisance. The notice shall further state that the public nuisance shall be abated by the city at the expense of the owner unless it is otherwise abated within 30 days of the notice or within any extension of that period granted by the department.

(d) Liability.—A person who is the owner of the premises, location or structure at the time a notice to abate a public nuisance is issued and served upon the person shall be responsible for complying with the notice and shall be liable for any costs incurred by the city in connection with the notice, notwithstanding if the person conveyed the person's interest in the property to another after the notice was issued and served.

(e) Defense.—It shall not be a defense to the determination that a public nuisance exists that the property is boarded up or otherwise enclosed.

§ 127A05. Abatement by owner.

(a) Duty of owner.—Within 30 days after written notice has been provided pursuant to section 127A04(b)(1) or (2) (relating to prior notice of abatement), the owner shall remove and abate the nuisance.

(b) Extension.—The department, upon written application by the owner within the 30-day period referred to in subsection (a), may grant additional time for the owner to effect the abatement of the public nuisance if the extension is limited to a specific time period.

§ 127A06. Appeal after notice and hearing.

(a) Hearing.—A city shall, by ordinance, provide a procedure by which an owner of the property who has been served with a notice pursuant to section 127A04(b)(1) or (2) (relating to prior notice of abatement) may request and have a timely hearing on the question of whether a public nuisance, in fact, exists.

(b) Appeal board.—Council, or a committee of three council members appointed by council, shall constitute the public nuisance appeals board

which, if an appeal is taken, shall conduct the hearing on the question of whether a public nuisance, in fact, exists. The appeals board may uphold, amend or modify the determination of the department or extend the time for compliance with the department's order if the extension is limited to a specific time period.

(c) Time limitations.—An appeal under this section shall suspend the period of time within which the nuisance is to be abated until a decision is rendered by the appeals board.

§ 127A07. Abatement by city after notice and statement of costs.

(a) Abatement by city after notice.—If a public nuisance has not been abated at the expiration of 30 days after notice has been provided or within additional time as the department or appeals board may grant, taking into consideration the provisions of section 127A06(c) (relating to appeal after notice and hearing), the department shall have the authority to enter upon the property for the purpose of abatement.

(b) Statement of costs.—Upon abatement in accordance with this section, the department shall file with the city treasurer or other financial officer of the city designated by council a statement of costs of the abatement, which shall include the administrative fee and civil penalty provided by this chapter.

§ 127A08. Assistance in abatement.

In abating a public nuisance, the department may call upon any of the city departments or divisions for assistance, as shall be deemed necessary, or may abate the public nuisance by private contract.

§ 127A09. Salvage of material.

If deemed practicable by the department, the department may salvage and sell at private or public sale any material derived from an abatement of a public nuisance. Pursuant to ordinance, all of the following shall apply to the proceeds obtained from the sale of any material salvaged as a result of an abatement:

(1) The proceeds shall be deposited as directed by ordinance.

(2) The proceeds may be applied against the amount of the costs, fees and penalties relating to the abatement.

(3) If the amount of the proceeds exceeds the amount of the costs, fees and penalties, any excess shall be paid to the owner.

§ 127A10. Notice of assessment and appeal of charges.

(a) Notice of assessment.—Upon receipt of the statement of costs from the department, either for a summary abatement pursuant to section 127A03 (relating to summary abatement) or for an abatement with notice pursuant to section 127A04 (relating to prior notice of abatement), the city treasurer or other financial officer of the city designated by council shall, in accordance with section 127A04(b), give notice of the amount set forth in the statement of costs to the owner and lienholders of the property upon which the public nuisance has been abated. The notice shall state that the city proposes to assess against the property the amount set forth in the notice and that objections to the proposed assessment must be made in writing and received by the designated officer within 20 days from the date of mailing the notice.

(b) Lien.—Upon the expiration of the 20-day period if no written objections have been received by the officer, the total amount of costs, fees and penalties specified in the statement of costs may be entered as a lien against the property on which the nuisance was abated and shall be collected in the manner provided for the collection of municipal claims and liens, subject to rights of appeal provided in this section.

(c) Administrative review.—If objections of the owner or a lienholder are received by the designated officer prior to the expiration of the 20-day period, the officer shall refer the matter to the department for administrative review.

(d) Procedure.—The city shall, by ordinance, provide a procedure by which the department shall make a determination regarding any timely filed objection and by which an appeal of the department's determination may be made to the appeals board referred to in section 127A06(b) (relating to appeal after notice and hearing).

(e) Final administrative decision.—The determination of the appeals board shall be a final administrative decision within the city.

(f) Reduction or cancellation of assessment.—The department, in administrative review, or the appeals board, on appeal, may reduce or cancel a proposed assessment if it is determined that any of the following did not conform to the provisions of this chapter:

- (1) The notice to remove the nuisance.*
- (2) The work performed in abating the nuisance.*
- (3) The computation of charges.*

(g) Elimination of civil penalty.—The department, in administrative review, or the appeals board, on appeal, may reduce a proposed assessment by eliminating the civil penalty portion of the statement of costs if any of the following apply:

- (1) The current owner did not own the property at the time the notice required in section 127A04 was posted.*
- (2) The owner did not receive the notice to remove the public nuisance, did not have knowledge of the public nuisance and could not, with the exercise of reasonable diligence, have had knowledge of the public nuisance.*

§ 127A11. Personal liability of owner.

Notwithstanding the right of the city to utilize in rem proceedings to pursue collection of the costs, fees and penalties in the statement of costs as a municipal claim, the person who is the owner of the property at the time of a summary abatement at which the notice required is given, or, in the case of an abatement pursuant to section 127A04 (relating to prior notice of abatement), the person who was the owner of the property at the time notice of the existence of the public nuisance was given, shall be personally liable for the amount of the assessment, including all interest, other charges and, except as provided in section 127A10(g) (relating to notice of assessment and appeal of charges), civil penalties.

§ 127A12. Administrative fee and civil penalties.

Whenever a public nuisance is abated by the city, the statement of the costs of the public nuisance shall include the city's actual cost of abatement, plus an administrative fee, not to exceed 10%, and a civil

penalty. For the first abatement of a public nuisance upon any owner's property within the city in any two-year period, the civil penalty shall be \$250. For second and subsequent abatements upon any properties of any owner within the city during any two-year period, the civil penalty shall be \$500. The increased civil penalty shall be imposed and collected regardless of whether the second and subsequent public nuisances upon property or properties of an owner involve the same property or the public nuisances are of the same or different character.

CHAPTER 128 EMINENT DOMAIN

Sec.

12801. Exercise of eminent domain.

12802. Restrictions as to certain property.

12803. Title acquired.

12824. Assessment awards.

§ 12801. Exercise of eminent domain.

(a) General rule.—In addition to all other purposes for which a city may exercise the power of eminent domain as authorized by this part or by other laws of this Commonwealth and subject to the duty to provide just compensation, a city may acquire property by eminent domain, including entering upon, appropriating, taking, using and occupying private lands and property for any of the following public purposes:

(1) The laying out, opening, widening, extending, vacating, grading or changing the grades or lines of streets.

(2) The construction of bridges and the piers, abutments and approaches for bridges.

(3) The construction of slopes, embankments and storm water sewers, including storm water drains.

(4) The erection and extension of waterworks, wharves and docks, public buildings, public works, filtration plants, sewage systems, sewage treatment works, waste disposal plants, including disposal of garbage, ashes and other refuse materials and transfer facilities, gas plants, electric power and light plants, firehouses, hospitals, public auditoriums, memorial buildings, public transportation facilities, comfort stations, homeless shelters, waiting stations, communications facilities, drinking fountains, libraries and other public buildings and public works.

(5) The establishing of recreation places.

(6) The changing of watercourses.

(7) The acquisition of lands, easements and property for use of the Pennsylvania National Guard in accordance with sections 144A13 (relating to eminent domain for National Guard purposes) and 144A14 (relating to land for armory purposes).

(b) Eminent domain proceedings.—Eminent domain proceedings shall be subject to and conform with the provisions of 26 Pa.C.S. (relating to eminent domain).

§ 12802. Restrictions as to certain property.

(a) General rule.—In addition to the restrictions made by other provisions of this part in particular cases or by any other provision of law, no city shall exercise the right of eminent domain against:

(1) Land now occupied by any building which was used during the Colonial or Revolutionary period as a place of assembly by the Council of the Colony of Pennsylvania, the Supreme Executive Council of the Commonwealth of Pennsylvania or the Congress of the United States.

(2) Land occupied by any fort, redoubt or blockhouse erected during the Colonial or Revolutionary period or any building used as headquarters by the Commander-in-Chief of the Continental Army.

(3) The site of any building, fort, redoubt, blockhouse or headquarters, which are preserved for their historic associations and not for private profit.

(b) Colonial and Revolutionary period.—The Colonial and Revolutionary period shall be deemed to have ended on September 3, 1783. § 12803. Title acquired.

Except as otherwise provided by law, if land or other real or personal property is acquired by a city in eminent domain proceedings or is acquired by gift, purchase or otherwise, the title obtained by the city shall be in fee simple absolute or like absolute ownership unless the parties agree otherwise in writing and the agreement expressly appears in a recorded deed affecting any real property acquired by the city or in the notice of condemnation.

§ 12824. Assessment awards.

In proceedings to assess damages and benefits, one of the following shall be awarded to or assessed against the owner of land and affected property:

- (1) The excess of damages over benefits.*
- (2) The excess of benefits over damages.*
- (3) Nothing, if the benefits and damages are equal.*

CHAPTER 129 STREETS

Sec.

12901. Map of streets.

12902. Laying out streets.

12903. Effect of laying out street.

12904. Improvements within laid-out streets.

12915. Power to open and alter streets.

12916. Ordinances when no petition is presented.

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12955. Acquisition of unobstructed views.

12960. Use of abutting lands for embankments, slopes, fills and culverts.

12970. Appropriation for connections with highways.

12975. Street closings and detours.

12985. Maintenance of streets forming boundaries.

12986. Streets, the center line of which is the boundary between city and another municipal corporation.

12988. Streets more than half of whose width is within city.

12989. Assessment for improvements on property outside limits where street entirely within city.

§ 12901. Map of streets.

(a) *General rule.*—Council may authorize and approve a comprehensive map of city streets, which may be part of an official map adopted in accordance with the Municipalities Planning Code.

(b) *Amendment to comprehensive map.*—If council adopts a comprehensive map of city streets, any street subsequently laid out in accordance with this chapter shall be deemed an amendment to the comprehensive map.

§ 12902. Laying out streets.

(a) *General rule.*—A city may lay out streets by any of the following means:

(1) *Identifying the street on a comprehensive map of city streets.*

(2) *Identifying the street in an amendment to the comprehensive map.*

(3) *Identifying the street in a recorded subdivision or land development plan.*

(4) *An ordinance laying out any area for future opening as a public street.*

(b) *Filing of ordinance.*—If, at the time of the enactment of an ordinance in accordance with subsection (a)(4), the lines of the laid-out street include property not subject to use as a public passageway, the ordinance shall be filed with the recorder of deeds of the county where the city is located.

(c) *Indexing of ordinances.*—The recorder of deeds shall index the ordinance by the name of the city, the name of the property owner and, if applicable, the parcel number of the property through which the proposed street is laid out.

§ 12903. Effect of laying out street.

With regard to land not previously used by the city as a passageway for public travel, the laying out and locating of a street in accordance with this chapter shall not in and of itself do any of the following:

(1) *Authorize the entry upon or the appropriation of any property.*

(2) *Constitute the opening of any street or the taking or acceptance of any land.*

(3) *Obligate the city to improve or maintain the street or land.*

§ 12904. Improvements within laid-out streets.

(a) *General rule.*—No permit shall be issued for any building within the lines of any street laid out pursuant to this chapter.

(b) Damages.—No person shall recover damages for the taking for public use of any building or improvements constructed within the lines of any street after the street has been included in the general plan or official map, and any building or improvement shall be removed at the expense of the owner.

§ 12915. Power to open and alter streets.

(a) General rule.—With regard to any street or any part of a street within city limits, a city may, with or without any petition of property owners, do any of the following:

- (1) Open, widen, straighten, alter, extend and improve.*
- (2) Establish or reestablish the grades.*
- (3) Keep in order and repair and in safe passable condition.*
- (4) Vacate and discontinue when deemed expedient for the public good.*

(5) With the approval of the Department of Transportation, vacate highways laid out by the Commonwealth within the city limits which have remained unopened for 30 years.

(b) Payment.—A city may pay for any of the actions authorized in subsection (a), either in whole or in part, from the general revenues of the city.

§ 12916. Ordinances when no petition is presented.

(a) General rule.—An ordinance shall be enacted for the opening, widening, straightening, extending or vacating of any street without petition of property owners by the affirmative vote of a majority of the whole number of members of council, plus one.

(b) Enactment of ordinance.—The following shall apply prior to the enactment of an ordinance pursuant to subsection (a):

- (1) The expiration of 28 days from the date of its introduction.*
- (2) Prior to the end of the 28-day period in paragraph (1), copies of the ordinance shall be published in a newspaper of general circulation in the city once a week for three consecutive weeks immediately following the introduction of the ordinance.*

(3) In case no newspaper is published in the city, the publication shall be in¹ the same manner in one newspaper published in the county as required by section 10109 (relating to publication of notices).

§ 12917. Erection of improvements restricted.

(a) General rule.—Any ordinance widening or straightening any street shall fix the new line or lines.

(b) Conformation to new lines.—The ordinance may require that no owner or builder shall erect any new building or rebuild or alter the front of any building already erected without making it conform to the new lines.

(c) Right of action.—A landowner's right of action shall accrue only when the city actually enters on and occupies the land within the lines or the building is located or relocated to conform to the lines.

§ 12918. Petition for opening.

¹city, then in" in enrolled bill.

(a) *Presentment to council.*—A petition may be presented to council for the opening, widening, straightening, altering, extending, vacating, establishing or reestablishing of the grade of any street.

(b) *Majority of property owners required.*—A petition made pursuant to this section shall be:

(1) *Signed by a majority, in number and interest, of the owners of property abutting on the line of the proposed improvement or vacation as fixed at the time of presentation of the petition.*

(2) *Verified by affidavit of one or more of the petitioners.*

(c) *Majority in interest.*—The majority in interest of owners of undivided interests in any piece of property shall be deemed as one person for the purposes of the petition.

§ 12919. Notice of petition.

(a) *General rule.*—After a petition has been presented in accordance with section 12918 (relating to petition for opening) and council has determined the adequacy of the petition, but before final enactment of any ordinance enacted pursuant to the petition, notice shall be published in a newspaper of general circulation once a week for three consecutive weeks as required by section 10109 (relating to publication of notices), and handbills shall be posted in conspicuous places along the line of the proposed improvement.

(b) *Requirements.*—The notice and handbills shall state that:

(1) *The petition for the improvement was signed by a majority, in interest and number, of the owners of property abutting the line of the proposed improvement.*

(2) *Any person interested may provide comments at a public hearing to be held at a date, time and place as stated in the published notice and handbills.*

(c) *Notice of determination to proceed.*—If, after a hearing, council determines to proceed with the consideration of an ordinance pursuant to the petition, it shall publish notice of the ordinance and incorporate reference to any maps or drawing, in accordance with Subchapter A.1 of Chapter 110 (relating to ordinances).

§ 12922. Assessment of damages and benefits.

If necessary, in any proceedings to exercise one of the powers given in section 12915 (relating to power to open and alter streets), viewers shall be appointed, damages awarded and benefits assessed as provided in 26 Pa.C.S. (relating to eminent domain) or as provided in this chapter for the assessment of benefits.

§ 12930. Power to grade, pave and macadamize.

(a) *General rule.*—A city may grade, pave, macadamize or otherwise improve any street, and the sidewalks of the street when included as a part of the improvement, have them set with curbs and provide for drainage.

(b) *Improvement.*—A city may provide for the following improvements of any street, in length, in the space between the curb, gutter or cartway and the property line:

(1) *An original work or improvement.*

(2) *A change, repair, renewal or alteration in the street or curb.*

(3) *Parking spaces.*

(4) *Shade trees.*

(5) *Changing, altering, renewing, replanting, pruning or otherwise making improvements in an item listed under paragraph (1), (2), (3) or (4).*

§ 12931. Payment of cost of improvement.

(a) *General rule.*—The costs and expenses of the improvements done under section 12930 (relating to power to grade, pave and macadamize) shall be paid, in whole or in part, by the city or by the owners of real estate bounding and abutting the improvement.

(b) *Assessment.*—Cost and expense upon the abutting real estate shall be assessed in accordance with Chapter 145A (relating to assessments for public improvements).

§ 12938. Preparation of streets for paving or repairing.

(a) *General rule.*—Council may provide, by ordinance, for the laying, renewing and repairing of all gas, water, steam or other pipes or conduits in any street before the paving, repaving or repairing of the street and for making the necessary connections with the pipes.

(b) *Sewer improvement.*—Council may provide for the necessary connections and branches leading into main or lateral sewers.

(c) *Private utility companies.*—With regard to connections requiring extensions from sewers or from gas, water, steam or other pipes or conduits, council may not require private utility companies to make extensions beyond the inner line of the curbstone of the street unless it determines that it is necessary to do so as a sanitary measure.

(d) *Recoupment of cost.*—If, after notice to all persons and owners affected of the necessity for the laying, renewing and repairing of gas, water, steam or other pipes or conduits in a street and the necessity of making necessary connections prior to the proposed paving, repaving or repairing of the street, there is a failure to comply, council may perform work and may collect the cost of paving, repaving or repairing of the pipes or conduits, with interest, from the persons and owners affected.

(e) *Liens.*—The cost of the sewer connections shall be a first lien against the land for whose benefit the connections are made. A separate lien may be filed for the cost, or the sewer connection cost may be included in any lien filed for the cost of the street improvement, and the lien and the proceedings on the lien shall be as in the case of other municipal liens.

§ 12939. Highways in cities.

(a) *Power over highways.*—Powers, rights and duties given to a city over its streets shall extend to highways to the extent that the city is legally responsible for them, pursuant to agreement or otherwise.

(b) *Damages.*—A city shall not be responsible for damages to property owners abutting a highway under subsection (a) for acts of the Commonwealth unless the city shall assume them under this chapter or the act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law.

§ 12950. Grade crossing.

(a) *Railroad crossings.*—A city constructing a street across a railroad shall construct the street above or below the grade of the railroad, unless permitted by the Pennsylvania Public Utility Commission to construct the street at grade.

(b) New construction.—Any new construction of a street crossing a railroad or any vacation of any street crossing a railroad shall be constructed or vacated only in a manner consistent with the rules and regulations and under the jurisdiction of the Pennsylvania Public Utility Commission.

(c) Compensation to owners.—The compensation for damages to the owners of adjacent property taken, injured or destroyed by the construction of a street crossing a railroad or any vacation of any street crossing a railroad shall be ascertained, fixed and paid according to 66 Pa.C.S. Pt. I (relating to public utility code).

§ 12955. Acquisition of unobstructed views.

Any city may acquire, by purchase or by the right of eminent domain, a free and unobstructed view down and across lands located at or near intersections or curves of streets, railroads or railways to assure a free and unobstructed view in all directions at the intersections or curves and to prevent the use of the lands over and across which the view was acquired for any purpose or in any manner which may interfere with or obstruct the vision of any person traveling upon any street within the city.

§ 12960. Use of abutting lands for embankments, slopes, fills and culverts.

(a) General rule.—In the grading of any street, a city may use so much of the lots and lands abutting on the street for the construction of embankments, slopes, fills and culverts as may be necessary for the completion of the improvement.

(b) Compensation.—Compensation for damages, costs and expenses resulting from the use of lots and lands abutting on the street for the construction of embankments, slopes, fills and culverts shall be made in the same manner as compensation for using and occupying private lands for the grading of streets under section 12801 (relating to exercise of eminent domain).

§ 12970. Appropriation for connections with highways.

A city may, singly or jointly with other political subdivisions, appropriate money for the improvement of streets or roads beyond the limits of a city for the purpose of connecting improved streets in a city with a highway.

§ 12975. Street closings and detours.

(a) General rule.—The following shall apply to the closing of a street to vehicular traffic:

(1) No street shall be closed to vehicular traffic, except upon order of the department of streets and public improvements or other department of the city having jurisdiction over public streets or, in cases of emergency, when immediate action is necessary to protect public safety, by order of the mayor, the police or the fire marshal.

(2) A street may not remain closed for a longer period than is necessary for the purpose for which the order to close was issued.

(3) Except in cases of emergency, when immediate action is necessary to protect public safety, no street shall be closed to vehicular traffic when the street has been designated as a detour by the Department of Transportation, unless the Secretary of Transportation has provided written consent or council has, by resolution duly recorded

on its minutes, declared the closing necessary for the safety of the public.

(4) When any street which forms a part or section of a State highway or has been designated as a detour by the Department of Transportation is closed to vehicular traffic, the city shall at once notify the Department of Transportation of the creation of a detour under this section. The Department of Transportation shall be notified immediately after the detour is removed.

(5) When any street is to be closed, it shall be the duty of the official or department that authorized the closing to designate a detour.

(6) While the detour is in use, legible signs shall be erected and maintained at reasonable intervals, indicating the proper direction and the detour shall be maintained in safe and passable condition.

(7) When the street that had been closed is opened for traffic, all detour signs shall be removed.

(b) Agreements with owners of private land.—A city may enter into an agreement with the owners of private lands covering the acquisition of right-of-way privileges for a detour over private property for the period when a street shall be closed to traffic. If the parties cannot reach an agreement, the city may proceed with the construction of the detour, with the owner of the property taken for the detour entitled to seek damages, if any, in the same manner as damages are now ascertained for the opening of streets in the city.

(c) Payment.—In the exercise of the rights conferred by this section relating to detours, council is empowered to pay for the necessary maintenance, subsequent repair and land rental out of money available for the construction and maintenance of city streets.

(d) Penalty.—Any individual who willfully removes, defaces, destroys or disregards any barricade, light, danger sign, detour sign, signal or warning of any other type legally erected or placed or who drives on, over or across any street which has been closed by proper authority commits a summary offense punishable upon conviction in accordance with section 11018.16 (relating to enforcement of ordinances, recovery and payment of fines and penalties).

(e) Fine for multiple offenses.—In addition to subsection (d), a person shall pay a fine of not less than \$500 or more than the maximum fine authorized in section 11018.17 (relating to penalty) for the second or any subsequent offense.

(f) Costs of prosecution.—An individual punished under subsection (d) or (e) shall pay the costs of prosecution together with the value of the property so removed, defaced or destroyed.

(g) Exception.—An individual who has no outlet due to the closing of a street may drive on, over or across the street, subject to reasonable conditions as may be prescribed by the city without being subject to the penalties imposed by this section.

(h) Collection of fines.—All fines collected under the provisions of this section shall be paid over to the city treasurer.

(i) Civil damages.—In addition to the penalties provided in subsections (d) and (e), the city, its agents or contractors may, in an action at law,

recover damages from any person who damages a street when it is closed to vehicular traffic.

§ 12985. Maintenance of streets forming boundaries.

(a) General rule.—A street on the boundary line between a city and another municipal corporation shall be maintained jointly by the city and the other municipal corporation.

(b) Maintenance agreement.—The officers of the city and the municipal corporation maintaining a street under subsection (a) shall enter into an agreement providing for the division of the cost of maintenance between the city and other municipal corporation.

(c) Refusal to participate.—If a municipal corporation shall fail or refuse to enter into a contract under this section, the city or any taxpayer of the noncontracting municipal corporation may petition the court of common pleas of the county, setting forth the facts.

(d) Court decision.—The court, after hearing of which notice shall be given to all parties interested as the court may direct, shall make an order directing the manner of the maintenance and the division of the cost of maintenance between the city and the other municipal corporation.

§ 12986. Streets, the center line of which is the boundary between city and another municipal corporation.

(a) General rule.—A city may enter into a contract with a municipal corporation to provide for the grading, curbing, draining, paving and macadamizing of any street that constitutes the dividing line between the city and the municipal corporation.

(b) Supervision.—The alterations and improvements shall be made under the supervision of the city or municipal corporation, or by contract let by the city or the municipal corporation, as may be provided for in the contract between the city and the municipal corporation.

§ 12988. Streets more than half of whose width is within city.

(a) Authority to improve entire street.—Whenever any street, more than one-half the width of which is within the limits of the city, shall divide the city from any other municipal corporation, the street may be improved by the city in the same manner as if the street were entirely located within the limits of the city.

(b) Assessment.—The property, within or outside the city, that abuts the street and benefits from the improvements may, for a depth of 150 feet plus one-half the width of the street measured from its center line, be assessed for any and all municipal improvements to or on the street in the same manner as the property would be assessed under the provisions of this chapter if it were entirely located within the limits of the city.

§ 12989. Assessment for improvements on property outside limits where street entirely within city.

Whenever any street, entirely within the limits of any city, shall divide the city from any other municipal corporation, the property on the side of the street, within or outside the city, that abuts the street and benefits from the improvement may, for a depth of 150 feet from its center line, be assessed for any and all municipal improvements to or on the streets on which the property abuts in the same manner as the property would be

assessed under the provisions of this part if it were entirely located within the limits of the city.

CHAPTER 130 SIDEWALKS

Sec.

13001. Power to lay out and grade sidewalks and compel construction of sidewalks.

13002. Construction by cities upon failure of owner and collection of cost.

13002.1. Ordinances.

13003. Emergency repairs.

§ 13001. Power to lay out and grade sidewalks and compel construction of sidewalks.

(a) General rule.—Any city may lay out, ordain and establish sidewalks, curbs, gutters and drains along any street, and may, with or without petition, require owners of property abutting any street to construct, pave, curb, repave and recurb the sidewalks and keep the sidewalks in good repair along their property at grades and under regulations and specifications as council may provide.

(b) State highways.—A city shall obtain written consent from the Department of Transportation if the highway is a State highway.

§ 13002. Construction by cities upon failure of owner and collection of cost.

(a) General rule.—Upon failure of any owner of property abutting any street to construct, pave, curb, repave, recurb or maintain any sidewalk, in accordance with the notice required in subsection (f), the city, itself or by contract, may complete the construction, paving, curbing, repaving, recurbing or maintenance.

(b) Recoupment of costs.—A city may collect the following from an owner who has failed to complete the construction, paving, curbing, repaving, recurbing or maintenance of the sidewalk pursuant to notice to do so:

(1) Costs incurred by the city pursuant to subsection (a).

(2) A penalty of 10% of the costs.

(3) All charges and expenses.

(c) Liens upon the property.—The costs, penalties, charges and expenses provided for in subsection (b) shall be a lien upon the property for which the notice to construct, pave, curb, repave, recurb or maintain the sidewalk was given.

(d) Duration of the lien.—The lien shall exist from the time of the completion of the work, which shall be certified in accordance with section 11504 (relating to certifying commencement and completion of municipal improvements).

(e) Filing of the lien.—The lien may be filed and proceeded in as provided by law in the case of municipal liens or may be collected from the owner by action in assumpsit. Alternatively, the cost may be borne by the city, in whole or in part, and, if in part, the rest to be collected as provided by this section.

(f) Service of notice.—Notice of the lien shall be served upon one of the following:

(1) The owner of property to construct, pave, curb, repave, recurb or maintain a sidewalk, if that can be done within the county.

(2) If service cannot be made under paragraph (1), then notice may be served upon the owner's agent or the party in possession.

(3) If service cannot be made under paragraph (1) or (2), notice may be served by posting conspicuously upon the premises.

(g) Failure to comply.—Council may, by ordinance, provide that an owner shall be deemed to have failed to comply if the work is not completed within a specified period, which may be more but shall not be less than 45 days after the service or posting.

§ 13002.1. Ordinances.

All reconstruction, repaving and recurbing of sidewalks may be included in the ordinance providing for the original construction, paving and curbing of sidewalks without the necessity for adopting a new ordinance.

§ 13003. Emergency repairs.

(a) General rule.—Any city may make emergency repairs to sidewalks, within its corporate limits, if an officer or designated individual representing the department in charge of repairs to sidewalks upon inspection determines that a substantial and immediate danger exists to public health, safety and welfare.

(b) Written report.—The officer or individual shall prepare a written report of those conditions which shall be conclusive evidence of the existence of the emergency justifying the repair.

(c) Additional remedy for city.—This section is intended to provide an additional remedy for cities in connection with emergency repairs of sidewalks.

(d) Notice.—The following shall apply:

(1) A copy of the written report shall be served upon the abutting property owner, along with a notice to make emergency repairs to the sidewalk within 48 hours of service of the notice and report.

(2) The notice and copy of the report shall be served as provided in this chapter for constructing and maintaining sidewalks and curbs.

(3) The report shall expressly state that emergency repairs are required.

(4) If the owner fails to make the emergency repairs within the prescribed time, the city may make the emergency repairs to the sidewalk.

(e) Costs.—Upon the completion of any emergency repairs, the cost of the repairs shall be a charge against the owner of the abutting property and shall be a lien, until paid, upon the abutting property, provided that a claim is filed for the lien in accordance with the law providing for the filing and collection of municipal claims.

(f) Action in assumpsit.—The amount of the claim against the owner of the abutting property may also be collected from the owner by an action in assumpsit.

CHAPTER 131
BRIDGES

Sec.

13101. Construction and maintenance of bridges.

13102. Ordinance for location of bridges.

13103. Right to appropriate property.

13110. Agreement for joint construction and maintenance.

13114. Recording of contract.

13115. Power to construct boundary bridges.

13135. Acquisition of existing bridges.

§ 13101. Construction and maintenance of bridges.

(a) *General rule.*—Cities may locate, build and maintain bridges, wholly or partially within the city limits, along with the piers, abutments and approaches appurtenant to the bridges, to be used as public streets.

(b) *Definition.*—As used in this chapter, the term "bridge" shall mean a structure built to span and provide passage over a valley, road, railroad track, private property, river, creek, stream or any other body of water or physical obstacle and shall include viaducts constructed from a series of spans or arches.

§ 13102. Ordinance for location of bridges.

(a) *General rule.*—Cities may enact ordinances fixing the location and providing for the laying out and opening of the routes or locations for bridges, which shall be public streets.

(b) *Procedure.*—The procedure for the laying out and opening of the routes or locations of bridges shall be the same as is provided by this chapter for the laying out and opening of streets.

§ 13103. Right to appropriate property.

(a) *Failure to agree on damages.*—A city that has not agreed with an owner regarding damages done, or likely to be done, by the erection of the bridge may take and appropriate the lands and property necessary to erect the bridge.

(b) *Assessment of damages.*—The measure of damages for the taking and appropriation shall be assessed in the same manner and with like proceedings as provided for property taken, injured or destroyed under 26 Pa.C.S. (relating to eminent domain).

§ 13110. Agreement for joint construction and maintenance.

(a) *General rule.*—The city may enter into an agreement with any political subdivision, public agency, public utility or any other person interested and by law authorized to enter into an agreement, or with any or all of them, for the laying out, construction, improvement and maintenance of any bridge and for the payment of any damages caused by the action.

(b) *Requirements of agreement.*—An agreement authorized under subsection (a) shall provide for the following:

(1) *Respective duties, obligations and responsibilities of the parties to the agreement, including construction and maintenance of the bridge.*

(2) *Payments relating to and damages caused by the construction and maintenance.*

(c) *Contract.*—After an agreement authorized under subsection (a) has been entered into, the city and the other parties to the agreement shall have the authority to do the following:

- (1) *Prepare plans or specifications of the entire work.*
- (2) *Advertise for bids in the manner required by law.*
- (3) *Award the contract to the lowest responsible bidder.*

(d) *Liability.*—The city shall be liable to the contractor for only the part of the contract price as it has agreed to pay by the agreement under subsection (a), but it shall, in addition, be liable to the contractor for any money actually paid into the city treasury by the other parties pursuant to the terms of the agreement.

§ 13114. *Recording of contract.*

Any of the contracts provided for under this chapter may be recorded in the office of the recorder of deeds in the proper county. The record shall be notice to all persons who might be affected by the contract.

§ 13115. *Power to construct boundary bridges.*

Whenever a creek over which a bridge may be necessary shall be on the division line of a city and another municipality, the city may enter into an intergovernmental agreement pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) with the municipality for the construction and maintenance of a bridge and for apportionment of the costs.

§ 13135. *Acquisition of existing bridges.*

(a) *General rule.*—A city may purchase, condemn, maintain and use any public toll bridge crossing any river or stream within the limits of the municipality, together with the approaches and appurtenances to the toll bridge.

(b) *Cost.*—A city may enter into contracts with the county commissioners or the legislative body in a county that has adopted a home rule charter of the proper county for the county to pay a portion of the cost of purchase, condemnation and maintenance.

CHAPTER 132 SANITARY SEWERS

Sec.

13201. *Construction of sanitary sewers, cost and eminent domain.*

13201.1. *Required connection and fees.*

13206. *Construction of sanitary sewage treatment works.*

13213.1. *Rental fees or charges.*

13222.1. *Acquisition of existing sanitary sewer systems.*

13230. *Sewers outside cartway and curb lines.*

13240. *Building joint sewers.*

13241. *Approval of Department of Environmental Protection.*

13245.1. *Connection to existing municipal sanitary sewer.*

13250. *Sewers extended outside of city.*

§ 13201. *Construction of sanitary sewers, cost and eminent domain.*

(a) *General rule.*—A city shall have the power to construct and reconstruct, or cause to be constructed or reconstructed, in its streets and over and across public and private lands or property, sanitary sewers of all kinds, main or local, with extensions and with lateral and branch sewers, including house connections to the curb.

(b) *Cost.*—The cost and expense of construction and reconstruction in accordance with subsection (a) may be paid out of the general revenues or special money raised for that purpose or assessed, in whole or in part, upon property benefited, improved or accommodated, as provided for in Chapter 145A (relating to assessments for public improvements).

(c) *Eminent domain.*—The city shall have the right of eminent domain to effectuate the purposes of this section. The damages for property taken, injured or destroyed shall be ascertained and paid as provided in 26 Pa.C.S. (relating to eminent domain).

§ 13201.1. Required connection and fees.

(a) *General rule.*—In addition to paying for the cost and expense of construction or reconstruction in accordance with section 13201(b) (relating to construction of sanitary sewers, cost and eminent domain), a city may, by ordinance, require connection to a sanitary sewer system provided by the city or a municipal authority serving the city.

(b) *Cost.*—As a condition of connection to a city-owned sewer collection, treatment or disposal facility, a city may impose and charge the following to property owners who desire to or are required to connect to the sanitary sewer system:

(1) *A connection fee.*

(2) *A customer facilities fee.*

(3) *A tapping fee.*

(4) *Similar fees, as enumerated and defined by 53 Pa.C.S. § 5607(d)(24) (relating to purposes and powers).*

§ 13206. Construction of sanitary sewage treatment works.

(a) *General rule.*—A city may construct, or cause to be constructed, sanitary sewage treatment works, which may be part of the same improvement and under the same contract as sanitary sewers.

(b) *Location of construction.*—Sewage treatment works may be erected within or outside the limits of the city.

(c) *Eminent domain.*—The city shall have authority to acquire, by eminent domain or otherwise, property within or, subject to the limitations in 26 Pa.C.S. § 206 (relating to extraterritorial takings), outside the limits of the city deemed necessary for the treatment works and the sewers leading to the treatment works.

§ 13213.1. Rental fees or charges.

(a) *General rule.*—All persons whose property is connected to a sanitary sewer system shall pay a monthly, quarterly, semiannual or annual charge to the city, in addition to the cost of making the connection. The charges shall be imposed by the city in accordance with procedures approved by council. Until paid, a charge shall constitute a lien against the property connected to the sanitary sewer system, and the amount of the charge may be recovered by due process of law through an action in

assumpsit in the name of the city against the owner of the property charged or by a lien filed in the nature of a municipal lien.

(b) Calculation of fees.—All water utilities supplying water to users within the boundaries of any city shall, at the request of council, furnish to the city, at reasonable times agreed to by the city and water utilities, a list of all water meter readings and flat-rate water bills and the basis for each flat-rate water charge so that the data may be used in calculating sewer rental fees. The city may reimburse utilities for clerical and other expenses incurred in the preparation of the lists.

(c) Limitation of section.—Nothing in this section shall be construed to repeal or modify any of the provisions of 66 Pa.C.S. (relating to public utilities).

(d) Fund.—Subject to subsection (e), all sanitary sewer rentals received shall be deposited in a special fund to be used only for the payment of the cost of administration, construction, reconstruction, repair, operation and maintenance of the sanitary sewer system.

(e) Transfer of funds.—Notwithstanding the provisions of the act of July 18, 1935 (P.L.1286, No.402), entitled "An act empowering counties, cities, boroughs, incorporated towns, and townships to charge and collect from owners of and water users in property served thereby, annual rentals, rates or charges for the use of certain sewers, sewerage systems and sewage treatment works, including charges for operation, inspection, maintenance, repair, depreciation, and the amortization of indebtedness and interest thereon; empowering counties, cities, boroughs, incorporated towns and townships to contract with authorities organized by cities of the second class, by cities of the second class A, by counties or by cities of the third class for sewer, sewerage and sewage treatment services; to grant, convey, lease, transfer, encumber, mortgage and pledge to such authorities, their sewers, sewerage systems and sewage treatment works; to assign and pledge to such authorities rentals, rates and charges charged and collected by them for the use thereof, and to assign to such authorities their power to charge and collect the same; and validating all the contracts, grants, conveyances, leases, transfers, assignments, encumbrances, mortgages and pledges heretofore made," or any other law, council may transfer part of the sanitary sewer rentals in the special fund to the city general fund to meet immediate general financial obligations or to ensure adequate cash flow for city operations, provided that money transferred from the special fund to the city general fund shall be repaid to the special fund prior to the end of the fiscal year or at a date as council may determine.

(f) Notification of service.—If a city has agreed to provide sanitary sewer service to a residential dwelling unit in which the owner does not reside, the city shall notify the owner and the tenant within 30 days after the tenant's bill for that service first becomes overdue. The notification shall be provided by first class mail to the address of the owner provided to the city by the owner and to the billing address of the tenant, respectively.

(g) Construction.—Nothing in this subsection shall be construed to relieve the owner of liability for the service unless the city fails to provide the notice under this section.

§ 13222.1. Acquisition of existing sanitary sewer systems.

(a) *General rule.*—A city may, by ordinance, acquire all or part of an existing sanitary sewer system or community subsurface sanitary sewage collection and treatment system.

(b) *Means of acquisition.*—A city may acquire a sewer system under subsection (a) by any of the following means:

(1) *By purchase, when the city and the owner can agree on a price of not more than the actual value of the sanitary sewer system or part of the system to be transferred.*

(2) *By deed of dedication to the city by the owner of the sanitary sewer system or part of the system.*

(3) *If the facilities are within the city, by the exercise of eminent domain.*

(c) *Distribution of assessment costs.*—If any sanitary sewer system or community subsurface sanitary disposal collection and treatment system is acquired by purchase or eminent domain under this section, the cost of acquisition may be distributed or assessed under this part when a sanitary sewer system is constructed by the city.

(d) *Acquired systems.*—A city has the same rights, powers and duties with respect to acquired sanitary sewer systems as the city would have with respect to sanitary sewer systems constructed by the city.

§ 13230. Sewers outside cartway and curb lines.

(a) *General rule.*—Cities may require and permit sanitary sewers and sewer pipes to be laid and constructed outside the cartway and the curb lines of the cartway in any street or highway.

(b) *Use.*—The sanitary sewers shall be for the service and use of the property on the side of the street or highway in which they are laid.

(c) *Recoupment of costs.*—The costs and expenses of any sanitary sewer laid and constructed in accordance with subsection (a) may be assessed against the property benefited, improved and accommodated by the sanitary sewer.

§ 13240. Building joint sewers.

(a) *General rule.*—Cities may, jointly with other municipalities or municipal authorities, do the following:

(1) *Build and construct sanitary sewers, including trunk-line sewers or drains and sewage treatment works.*

(2) *Connect into the system existing sanitary sewers.*

(3) *Assess respective portions of the cost of an action under this subsection, or so much of the cost as may be legally assessable, upon the property benefited, improved and accommodated by the improvement pursuant to Chapter 145A (relating to assessments for public improvements).*

(b) *Costs.*—Any portion of the cost of an improvement not assessed or not assessable shall be paid as agreed upon by the respective cities and other municipalities or municipal authorities.

(c) *Joint sewer board.*—The cities and other municipalities or municipal authorities joining or contemplating joining in an improvement under subsection (a) in order to facilitate the securing of preliminary surveys and estimates and the building of the improvement may, by

ordinance or resolution, provide for the appointment of a joint sewer board composed of one representative from each of the cities and other municipalities or municipal authorities joining, which shall act generally as the advisory and administrative agency in securing surveys and estimates, the construction of the improvement and its subsequent operation and maintenance.

(d) Length of service on board.—Members of the board shall serve for a term of six years from the date of appointment and continue to serve until successors are appointed.

(e) Membership.—The joint sewer board shall organize by the election of a chair, vice chair, secretary and treasurer.

(f) Agreement of parties.—Cities and other municipalities or municipal authorities may, in the ordinances and resolutions creating the joint sewer board, authorize the board to:

(1) Appoint an engineer, a solicitor and other assistants as are deemed necessary.

(2) Enter into an agreement with respect to the share of compensation of an appointee under paragraph (1) the city, municipality or municipal authority is responsible for.

(g) Compensation for board members.—The members of the joint sewer board shall receive compensation for attending meetings of the board, as shall be fixed in the budget prepared by the board for submission to and adoption by the cities and other municipalities or municipal authorities as provided in subsection (h).

(h) Budget.—The budget item providing for the compensation to members for attending meetings shall not exceed a total of \$250 per year, and the following shall apply:

(1) No member shall be paid unless the member attends a meeting of the board.

(2) The fee for each attendance shall be stipulated.

(3) Members shall be entitled to actual expenses to be paid by the respective cities and other municipalities or municipal authorities which the members represent.

(i) Power of board.—The joint sewer board shall have the power to adopt rules and regulations to govern its proceedings and shall prepare and suggest any practical measures and plans by means of which the joint improvement may be carried to successful completion, and the future development of the system, so as to conform to a general plan, is assured and safeguarded.

(j) Submission of joint assessment.—

(1) The joint sewer board shall have power to prepare a joint agreement or agreements for submission to and adoption by cities and other municipalities or municipal authorities which shall set forth:

(i) The advisory and administrative powers of the board.

(ii) The consent of each city and other municipality or municipal authority to the proposed improvement.

(iii) The manner in which preliminary and final plans, specifications and estimates for the proposed improvement shall be prepared and adopted.

(iv) *How proposals for bids shall be advertised and contracts let.*

(v) *The manner in which the costs of the improvement and other incidental and preliminary expenses in connection with the improvement, and the future cost of operation and maintenance, shall be equitably shared, apportioned and paid.*

(vi) *Other matters including the preparation and submission of annual and other budgets as may be deemed necessary or required by law to carry the proposed improvement to completion and to assure future maintenance and operation of the improvement.*

(2) *Nothing contained in this subsection shall authorize the board to make any improvement or expend any public money which has not first been authorized by all of the cities and other municipalities or municipal authorities proceeding with the improvement.*

(k) *Eminent domain.—*

(1) *If it is necessary to acquire, appropriate, injure or destroy private property of any kind to build any joint sewer improvement and the private property cannot be acquired by purchase or gift, the right of eminent domain shall vest in the city or other municipalities or municipal authorities where the property is located.*

(2) *If it is necessary to acquire, injure or destroy property of any kind in any territory not within the limits of any of the cities and other municipalities or municipal authorities joining in the improvement, subject to the limitations in 26 Pa.C.S. § 206 (relating to extraterritorial takings), the right of eminent domain shall be vested in any city and other municipalities or municipal authorities joining in the sewer improvement.*

(l) *Damages.—Damages for any property taken, injured or destroyed shall be assessed as provided by the general laws relating to the cities and other municipalities or municipal authorities exercising the right of eminent domain and, pursuant to the procedures of 26 Pa.C.S. (relating to eminent domain) if applicable, shall be paid by cities and other municipalities or municipal authorities joining in the same proportion as other costs of the improvement.*

(m) *Indebtedness.—Each of the cities joining in an improvement authorized by this section shall have power to incur or increase its indebtedness, in accordance with 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing), for the purpose of paying its share or portion of the costs of the improvement.*

§ 13241. *Approval of Department of Environmental Protection.*

No sewer or plant shall be constructed until plans and specifications have been submitted to the Department of Environmental Protection and approved in accordance with provisions of applicable law.

§ 13245.1. *Connection to existing municipal sanitary sewer.*

(a) *General rule.—A city may, by agreement, connect with an existing sanitary sewer owned by any municipal corporation or municipal authority for either sanitary sewage collection or treatment purposes.*

(b) *Petition court of common pleas.—When a city desires to connect with the existing sewer of any municipal corporation or municipal authority and no agreement has been reached between the city and the*

municipal corporation or municipal authority, council shall present a petition to the court of common pleas setting forth those facts. The court shall fix a date for a hearing and notify all interested parties of the date.

(c) Appointment of viewers.—If, after the hearing, the court determines that the connection can be made without impairing the usefulness of the existing sanitary sewer system, the court shall appoint three viewers to:

(1) View the premises.

(2) Investigate the facts of the case.

(3) Assess the necessary costs and expenses of making the connection.

(4) Assess the proportionate part of the expense of building the original sanitary sewer system upon the city.

(d) Determination of the court.—The court shall determine the proportion of the expense for repairs that each city, municipal corporation and municipal authority bears and shall determine all other questions liable to arise in connection with the repairs.

(e) Report.—The viewers shall submit a report to the court with the result of their investigation, which shall be confirmed within 30 days, unless exceptions to the report are filed.

(f) Appeal.—After confirmation of the report or the disposal of any exceptions, any party interested may appeal the decision of the court of common pleas.

§ 13250. Sewers extended outside of city.

(a) General rule.—A city with a sanitary sewer system may extend the system and construct sewers beyond the city's boundaries into adjoining municipalities in the county where the city is located and furnish sewer facilities to, and permit the tapping and the connection with the sewer facilities by, any person and municipality in the county where the city is located in accordance with law and the rules and regulations of the Pennsylvania Public Utility Commission.

(b) Limitation.—This section does not authorize a city to extend a sewerage system or construct sewers in territory outside the boundaries of the cities in which sewerage facilities are furnished by a private company or by a municipality authority.

CHAPTER 134 WATERCOURSES, FLOOD PROTECTION PROJECTS AND STORM WATER SYSTEMS

Sec.

13401. Establishing and changing watercourses, flood protection projects and storm water systems.

13407. Assessment of benefits and liens.

13408. Waters excepted.

§ 13401. Establishing and changing watercourses, flood protection projects and storm water systems.

(a) General rule.—Subject to obtaining, if required, the authorization of the Federal Government and the Department of Environmental Protection, a city may, by ordinance, do any of the following:

(1) *Realign, change or vacate the channels, beds and mouths of watercourses through lands, marshes or waters in or adjacent to the city, subject to the limitations in the act of August 7, 1936 (1st Sp.Sess., P.L.106, No.46), referred to as the Flood Control Law, the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, the act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act, and 26 Pa.C.S. § 206 (relating to extraterritorial takings).*

(2) *Confine, pave or completely enclose watercourses within the city.*

(3) *Prevent and remove obstructions and encroachments from watercourses and the banks of streams that threaten or injure the city or property in the city at the expense of those that caused the obstruction or encroachment through proceedings at law or equity.*

(4) *Construct and maintain dams in a watercourse flowing through the city, or partly within and partly outside its corporate limits, for the purpose of improving the public health, safety and welfare in the city.*

(5) *Plan and provide for projects, infrastructure and improvements as a means of managing and controlling storm water, which may include, but need not be limited to, the transport, storage and infiltration of storm water and other innovative techniques identified in the county-prepared watershed plans pursuant to the act of October 4, 1978 (P.L.864, No.167), known as the Storm Water Management Act.*

(6) *Plan and provide for projects, infrastructure and improvements as a means of providing flood protection pursuant to the Flood Control Law.*

(b) *Condemnation and taking of property.—A city may, for the purpose of this section, purchase, acquire, enter upon, take, use and appropriate private property and materials as necessary. Condemnation proceedings shall be pursuant to the procedures in 26 Pa.C.S. (relating to eminent domain), and any takings of property outside the limits of the city shall be subject to the limitations in 26 Pa.C.S. § 206.*

§ 13407. *Assessment of benefits and liens.*

(a) *General rule.—With regard to improvements made pursuant to section 13401(a) (relating to establishing and changing watercourses, flood protection projects and storm water systems), a city may, if feasible, assess the benefits upon property benefited by the improvements pursuant to Chapter 145A (relating to assessments for public improvements).*

(b) *Lien.—The assessments of benefits shall become liens upon the property assessed.*

(c) *Collection of claim.—Claims for the benefits may be collected in the same manner as municipal claims are collected, or they may be collected by action of assumpsit; however, the lien of the judgment is limited to the property assessed.*

§ 13408. *Waters excepted.*

Nothing contained in this chapter shall apply to any watercourse used by any municipality or water company as a source of supply, unless the municipality or water company shall consent to the vacation or alteration.

CHAPTER 135
UTILITY SERVICE

Sec.

13501.1. Right to furnish water, lighting, electric, gas or other similar utility service.

13540.1. Power to furnish utilities to consumers outside city.

13585. Payment of cost of extensions.

13587. Fixing rates.

13588. Collection of utility charges.

13590. Disposition of revenues.

§ 13501.1. Right to furnish water, lighting, electric, gas or other similar utility service.

(a) Authority of city.—A city may supply water, lighting, electric, gas or other similar utility service for public and private uses within the city. For these purposes, a city may install, maintain and operate the necessary facilities and acquire property and make improvements as needed. In carrying out the authority granted by this section, a city may exercise the powers granted to it under this chapter or another law deemed necessary to carry out the purposes of this section, including the power to acquire, by eminent domain or otherwise, and the power to temporarily use or lease property.

(b) Rates and charges.—A city supplying water, lighting, electric, gas or other similar utility service may fix the rates and charges applicable to the service in accordance with section 13587 (relating to fixing rates).

(c) Incurring debt.—For the purposes of this section, a city may incur debt in accordance with 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing).

§ 13540.1. Power to furnish utilities to consumers outside city.

A city that provides utility service in accordance with section 13501.1 (relating to right to furnish water, lighting, electric, gas or other similar utility service) may provide utility service in a surrounding municipality that is not provided with utility service by another municipality, local or regional public authority or private company, subject to and in accordance with applicable law and the rules and regulations of the Pennsylvania Public Utility Commission with regard to the character of service, extensions and rates.

§ 13585. Payment of cost of extensions.

When an extension of pipes, wires or conduits is made to permit a city to supply water, light, electric, gas or other similar utility service to a portion of the city not previously supplied with the service, an assessment of the cost of the service may be made in accordance with Chapter 145A (relating to assessments for public improvements).

§ 13587. Fixing rates.

Council shall fix, or may delegate to a city department the power to fix, with the approval of council, rates for the use of water, light, electric, gas or other similar utility service, and, in the case of consumers outside the city, the fixing of rates shall be subject to and in accordance with

applicable law and the rules and regulations of the Pennsylvania Public Utility Commission.

§ 13588. Collection of utility charges.

(a) Authority for ordinance.—Council shall provide, by ordinance, for the collection of charges for the use of water, light, electric, gas or other similar utility service that may accrue to the city, fixing the time when the charges are payable and the penalties for nonpayment. The charges shall be assessed to the respective owners of the real estate on which the utility service is used. If the charges are not paid in accordance with the provisions of the ordinance, a claim for the amount due may be filed as a lien and collected in accordance with the Municipal Claim and Tax Lien Law.

(b) Owner liability.—

(1) If a city that has agreed to provide water service through a separate meter and separate service line to a residential dwelling unit in which the owner does not reside, the owner shall be liable to pay the tenant's bill for service rendered to the tenant by the city only if the city notifies the owner and the tenant within 30 days after the bill first becomes overdue. Notification must be provided by first class mail to the address of the owner provided to the city by the owner and to the billing address of the tenant, respectively.

(2) This subsection may not be construed to require a city to terminate service to a tenant. An owner shall not be liable for any service which the city provides to the tenant 90 or more days after the tenant's bill first becomes overdue unless the city has been prevented by court order from terminating service to that tenant.

§ 13590. Disposition of revenues.

The revenues derived from the city's furnishing of water, light, electric, gas or other similar utility service shall be applied as follows:

- (1) to the purposes of the respective departments under the direction of which the utility service is provided;*
- (2) for the reduction of debt related to the provision of the service provided under paragraph (1); and*
- (3) to another city department that provides labor or materials for the maintenance and repair of property or facilities relating to the city's provision of a utility service.*

**CHAPTER 136
PUBLIC BUILDINGS AND WORKS**

Sec.

13601. Public buildings generally.

13603. Payment of erection and maintenance costs.

13605. Donation of land by city for library purposes and contributions toward maintenance.

13606. Rental of public auditorium and disposition of proceeds.

13607. Long-term improvement lease.

§ 13601. Public buildings generally.

(a) Authority of city.—With regard to a public building, a city may, by ordinance, do any of the following:

- (1) erect, purchase, establish or maintain the public buildings; or*
- (2) purchase, take, use, occupy or acquire, by any lawful means, including eminent domain, private land, buildings and property in order to erect, establish or maintain a public building.*

(b) Included structures.—For purposes of this chapter, a public building includes not only a building or structure that council deems necessary for the use of the city, but also another building and structure to be used for a public purpose, including a public auditorium, public library, public memorial building and monument.

§ 13603. Payment of erection and maintenance costs.

A city may:

- (1) Appropriate money and incur debt in accordance with 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) for the purchase or acquisition of private land, buildings and property through eminent domain in order to erect or establish a public building.*
- (2) Appropriate money for the operation and maintenance of a public building.*

§ 13605. Donation of land by city for library purposes and contributions toward maintenance.

In addition to the power to make an appropriation, donation or gift for a library purpose in accordance with 24 Pa.C.S. Ch. 93 (relating to public library code), a city may acquire and donate land for library purposes to a local library as defined in 24 Pa.C.S. § 9302 (relating to definitions).

§ 13606. Rental of public auditorium and disposition of proceeds.

In the case of a public auditorium, a city may, by order of council, charge a rental fee for the use of the public auditorium. The money derived from the rental of the public auditorium shall be paid into the city general fund.

§ 13607. Long-term improvement lease.

(a) Authority of city.—A city may lease city real estate on a long-term improvement lease, at a nominal rental fee or otherwise, to a nonprofit corporation for the purpose of providing an auditorium for a dramatic, musical, artistic, literary, scientific or patriotic society or event or for another purpose as may be approved by council.

(b) Term.—A long-term improvement lease:

- (1) May not be for a term of more than 99 years.*
- (2) May provide for a right of renewal for a like term.*
- (3) Shall contain provisions for the improvement of the real estate by the lessee by the erection of a suitable building of dignified and appropriate architecture. The absolute ownership of the building shall revert to the city, free of claim or charge, at the end of the term of the lease or a renewal of the lease.*

(c) Use of building.—A building erected under a long-term improvement lease may be used for a public purpose, including as an auditorium for a dramatic, musical, artistic, literary or scientific event and for the accommodation of a patriotic society or group or other accommodation and feature, as may be approved by the city.

(d) Title and local taxation.—The title to property subject to a long-term improvement lease shall remain with the city. For purposes of local taxation, the property subject to a long-term improvement lease and the leasehold estate created by the lease shall be deemed to be devoted to a public purpose and public use.

(e) Lessee.—The lessee under a long-term improvement lease shall be exclusively liable for the maintenance and upkeep of the demised premises and shall be solely responsible for the maintenance and operation of the demised premises.

(f) Lessor.—A long-term improvement lease may provide that the lessor is entitled to receive a sum equal to the net income of the demised premises after reasonable reserves and proper amortization charges.

CHAPTER 137

PARKS, PLAYGROUNDS AND RECREATION CENTERS

Sec.

13703. Acquisition of lands and buildings.

13703.1. Powers of council and delegation.

13705. Creation and composition of recreation board.

13706. Organization of board.

13707. Joint ownership and maintenance.

13708. Borrowing.

13709. Maintenance and tax levy.

13709.1. City trust.

13718. Park rangers.

§ 13703. Acquisition of lands and buildings.

By purchase, gift or right of eminent domain, a city may enter upon, take, use and acquire land, property or a building for the purpose of making, extending, enlarging and maintaining a recreation place. The recreation place shall consist of a public park, parkway, playground, field, gymnasium, public bath, swimming pool or indoor recreation center. A city may:

(1) Levy and collect a special tax as may be necessary to pay for the recreation place.

(2) Make appropriations for the improvement, maintenance, care, regulation and governing of the recreation place.

(3) Designate and set apart for use, for a purpose specified in this section, land and a building owned by the city and not dedicated or devoted to other public use.

(4) Lease land and a building in the city for temporary use for a purpose specified under this section. Land, property and a building outside the limits of the city may be purchased or acquired for the recreation place with the consent of the governing body of the municipal corporation in which the land, property or building is situated.

§ 13703.1. Powers of council and delegation.

(a) Council.—Council may equip, operate, supervise and maintain a recreation place and employ a recreation director or other officer or

employee deemed necessary in order to carry out the provisions of this chapter.

(b) Supervision and maintenance.—When more than one-half the full cost of the supervision and maintenance of the recreation place, including the compensation of an officer or employee hired to carry out the provisions of this chapter, are borne by the city, council may fix the compensation of the officer or employee.

(c) Delegation.—Council may delegate all or part of its power under subsection (a) to an existing body or board or to a recreation board, as council shall determine.

§ 13705. Creation and composition of recreation board.

(a) Establishment.—Council may establish in the city a recreation board.

(b) Power and responsibilities.—The recreation board shall possess the powers and responsibilities delegated to it by council in accordance with section 13703.1(c) (relating to powers of council and delegation).

(c) Composition.—When established, the recreation board shall consist of five or seven individuals.

(d) Appointment and terms.—The members of the recreation board shall be appointed by the mayor, with the approval of council, and shall serve for terms no longer than five years. The terms of the members shall be staggered in a manner that at least one expires annually.

(e) Compensation.—The members of the recreation board shall serve without pay.

(f) Vacancy.—A vacancy in the board, other than by expiration of term, shall be for the unexpired term and shall be filled in the same manner as the original appointment.

§ 13706. Organization of board.

The members of a recreation board established under this chapter shall elect a chair and secretary and select the other necessary officers to serve for a period of one year. The board may adopt rules and regulations for the conduct of all business within its jurisdiction. A meeting of the board shall be subject to the provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings).

§ 13707. Joint ownership and maintenance.

A city may acquire, jointly with one or more other municipalities, property for and operate and maintain a recreation place. A city may join with a school district and appropriate money for equipping, operating and maintaining a recreation place.

§ 13708. Borrowing.

Council may borrow money and incur debt in accordance with 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) for the purpose of acquiring land, a building and equipment for a recreation place.

§ 13709. Maintenance and tax levy.

An expense incurred in the maintenance and operation of a recreation place established under this chapter, including the operation of a recreation program in the recreation place, may be paid from the city treasury. Council may annually appropriate, and cause to be raised by

taxation in accordance with section 12531(a)(4) (relating to tax levies), a tax for this purpose. The funds may be appropriated for the purposes of this section to an existing body or board or to a recreation board.

§ 13709.1. City trust.

(a) Authority of city and council.—The following shall apply:

(1) A city may receive in trust the estate, money, assets and real and personal property that has been or will be bestowed upon the city by donation, gift, legacy, endowment, bequest, devise, conveyance or other means for:

(i) the purpose of establishing or maintaining a public park; or

(ii) another public purpose for the use and benefit of the residents of the city.

(2) For the purposes of the trust, council may control the estate, money, assets and real and personal property received under this subsection.

(3) The authority provided under this subsection shall be in addition to the other powers conferred by law.

(b) Transfer of control.—The following shall apply:

(1) Control of a city trust shall be transferred to council if the trust has been or is created as a result of a property or estate having been conveyed, bequeathed or devised or otherwise given or donated to a city in trust for:

(i) the purpose of establishing or maintaining a public park; or

(ii) another public purpose for the use and benefit of the residents of the city.

(2) Upon petition of council, the court of common pleas in the county where a city is located may transfer control of the trust to council if necessary to carry out the intention of this section.

(c) Delegation.—Council may delegate the supervision and operation of recreation places subject to the trust to a recreation board in accordance with section 13703.1 (relating to powers of council and delegation).

(d) Power of the court.—This section shall not limit a power of the court to terminate or reform a trust under existing law.

§ 13718. Park rangers.

(a) Authority of council.—Under the provisions of this chapter, council may provide, by ordinance, for the selection and employment of the number of individuals deemed necessary to act as park rangers, fix compensation and duties and provide for uniforms.

(b) Authority of park ranger.—To the extent authorized by 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training), an individual appointed as a park ranger under an ordinance passed under the provisions of subsection (a) shall have, in a park and playground and other public place in the city and beyond the limits of the city when the city has acquired land, property and a building for a park and playground or another public purpose, the same power in preserving the peace, maintaining order and making arrests as a police officer has in the city.

(c) Supervision, control and direction.—A park ranger shall be under the supervision, control and direction of the director of the department of

parks and public property or, if none exists, another department as council directs.

(d) Definition.—For purposes of the act of June 28, 1935 (P.L.477, No.193), referred to as the Enforcement Officer Disability Benefits Law (Heart and Lung Act), the term "park ranger," as used in this section, shall mean a park guard.

**CHAPTER 141A
UNIFORM CONSTRUCTION CODE,
PROPERTY MAINTENANCE CODE AND RESERVED POWERS**

Sec.

141A01. Primacy of certain codes.

141A02. Changes in Uniform Construction Code.

141A03. Public nuisance.

141A04. Property maintenance code.

141A05. Reserved powers.

§ 141A01. Primacy of certain codes.

(a) Applicability.—The Pennsylvania Construction Code Act and the Uniform Construction Code adopted under section 301 of the Pennsylvania Construction Code Act shall apply to the construction, alteration, repair and occupancy of the buildings and structures within a city.

(b) Construction.—This chapter and an ordinance, rule or regulation adopted under this chapter shall not supersede or abrogate the Pennsylvania Construction Code Act or the Uniform Construction Code and shall be construed and read in pari materia with them.

§ 141A02. Changes in Uniform Construction Code.

A city may propose and enact an ordinance to equal or exceed the minimum requirements of the Uniform Construction Code in accordance with and subject to the requirements of section 503 of the Pennsylvania Construction Code Act. An ordinance exceeding the provisions of the Uniform Construction Code must meet the standards provided in section 503(j)(2) of the Pennsylvania Construction Code Act.

§ 141A03. Public nuisance.

A building, housing or property erected, altered, extended, reconstructed, removed or maintained contrary to a provision of an ordinance enacted for a purpose specified in this chapter may be reported in accordance with Chapter 127A (relating to nuisance abatement) to the department designated to determine whether a public nuisance exists. If a public nuisance is determined to exist, the public nuisance may be abated in accordance with that chapter, provided that a violation of the Uniform Construction Code or an ordinance that equals or exceeds the Uniform Construction Code is subject to:

(1) The provisions of the Pennsylvania Construction Code Act.

(2) The regulations adopted under that act by the Department of Labor and Industry relating to enforcement for noncompliance.

§ 141A04. Property maintenance code.

(a) *Enactment.*—Notwithstanding the primacy of the Uniform Construction Code, a city may enact a property maintenance ordinance, including a standard or nationally recognized property maintenance code or a change or variation. In accordance with section 11018.13 (relating to standard or nationally recognized codes), the ordinance may, by reference, incorporate a standard or nationally recognized property maintenance code or a variation or change, published and printed in book form, without setting forth the text of the code in the ordinance.

(b) *Public availability.*—The full text of the property maintenance code need not be published, but, in accordance with section 11018.9 (relating to publication of proposed ordinances), it shall be sufficient to publish a summary setting forth the provisions of the ordinance in reasonable detail and a reference to a place within the city where copies of the proposed ordinance may be examined. Not fewer than three copies of the proposed property maintenance code shall be made available to public inspection and use during business hours. Copies shall also be made available to an interested party in accordance with the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, or may be furnished or loaned without charge.

(c) *Violations.*—A property maintenance code ordinance may provide for fines and penalties of not more than \$1,000 or imprisonment for not more than 90 days, or both, for violations. The procedure set forth under this chapter relating to the enactment of the ordinance may be utilized in amending, supplementing or repealing any of the provisions of the ordinance.

(d) *Inspectors.*—Council may appoint property maintenance inspectors who may, subject to constitutional standards in a similar manner as provided in section 12308 (relating to powers of board of health), enter upon and inspect the premises at reasonable hours for the administration and enforcement of the city's property maintenance code or ordinance incorporating a standard or nationally recognized property maintenance code. A fee payable to a property maintenance inspector under the ordinance must be paid by the property maintenance inspector to the city treasurer for the use of the city as promptly as possible.

(e) *Additional remedies.*—In addition to the penalties provided by the property maintenance ordinance, the city may institute an appropriate action or proceeding at law or in equity to prevent or restrain a property maintenance violation.

(f) *Relation to other acts.*—The powers of a city as provided in this section shall be in addition to, but not limited to, the powers provided in:

(1) The act of November 26, 2008 (P.L.1672, No.135), known as the Abandoned and Blighted Property Conservatorship Act.

(2) 53 Pa.C.S. Ch. 61 (relating to neighborhood blight reclamation and revitalization).

(3) 68 Pa.C.S. Ch. 21 (relating to land banks).

§ 141A05. Reserved powers.

If, as a result of legislative action or final order of court for which the time for appeal has expired and no appeal has been taken or from which

there is no pending appeal, the Uniform Construction Code or a replacement code is no longer applicable in a city, a city may:

(1) Enact and enforce an ordinance to govern and regulate:

- (i) construction;*
- (ii) reconstruction;*
- (iii) alteration;*
- (iv) extension;*
- (v) repair;*
- (vi) conversion;*
- (vii) maintenance;*
- (viii) occupation;*
- (ix) sanitation;*
- (x) ventilation;*
- (xi) heating;*
- (xii) egress;*
- (xiii) lighting;*
- (xiv) electric wiring;*
- (xv) water supply;*
- (xvi) toilet facilities;*
- (xvii) drainage;*
- (xviii) plumbing;*
- (xix) fire prevention;*

(xx) fireproofing, including prescribing limitations under which only buildings of noncombustible material and fireproofed roofs are used in construction, erection or substantial reconstruction;

(xxi) use and inspection of all buildings and housing or parts of buildings and housing, and the roofs, walls and foundations of the buildings and housing and all facilities and services in or about the buildings or housing constructed, erected, altered, designed or used, in whole or in part, for any use or occupancy; and

(xxii) the sanitation and inspection of land appurtenant to the buildings and housing.

(1.1) Combine or separately enact or combine the ordinances under paragraph (1) with the property maintenance code.

(2) Require that, before any work of construction, reconstruction, alteration, extension, repair or conversion of a building begins, approval of the plans and specifications is secured.

(3) Incorporate a standard or nationally recognized code or a variation or change, published and printed in book form, without incorporating the text of the code as provided in Subchapter A.1 of Chapter 110 (relating to ordinances). The ordinance may provide for fines and penalties of not more than \$1,000 or imprisonment for not more than 90 days, or both, for violations. The procedure set forth under this chapter relating to the enactment of the ordinance may be utilized in amending, supplementing or repealing a provision of an ordinance that incorporates all or a part of a standard or nationally recognized code or a variation or change.

(4) Appoint a building inspector, housing inspector, property maintenance inspector, fire prevention inspector, electrical inspector

and plumbing inspector and fix inspectors' compensation. Subject to constitutional standards in a similar manner as provided in section 12308 (relating to powers of board of health), the inspector may enter upon and inspect a premises at reasonable hours for the administration and enforcement of the city's enacted codes or ordinances incorporating standard or nationally recognized codes. A fee payable to an inspector under the ordinance shall be paid by the inspector to the city treasurer for the use of the city as promptly as possible.

(5) In addition to the penalties provided by an ordinance, institute an appropriate action or proceeding at law or in equity to prevent or restrain the unlawful construction, reconstruction, alteration, extension, repair, conversion, maintenance or use or occupation of property located within the city, to restrain, correct or abate the violation and to prevent the use or occupancy of the building, housing or structure.

CHAPTER 142 AERONAUTICS

Sec.

14201. Power to acquire land for aeronautical purposes and maintenance of municipal airports.

14203. Leasing of land acquired for aeronautical purposes.

14204. Operation of facilities jointly.

14205. Appropriation for support of air navigation facilities.

§ 14201. Power to acquire land for aeronautical purposes and maintenance of municipal airports.

A city may establish and maintain a municipal airport and may acquire by lease, purchase or condemnation proceedings, subject to the limitations in 26 Pa.C.S. § 206 (relating to extraterritorial takings), land lying either within or outside the territorial limits of the city and within or outside the territorial limits of the county in which the city is located, that in the judgment of council may be necessary and desirable for the purpose of establishing and maintaining a municipal airport, landing field, aviation easement or intermediate landing field and other air navigation facilities.

§ 14203. Leasing of land acquired for aeronautical purposes.

A city acquiring land for aeronautical purposes may lease the land or part of the land to an individual or corporation desiring to use the same for aeronautical purposes.

§ 14204. Operation of facilities jointly.

A city may operate and maintain a municipal airport, landing field or intermediate landing fields and other air navigation facility jointly in accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

§ 14205. Appropriation for support of air navigation facilities.

A city that does not own, lease or operate a municipal airport, landing field or intermediate landing field or other air navigation facility may appropriate money for the support and maintenance of any of the facilities,

situate either within or outside the boundaries of the city or of the county or counties in which the city is located.

**CHAPTER 143
PENSIONS**

Subchapter

- A. Police**
- B. Firefighters**
- C. Pension for Employees Other Than Police Officers and City-Paid Firefighters**
- D. Beneficiaries Serving in Elective Office**

**SUBCHAPTER A
POLICE**

Sec.

- 14300. Definitions.**
- 14301. Police pension fund.**
- 14302. Retirement and final discharge.**
- 14302.1. Limited vested benefit.**
- 14303. Allowance and service increments.**
- 14303.1. Increase of allowances after retirement.**
- 14303.2. Total disability.**
- 14304. Inalienable rights in fund.**
- 14305. Payments to police pension fund by city.**
- 14306. Management of police pension fund.**
- 14307. Trust for benefit of police pension fund.**
- 14308. Repayment before retirement.**
- 14309. (Reserved).**

§ 14300. Definitions.

(a) Chapter.—The following words and phrases when used in this chapter shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Joint coverage member." A city employee who becomes a member of the retirement system subsequent to the last date permitted by the city for statement or preference concerning Social Security coverage or who, having become a member on or before that date, filed a written statement with a city's retirement board that the member elects Social Security coverage under an agreement with the Secretary of Health and Human Services entered into by the Commonwealth.

"Single coverage member." A city employee who becomes a member of the retirement system on or before the last date permitted by the city for statement of preference concerning Social Security coverage and who either filed a written statement with the retirement board that the member does not elect Social Security coverage under any agreement with the Secretary of Health and Human Services entered into by the Commonwealth or did not file any written statement with the retirement board.

(b) Subchapter.—The following words and phrases when used in this subchapter shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Salary." The fixed amount of compensation paid at regular, periodic intervals by the city to the member and from which pension contributions have been deducted.

§ 14301. Police pension fund.

(a) Establishment.—By ordinance, a city shall establish a police pension fund.

(b) Requirements.—The following shall apply to a police pension fund established under this section:

(1) The fund shall be maintained by an equal and proportionate monthly charge against each member of the police force that may not exceed annually 4% of the pay of the member and an additional amount not to exceed 1% of the pay of the member.

(2) The charges under paragraph (1) shall be paid by the member or the municipal corporation to provide sufficient funds for payments required by section 14303(f) (relating to allowances and service increments).

(3) The payments under paragraph (2) shall be made to a surviving spouse even if the spouse remarries or, if no spouse survives or if the individual survives and subsequently dies, to the children under 18 years of age of:

- (i) a member of the police force;*
- (ii) a member retired on pension; or*
- (iii) a member who died in service.*

(4) The fund shall be under the direction and control of council but may be committed to the custody and management of an officer of the city or to another person, as may be designated by council by ordinance.

(5) Under regulations as council may prescribe by ordinance, the fund shall be applied for the benefit of:

- (i) members of the police force that have received honorable discharge from the police force by reason of age or disability;*
- (ii) surviving spouses even if they remarry; or*
- (iii) if no spouse survives or if the individual survives and subsequently dies, the child or children under 18 years of age of:*
 - (A) members of the police force; or*
 - (B) members retired on pension.*

(6) An allowance made to an individual who retired by reason of a disability or age shall be in conformity with a uniform scale, together with a service increment as provided under this chapter.

(7) Compensation paid to a corporate custodian of the police pension fund shall be paid from the city general fund.

§ 14302. Retirement and final discharge.

(a) Requirements for ordinance.—With regard to continuous service and minimum retirement age requirements, the ordinance establishing the police pension fund shall prescribe as follows:

(1) A minimum period of continuous service of not less than 20 years.

(2) *If a minimum retirement age is prescribed, a minimum age of 50 years.*

(b) *Retired member.—If not unfit by reason of age, disability or otherwise, a retired member shall be subject to service as a police reserve under terms and conditions as may be established by council.*

(c) *Military service.—With the approval of council, a member of the police pension fund shall be entitled to have full credit for each year or fraction of a year, not to exceed five years, of the service upon the member's payment to:*

(1) *the police pension fund of an amount equal to that which the member would have paid had the member been a member during the period for which credit is desired; and*

(2) *the fund of an additional amount as the equivalent of the contributions of the city on account of the military service.*

To be eligible under this subsection, the member must be a contributor who served in the armed forces of the United States after September 1, 1940, and was not a member of the police pension fund prior to the military service.

§ 14302.1. Limited vested benefit.

(a) *Ordinance.—The ordinance establishing a police pension fund may provide for a limited vested benefit if the benefit would conform to section 305 of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act.*

(b) *Requirements.—Under a limited vested benefit, a member of the police pension fund who has not completed the minimum period of continuous service requirement and satisfied an applicable minimum age requirement but who has completed 12 years of full-time service shall be entitled to vest the member's retirement benefits subject to the following conditions:*

(1) *The member must file with the management board of the police pension fund a written notice of the member's intention to vest.*

(2) *The member must include in the notice the date the member intends to terminate the member's service as a full-time police officer.*

(3) *The termination date shall be at least 30 days later than the date of notice to vest.*

(4) *The member must be in good standing with the police department on the date of the notice to vest.*

(5) *The board shall indicate on the notice to vest the rate of the monthly pay of the member as of the date of the notice to vest or the highest average annual salary which the member received during any five years of service preceding that date, whichever is higher.*

(c) *Notification.—Upon reaching the date that would have been the member's retirement date if the member continued full-time employment with the police department, the member shall notify the board, in writing, that the member desires to collect the member's pension.*

(d) *Amount of retirement benefits.—The amount of retirement benefits the member is entitled to receive under this section shall be computed as follows:*

(1) The initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest.

(2) The portion of the base retirement benefits due the member shall be determined by applying to the base amount the percentage that the member's years of service rendered bears to the years of service that would have been rendered if the member continued to be employed by the department until the member's minimum retirement date.

§ 14303. Allowance and service increments.

(a) Allowance.—A payment for an allowance shall only be a charge on the police pension fund and may not be a charge on another fund under the control of or in the city treasury.

(b) Apportionment of the pension.—The basis of the apportionment of the pension:

(1) Shall be determined by the rate of the monthly pay of the member at the date of injury, death, honorable discharge, vesting under section 14302.1 (relating to limited vested benefit) or retirement, or the highest average annual salary that the member received during any five years of service preceding injury, death, honorable discharge, vesting under section 14302.1 or retirement, whichever is higher.

(2) Except as to service increments provided for in subsection (d), may not exceed in a year one-half the annual pay of the member computed at the monthly or average annual rate, whichever is higher.

(c) Limitation.—

(1) The provisions of subsection (b)(2) may not apply to a city operating under:

(i) an optional charter adopted in accordance with the act of July 15, 1957 (P.L.901, No.399), known as the Optional Third Class City Charter Law; or

(ii) a home rule charter adopted in accordance with 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government).

(2) This subsection is applicable only to a city that had a pension plan in effect prior to July 1, 1931, that provided pensions in an amount greater than 50% of salary.

(d) Conditions.—In addition to the retirement allowance authorized to be paid from the police pension fund by this chapter and notwithstanding the limitations placed upon the retirement allowances and upon contributions, a contributor who becomes entitled to the retirement allowance shall be entitled to the payment of a service increment in accordance with and subject to the following conditions:

(1) The following shall apply:

(i) Service increment shall be the sum obtained by computing:

(A) the number of whole years after having served the minimum required by this chapter during which a contributor has been employed by the city and paid out of the city treasury, including credit for military service as provided in section 14302 (relating to retirement and final discharge); and

(B) multiplying the number of years computed under clause

(A) by an amount equal to 0.025% of the retirement allowance

that has become payable to the contributor in accordance with the provisions of this chapter.

(ii) In computing the service increment, employment after the contributor has reached 65 years of age may not be included and a service increment may not be paid in excess of \$100 per month.

(2) From and after January 1, 1952, a contributor shall pay into the retirement fund a monthly sum in addition to the contributor's retirement contribution that shall be equal to one-half of 1% of the contributor's salary, provided that:

(i) the payment may not exceed the sum of \$1 per month; and

(ii) the service increment contribution may not be paid after a contributor has reached 65 years of age.

(3) An individual who is a contributor on January 1, 1952, and has reached 65 years of age shall have the contributor's service increment computed on the years of employment prior to the date the contributor reached 65 years of age.

(4) A service increment contribution shall be paid at the same time and in the same manner as a retirement contribution. A service increment contribution may be withdrawn in full without interest by an individual who:

(i) left the employment of the city, subject to the same conditions by which a retirement contribution may be withdrawn; or

(ii) retires before becoming entitled to a service increment.

(5) The members of the police force who are now contributors to the retirement fund and the members employed by the city after January 1, 1952, if required to become contributors to the retirement fund, shall be subject to the provisions of this part.

(6) After June 19, 2002, a city may agree to make service increment payments in excess of \$100 per month as long as the payments do not exceed \$500 per month. In computing the service increments, employment after the contributor has reached 65 years of age may not be included, provided that an agreement to provide an increase in service increment payments shall include a proportionate increase in the amount a contributor shall pay into the retirement fund under paragraph (2), not to exceed \$5 per month.

(e) Spouse and children.—The spouse of a member of the police force or a member who retires on pension who dies or, if no spouse survives or if the spouse survives and subsequently dies or remarries, the child or children under 18 years of age of a member of the police force or a member who retires on pension who dies on or after August 1, 1963, shall, during the lifetime of the surviving spouse, even if the surviving spouse remarries, or until reaching 18 years of age in the case of a child or children, be entitled to receive a pension calculated at the rate of 50% of the pension the member was receiving or would have been receiving if the member was retired at the time of the member's death and may receive the pension the member was receiving or would have been receiving had the member been retired at the time of the member's death.

(f) Certain police officers.—A police officer who has less than 10 years of service and who dies or is totally disabled due to injuries or mental

incapacities not in the line of duty and is unable to perform the duties of a police officer may be entitled to a pension of 25% of the police officer's annual compensation. For death or injuries received after 10 years of service, the compensation may be 50% of the police officer's annual compensation.

(g) Disability pension.—The disability pension may be payable to the police officer during the police officer's lifetime, and, if the police officer dies, the pension payment that the police officer was receiving may be continued to be paid to:

(1) the police officer's spouse if the spouse survives; or

(2) if the spouse subsequently dies or remarries, the child or children under 18 years of age of the police officer.

§ 14303.1. Increase of allowances after retirement.

(a) Increase of allowance.—Upon the recommendation of the persons having custody and management of the police pension fund, a city may, at its discretion, increase the allowance of individuals receiving an allowance from the police pension fund by reason of and after the termination of the services of a member of the fund.

(b) Limitation.—An increase made under this section must be in conformity with a uniform scale that may be based on the cost of living, but the total of the allowance may not exceed one-half of the current salary being paid patrol persons of the highest pay grade.

§ 14303.2. Total disability.

(a) Injury sustained in the line of duty.—Notwithstanding any provision of this chapter, a police officer who becomes totally disabled due to an injury sustained in the line of duty shall be deemed to be fully vested in the police pension fund regardless of the actual number of years of credited service and shall be eligible for immediate retirement benefits.

(b) Claim and proof.—The governing body of the city shall decide a claim under this section. Proof of disability shall be by competent medical evidence provided by the claimant. The governing body of the city may, at any time, have the claimant examined by its own physician.

(c) Procedure.—A claim under this section may be initiated as the regulations of council prescribe. Hearings and appeals shall be as provided in 2 Pa.C.S. (relating to administrative law and procedure).

(d) Subrogation.—The police pension fund shall be subrogated to the right of the claimant to the extent of a payment made under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, or the act of June 28, 1935 (P.L.477, No.193), referred to as the Enforcement Officer Disability Benefits Law (Heart and Lung Act).

(e) Definition.—As used in this section, the term "total disability" means permanent mental or physical impairment that renders the police officer unable to perform the officer's duties.

§ 14304. Inalienable rights in fund.

Whenever an individual becomes entitled to receive an allowance from the police pension fund and has been admitted to participate in the fund, the individual may not be deprived of the individual's right to equal and proportionate participation in the fund on the basis upon which the individual first became entitled to participation.

§ 14305. Payments to police pension fund by city.

Unless otherwise required by the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, or another provision of law, this section shall govern the payment to the police pension fund of money raised by a tax levied by the city. The following shall apply:

(1) A city shall pay annually to the police pension fund a sum of money sufficient to meet the requirements of and to maintain the fund. In any year, the sum may not be less than one-half of 1% or more than 3% of the taxes levied by the city, other than a tax levied to pay interest on or extinguish the debt of the city.

(2) Council may exceed the limitation imposed by this section if an additional amount is deemed necessary to provide sufficient funds for payments to surviving spouses of members retired on pension, killed or who die in the service, provided that the city may annually pay into the fund not less than one-half of 1% of the taxes levied by the city, other than a tax levied to pay interest on or extinguish the debt of the city.

§ 14306. Management of police pension fund.

Only a person designated in accordance with section 14301(b)(4) (relating to police pension fund) shall be authorized to make decisions to hold, receive and distribute the money of the police pension fund.

§ 14307. Trust for benefit of police pension fund.

By gift, grant, devise or bequest, a city may take money or real, personal or mixed property in trust for the benefit of the pension fund. The care, management, investment and disposal of the body of the trust shall be vested in the officer or officers of the city for the time the council designates. The care, management and disposal shall be directed by ordinance and the body of the trust shall be governed by the ordinance, subject to the directions that are not inconsistent with the ordinance, as the settlor of the trust may prescribe.

§ 14308. Repayment before retirement.

(a) Refund.—If a contributing member of the police pension fund ceases to be a member of the police force before becoming entitled to a pension, the total amount of the contributions paid into the pension fund by the member shall be refunded to the member in full, without interest.

(b) Return of amount contributed.—If the fund has returned to the member the amount contributed and afterward the individual again becomes a member of the police force, the member shall not be entitled to the pension designated until 20 years after the member's reemployment, unless the member returns to the police pension fund the amount withdrawn. If a member returns to the pension fund the amount withdrawn, the period of 20 years shall be computed from the time the member first became a member of the police force, excluding the period of time during which the member was not employed by the police force.

(c) Payment to member's estate.—If a member of the police force dies not in the line of service before the member becomes entitled to a pension and the member is not survived by a spouse or family entitled to payments as provided in this subchapter, the total amount of contributions paid into the pension fund by the member shall be paid over to the member's estate.

§ 14309. (Reserved).

**SUBCHAPTER B
FIREFIGHTERS**

Sec.

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§ 14319. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Salary." The fixed amount of compensation paid at regular, periodic intervals by the city to the member and from which pension contributions have been deducted.

§ 14320. Firefighters pension fund, management and annuity contracts.

(a) Duty of city.—*Except as provided in this subchapter, a city shall provide an annuity contract or establish, by ordinance, a firefighters pension fund.*

(b) Monthly charge.—*The annuity contract or firefighters pension fund shall be maintained, in part, by an equal and proportionate monthly charge against each member of the fire department. The charge may not exceed annually 4% of the pay of the member and an additional amount not to exceed 1% if deemed necessary by council to provide sufficient funds for payments to surviving spouses of members retired on pension, killed or who die in service.*

(c) Existing organization or association.—*If there is an existing organization or association for the benefit of fully paid firefighters, constituting and having in charge the distribution of firefighters pension money, an annuity contract may not be provided and a firefighters pension fund may not be established under the provisions of this section unless and until the members of the organization or association, by a two-thirds vote, elect to transfer the existing fund into the pension fund required under this section.*

(d) Pension fund board.—*A firefighters pension fund established under the provisions of this section shall be under the direction and control of a board of managers that shall consist of the following:*

(1) Ex-officio members as follows:

(i) the mayor;

- (ii) *the director of the department of accounts and finance;*
- (iii) *the director of the department having charge of the fire department or, in a city where the mayor is also the director of the department having charge of the fire department, the director of the department of public safety;*
- (iv) *the city controller; and*
- (v) *the chief of the bureau of fire.*

(2) *Two members of the fire department to be chosen by the members of the fire department.*

(e) *Substitution.—If a city does not establish a department whose director is named as an ex-officio member of the board of managers, the director of another department or the officers of the city as may be designated by council shall be substituted on the board of managers.*

(f) *Terms and vacancy.—Of the first members chosen by the members of the fire department to the board of managers, one shall be chosen for a term of two years and one for a term of four years. Biennially after the initial choices, one fire department member shall be chosen for a term of four years to take the place of the one whose term expires. In case of vacancy among the managers chosen by the fire department, a successor shall be chosen for the unexpired term.*

(g) *Requirements.—Under regulations prescribed by the board of managers, the firefighters pension fund shall be applied for the benefit of the members of the fire department who receive honorable discharge from the fire department by reason of service, age or disability, surviving spouses of retired members and the families of members who are killed or who die in the service. A pension to an individual who is retired by reason of disability, service or age must be in conformity with a uniform scale, together with service increments as provided under this subchapter. A benefit from the fund to the family of a member who was killed or who died in service shall take into consideration the member's surviving spouse and the member's minor children under 18 years of age, if any.*

§ 14320.1. Limited vested benefit for firefighters.

(a) *Ordinance.—The ordinance establishing a firefighters pension fund may provide for a limited vested benefit if the benefit would conform to section 305 of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act.*

(b) *Conditions.—Under a limited vested benefit, if a member of the firefighters pension fund has not completed the minimum period of continuous service and the applicable minimum age requirement but has completed 12 years of full-time service and ceased to be employed as a full-time firefighter, the member shall be entitled to vest the member's retirement benefits subject to the following conditions:*

(1) *The member must file with the management board of the firefighters pension fund a written notice of the member's intention to vest.*

(2) *The member must include in the notice the date the member intends to terminate service as a full-time firefighter.*

(3) *The termination date shall be at least 30 days later than the date of notice to vest.*

(4) The member must be in good standing with the fire department on the date of notice to vest.

(5) The board shall indicate on the notice to vest the rate of the monthly pay of the member as of the date of the notice to vest or the highest average annual salary which the member received during any five years of service preceding the date, whichever is higher.

(c) Notification.—Upon reaching the date that would have been the member's retirement date had the member continued full-time employment with the fire department, the member shall notify the board in writing that the member desires to collect the member's pension.

(d) Computation.—The amount of retirement benefits the member is entitled to receive under this section shall be computed as follows:

(1) The initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest.

(2) The portion of the base retirement benefits due the member shall be determined by applying to the base amount the percentage that the member's years of service rendered bears to the years of service that would have been rendered had the member continued to be employed by the department until the member's minimum retirement date.

§ 14321. Retirement and final discharge.

(a) Ordinance.—With regard to continuous service and minimum age requirements, the ordinance establishing or regulations governing the firefighters pension fund shall prescribe as follows:

(1) A minimum period of continuous service of not less than 20 years.

(2) If a minimum age is prescribed, a minimum of 50 years of age.

(b) Retired member.—If not unfit by reason of age, disability or otherwise, a retired member shall be subject to service as a firefighter reserve in a case of emergency under terms and conditions as may be established by council.

(c) Military service.—With the approval of council, a member of the firefighters pension fund shall be entitled to have full credit for each year or fraction of a year, not to exceed five years, of service upon:

(1) the member's payment to the firefighters pension fund of an amount equal to that which the member would have paid had the member been a member during the period for which the member desires credit; and

(2) the member's payment to the fund of an additional amount as the equivalent of the contributions of the city plus the interest the city would have been required to pay on the contributions on account of the military service. To be eligible under this paragraph, the member must be a contributor who served in the armed forces of the United States after September 1, 1940, and was not a member of the firefighters pension fund prior to the military service.

(d) Payments to surviving spouse.—Upon the death of a member who retires on pension or is killed in service on or after January 1, 1960, or who dies in the service on or after January 1, 1968, payments as provided under this subchapter shall be made to the member's surviving spouse during the life of the spouse.

§ 14322. *Pensions and service increments.*

(a) *Payments.*—*The following apply:*

(1) *Payments of pensions shall only be a charge on the firefighters pension fund and shall not be a charge on any other fund under the control, or in the treasury, of the city.*

(2) *The basis of the pension of a member shall be determined by the monthly salary of the member at the date of vesting under section 14320.1 (relating to limited vested benefit for firefighters) or retirement or the highest average annual salary which the member received during any five years of service preceding retirement, whichever is higher, whether for disability or by reason of age or service, and, except as to service increments provided for in subsection (b), shall be one-half the annual salary of the member at the time of vesting under section 14320.1 or retirement computed at the monthly or average annual rate, whichever is higher.*

(3) *For payment of pensions to members for permanent injury incurred in service and to families of members killed or who die in service, the amount and commencement of the payment of pensions shall be fixed by regulations of the board of managers. These regulations shall not take into consideration the amount and duration of workers' compensation allowed by law. Payments to surviving spouses of members retired on pension or killed in service on or after January 1, 1960, or who die in service on or after January 1, 1968, shall be the amount payable to the member or which would have been payable had the member been retired at the time of the member's death.*

(a.1) *Home rule and optional charter plans.*—*The provisions of subsection (a)(2) shall not apply to a city, whether operating under an optional charter adopted in accordance with the act of July 15, 1957 (P.L.901, No.399), known as the Optional Third Class City Charter Law, or under a home rule charter adopted in accordance with 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government), which had pension plans in effect prior to June 19, 2002, that provided pensions in an amount greater than 50% of salary.*

(b) *Service increment.*—*In addition to the pension which is authorized to be paid from the firefighters pension fund under this chapter and notwithstanding the limitations placed upon the pensions and upon contributions under this chapter, every contributor entitled to the pension shall also be entitled to the payment of a service increment in accordance with and subject to the conditions imposed under this chapter.*

(1) *A service increment shall be the sum obtained by computing the number of whole years after having served the minimum required by this chapter during which a contributor has been employed by the city and paid out of the city treasury, including credit for military service as provided in section 14321 (relating to retirement and final discharge), and multiplying the number of years by an amount equal to 0.025% of the retirement allowance which has become payable to the contributor in accordance with the provisions of this chapter. In computing the service increment, no employment after the contributor has reached 65*

years of age shall be included and no service increment shall be paid in excess of \$100 per month.

(2) After September 18, 1968, each contributor shall pay into the pension fund a monthly sum in addition to the contributor's pension contribution which shall not exceed the sum of \$1 per month, provided that the service increment contribution shall not be paid after a contributor has reached 65 years of age.

(3) Any individual who is a member of the department on September 18, 1968, and who has reached 65 years of age shall have the individual's service increment computed on the years of employment prior to the member reaching 65 years of age.

(4) Service increment contributions shall be paid at the same time and in the same manner as pensions and may be withdrawn in full, without interest, by individuals who leave the employment of the city, subject to the same conditions by which retirement contributions may be withdrawn, or by individuals who retire before becoming entitled to any service increment.

(5) All members of the fire department who are now contributors to the pension fund and all those employed by the city after September 18, 1968, if required to become contributors to the pension fund, shall be subject to the provisions of this chapter.

(6) After June 19, 2002, a city may agree to make service increment payments in excess of \$100 per month as long as the payments do not exceed \$500 per month, and, in computing the service increments, no employment after the contributor has reached 65 years of age shall be included, provided that any agreement to provide an increase in service increment payments shall include a proportionate increase in the amount each contributor shall pay into the retirement fund under paragraph (2), not to exceed \$5 per month.

§ 14322.1. Increase of allowances after retirement.

(a) Recommendation.—A city may, at any time, at its discretion and upon the recommendation of the persons having custody and management of the firefighters pension fund, increase the allowances of individuals receiving allowances of any kind from the fund by reason of and after the termination of the services of any member of the fund.

(b) Uniform scale.—Increases made pursuant to this section shall be in conformity with a uniform scale, which may be based on the cost of living, but the total of the allowances shall not, at any time, exceed one-half of the current salary being paid firefighters of the highest pay grade.

§ 14323. Causes for forfeiture of rights in fund and other employments.

(a) Requirement.—Whenever an individual becomes entitled to receive a pension from the firefighters pension fund and has been admitted to participate in the pension fund, the individual shall not be deprived of the individual's right to participation in the pension fund on the basis upon which the individual first became entitled to participation, unless otherwise required by the act of July 8, 1978 (P.L. 752, No.140), known as the Public Employee Pension Forfeiture Act.

(b) Notice and hearing.—Any termination of a pension shall be only after due notice and hearing as prescribed by regulation of the managers of the fund.

§ 14324. Payments to firefighters pension fund by city.

Unless otherwise required by the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, or by any other provision of law, this section shall govern the payment of money raised by taxes levied by the city to the firefighters pension fund. The following shall apply:

(1) A city shall pay to the firefighters pension fund annually a sum of money not less than one-half of 1% nor more than 3% of all taxes levied by the city, other than taxes levied to pay interest on or extinguish the debt of the city.

(2) Council may exceed the limitations imposed by this section if an additional amount is deemed necessary to provide sufficient money for payments to surviving spouses of members retired on pension, killed or who die in service, provided that the city shall annually pay into the fund not less than one-half of 1% of all taxes levied by the city, other than taxes levied to pay interest on or extinguish the debt of the city.

§ 14325. Transfers from other pension funds.

(a) Transfers.—In any city where the members of the fire department are members of a pension fund not established solely for the purpose of pensioning members of the fire department, an amount equal to the money contributed to the other pension fund by members of the fire department who have not retired and a just and equitable proportion of the money contributed by the city to the other pension fund for the future retirement of members of the fire department shall be transferred from the other pension fund into the firefighters pension fund required under this chapter. The transfers may be made by the transfer of securities. The amounts to be transferred shall be amicably adjusted by the managers of the firefighters pension fund and the pension board having the charge of the other pension fund. In case of disagreement as to the amount to be transferred, the disagreement shall be resolved by council, whose action on the matter shall be final.

(b) Continuation.—Nothing under this section shall be construed to relieve any existing pension fund of its liability to continue the payment of pensions to retired members of the fire department in accordance with the laws and regulations under which the members were retired.

§ 14326. Trusts for benefit of firefighters pension fund.

A city may take, by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust for the benefit of the pension fund. The care, management, investment and disposal of the body of the trust shall be vested in the officer or officers of the city as the city may designate. The care, management and disposal shall be directed by ordinance and the body of the trust shall be governed by the ordinance, subject to directions not inconsistent with the ordinance, as the settlor of the trust may prescribe.

§ 14327. Repayment before retirement.

(a) *Refund.*—If a contributing member of the firefighters pension fund ceases to be a member of the fire department before the member becomes entitled to a pension, the total amount of the contributions paid into the pension fund by the member shall be refunded in full without interest.

(b) *Withdrawals.*—If the fund returns to the member the amount contributed and afterward the individual again becomes a member of the fire department, the member shall not be entitled to the pension designated until 20 years after the member's reemployment, unless the member returns to the pension fund the amount withdrawn, in which event the period of 20 years shall be computed from the time the member first became a member of the fire department, excluding any period of time during which the member was not employed by the fire department.

(c) *Death of a member.*—In the event of the death of a member of the fire department, the total amount of contributions paid into the pension fund by the member shall be paid over to the member's estate if any of the following apply:

(1) the death did not occur in the line of duty;

(2) the death occurs before the member becomes entitled to a pension; and

(3) the member has no surviving spouse or family entitled to payments as provided in this subchapter.

§ 14328. (Reserved).

SUBCHAPTER C PENSION FOR EMPLOYEES OTHER THAN POLICE OFFICERS AND CITY-PAID FIREFIGHTERS

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14349. *Application.*

14350. *Computation of time of service.*

14351. *Funds payable to be free of attachment.*

14352. (Reserved).

14353. *Beneficiaries of fund not to be employed by city.*

§ 14339. *Definitions.*

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Board." *A pension board created by a city under section 14341(a) (relating to pension board and duties).*

"Employed," "employed by the city" or "in the employment of any city." *The terms include:*

(1) *Each individual in the service of cities creating a pension fund and a pension board in accordance with this subchapter, who is not, on June 28, 1951, otherwise protected by pensions authorized under this chapter.*

(2) *A volunteer firefighter who becomes a member of the pension fund.*

"Employees." *The term includes:*

(1) *Each individual in the service of cities creating a pension fund and a pension board in accordance with this subchapter, who is not, on June 28, 1951, otherwise protected by pensions authorized under this chapter.*

(2) *A volunteer firefighter who becomes a member of the pension fund.*

(3) *Officers and officials of the city, whether elected or appointed.*

"Fund." *A pension fund created by a city under section 14340(a) (relating to pension for employees other than police or city-paid firefighters).*

"Volunteer firefighter." *A driver of firefighting apparatus or ambulances, regularly employed and paid by a volunteer fire company rendering services recognized and accepted by a city.*

§ 14340. Pension for employees other than police or city-paid firefighters.

(a) **Nonmembers.**—*Cities may create a pension fund for employees who are not members of the police force or city-paid fire department and surviving spouses of retired members if council so elects and the families of employees that are injured or killed in service in the manner, under the conditions and subject to the qualifications set forth in this subchapter.*

(b) *(Reserved).*

§ 14341. Pension board and duties.

(a) **Members.**—*Any city which creates a pension fund in accordance with this subchapter shall establish a pension board consisting of the mayor, the city controller, the superintendent of finance, two employees to be chosen by the employees contributing to the pension fund and, if members of council participate in the pension fund and are members of the fund, a member of council chosen by council.*

(b) **Duties.**—*It shall be the duty of the board to register all individuals employed by the city, administer the collections and distribution of the pension fund and make reasonable rules as the board may deem necessary.*

§ 14342. Retirement age.

In a city which has created a pension fund and board in accordance with this subchapter, an employee 60 years of age or older who has been employed for a period of 20 years or more shall, upon application to the board, be retired from service and shall, subject to qualifications provided

in this subchapter during the remainder of the employee's life, receive the pension or compensation fixed by this subchapter.

§ 14343. Retirement allowance, proof of disability and joint and single coverage members defined.

(a) Entitlement.—

(1) During the lifetime of an individual employed by a city creating a fund and board in accordance with this subchapter, the individual shall be entitled to receive 50% of the amount which would constitute the highest average annual salary or wages which the individual received during the last or any five years of the individual's employment by the city as a pension annually, which shall be paid in semi-monthly payments.

(2) Should an individual with 20 or more years of service be dismissed, voluntarily retired or be in any manner deprived of the individual's position or employment before attaining 60 years of age and upon continuing a monthly payment to the fund equal to the last amount due and paid monthly while in active service, the individual shall be entitled to the pension, notwithstanding that the individual has not attained 60 years of age at the time of the individual's separation from the service of the city, but the pension shall not commence until the individual has attained 60 years of age.

(3) If any employee becomes totally and permanently disabled after 10 years of service and before attaining 60 years of age, the individual shall be entitled to the pension. Proof of total and permanent disability shall consist of the sworn statement of three practicing physicians, designated by the board, that the employee is in a permanent condition of health which would permanently disable the individual from performing the duties of the individual's position or office.

(b) (Reserved).

(c) Reduction.—*If a city has entered into an agreement with the Commonwealth to place certain employees under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), the pension to be paid joint coverage members according to the provisions of this section payable after the age and upon that portion of annual compensation on which Social Security benefits are payable shall be reduced by an amount equal to 40% of the primary insurance amount of Social Security paid or payable to the member. The reduction shall be subject to the following provisions:*

(1) Upon attainment of the age at which Social Security benefits are payable by a beneficiary receiving a pension or upon retirement of a contributor after attaining that age, the individual's eligibility to the benefits commonly referred to as the old age insurance benefit and the primary insurance amount of Social Security upon which the reduction in the pension shall be based, shall be computed by the board in the manner specified in the Social Security Act, except that, in determining the eligibility and the amount, only wages or compensation for services performed in the employ of the city shall be included.

¹"this subchapter shall" in enrolled bill.

(2) *The reduction shall not apply to a pension for total and permanent disability payable under this section.*

(3) *Whenever the amount of the reduction from the pension is determined, it shall remain fixed for the duration of the pension, except that any decrease in the primary insurance amount under the Social Security Act shall result in a corresponding decrease in the amount of the reduction from the pension.*

(4) *The total sum, including Social Security benefits, to be received upon retirement by an employee who is a member of the system at the time of the agreement shall not be less than the allowance that would be paid by the retirement system in the absence of the agreement.*

(d) *Surviving spouse payments.—If council elects, by ordinance, to make the payments, the surviving spouse of an employee who retired on pension or is killed in service on or after January 1, 1960, shall, during the surviving spouse's lifetime or so long as the surviving spouse does not remarry, be entitled to receive a pension calculated at the rate of 50% of the pension the member was receiving or would have been entitled to receive had the member been retired at the time of the member's death.*

§ 14343.1. Retirement allowances, full coverage and payments.

(a) *Allowance.—If a city has entered into an agreement with the Commonwealth to place certain employees under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), the board may authorize any joint coverage member of the retirement system to elect, according to the provisions of this section, to receive compensation without the reduction provided for in section 14343 (relating to retirement allowance, proof of disability and joint and single coverage members defined), provided that the member shall make a lump-sum payment to the board or installment payments, as may be approved by the board, equal to the difference between the amount of the accumulated fund to the member's credit in the fund as of the last date for which salary or wages was paid and the amount which would have been to the member's credit in the fund if contributions had been made on that portion of the member's salary or wages on which Social Security allowances are payable at the same rate as made on that portion of the member's salary or wages in excess of that on which Social Security allowances are payable, from the time that the salary or wages became subject to Social Security coverage. Election shall be made in writing, in the form prescribed by the board, and shall be accompanied by the lump-sum payment or an agreement as to installment payments.*

(b) *Election.—The board may authorize a member to make the election under subsection (a) at any time, and, if made prior to retirement, the member shall, in addition to any lump-sum or installment payments required, pay to the board contributions on the member's entire salary or wages received after the election at the rate provided in this subchapter for monthly salary or wages in excess of that on which Social Security allowances are payable.*

§ 14343.2. Limited vested benefit.

(a) *Ordinance.—In accordance with this subchapter, an ordinance creating a fund may provide for a limited vested benefit if it would conform*

to section 305 of the act of December 18, 1984 (P.L.1005, No.205), known as the *Municipal Pension Plan Funding Standard and Recovery Act*.

(a.1) *Vesting*.—Under a limited vested benefit, if a member of the fund terminates employment before reaching the date which would have been the member's earliest retirement date had the member continued employment by meeting the minimum age and minimum period of continuous service requirements but after having completed 12 years of full-time service, the member shall be entitled to vest the member's retirement benefits subject to the following conditions:

(1) The member must file with the management board of the fund a written notice of the member's intention to vest.

(2) The member must include in the notice the date the member intends to terminate the member's service as an employee.

(3) The termination date shall be at least 30 days later than the date of notice to vest.

(4) The member must be in good standing with the city on the date of notice to vest.

(5) The board shall indicate on the notice to vest the rate of monthly pay of the member as of the date of the notice to vest or the highest average annual salary which the member received during any five years of service preceding the date, whichever is higher.

(b) *Collection*.—Upon reaching the date which would have been the member's earliest retirement date had the member continued the member's employment with the city, the member shall notify the board, in writing, that the member desires to collect the member's pension. The amount of retirement benefits the member is entitled to receive under this section shall be computed as follows:

(1) The initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest.

(2) The portion of the base retirement benefits due the member shall be determined by applying to the base amount the percentage that the member's years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the city until the member's earliest retirement date.

§ 14344. *Amount of payments into fund and repayment before retirement.*

The employees of any city creating a fund and board in accordance with this subchapter shall pay monthly to the board an amount equal to 2% of their monthly salaries or wages and, if council elects by ordinance to make payments, an additional amount not to exceed 1% if deemed necessary by council to provide sufficient funds for payments to the surviving spouses of members who were retired on pension or killed in service, which shall be applied to the purposes of the fund. Payment of the monthly amount or contribution under this section shall cease and be discontinued at the time the beneficiary receives their pension. If, for any cause, an employee contributing to the fund ceases to be an employee of the city before the employee becomes entitled to a pension, the total amount of the contributions paid into the fund by the employee shall be refunded to the employee in full, without interest. If an employer returns to the employee the amount contributed and reenters the employ of the city, the employee

shall not be entitled to the pension designated until 20 years after reemployment, unless the employee shall return to the fund the amount withdrawn, in which event that period of 20 years shall be computed from the time the employee first enters the service of the city. In the event of the death of an employee before the employee becomes entitled to the pension, the total amount of contributions paid into the fund by the employee shall be paid over to the estate of the deceased employee.

§ 14344.1. Determination of liability upon extension of Social Security.

(a) *Determination.*—If a city has entered into an agreement with the Commonwealth to place its employees under the Social Security Act (49 Stat. 620, 42 U.S.C § 301 et seq.), the board shall appoint an actuary and may fix the employee's compensation. The actuary shall determine the present value of the liability on account of pensions payable under the provisions of section 14343 (relating to retirement allowance, proof of disability and joint and single coverage members defined) to employees who are members of the system on the effective date of the agreement and shall offset the value of any assets in the fund to determine the unfunded liability. The city may make payments toward the unfunded liability until the accumulated reserve equals the present value of the liability. The actuary shall also determine the amount which shall be contributed annually into the fund on account of service of all new and original members subsequent to the effective date of the agreement.

(b) *Contribution.*—Employees shall pay into the board, monthly, an amount equal to 3.5% of that portion of monthly compensation on which Social Security allowances are payable and 5% of any monthly compensation in excess of that on which Social Security allowances are payable. The remainder of the needed annual contribution for service subsequent to the date of the agreement, as determined by the actuary, shall become the obligation of the city and shall be paid by it to the board by annual appropriations. The provisions of this section shall, in all applicable cases, supersede the provisions relating to contributions in sections 14344 (relating to amount of payments into fund and repayment before retirement) and 14348 (relating to appropriations and contributions to fund).

§ 14345. Payments by laborers optional.

Any individual holding a position in a city as a laborer at a per diem wage shall not be compelled to pay or contribute toward the fund but shall have the option of so doing and, in that event only, of becoming entitled to the pension provided for under this subchapter.

§ 14346. Heads of departments to certify list of employees.

The head of every department and office employing individuals entitled to receive a pension shall certify to the board all employees so employed and the amount of salary or wages which is paid to employees, together with dismissals, resignations or terminations of service, and, from office or department records, furnish other relevant information as the board requires. In the case of a volunteer fire company, "head of department or office" shall mean the president or secretary of the board of trustees of the volunteer fire company.

§ 14347. Receipt, investment and payment of funds.

When deemed advisable, it shall be the duty of the board to receive, retain and invest the funds payable in accordance with the provisions of this subchapter and pay over, by warrant or check, the amount due to employees.

§ 14348. Appropriations and contributions to fund.

Council may annually set aside, apportion and appropriate, out of all taxes and income of the city, to the board a sum sufficient to maintain the pensions or compensations due on account of the city contributions for all employees, except volunteer firefighters. The board of trustees of the volunteer fire company employing and paying members shall annually contribute to the board a sum equal to the same percentage of its participating payroll as the amount contributed by the city for the same year bears to its participating payroll for each volunteer firefighter member becoming a member of the fund.

§ 14349. Application.

(a) Applicability.—The benefits provided for by this subchapter shall apply to all individuals employed in any capacity or holding positions in or, in the case of a volunteer firefighter, rendering services recognized and accepted by a city creating a fund and board in accordance with provisions of this subchapter. This subchapter shall not apply to employees of departments, bureaus or offices which are otherwise protected by pensions authorized by this chapter.

(b) Membership.—Any volunteer firefighter may become a member of a fund as of the date of the volunteer firefighter's original employment or of the inception of the fund, whichever is later, upon the volunteer firefighter making back contributions and if the volunteer fire company or its board of trustees employing and paying the volunteer firefighter agrees to contribute and contributes to the fund the required sums.

§ 14350. Computation of time of service.

The time of service of 20 years shall be computed from the time of the first or original employment, which shall consist of service to the city and need not be continuous.

§ 14351. Funds payable to be free of attachment.

The compensation or pension shall not be subject to attachment or execution, shall be payable only to the beneficiary designated and shall not be subject to assignment or transfer.

§ 14352. (Reserved).

§ 14353. Beneficiaries of fund not to be employed by city.

No individual who becomes a beneficiary shall be employed by the city in any capacity. Subject to the provisions of section 14361 (relating to right to a pension if salary refused), nothing in this section shall be construed to prohibit an individual who becomes a beneficiary from serving in an elective city office.

**SUBCHAPTER D
BENEFICIARIES SERVING IN ELECTIVE OFFICE**

Sec.

14361. Right to a pension if salary refused.

§ 14361. Right to a pension if salary refused.

In a city governed by the provisions of this part, the act of July 15, 1957 (P.L.901, No.399), known as the Optional Third Class City Charter Law, or 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government), a beneficiary serving in an elective city office shall not be prohibited from receiving a pension for any month in which the beneficiary does not accept a salary from serving in the elective office.

**CHAPTER 144
CIVIL SERVICE**

Sec.

14401. Examinations required of all appointees.

14402. Appointment of civil service board.

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§ 14401. Examinations required of all appointees.

No individual may be appointed to any uniformed position in the police or fire department, excluding chiefs, unless all of the following apply:

(1) The individual passed all examinations as provided for under this chapter.

(2) The individual was appointed in the manner and according to the terms, provisions and conditions of this chapter.

§ 14402. Appointment of civil service board.

Cities shall establish a civil service board that shall provide for and oversee the examination of applicants for appointment and promotion to any position in the police or fire department. Council shall appoint three city residents to the board who shall serve four-year terms or until their successors are appointed and qualified, except for the initial appointment of board members as provided for in section 14403 (relating to civil service board and quorum). Any individual who is a registered elector of the city may be appointed to the board. No city officer, official or employee shall be eligible for appointment to the civil service board.

§ 14402.1. Existing civil service positions.

All nonuniformed employees in city positions that were subject to civil service regulation immediately prior to May 19, 2014, shall continue to be

subject to civil service regulation otherwise provided in this chapter for uniformed employees with regard to the nonuniformed positions.

§ 14403. Civil service board and quorum.

(a) Terms.—In a city in which the civil service board is first established, terms of members of the board shall be staggered. Council shall initially appoint to the board one individual to serve for two years, one individual to serve for three years and one individual to serve for four years.

(b) Vacancies.—Upon the expiration of the term of any member, a successor shall be appointed by council to serve on the civil service board for a term of four years. If any vacancies occur, they shall be filled by council for the unexpired term. Before entering upon the duties of office, each member shall take and subscribe to the oath of office prescribed by 53 Pa.C.S. § 1141 (relating to form of oaths of office) and file the oath, duly certified by the officer administering it, with the city administrator or, in cities without a city administrator, the city clerk.

(c) Compensation.—No salary or other compensation shall be paid to any member of the civil service board.

(d) Quorum.—Two members of the civil service board shall constitute a quorum necessary for the transaction of business of the board.

(e) Organization.—The civil service board shall organize for the purpose of transacting all business immediately after the first appointments and as new appointments to the board are made. After organizing, the board shall elect one of its members as chairperson and one member as secretary.

§ 14403.1. Alternate board members.

Council may appoint not more than three qualified electors of the city to serve as alternate members of the civil service board. The term of office of the alternate members shall be four years. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairperson shall designate as many alternate members of the board to sit on the board as may be needed to provide a quorum. When seated pursuant to this section, an alternate shall be entitled to participate in all proceedings and discussions of the board to the extent as provided by law for board members, including the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this chapter and as otherwise provided by law. Any alternate member of the board shall continue to serve on the board in all proceedings involving the matter or case for which the alternate was initially designated until the board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates. Alternates shall hold no other office in the city. Any alternate may participate in any proceeding or discussion of the board but shall not be entitled to vote as a member of the board unless designated as a voting alternate member pursuant to this section.

§ 14403.2. Investigations and subpoenas.

(a) Investigations.—The civil service board shall have the power to conduct investigations concerning all matters relating to the

administration and enforcement of its rules and regulations. The chairperson shall be authorized to administer oaths and affirmations for witnesses testifying in matters before the board.

(b) Subpoenas.—The civil service board shall have the power to issue subpoenas over the signature of the chairperson or designee and to require the attendance of witnesses and the production of records and papers pertaining to matters before the board, including any background investigation conducted pursuant to any applicable rules and regulations.

§ 14404. Rules, regulations and examinations.

(a) Duties.—The civil service board shall have the power and its duty shall be to prepare and adopt rules and regulations, subject to approval by council, which, in the board's discretion, secure and maintain the best service for the public for the selection, appointment and promotion of individuals who are qualified to perform the work which is the subject of the civil service examination as provided in this chapter and who are to be employed, appointed or promoted by the city. The rules and regulations adopted by the board shall provide for ascertaining and determining, so far as possible, the knowledge, skills, aptitude, mental and physical abilities, experience, education and character of all applicants as these criteria would reasonably apply to the respective positions. The rules and regulations shall also provide for examinations upon any and all subjects deemed proper or necessary by the board for the purpose of determining the qualifications of applicants for the respective positions sought and for which application is made.

(b) Subjects.—The civil service board shall, in accordance with this part, adopt rules and regulations concerning the following matters:

- (1) minutes of proceedings;*
- (2) rules of procedure;*
- (3) records of examinations;*
- (4) annual report to council;*
- (5) notice of rules and regulations and any amendments or repeals to rules and regulations;*
- (6) application forms;*
- (7) further provisions concerning the duties of the chairperson and secretary;*
- (8) appointment of examiners; and*
- (9) other administrative matters.*

§ 14404.1. Physical and psychological medical examinations.

(a) Requirement.—The civil service board may require that an applicant conditionally appointed in accordance with section 14406 (relating to selection of appointee from certified list of applicants) undergo a physical or psychological medical examination as a condition of permanent appointment. Physical medical examinations, if required, shall be under the direction of a physician or other qualified medical professional. Psychological medical examinations, if required, shall be under the direction of a psychiatrist or psychologist.

(b) Professional opinion.—A physician, other qualified medical professional, psychiatrist or psychologist shall be appointed by council and shall render an opinion as to whether the conditional appointee has a

physical or mental condition which calls into question the individual's ability to perform all the essential functions of the position for which the individual was conditionally appointed.

(c) Performance.—If the opinion rendered by the physician, other qualified medical professional, psychiatrist or psychologist calls into question the conditional appointee's ability to perform all essential functions of a position, the director of the department within which the position is to be filled shall meet with the conditional appointee for the purpose of having one or more interactive discussions on whether the conditional appointee can, with or without reasonable accommodation, perform all the essential functions of the position.

(d) Determination.—If, at the conclusion of the interactive discussion under subsection (c), the director of the department determines that the conditional appointee is not qualified, the director shall give written notice to the conditional appointee and the civil service board.

(e) Authorization.—Nothing in this chapter shall be construed to authorize physical or psychological medical examinations prior to conditional appointment in accordance with section 14406.

(f) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Medical examination." Any examination, procedure, inquiry or test designed to obtain information about medical history or a physical or mental condition which might disqualify an applicant if it would prevent the applicant from performing, with or without reasonable accommodation, all of the essential functions of the position.

"Qualified medical professional." An individual, in collaboration with or under the supervision or direction of a physician, as may be required by law, who is licensed:

(1) as a physician assistant pursuant to the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act; or

(2) as a certified registered nurse practitioner pursuant to the act of May 22, 1951 (P.L.317, No.69), known as The Professional Nursing Law.

§ 14405.1. Veterans' preference.

In accordance with 51 Pa.C.S. Ch. 71 (relating to veterans' preference), the following shall apply to the appointment of a uniformed civil service position:

(1) A veteran who meets the qualifications for and conditions of the position under uniform eligibility rules, which include successful passage of an examination, shall receive an additional 10 points on the examination pursuant to 51 Pa.C.S. § 7103(a) (relating to additional points in grading civil service examinations).

(2) If, after the additional 10 points are granted, a veteran is on the list of three eligible applicants, the veteran shall receive a preference in hiring over nonveterans on that list.

(3) The preference provided by this section shall constitute the only preference with regard to a uniformed civil service position to which a veteran is entitled under this chapter.

§ 14406. Selection of appointee from certified list of applicants.

The following shall apply to civil service selection, conditional appointments and appointments and shall be incorporated by reference in the rules and regulations of the civil service board:

(1) The civil service board shall make and keep, in numerical order, a list containing the names of all applicants for civil service positions in the city who pass the required examinations, including any required physical fitness or agility examinations that are job related and consistent with business necessity.

(2) Physical fitness and agility examinations shall be conducted on a pass-fail basis.

(3) Written and oral examinations used to establish an eligibility list shall offer the opportunity to achieve 100 points.

(4) If both written and oral examination methods are used in conjunction with each other, the board, prior to initiating testing, shall establish what constitutes a passing score on each portion of the examination. If only a written examination method is used, the board shall establish the passing score before the examination is conducted.

(5) When more than one individual takes examinations for any position at the same time, the names of all those successfully passing the examination shall be entered on the eligibility list in the order of their respective point totals, the highest coming first.

(6) The board shall furnish to council a certified copy of all lists prepared and kept. Lists are public records and shall be maintained for a period of two years or until a new list is certified to council, whichever occurs first.

(7) Whenever council determines an initial appointment is to be made to a civil service position in the city, the director of the department in which the appointment is to be made shall make written application to the chairperson of the board, who shall certify to council, in writing, the three names on the eligibility list of applicants for the position having the highest number of points, unless there are less than three eligible names on the list, in which event the board shall certify the names. The director of the department in which the appointment is to be made shall nominate to council an individual from the eligibility list submitted to fill the vacancy.

(8) If council approves the nomination, the individual nominated shall be conditionally appointed by council to fill the vacancy and shall be assigned for service in the department, subject to any required physical or psychological medical examinations that may be required by the board as a condition of permanent appointment in accordance with section 14404.1 (relating to physical and psychological medical examinations).

(9) If council does not approve the nomination or if the appointee is determined by the medical examination process to be unqualified, the director of the department in which the appointment is to be made shall

submit another nomination for the position from the remaining names, if any. If the second nomination is not approved by council or if the appointee is determined by the medical examination process to be unqualified, the director shall submit the third name, if any.

(10) The individual whose nomination by the director is approved by council shall be appointed to fill the civil service position under consideration.

(11) The name of the individual appointed shall be immediately stricken from the certified list of the board, and, except as otherwise provided in this subsection, the names of the nonappointed individuals shall immediately be restored to their proper place on the certified list. Names shall be stricken from the certified list if:

(i) the name of any applicant has been submitted to council and been rejected three times;

(ii) the conditional applicant has not been appointed three times; or

(iii) the conditional applicant has been determined by the medical examination process to be unqualified.

(12) Examinations for promotions for civil service positions in the city shall be made pursuant to section 14406.1 (relating to promotions).

(13) As used in this section, the term "medical examination" shall have the meaning given to it in section 14404.1(f).

§ 14406.1. Promotions.

(a) Certification.—Council shall notify the civil service board of a civil service vacancy in the city which is to be filled by promotion and shall request the certification of an eligibility list as provided in this chapter. For each vacancy, the board shall certify the names of three individuals on the eligibility list who have received the highest average in the last preceding promotional examination held within the period of two years preceding the date of the request for the eligibility list. If three names are not available, the board shall certify the names remaining on the list. Council shall make an appointment from the names certified based solely on the merits and fitness of the candidates unless council makes objections to the board regarding one or more of the individuals on the eligibility list. Council shall have power to determine whether an increase in salary shall constitute a promotion.

(b) Additional powers.—Notwithstanding subsection (a), the mayor or other elected or appointed official of a city that has adopted one of the following shall retain the power to promote a candidate pursuant to that law:

(1) An optional charter pursuant to the act of July 15, 1957 (P.L.901, No.399), known as the Optional Third Class City Charter Law.

(2) An optional plan pursuant to 53 Pa.C.S. Chs. 30 (relating to types of optional plans of government) and 31 (relating to general provisions common to optional plans).

(3) Any other law authorizing or permitting the mayor or other elected or appointed official to promote a candidate.

(c) Exceptions.—The provisions of this section shall not apply to the mayor's designation or appointment of the chief of police pursuant to section 12002 (relating to designation of chief) or the mayor's designation or appointment of a fire chief pursuant to section 12101.1 (relating to appointment and demotion of fire chief).

§ 14407. Tenure and temporary appointments.

(a) Standard.—All appointments made pursuant to the provisions of this chapter shall be for and during good behavior, and no employee hired pursuant to the provisions of this chapter shall be removed or transferred for any political reasons.

(b) Temporary appointments.—In case of riot or emergency, temporary appointments to positions in the civil service may be made without complying with the provisions of this chapter.

§ 14408. Suspension, discharge and discipline, reduction of employees and appeals.

(a) Provisions.—

(1) All employees subject to civil service shall be subject to suspension, discharge and discipline by the director of the department in which the employee works for misconduct or violation of any law of this Commonwealth, ordinance of the city or regulation of the department. If it should become necessary to reduce the number of employees in the department for economic purposes, the following apply:

(i) Seniority rights shall prevail.

(ii) Any and all removals for cause or causes shall be from the members last appointed.

(iii) The member or members serving the shortest time shall be removed first; however, members with longer times of service may be discharged for cause.

(2) Any employee aggrieved by the suspension, discharge or discipline imposed by a department director more serious than a suspension of three days without pay may request a hearing before council or the civil service board, if designated by ordinance. At the hearing, the employee may be represented by counsel.

(a.1) Appeal.—Any civil service employee aggrieved by the decision of council or the civil service board shall have the right to appeal in accordance with 2 Pa.C.S. Ch. 7 Subch. B (relating to judicial review of local agency action). This review shall be exclusive. When no appeal is taken within the time prescribed by law, the decision by council or the civil service board shall become final in accordance with law. The issue before the court shall be whether the action of council or the civil service board shall be affirmed or modified in any respect, whether the charges should be dismissed or whether the suspension or demotion made by the director shall be affirmed or rescinded. If any employee has been suspended and the charges are dismissed or the suspension rescinded on appeal, the employee shall receive full compensation for the entire period of suspension.

(b) Challenge.—In any case in which a police officer or firefighter who is a member of a bargaining unit is subject to suspension, discharge or

discipline, the police officer or firefighter shall have the option of challenging the suspension, discharge or discipline imposed by using the procedures provided in subsection (a)(2) or by a proceeding in grievance arbitration. A choice to proceed either by the procedures provided for in subsection (a)(2) or by grievance arbitration shall foreclose the opportunity to proceed in the alternative method.

§ 14409. Secretary and compensation.

The civil service board shall appoint a secretary and prescribe the secretary's duties and shall have the power to change these duties. The secretary shall be subject to removal, at any time, by the board. Council shall establish the compensation to be paid to the secretary and all necessary supplies for the use of the board shall be supplied by the city.

§ 14410. Review of eligibility lists.

The lists of eligible names kept by the civil service board shall be annually examined by the board for the purpose of deleting individuals from the list who are permanently unavailable for or disqualified for the position or positions involved, either by death, permanent removal from the area or written desire to be removed from the list or by other permanent cause in conformity with the board's rules and regulations adopted pursuant to section 14404 (relating to rules, regulations and examinations).

CHAPTER 144A VETERANS' AFFAIRS

Subchapter

- A. Support of Veterans' Organizations*
- B. Pennsylvania National Guard*
- C. Burials and Memorials*

SUBCHAPTER A SUPPORT OF VETERANS' ORGANIZATIONS

Sec.

144A00. Definitions.

144A01. Appropriations to veterans' organizations.

144A02. Rooms for meetings of veterans.

§ 144A00. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Veterans' organization." An incorporated organization of veterans of the armed forces of the United States or an organization comprising veterans' parents or children.

§ 144A01. Appropriations to veterans' organizations.

(a) Annual appropriation.—Council may make annual appropriations to veterans' organizations to aid in defraying the following expenses:

- (1) Expenses relating to Memorial Day and Veterans Day.*

(2) Other expenses, such as payment of rent of any building or rooms where the organization has its regular meetings.

(b) Requirements.—Payments shall be made to defray actual expenses only. Before any payment is made, the veterans' organization receiving the payment shall submit verified accounts of its expenditures.

§ 144A02. Rooms for meetings of veterans.

Council may provide to a veterans' organization, upon application of the organization, a facility in any public building of the city that is sufficient for periodic meetings of the organization.

SUBCHAPTER B PENNSYLVANIA NATIONAL GUARD

Sec.

144A11. Support of Pennsylvania National Guard units.

144A12. Assistance of armories.

144A13. Eminent domain for National Guard purposes.

144A14. Land for armory purposes.

§ 144A11. Support of Pennsylvania National Guard units.

(a) Annual appropriation.—Council may appropriate annually a sum for the support, maintenance, discipline and training of any troop, company or similar unit of the Pennsylvania National Guard. If the units are organized as a battalion, regiment or similar organization, the total amount due may be paid to the commanding officer of the battalion, regiment or similar organization.

(b) Condition.—Any money appropriated shall be paid by warrant drawn to the order of the commanding officer of the company, battalion, regiment or similar organization and conditioned upon certification by the Adjutant General of the Commonwealth to the city that the company has satisfactorily passed the annual inspection provided by law.

(c) Use of funds.—The money appropriated shall be used and expended solely and exclusively for the support, maintenance, discipline and training of the company, battalion, regiment or similar organization.

(d) Accounting required.—The commanding officer shall account, by proper vouchers to the city each year, for the expenditure of the money appropriated. No appropriation shall be made for any subsequent year until the expenditure of the previous year is duly and satisfactorily accounted for. The accounts of the expenditures shall be subject to the inspection of the Department of Military and Veterans Affairs and shall be audited by the independent auditor in the manner provided by this chapter for the audit of accounts of city money.

§ 144A12. Assistance of armories.

(a) Assistance.—Council may appropriate money or convey land, either independently or in conjunction with any other political subdivision, to the Commonwealth for the following purposes:

(1) To assist the State Armory Board in the erection of armories for the use of the Pennsylvania National Guard.

(2) *To furnish water, sewer services, light or fuel free of cost to the Commonwealth for use in any armory of the Pennsylvania National Guard.*

(b) *Council authority.—Council may do all things necessary to accomplish the purpose of this section.*

§ 144A13. *Eminent domain for National Guard purposes.*

Council may take, by right of eminent domain for the purpose of appropriating to itself for the use of the Pennsylvania National Guard, public lands, easements and public property in its possession or control and used or held by it for any other purpose. However, the right of eminent domain shall not be exercised as to any street or wharf.

§ 144A14. *Land for armory purposes.*

(a) *General rule.—Council may acquire, by purchase, gift or the right of eminent domain, any land for the use of the Pennsylvania National Guard and may convey lands so acquired to the Commonwealth in order to assist the State Armory Board in the erection of armories.*

(b) *Limitations.—The power conferred by this section shall not be exercised to take any church property, graveyard or cemetery.*

(c) *Lands outside city limits.—Lands within three miles outside the limits of the city may be acquired in accordance with this section for the use of the Pennsylvania National Guard. However, if the land outside the limits of the city is acquired by eminent domain, the taking shall be subject to the limitations in 26 Pa.C.S. § 206 (relating to extraterritorial takings).*

SUBCHAPTER C BURIALS AND MEMORIALS

Sec.

144A21. *Purchase of burial grounds for deceased servicepersons.*

144A22. *Care of memorials.*

144A23. *Memorial trees.*

144A24. *Penalty for injury to memorial trees.*

§ 144A21. *Purchase of burial grounds for deceased servicepersons.*

Council may appropriate money for and purchase plots of ground in any cemetery or burial ground within its respective city limits for the interment of deceased servicepersons:

(1) *who:*

(i) *die within the city; or*

(ii) *die beyond the city limits but had a legal residence within the city at the time of death; and*

(2) *whose bodies are entitled to be buried by the county under the provisions of existing law.*

§ 144A22. *Care of memorials.*

(a) *Council authority.—Council may take charge of, care for, maintain and keep in good order and repair, at the expense of the city, any soldier's monument, gun or carriage or similar memorial, if the memorial:*

(1) *Is situate in the city.*

(2) *Is not in the charge or care of any individual, body or organization.*

(3) *Is not put up or placed by the Federal Government, the Commonwealth or the commissioners of the county or by the direction or authority of any other state.*

(b) *Donations.—Council may receive money from any individual or organization and may expend the money for the benefit of memorials.*

§ 144A23. *Memorial trees.*

Council may provide for or authorize provision for memorial trees for residents of the city who died while in the military service of the United States or in consequence of that service. Council may make appropriations or accept contributions for this purpose. Trees shall bear some permanent indication of their purpose.

§ 144A24. *Penalty for injury to memorial trees.*

Any individual who willfully, maliciously or negligently destroys or injures any tree planted pursuant to section 144A23 (relating to memorial trees) commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$500, or to imprisonment for not more than three months, or both.

CHAPTER 145A ASSESSMENTS FOR PUBLIC IMPROVEMENTS

Sec.

145A00. Definitions.

145A01. Authority to assess.

145A02. Method of assessment.

145A03. Notice of assessment.

145A04. Appeals to court.

145A05. Benefits and damages.

145A06. Return by city of assessments paid on property unlawfully assessed.

145A07. Payment of assessments in installments.

145A08. Collection of assessments.

§ 145A00. *Definitions.*

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Public improvement." The term includes, but is not limited to, the following:

(1) *The building, paving, grading, rebuilding, repaving and regrading of streets, sidewalks, curbs and gutters.*

(2) *The creation, extension and renovation of water and sewerage collection, transmission, treatment and disposal systems.*

(3) *The creation, extension and renovation of storm, surface and subsurface drainage systems.*

(4) *The construction, reconstruction and repair of wharves and docks.*

(5) *The installation of pipes, wires and conduits relating to city-supplied utility services.*

(6) *The installation, maintenance or operation of lighting that services the streets and sidewalks within the city.*

(7) *The planting, maintaining, trimming, transplanting, removal and protection of shade trees.*

§ 145A01. Authority to assess.

(a) *Authority.—Unless otherwise provided for in this part, a city is authorized to assess all or any portion of the costs of a public improvement, including any related administrative fees, against any properties that are benefited by the public improvement.*

(b) *Payment of costs.—Unless otherwise provided in this chapter, in addition to the authority to assess the cost of public improvements against properties benefited, a city may pay for the cost of public improvements, in whole or in part, from the city general fund or, if authorized, from a special city fund dedicated to that purpose.*

(c) *Indebtedness.—If a city incurs indebtedness pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) for the purposes of funding the cost and expense of making public improvements for which assessments are made in accordance with this chapter, payments made on the assessments must be applied to pay the debt service for the indebtedness incurred for funding the cost and expense of making the public improvements.*

§ 145A02. Method of assessment.

(a) *Ordinance.—In any case in which council elects to exercise the power to make assessments for a given public improvement as authorized in section 145A01 (relating to authority to assess), council shall, by ordinance and in conformity with this chapter, establish the method and procedure pursuant to which assessments shall be made.*

(b) *Allocation of costs and expenses.—Council may, by ordinance, make the assessment by any means that results in fairly allocating all or a portion of the costs and expenses of the public improvement among all properties benefited by the improvement in reasonable proportion to the benefits conferred upon each property. The methods that may be used to make assessments in accordance with this subsection may include but are not limited to:*

(1) *An equal assessment per front foot, lot, parcel, dwelling unit or square foot.*

(2) *An assessment made by viewers.*

(c) *Front foot method.—If the front foot method is used:*

(1) *The cost to be collected shall be divided by the total number of linear feet of street frontage of all properties benefited.*

(2) *The assessment against each property shall be that portion of the cost which is determined by multiplying the dividend under paragraph (1) by the number of linear feet for street frontage of that property.*

(3) *In the case of corner or irregularly shaped lots or where special conditions exist, council shall have the power and its duty shall be to provide for an equitable adjustment, as necessary, to prevent an unjust or excessive assessment.*

(d) Assessment based on report of viewers.—In order to pay for all or a portion of the cost or expenses of a public improvement, council may determine to assess properties benefited based upon a report of viewers. Three disinterested persons shall be appointed by council as viewers. A majority of the viewers shall assess the cost against each property benefited in reasonable proportion to the benefits conferred upon each property. The viewers or a majority of them shall:

(1) Make a report, in writing, which shall specify the amount assessed upon each property.

(2) Present the report directly to council or file it with the city clerk as council directs.

§ 145A03. Notice of assessment.

(a) Personal notice.—After the amounts to be assessed against the properties to be benefited by the public improvement have been calculated pursuant to the method and procedures as prescribed by ordinance, the city shall give personal notice of the assessment to the owner of each property that is being assessed. The notice shall also state that the owner has 30 days from receipt of the notice to appeal the assessment.

(b) Assessment effective.—An assessment made pursuant to this chapter shall become effective 30 days after personal notice is given by any of the following means:

(1) Personal service on the owner.

(2) Certified mail, addressee only, return receipt requested, to the owner at the owner's last known address.

(3) Posting notice at or upon the property after reasonable attempts to give personal notice pursuant to paragraphs (1) and (2) have failed.

§ 145A04. Appeals to court.

Within 30 days after receipt of the notice of assessment, an owner of property shall have the right to appeal the assessment to the court of common pleas in the county in which the assessed property is located. On appeal, unless the court finds fraud, mistake or illegality, the court shall be restricted to determining the following questions:

(1) Whether the property assessed received any special benefits from the improvement.

(2) Whether the assessment made exceeds the special benefits received.

§ 145A05. Benefits and damages.

In any proceeding in which damages to property are being sought as a result of a public improvement for which an assessment of benefits has been made, the excess of damages over benefits, or the excess of benefits over damages, or nothing in case the benefits and damages are equal, shall be awarded to or assessed against the owner of land and property affected by the public improvement.

§ 145A06. Return by city of assessments paid on property unlawfully assessed.

The following shall apply with regard to the return of payments made on an unlawful assessment:

(1) If, after a timely appeal, a court makes a final determination that a property was unlawfully assessed or that the amount assessed

exceeded, to a substantial amount, the benefits received by the property assessed from the public improvement, a city that received money in payment of the assessment shall repay the money in an amount as ordered by the court.

(2) Within two years of receiving payment of an assessment, the city may repay the money voluntarily if the city determines that the assessment was made erroneously.

(3) Repayments to property owners pursuant to paragraph (1) or (2) shall include interest from the date of payment of the unlawful or erroneous assessment at the rate of interest that is provided for in 53 Pa.C.S. § 8426 (relating to interest on overpayment).
§ 145A07. Payment of assessments in installments.

(a) Authorization.—An ordinance providing for a public improvement, the expense of which is to be defrayed by an assessment against properties benefited by the public improvement, may authorize payment of the assessment in installments. The ordinance shall:

(1) Set a time when the installment payments shall commence.

(2) Specify the length of time over which the installments may be extended. The period during which installments may be paid shall not exceed the lesser of 10 years or the number of years equal to the period of maturity of the bonds issued to fund the public improvement.

(3) Specify whether payments are to be made by equal annual or more frequent installments.

(b) Interest rate.—The ordinance shall set forth the rate of interest for the installments, which shall not be more than 10% per year unless a bond is issued for the improvement, in which case the maximum interest rate on the installment payments shall be in accordance with section 9 of the Municipal Claim and Tax Lien Law.

(c) Written agreement.—The city shall enter into a written installment agreement with each property owner that will pay the assessment in installments, subject to the requirements of the ordinance pertaining to the agreements and this chapter.

(d) Installments not paid.—If any of the installments remain unpaid for 60 days after the installments have become due and payable:

(1) The entire unpaid assessment, plus unpaid accrued interest and any costs, shall be due and payable.

(2) The city may proceed to collect the installments by filing a lien in the same manner as municipal claims are filed under the Municipal Claim and Tax Lien Law or by instituting a civil action.

(e) Advance payments.—Any property owner upon whom an assessment has been made may pay all or as many of the installments before they are due, with interest and costs, on or before the due date of the next installment.

§ 145A08. Collection of assessments.

(a) Authority.—Council shall have the power to authorize the city treasurer or other city official to collect assessments.

(b) Procedure.—The following shall apply to the collection of assessments:

(1) *A city may collect an assessment that remains unpaid for 60 days after personal notice was given pursuant to section 145A03 (relating to notice of assessment) unless an installment agreement has been entered into pursuant to section 145A07 (relating to payment of assessments in installments).*

(2) *An assessment made under this chapter may be collected in the same manner as municipal claims under the Municipal Claim and Tax Lien Law or by instituting a civil action against the owner of the property benefited.*

(3) *Interest on an unpaid assessment shall begin to accrue from the time of completion of the improvement at a rate of 10% per year unless a bond is issued for the improvement, in which case the maximum interest rate shall be pursuant to section 9 of the Municipal Claim and Tax Lien Law.*

(4) *If a property owner has two or more lots against which there is an assessment for the same improvement, all of the lots may be embraced in one claim.*

(5) *Assessments, whether paid one time or by installments, shall be payable at the office of the city treasurer or any other place designated by ordinance.*

CHAPTER 146 COLLECTION OF MUNICIPAL CLAIMS AND COMPROMISE OF CLAIMS

Sec.

14601. Collection of municipal claims.

14602. Compromise of municipal claims.

§ 14601. Collection of municipal claims.

(a) Civil action.—In addition to the remedies provided by this part or any other law for the filing of liens for the collection of municipal claims, including water rates, sewer rates and the removal of nuisances, a city may proceed for the recovery and collection of municipal claims by civil action as follows:

(1) The action shall be brought against the person who was the owner of the property at the time:

(i) of the completion of the improvement; or

(ii) the water or sewer rates or the cost of the removal of nuisances first became payable.

(2) A city may bring a civil action, notwithstanding the failure on the part of the city or its agents to enter the municipal claim as a lien against the property assessed for the improvement, for the furnishing of water or sewer services or for the removal of nuisances and for the recovery of which the action was brought.

(b) Limitation period.—The civil action shall be commenced either within six years after the completion of the improvement from which the claim arises or within six years after the water or sewer rates or the cost of abating a nuisance first became payable.

§ 14602. Compromise of municipal claims.

(a) *Agreement.*—Council may agree with the owner of the real estate to accept a sum less than the whole of the amount of a municipal claim due, in compromise or reduction of the amount of the claim and the interest charges, expenses and fees added to and due on the claim, if:

(1) the city had entered the claim in the office of the prothonotary as a lien against real estate; and

(2) the claim has existed for 10 years or more.

(b) *Satisfaction of lien.*—Upon receipt of the compromise amount as agreed upon:

(1) The city shall cause the lien to be properly satisfied on the record, which shall be as effective as if the whole amount of the claim, interest, charges, expenses and fees had been paid.

(2) The claim shall no longer be a lien against the real estate or a claim against the owner of the real estate.

(c) *Applicability.*—The provisions of this section permitting compromise of municipal claims shall not apply to or in any manner affect any claims, the assessments for which:

(1) Are:

(i) the sole basis of improvement bonds issued by any political subdivision; and

(ii) the security for the payment of the bonds.

(2) Have been assigned by any political subdivision to any contractor in payment of the amount due the contractor under terms of the contract for the improvement for which the assessments were levied.

CHAPTER 147 MISCELLANEOUS PROVISIONS

Sec.

14701. *Intent.*

14702. *Construction of part.*

§ 14701. *Intent.*

It is intended that this part furnish a complete and exclusive system for the government and regulation of cities, except as provided for in section 10103 (relating to excluded provisions).

§ 14702. *Construction of part.*

Nothing contained in this part shall be construed to repeal:

(1) *The provisions of the act of May 23, 1945 (P.L.903, No.362), entitled "An act authorizing cities of the third class to establish an optional retirement system for officers and employes independently of any pension system or systems existing in such cities."*

(2) *The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.*

(3) *The provisions of 45 Pa.C.S. (relating to legal notices).*

(4) *The provisions of 65 Pa.C.S. (relating to public officers).*

(5) *The provisions of 66 Pa.C.S. Pt. 1 (relating to public utility code).*

(6) *The provisions of 74 Pa.C.S. Ch. 59 Subch. B (relating to airport zoning).*

(7) *Any local or special laws.*

(8) Any law relating to the Navigation Commission for the Delaware River and its Navigable Tributaries.

(9) The provisions of any law, the enforcement of which is vested in the Department of Health or the Department of Environmental Protection.

(10) The provisions of any law, the enforcement of which is vested in the Department of Conservation and Natural Resources.

(11) Any laws or parts of laws pertaining to civil defense.

(12) A supplement to any act under this section.

PART VI
MISCELLANEOUS PROVISIONS
(Reserved)

Section 2. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 11 Pa.C.S. Pt. V.

(2) The act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, is repealed.

Section 3. The addition of 11 Pa.C.S. Pt. V is a continuation of the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code. The following apply:

(1) Except as otherwise provided in 11 Pa.C.S. Pt. V, all activities initiated under The Third Class City Code shall continue and remain in full force and effect and may be completed under 11 Pa.C.S. Pt. V. Orders, regulations, rules and decisions which were made under The Third Class City Code and which are in effect on the effective date of section 2(2) of this act shall remain in full force and effect until revoked, vacated or modified under 11 Pa.C.S. Pt. V. Contracts, obligations and collective bargaining agreements entered into under The Third Class City Code are not affected nor impaired by the repeal of The Third Class City Code.

(2) Except as set forth in paragraph (3), any difference in language between 11 Pa.C.S. Pt. V and The Third Class City Code is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of The Third Class City Code.

(3) Paragraph (2) does not apply to the addition of the following provisions:

- (i) 11 Pa.C.S. § 11018.11(e).
- (ii) 11 Pa.C.S. § 11401(6).
- (iii) 11 Pa.C.S. § 11402(b)(2).
- (iv) 11 Pa.C.S. § 11813(b).
- (v) 11 Pa.C.S. § 12448.
- (vi) 11 Pa.C.S. § 14406(11)(ii).
- (vii) 11 Pa.C.S. § 144A11(d).

Section 4. This act shall take effect in 60 days.