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**2014 - PART I**

**EXECUTIVE SUMMARY ON THE REVISIONS TO THE THIRD CLASS CITY  
CODE, THE ACT OF JUNE 23, 1931 (P.L. 932, No. 317), REENACTED AND  
AMENDED JUNE 28, 1951 (P.L. 662, No. 164),  
AS AMENDED**

**Act 22 of 2014**

**(SB 497, PN 1703)**

This legislation proposes to modernize and recodify the Third Class City Code (Code), an effort that has not been attempted during the past 60 years. The Local Government Commission, in concert with the Pennsylvania Municipal League, and with the participation of caucus staff representing the House Urban Affairs Committee and the Senate Local Government Committee, has for the last several years reviewed the provisions of the Code by removing obsolete sections, incorporating pertinent and updated language, consolidating common subjects, and adding some language that had been part of the last significant recodifications, the Second Class Township Code, enacted in 1995, and the Borough Code, reenacted in 2012. It should also be noted that, when necessary, various articles of the proposed Code were forwarded to several state agencies for comment in relation to their jurisdictional powers. In addition to a section by section summarization of the amendatory changes that have been made to the Third Class City Code, this executive summary will encapsulate the intent of the major changes by article. According to statistics from the Governor's Center for Local Government Services, there are 20 third class cities operating under a commission form of government. Twelve cities have optional charters under the Optional Third Class City Charter Law of 1957; three have optional plans under the Home

Rule Charter and Optional Plans Law; and 20 have home rule charters. The provisions of the Third Class City Code would apply to the 20 commission form of government cities and the three cities that have adopted optional plans. In those cases in which cities have adopted a home rule charter or operate under the 1957 Optional Charter Law, the provisions of this Code will necessarily apply pursuant to limitations provided in those laws on such matters as subjects of taxation.

### **Past Legislative History**

The recodification of the Third Class City Code was introduced as Senate Bill 874 during the 2011-12 legislative session. It was reported from the Senate Local Government Committee, as amended, on June 19, 2012, and re-referred to the Senate Appropriations Committee where it remained. The current version of the bill, Senate Bill 497, contains all provisions of the last Printer's Number from last session together with the addition of a technical amendment that was pending in the Senate Appropriations Committee. On June 26, 2013, Senate Bill 497 was reported from the Senate Local Government Committee as amended. On October 22, 2013, the Senate passed the bill by a vote of 50-0. The bill subsequently was reported from the House Urban Affairs Committee on January 15, 2014 as amended. Amendments made in Committee or on the floor in the Senate and House of Representatives will be noted in superscript.

### **Article I – Preliminary Provisions**

Minor changes are made to this article in relation to defining statutes that are referenced in the recodification such as the Home Rule Charter and Optional Plans Law and the Pennsylvania Municipalities Planning Code. Section 104(b) is derived from old Section 2401 and is intended to preserve powers of city officials not only under the newly constituted Third Class City Code but also other laws which are not repealed by the recodification. Section 107(b) is also added to clarify that the potential enactment of the new Third Class City Code will not affect or limit the powers of cities that have adopted a charter under the Optional Third Class City Charter Law of 1957 or have, or will adopt, a home rule charter or optional plan under the Home Rule Charter and Optional Plans Law.

### **Article II – Procedures for Incorporation**

This article authorizes boroughs, first class townships, second class townships, and incorporated towns to incorporate as a city of the third class operating under a commission form of government. Article II-A is repealed; its relevant provisions are restated in Article II. Article II-A did make reference to the Optional Third Class City Charter Law of 1957, the act of July 15, 1957 (P.L. 901, No. 399), which is no longer available to cities of the third class seeking an optional charter. Those provisions are now covered by the Home Rule Charter and Optional Plans Law, 53 Pa.C.S. § 2901 et seq. The provisions of Article II are not significantly changed for a single municipal corporation seeking to incorporate as a city of the third class. If two or more contiguous municipalities wish to become a city of the third class, they would utilize provisions of the Municipal Consolidation or Merger Act, 53 Pa.C.S. § 731 et seq., providing that the proposed city would have a population of at least 10,000. Article II continues to permit incorporation by a passage of a resolution by a governing body or a petition signed by 200 voters of the municipal corporation. A successful referendum would still be required to effectuate incorporation.

### **Article III – Change of Corporate Title**

This article contains only editorial changes.

### **Article IV – Creation and Division of Wards**

The provisions of this article are substantially changed to provide that wards will be created, divided, or detached by council, with or without petition of the voters, subject to approval of the electors at a referendum. Although the referendum requirements are not new, the significant change is that the court would no longer be involved in dividing, creating, or detaching wards since this is deemed to be a legislative act in conformance with Article IX, Section 11 of the Pennsylvania Constitution. *See Board of Commissioners, Springfield Township v. Kahn*, 320 A.2d 372 (Pa.Cmwlth.1974). *See also In Re: Municipal Reapportionment of the Township of Haverford*, 873 A.2d 821 (Pa.Cmwlth. 2005) (reapportionment of legislative districts is a legislative function as opposed to a judicial function). Wards will continue to be required to have a population threshold of at least 300 voters according to the last election and be compact and contiguous as nearly equal in population as practicable.

Voters may still petition to create or divide a ward or detach part of one ward and attach it to another. Within 90 days of the presentment of the petition, council would then make a determination of whether to initiate proceedings. If they fail to do so, 10 registered voters may petition the court of common pleas and contest the existing apportionment. The court would then conduct a proceeding in accordance with the Municipal Reapportionment Act, 53 Pa.C.S. § 901 et seq. If council initiates proceedings either on its own volition or by petition of the electors, five commissioners would be appointed by council (instead of the court) for their recommendation on the advisability of proposed wards. Ultimately, council would need to decide after receipt of the commissioners' report whether to submit the question of creation, division, or detachment of the ward to the voters. Section 409 is added to preserve the power of the court or county board of elections over election districts. A similar amendment was made to the Borough Code by Act 43 of 2012.

### **Current Article V – Annexation of Territory is repealed.**

The provisions of the article related to annexation are repealed as being inconsistent with *Derry Township Supervisors v. Borough of Hummelstown*, 458 Pa. 396, 326 A.2d 342 (1974). In this case, the Pennsylvania Supreme Court ruled that preexisting annexation provisions in the municipal codes are invalidated because of the failure to enact uniform boundary change legislation. Now, only the initiative and referendum procedure of the Pennsylvania Constitution is available to effect an annexation.<sup>1</sup>

### **Article VI – City Boundaries**

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<sup>1</sup> *Boundary Change Procedure*, Governor's Center for Local Government Services, Pennsylvania Department of Community and Economic Development, 5<sup>th</sup> ed., Harrisburg, Pa., June 1999, page 11.

If an exception is taken from a report issued by three commissioners appointed by the court of common pleas to determine city boundaries, the appeal must now be taken within 30 days after the filing of the report. The court would set a date for a hearing on the exceptions and, after the hearing, either sustain or dismiss the exceptions and confirm or refer the report back to the commissioners for further action. If no exceptions to the report are filed, it becomes absolute 30 days after its filing (Section 604).

## **Article VII – Elected Officers and Elections**

A new provision is added to permit cities of the third class to increase their membership on city council from five to seven (one of whom shall be the mayor) and to return to five from seven, if desired. The language is patterned after existing provisions found in Section 402 of the Second Class Township Code, the act of May 1, 1933 (P.L. 103, No. 69), reenacted and amended November 9, 1995 (P.L. 350, No. 60). The increase or decrease in membership can be initiated by five percent of the voters of the city or by resolution of city council. The increase or decrease is then subject to approval by the voters at a referendum. Transitional terms of office for council members are specified. If two additional members of council are elected, they will serve on an at-large basis for at least four years at which time the city may change to ward representation in accordance with Article IV or any other law.

In addition, a new qualification for office for elected officials is added and specifically referenced in Sections 1001 (council), 1201 (mayor), 1401 (treasurer), and 1701 (controller). The requirement that an elected official must be a resident of the city at least one year prior to the official's election is retained with the proviso that the person so elected for these offices must sign and submit an affidavit to the city clerk that attests to meeting this requirement. *Likewise, council members elected by ward must also submit an affidavit that attests to their residency in the ward one year prior to their election.*<sup>huac</sup> See *Section 1001 (b) of the bill*. The affidavit is being required as an additional check on a candidate to insure compliance with the qualifications for municipal office, which is intended to reduce litigation relating to the residency qualification.<sup>2</sup>

## **Article VIII – Vacancies in Office**

The significant change in this article is that the court would fill vacancies if vacancies occur in a majority or more of council, including that of mayor (who is also a member of council). Currently, the remaining members of council, even if it is just one member, would fill vacancies, one at a time. Permitting the court to fill multiple vacancies is similar to provisions found in the other municipal codes.

## **Article IX – General Provisions Relating to City Officers and Employees**

Several amendments are made to this article in relation to removal from office, taking of the oath of office, and bonding of elected and appointed officials and employees. In light of recent Pennsylvania Supreme Court cases (*South Newton Township Electors v. South Newton Township Supervisor*, 575 Pa.

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<sup>2</sup> See, e.g., *Andrezjwski v. Borough of Millvale*, 673 A.2d 879 (Pa. 1996); *In re Lesker*, 105 A.2d 376 (Pa. 1954).

670, 838 A.2d 643 (2003), and *In re Petition to Recall Reese*, 542 Pa. 114, 665 A.2d 1162 (1995)), language is added in Section 901 to specify that elected officials will be removed from office in accordance with the Constitution of Pennsylvania, including by impeachment, by the Governor for reasonable cause and full hearing on the advice of two-thirds of the Senate, or upon conviction of misbehavior in office or any infamous crime. In the case of appointees, they may be removed by the appointing power except as limited by the Constitution or by law or upon conviction of misbehavior in office or any infamous crime. See *Burger v. School Board of McGuffey School District*, 592 Pa. 194, 923 A.2d 1155, 1163 (Pa. 2007). Language is also added that provides a person may not concurrently hold elective city office and be an employee of the same city (Section 901(d)).

Section 903 is amended to reflect *Buckwalter v. Borough of Phoenixville*, 985 A.2d 728 (Pa. 2009), which held that Article III, Section 27, of the Pennsylvania Constitution, which provides that no law shall increase or decrease the salary of a public officer after election or appointment, applies to ordinances. Thus, language is added that specifically states that changes in salary, compensation, and emoluments of city elected officials shall not become effective until the beginning of the next term of the official.

The oath of office to be taken by elected and other officers of the city is prescribed in Section 905. This is meant to satisfy the requirements of 53 Pa.C.S. § 1141, which mandates that, elected and appointed municipal officials take a specific oath of office. (This form of the oath is the same oath that school board members and legislators are required to take.) Language is added to state that those refusing to take an oath of office or to give necessary bond are not qualified to hold office. In addition to possible removal, a person violating his/her oath of office is subject to fines and imprisonment at the discretion of the court (Section 905(b)). If an elected official fails to attend the organizational meeting of city council to demonstrate his/her qualifications, the official has 14 days to take the oath or the office becomes vacant.

In addition to current requirements that elected or appointed officers or employees give surety bonds for the faithful performance of their duties (as approved by the city solicitor), the city council may purchase one or more blanket bonds or crime insurance policies to insure against losses, including protection against loss through crimes such as robbery, burglary or larceny (Section 907(c)).

## **Article X – The Council**

The current provisions of Article X relating to ordinances have been consolidated in the new subdivision (a.1).

Section 1001(a) reduces the age requirement for a person to hold the office of city council member (21 to 18 years of age). Section 1001(c) now deletes the prohibition of council members serving as a member or employee of a municipal authority established by the city. This comports with other municipal codes and pertinent case law.

Quorum requirements are modified to require that only members physically present for a meeting may be counted when establishing a quorum but once it is established, council may conduct business and permit the participation of a member not in attendance but who wishes to participate by means of telecommunication devices (Section 1005(b)). Cf. *Babac v. Pennsylvania Milk Marketing Board*, 531 Pa. 391, 613 A.2d 551 (Pa. 1992), (holding that official action can take place at a public meeting even if

a quorum is established by members who are not physically present but “participate in” the meeting by speaker phone.) If a member present at the meeting is disqualified from voting due to a conflict of interest but a quorum remains present, council members participating by telecommunication device shall be counted to maintain the quorum. Participation by telecommunication device is limited to a closed set of reasons as determined by council. They include: illness or disability of the member, care for the ill or newborn of the member’s immediate family, an emergency, or family or business travel. The same provision was included in the Borough Code recodification, Act 43 of 2012.

In relation to the setting of salaries, council members may receive a salary as fixed by ordinance in regular installments or on a per meeting basis. If the latter method is chosen, council may provide for the forfeiture of up to one-twelfth of annual compensation or impose other penalties for unexcused absences from regularly scheduled council sessions (Section 1016(b)). When a new city is incorporated, salaries of council members are provided by ordinance but are limited in accordance with population thresholds. This is in conformity with similar provisions found in the other municipal codes (Section 1016(c)).

Section 1016.1 prescribes the duties of the city clerk. It is derived from old Section 1301. It clarifies that the city clerk is an at-will employee who has no property interest in the position.

The newly constituted subdivision (a.1) is taken from parts of subdivision (a) that relate to council and ordinances. Subdivisions (b) and (c) are retained, as modified. Ordinances are defined as legislative enactments including, but not limited to, taxes, general appropriations, execution of police powers, imposition of standard codes, and those that otherwise regulate the conduct of persons and entities within the city. They are distinguished from resolutions which are described as expressions of good will from council, statements of policy, approval of formal agreements (other than purchasing agreements), approval of acquisition, disposal, and leasing of real property, and the adoption of administrative rules and regulations arising under state statutes or city ordinances. However, if eminent domain proceedings are instituted by resolution, the resolution describing the properties to be taken must be published in a newspaper of general circulation. The Eminent Domain Code recognizes that proceedings may be instituted by ordinance, resolution, or some other process. Since a mayor is a member of council, he/she has no right of veto. Passage of ordinances, with limited exceptions, requires a majority vote of the whole number of members of council.

Provisions relating to the keeping of a journal of council proceedings, the signing of ordinances by the mayor, and reading of and final enactment of ordinances are maintained. Section 1018.10 (b) authorizes city council to submit an electronic copy of a proposed ordinance to the county law library or other county office designated by the county commissioners. The county would have the sole discretion to determine the method by which the electronic submission shall be completed. If the ordinance is stored electronically, the public must be able to access the ordinance either during regular business hours at the county office or at a remote location.<sup>slgc</sup> Language is added in Section 1018.11 to require the city clerk, with the assistance of the solicitor, to compile, bind, and codify all ordinances by the end of each year. Standard codes may be adopted by reference and must be enacted within 60 days after their introduction (Section 1018.13).

Penalties for violating city ordinances are summary proceedings and, unless some other penalty is provided, persons so convicted are subject to a fine not exceeding one thousand dollars or undergo imprisonment not exceeding 90 days, or both, at the court's discretion (Section 1018.17).

Provisions permitting city voters to initiate ordinances subject to approval at a referendum are modified and retained (Sections 1030 through 1041). Provisions for the reconsideration of ordinances by electors are also retained as modified (Sections 1050 through 1064).

### **Article XI – The Executive Department**

Under current law, the Third Class City Code provides for the following five city departments: Public Affairs, Accounts and Finance, Public Safety, Streets and Public Improvements, and Parks and Public Property. Under this proposal, city council would be authorized to create various departments, including the department of administration, by ordinance. Absent any such ordinance, the five current departments would remain. Regardless of the configuration of departments, including the lack of a department of public affairs, the mayor will retain the same authority over the police as exists under current law (Section 1103).

Section 1105 is added, derived from provisions of Section 1206, which will require each department director, at the close of each fiscal quarter, to provide a comprehensive and detailed report of all expenditures and operations of his/her department during the quarter.

### **Article XII – The Mayor**

The following substantive amendments concerning the mayor are:

1. Reduces from 21 to 18 the age of eligibility to serve as mayor (Section 1201);
2. Requires the mayor to annually report to council and the public on the condition of the city (Section 1203(b));
3. Increases from \$500 to \$2,500 the base salary of the mayor (Section 1208(a)(3));
4. Provides an expanded salary schedule for mayors in newly created cities based upon the city's population (Section 1208(b)); and
5. Permits the mayor to receive an honorarium, fee, or reimbursement of expenses related to performing marriage ceremonies subject to a cap of \$150 for each ceremony performed and to reporting requirements. (Section 1208(d)). This provision would, in effect, overturn *Keller v. State Ethics Commission*, 860 A.2d 659 (2004), in which the Commonwealth Court ruled that a mayor realized a private pecuniary benefit for himself when he received payments for performing marriage ceremonies and deposited those funds into his personal accounts thus violating the state Ethics Act.

### **Article XII-A – City Administrator or Manager (New)**

Article XII-A authorizes city council to create, by ordinance, the position of city administrator or manager. It incorporates into this bill the provisions of Act 75 of 2011. Other municipal codes permit townships and boroughs to employ managers. Cities would be authorized to enter into an employment

contract with the administrator, through an employment agreement (Section 1203-A). The employment agreement may provide for a term of a maximum of two years but not beyond the date of the next organizational meeting of council. Moreover, even if an agreement exists, an administrator may be removed during this term, at any time, by a majority vote of council, subject to contractual rights to severance pay or a continuation of benefits that the administrator may have under an employment agreement. (Sections 1202-A and 1203-A). However, council would be specifically prohibited from executing a contract on or after a municipal election but before the first meeting in January the year after a municipal election.

Traditionally, Pennsylvania courts have ruled that municipal employees are employed at the will of the employer unless there is an expectation of tenure based upon contract or statute. *Pavonarius v. City of Allentown*, 157 Pa. Cmwlth. 116, 629 A.2d 204 (1993). In the absence of (a) a contract of employment for a definite term or (b) a statute that creates employee tenure or restricts a municipal employer's power to discharge an employee, a municipal employee in Pennsylvania is employed at-will. *Short v. Borough of Lawrenceville*, 548 Pa. 265, 696 A.2d 1158 (1997). Furthermore, unless municipal entities have express legislative authority to enter into employment contracts, municipal employees have no protectable property interest in the form of a contract for employment and may be terminated at any time, for any reason, or no reason. *Stumpp v. Stroudsburg Municipal Authority*, 540 Pa. 391, 658 A.2d 333 (1995). Since Section 1203-A would confer upon cities the right to enter into employment contracts, the employment parameters identified by courts have been satisfied.

Council may impose a residency requirement on the city administrator. The person holding this position is precluded from holding any elected city office (Section 1204-A). The powers and duties of the administrator are delineated in Section 1205-A. They include: supervision of city departments, appointment or removal of city employees based upon merit principles, designation of a deputy to perform the duties of the administrator in his/her absence, negotiation of contracts, preparation of the annual budget, and performance of other duties as designated by ordinance.

### **Article XIII – Repealed**

The substantive portions of old Article XIII (relating to the city clerk), are now in Section 1016.1.

### **Article XIV – The City Treasurer**

There are no significant amendments made to this article other than to move sections relating to tax duplicates and administration of tax liens from Article XXV to this article. Section 1402 would discharge the treasurer from liability in his/her role as tax collector when liens have been assigned to a third party. The aforesaid language that has been added reflects recent changes in law. Section 1408 would permit the city treasurer to appoint a deputy treasurer to manage the duties of the treasurer in his/her absence. All employees of the treasurer's office are to be covered by bond, blanket bond, or insurance (Section 1408(b)).

### **Article XV – The City Engineer**



Section 1501 would remove the bonding requirement for the city engineer and would specify that city council may appoint a firm to undertake the engineer's duties. There are now no specifications for a set term (previously four years) for the city engineer, and he or she works at the pleasure of council. Section 1504 would permit employees designated by the city engineer to certify the date and time a public improvement begins and when it ends. Currently, this duty rests within the exclusive jurisdiction of the city engineer. Provisions relating to the real estate registry are moved to Article XXVII. Provisions relating to a plan or map of streets are moved to Article XXIX (relating to streets). Otherwise, there are no other significant amendments to this article.

#### **Article XVI – The City Solicitor**

Section 1601 would permit either an individual or a law firm to act in the capacity of city solicitor. The solicitor, similar to the engineer, would no longer be required to be bonded. Although old Section 1605 relating to the solicitor maintaining a city lien docket and old Section 1606, which requires city department heads to provide claims for certain public improvements, would be repealed, language is added to existing Section 1603 to require the solicitor to file all municipal claims and liens thus making the above two sections unnecessary. Old Section 1608, which requires the solicitor to return monies received by his/her office to the city once each month, is repealed as obsolete since this responsibility is vested in the city treasurer.

#### **Article XVII – The City Controller and Independent Auditor**

This article is substantially altered to bifurcate the responsibilities of the city controller by transferring the controller's current auditing and financial reporting duties to an appointed independent auditor who may be a certified public accountant or a firm of certified public accountants. The controller, as a public office, will not be abolished. The controller's duties will be to: (1) countersign all documents authorizing the payment of moneys from the city treasury; (2) administer oaths or affirmations in relation to accounts, claims, or demands of or against the city; (3) issue and enforce subpoenas; and (4) *examine* city accounts. The controller may select assistants and a deputy controller who will be employees of the city. A temporary deputy controller may be appointed by city council in the absence of a deputy controller appointed by the controller.

#### **Article XVIII – Accounts and Finances**

The majority of amendments to this article are editorial. Section 1802 would require cities to appoint a chief fiscal officer. The designee could be the city administrator appointed under Article XII-A or the director of the department of accounts and finance who may be appointed under Article XI. Two new investment instruments are added in Section 1804.1(d)(8)-(9). They are: (1) in investment pools sponsored by the State Treasurer or political subdivisions pursuant to the Intergovernmental Cooperation Act (53 Pa.C.S. Chapter 23, Subchapter A), and (2) in repurchase agreements which are fully collateralized by federal government obligations. These provisions are patterned after permitted investments in Section 509 of the Local Tax Enabling Act, Act 511 of 1965.

#### **Article XIX – Contracts**

The bidding limit is established at \$18,500 in Section 1901.1 as provided by Act 91 of 2011. Pursuant to Act 91, Section 1903.1 would provide an annual base adjustment to the amount of \$18,500 as determined by the Consumer Price Index for All Urban Users. (*NOTE: Technical language is added on page 561 that ensures that increases in the bidding threshold that went into effect on January 1, 2014, will not be impacted by the potential reenactment of the Third Class City Code as proposed by Senate Bill 497.*)<sup>huac</sup> Unlike the other municipal codes, the Third Class City Code has never required written or telephonic price quotations for contracts below the bidding threshold. This remains unchanged.

In relation to contracts or purchases that are exempt from advertising and bidding, Section 1901.4(b)(5) would be amended to specify that if certain utility services such as electricity are not regulated by the Public Utility Commission, three telephonic or written price quotations would be required before a contract could be awarded. This language is patterned after provisions in Section 1802 of the County Code.

Section 1901.6 further clarifies the types of both bid security and performance security that may be accepted by cities in the awarding of contracts. In addition, Section 1901.6(c) increases to \$10,000 the amount of a contract that would require acceptable security for public works contracts (currently \$1,500 in old Section 1907). This higher amount complies with the provisions of the Public Works Contractors' Bond Law of 1967.

Section 1901.7 specifies other pertinent laws with which contracts must comply, including the Steel Products Procurement Act, Antibid-Rigging Act, Prevailing Wage Act, etc.

Section 1901.9 is added to specify that the lowest bidder is not necessarily the lowest responsible bidder, and that a city may consider other factors such as quality of goods and services, ease of repair, compatibility with other city equipment, and past performance of the bidder.

Section 1916 is added to modernize current language found in old Sections 1913, 1914, and 1915 relating to city contracts with passenger or transportation companies.

## **Article XX – Police Force**

Under Section 2002, the mayor would continue to designate the police chief from the current police force. However, if no qualified officer from within the ranks have applied for the designation, the chief of police shall be appointed by mayor from outside of the current police department. Current law requires that the appointment be made only from the existing city police department. However, regarding the designation by the mayor of other police officers who are promoted in rank, reference is made to Article XLIV, relating to civil service. Specifically, Section 4406.1(a) requires council to notify the civil service board of any vacancy to be filled by promotion and to request the certification of an eligibility list. Once the list of up to three candidates is certified, council is empowered to promote one of the candidates based solely on merit and fitness. Thus, in a commission form of government, the mayor would no longer be permitted to promote police officers other than the chief of police pursuant to Section 2002.

## **Article XXI – Fire Bureau**

Under Section 2101, the fire bureau would be specifically established by ordinance. Section 2101.1 provides that the fire chief would be appointed by the mayor with the consent of council, thus making these appointments similar to the appointment of the fire marshal who is also appointed by the mayor, with the approval and consent of council. In the event that no qualified employee of the fire bureau has applied for appointment as fire chief, the chief may be appointed from outside the current department. Although current language in Section 2103 is removed that relates to limiting the amount of time a firefighter may work during a two-week period or hours per day, existing schedules of work as negotiated through a collective bargaining contract are preserved and no firefighter may work more than 24 hours per day unless there is an emergency or as otherwise agreed to by the collective bargaining contract. Work schedules in existence prior to the effective date of this section are grandfathered to the extent that if the schedule provided a work shift less than 24 hours, a member of a fire department shall not be required to work for a consecutive period of 24 hours except in the case of an emergency or unless otherwise voluntarily agreed through collective bargaining. For those grandfathered, if a collective bargaining contract is modified in the future, work schedules may not return to a continuous schedule of less than 24 hours.<sup>slgc</sup>

#### **Article XXII – Surveys and Surface Support in Coal Mining Areas**

This article is amended to remove a provision that a city, by ordinance, may create a bureau of mine inspection and surface support. Since inspection of mines is the responsibility of the Department of Environmental Protection, the city would be relegated to requesting the city engineer or appointing a registered professional engineer to survey mines and to obtaining maps of excavations and extensions of mines within the city limits. General penalties that currently may be imposed upon mining operators under Section 2208 are repealed. Provisions with regard to surface support remain.

#### **Article XXIII – Public Health**

Although much of this article is marked by editorial changes, there are several amendments of note. In Section 2302(b), recognition is made that some smaller cities may have difficulty in securing a health care professional to serve on the board of health. In that event, council is given the authority to appoint any individual who has experience or is knowledgeable regarding public health issues. Social workers, family therapists, professional counselors, chiropractors, dentists, optometrists, psychologists, or speech and hearing examiners are added to the list of health care professionals. See Section 2302(c). The appointment of the members of the board of health would commence the first Monday of January rather than April to coincide with terms of office of elected city officials. Under Section 2305, a health officer would still be appointed, but a bonding requirement for the health officer is removed. If a health officer makes sanitary inspections pursuant to Section 2306(b), the inspections are subject to the administrative warrant provisions in Section 2308. Under this section, if entry is refused by an owner, an agent of an owner, or a tenant, the board of health is required to obtain an administrative search warrant from a magisterial district judge. Elements to support the issuance of the warrant include evidence of: (1) reasonable standards and that an administrative plan exists for conducting inspections; (2) the condition of the premises and the passage of time since the last inspection; and (3) the facts obtained by oath or affirmation alleging that probable cause exists that a law, regulation, or ordinance subject to enforcement by the board has been violated. New language is added to permit cities to appoint the manager or chief administrator of a nonprofit corporation as the health officer. This provision is patterned after Section 2330, which permits the board of directors of such a corporation to be appointed

to the board of health. Obsolete language relating to the board of health regulating bone boiling establishments and the slaughtering of animals is repealed. Reference is made to the board of health establishing an existence of a public nuisance and reporting it to the department designated by council to abate same in compliance with new Article XXVII-A. See Section 2321. Section 2330 is retained and language is updated which permits a nonprofit corporation whose purpose is to preserve and promote the public health to be appointed by council as the board of health. Penalties for violating orders or regulations of the board of health are changed from a misdemeanor to a summary offense punishable by a fine not exceeding \$1,000 and/or imprisonment for up to 90 days as determined by the court.

### **Article XXIV – Corporate Powers**

In an effort to modernize the corporate powers of cities of the third class, subsections have been renumbered, obsolete provisions have been repealed, various instances of state or federal preemption have been noted, statutory references and retained language have been updated, and new powers have been added primarily reflective of similar changes that were made by the last municipal code recodifications, i.e., the recodifications of the Second Class Township Code in 1995 and the Borough Code in 2012. Examples of substantive additions are as follows:

1. In new Section 2402.1(b), a procedure is added that provides that real estate may be sold by resolution of council. If the real estate is estimate to be above \$1,500, it must be sold to the highest bidder after advertising and bidding or public auction. Council may exchange city real property for real property of equal or greater value if it is used for municipal purposes without complying with the bidding and public auction requirements. No method currently is mentioned in the Third Class City Code for such sales. In relation to the sale of personal property (Section 2402.1 (c)), if the estimated value is more than \$1,000, council must advertise the items to be sold and sale shall be to the best responsible bidder. A city could utilize an online electronic auction procedure to dispose of the property (Section 2402.1(d)).<sup>3</sup> This is similar to a current provision that exists in Section 1504(d) of the Second Class Township Code. New Section 2404(b) is added to permit cities to create an operating reserve fund to minimize revenue shortfalls and deficits in future years. ***The amount of operating reserve fund may not exceed 25% of the estimate of the city's general fund in any fiscal year. In addition, language has been added to provide an additional purpose for use of operating reserve funds – to counterbalance potential budget deficits resulting from increases in costs for goods and services.***<sup>huac</sup> This language is derived from Section 1508.1 of the Second Class Township Code which was amended by Act 133 of 2013 to incorporate the above change.
2. New Section 2409 is added to expand current provisions related to the regulation of accumulations of ashes, garbage, solid waste, and refuse materials. This provision is based upon Article XXI of the Second Class Township Code.
3. New Section 2412 expands the ability of cities to regulate fireworks and inflammable objects in conformity with state and federal law. This provision is patterned after Section 1534 of the Second Class Township Code.

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<sup>3</sup> See House Bill 371, Printer's Number 336 of 2010, and Senate Bill 360, Printer's Number 350 of 2010.

4. In new Section 2419(b), language is added to permit cities, through intergovernmental cooperation agreements, to provide for police services by contract, by purchasing police services, or by joining a regional police department.

## **Article XXV – Taxation**

Numerous substantive changes are made to this Article as it relates to: (1) assessment of real property for taxation purposes; (2) increase in the general tax levy and a new tax levy for street lighting; and (3) the sale of real property for nonpayment of real estate taxes.

1. Assessments - In Section 2522(a), the assessment provisions are simplified by permitting cities to utilize the assessment practices of the county assessment office in accordance with the assessment law applicable to the county in which the city is located. For the few cities that perform their own assessments, Section 2522(a) (2) requires that persons employed by the city to conduct assessments be certified pursuant to the Assessors Certification Act. If a city utilizes the county assessment office to value property, it still would be permitted to adopt, by ordinance, a predetermined ratio different than that selected by the county pursuant to applicable county assessment law. Furthermore, if a city chooses to use the county assessment office and it had previously conducted its own assessments, Section 2522(a) (5) would prohibit the city from conducting its own assessments in the future. Section 2522(b) designates city council as the appeals board in the event a city conducts assessments and binds the city to the assessment rules utilized by the county where the city is located. Provisions related to the elected assessor, definitions, assessor's duties, current assessment procedures and revisions, and hearing of appeals, among other sections, would be repealed.
2. Taxation – Section 2531(a) (1) would increase the general tax levy from 25 mills to 30 mills. Boroughs and first class townships have a 30 mill limit for general tax purposes and the 25 mills for third class cities has not been increased since 1967. Section 2531(a) (3) would add a new 5 mill tax for street lighting.<sup>4</sup> This additional levy would be similar to Section 1302 of the Borough Code (8 mills) and Section 3205 of the Second Class Township Code (5 mills). Provisions for land value taxation are retained in Section 2531(c) (3). Language is added in Section 2531(c)(5)(i) to prohibit the application of revenue derived from special tax levies to be used for any other purpose other than that for which they were collected. This prohibition is derived from Section 706 of the Second Class Township Code. The income limit to qualify for an exemption from payment of the city per capita tax is raised from \$5,000 to \$12,000 (Section 2531.1)).
3. Real Estate Tax Sales - Provisions related to the sale of real property to satisfy delinquent taxes now specifically reference the Real Estate Tax Sale Law (Act 542 of 1947) and the Municipal Claim and Tax Lien Law (Act 153 of 1923). See Sections 2542.1 and 2562.1. Similar procedures in the Third Class City Code are repealed as obsolete.

## **Article XXVI - Licenses and License Fees**

The provisions of this Article are restructured and current Section 2601 is modified by removing a reference to a license *tax for general revenue*, while retaining, with certain exceptions, a general license

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<sup>4</sup> According to the municipal statistics data base of the Governor's Center for Local Government Services, for cities that reported in 2010, seven cities—Aliquippa, Altoona, Sharon, Butler, Monessen, New Kensington, and Shamokin—are at or above the legal 25 millage limit provided in the Third Class City Code. Two additional cities, Jeannette and Monongahela, reported in 2009 that they were at the legal limit of 25 mills.

registration fee of a maximum of \$100 now found in Section 2601.1. This was done to eliminate confusion and to support the principle that the actual amount of licensing a permitted activity should relate to the actual cost of administering a registration program. Section 2601.1 would give cities the power, by ordinance, to designate the types of businesses or occupations that would be subject to annual registration thus eliminating the enumeration of occupations and business delineated in current Section 2601. Restrictions on levying the fee are maintained for farmers, insurance businesses, and persons taking orders by sample. See new Sections 2651, 2652, and 2653. Transient retail merchants would continue to be licensed and the cost of the license is raised from not exceeding \$200 for each month, or fractional part thereof, during which sales are continued, to up to \$250 for each month that sales are made. New Section 2605, relating to regulation of special events, gives council broad authority to reasonably regulate, by ordinance, and subject to constitutional limitations, special events and to require a permit for the same. Section 2650 clarifies that the power to regulate parking lots also pertains to parking garages. Other pertinent provisions are retained.

#### **Article XXVII – Real Estate Registry (New)**

This new article is derived from Subdivision (b) of Article XV of the current Third Class City Code. Under current law, a real estate registry is required to be created by ordinance. Under this new article, adoption of an ordinance would be discretionary. The purpose of the registry is to ascertain ownership of property for taxation purposes. Language in Section 2704 ensures that any ordinance adopted pursuant to Article XXVII must comply with the provisions of Act 110 of 2008, the “Uniform Municipal Deed Registration Act,” the purpose of which is to standardize municipal deed registration procedures and to preclude any requirement of deed registration with a municipality prior to the recordation of the original deed with the recorder of deeds.

#### **Article XXVII-A - Nuisance Abatement (New)**

This new article modernizes and consolidates provisions relating to the investigation and elimination of public nuisances. Current obsolete provisions found in Article XLI (Sections 4140 through 4143) that authorize city council to petition the court of common pleas to appoint a board of viewers to inspect alleged nuisances would be repealed. Section 2701-A defines a public nuisance as (1) “[a]ny conduct or any property, or condition or use thereof, declared to be a public nuisance under this act or any other law,” and (2) “[c]onduct or property . . . if a [city] department determines that it endangers the health and safety or causes harm, inconvenience, discomfort, damage or injury . . . to any one or more persons or property in the city. . . .” Menaces, hazards, and unsafe buildings that are insufficiently maintained, by definition, would be elements of a public nuisance. Section 2702-A would require council to designate the department to which reports of the existence of a possible public nuisance would be made and the department so assigned will be responsible for investigations. Any property inspection conducted pursuant to this section or Section 2704-A, relating to prior notice of abatement, is subject to administrative warrant procedures provided in Section 2308.

For nuisances generally, a city would be empowered to utilize an abatement procedure including: (1) determining the owner of the property; (2) giving notice to the owner that a nuisance exists; (3) posting the property upon which abatement will occur; (4) notifying the owner that he/she is responsible for abating the nuisance; and (5) determining the cost to eradicate same. Also, the city would be empowered

to utilize a summary abatement procedure without notice to the owner of the property or any lienholders only under limited specified criteria, with identification of and notice to the owner or any lienholders, and posting of the property to follow within 15 days of the summary abatement. In all other instances where a nuisance is found, the city would be authorized to abate a nuisance only with prior notice to the owner and any lienholders. Unless granted a time extension, within 30 days of receiving written notice, the owner is responsible to remove the nuisance and is personally liable for any assessment of costs associated with elimination. If the city abates the nuisance, whether by summary abatement or by abatement with notice, the owner of the property would be required to pay the assessment fee determined by the city, an administrative fee not to exceed 10% of the abatement cost, and a civil penalty. Civil penalties for the first violation and second and subsequent violations are specified in Section 2712-A.

### **Article XXVIII– Eminent Domain**

Minor modifications are made to this article to reflect that a city, when acquiring property by eminent domain, is subject to the provisions of just compensation and must utilize the procedures of the Eminent Domain Code, 26 Pa.C.S., et seq. The delineation of uses for which private property may be taken for public purposes reflects editorial changes but no substantive additions. Provisions in section 2803, which references that any title acquired by eminent domain shall be in fee simple, is from old Section 2850.

### **Article XXIX – Streets**

Section 2901 would reinsert into the Third Class City Code provisions for council to authorize a comprehensive mapping of city streets that may be, but need not be, part of the official map adopted in accordance with the provisions of the Pennsylvania Municipalities Planning Code (MPC). This power to map streets is in accord with former provisions in subdivision (c) of old Article XV which vested with the city engineer the power to survey and keep records on current city streets. Also, to fill a gap in existing law, Sections 2902 through 2904 provide a procedure to lay out city streets either by identifying a street on a comprehensive map or in a recorded subdivision or by the enactment of an ordinance in relation to the future opening of a public street. Streets may continue to be opened either by a vote of council (Section 2916) or upon a petition signed by a majority of the owners of property abutting on the line of the proposed street (Section 2918). If a petition is presented to council, owners of property abutting the proposed street would be entitled to offer comments at a public hearing which would be held prior to any enactment of an ordinance pursuant to the petition. Other changes made to this article, with respect to the grading of streets, preparation of streets for paving or repairing, grade crossings and Public Utility Commission jurisdiction, street closings and detours, and boundary streets, are of an editorial nature. Requirements for assessment liability for street improvements have been moved to Article XLV-A (relating to assessments for public improvements).

### **Article XXX – Sidewalks**

Only one change of note is made to this article. In determining the cost for emergency repairs that must be made to sidewalks, a written report will be required of the city official in the department responsible to perform sidewalk inspections. If the inspector determines that a substantial and immediate danger



exists, the report constitutes conclusive evidence that an emergency is present which justifies the repair. The report will be served upon the property owner who will be responsible to make the repair within 48 hours. The 48-hour requirement is not a change in law.

### **Article XXXI – Bridges**

The changes to this article are editorial, and references to viaducts are removed since they are encompassed in the definition of bridge in Section 3101(b).

### **Article XXXII – Sanitary Sewers**

This article is renamed since storm sewers are included in Article XXXIV (relating to watercourses, flood protection projects and storm water systems). The provisions of this article have been restructured but not significantly changed. Section 3202.1 references fees which are delineated in the Municipality Authorities Act, Section 5607(d) (24) of Title 53 Pa.C.S. (Municipalities Generally) that may be charged in relation to connection to a sanitary sewer system. This language removes dated terminology that permits cities to “charge a reasonable fee for tapping or connecting with said sewer.” In Section 3206, a city’s ability to condemn property outside the city for sewage purposes would still be permitted provided such condemnation procedures are in compliance with limitations provided in 26 Pa.C.S. Section 206 (relating to extraterritorial takings). Section 3213.1 would permit sewer rentals to be specifically paid monthly, quarterly, semi-annually or annually. Current law states that rentals be imposed and collected on an annual basis (old Section 3211). Also, notwithstanding the provisions of the Sewer Rental Act or any law to the contrary, Section 3213.1(d) is added to permit council to transfer revenue from sewer rentals in the sewer fund to the general fund to meet general financial obligations or to ensure adequate cash flow for city operations provided that the money is repaid to the sewer fund prior to the end of the fiscal year or at specific date as determined by council<sup>slgc</sup>. Section 3222.1 would modernize provisions on acquisition of existing sanitary sewer systems by permitting cities, by ordinance, to acquire same by purchase, deed of dedication, or by eminent domain if the facilities are within city limits. Section 3240 is amended to permit cities to construct joint sewers with not only other municipalities (which is currently permitted) but also with municipal authorities. Similarly, cities would be authorized to connect to sanitary systems owned by municipalities and municipal authorities, the latter of which is not provided for in old Sections 3242 through 3245. References to assessments of benefits for construction and maintenance of sanitary sewer systems have been relocated to Article XLV-A.

### **Article XXXIII – Collection of Installment of the Cost of Street and Sewer Improvements (Repealed and assessment of benefit provisions moved to Article XLV-A)**

### **Article XXXIV - Watercourses, Flood Protection Projects, and Storm Water Systems (formerly Water-Courses)**

In addition to modifying existing language permitting cities to change channels and beds or watercourses (streams and rivers) in compliance with delineated laws and with the consent of the Department of Environmental Protection and the federal government, this article is expanded to add provisions for managing and controlling storm water pursuant to the “Storm Water Management Act” and to plan and provide for flood protection under the “Flood Control Act.” Comments on this article

from the Department of Environmental Protection have been included. Condemnation proceedings utilized must be in compliance with the Eminent Domain Code (Code) and if property is to be taken outside the city limits, it must be accomplished pursuant to Section 206 of the Code. Provisions relating to assessments for improvements have been relocated to Article XLV-A.

#### **Article XXXV – Utility Service (formerly entitled Public Service)**

This article is greatly simplified by condensing thirty-eight sections into five sections since many of the procedures set forth for various utility-type services are similar while other provisions were either repealed as obsolete or moved into various other parts of the recodification. Section 3501.1 permits cities to provide specified utility services (water, lighting, electric, gas, and other service) and to implement rates and charges applicable to such service. Section 3587 would also permit council to delegate to a city department the power to fix the rates for service for city residents. As currently is the case, Sections 3540.1 and 3587 specify that when a city extends utility service to customers outside its boundaries, it would be subject to regulation by the Public Utility Commission. Assessment of benefits for utility improvements also has been relocated to Article XLV-A.

#### **Article XXXVI – Public Buildings and Works**

The article is amended by adding a definition of public buildings in Section 3601(b) that will include, but not be limited to, structures used for public purposes, including public auditoriums, libraries, memorial buildings, and monuments. Specific references to hospitals and poor farms are removed. Editorial changes are made including updating statutory references to relevant laws, such as The Library Code and the Local Government Unit Debt Act.

#### **Article XXXVII – Parks, Playgrounds, and Recreation Centers**

Many of the provisions of this article have been maintained but consolidated. Under Section 3703, a city may continue to acquire land, property, and buildings outside the city for recreation purposes, but it must be done with the consent of the governing body of the municipality in which the property is situated. In Section 3705, the composition of the recreation board is limited to no more than seven instead of nine members. The minimum number of persons that must be appointed to the board remains at five. References to city recreation board members being appointed by the school district or the city appointing members to serve on school district recreation boards are repealed. A special purpose tax to support recreation places and facilities is continued in Section 3709. As is now the case, there is no millage limit on this tax. Provisions for city trusts established to create or maintain a public park or for other public purposes have been consolidated into Section 3709.1. Under the new provision, control of the trust is transferred to city council. Currently, the court appoints five city residents as trustees. Section 3718 provides for the appointment of park rangers instead of park guards. Park rangers now maintain the power to make arrests in parks only to the extent authorized by 53 Pa.C.S. Ch. 21, Subch. D. (relating to municipal police education and training). Reference is made that park rangers are subject to the Heart and Lung Act since park guards are covered under that law.

**Article XXXVIII – Shade Trees and Forests; Article XXXIX – Wharves and Docks; Article XL – City Planning (repealed by Act 247 of 1968); and Article XLI – Zoning (repealed by Act 247 of 1968), Building, Housing, Fire Prevention, Plumbing and Electrical Ordinances, and Public Nuisances are Repealed**

Articles that were previously repealed referencing zoning and planning provisions are removed since they were repealed by the Pennsylvania Municipalities Planning Code, Act 247 of 1968. Regulation of shade trees and the establishment of a shade tree commission have been moved to Section 2416 in the corporate powers article. Article XXXIX – Wharves and Docks is repealed as obsolete. Building, housing, fire prevention, and property maintenance provisions have been moved to new Article XLI-A – Uniform Construction Code, Property Maintenance Code, and Reserved Powers. Public Nuisance provisions have been moved to new Article XXVII-A – Nuisance Abatement. See page 13.

**Article XLI-A – Uniform Construction Code, Property Maintenance Code, and Reserved Powers (New)**

Section 4101-A recognizes the primacy of the Uniform Construction Code (UCC), adopted pursuant to section 301 of the Pennsylvania Construction Code Act (Act 45 of 1999), in relation to regulation of the construction, alteration, repair and occupancy of buildings. Any city ordinance adopted pursuant to this article is to be read *in pari materia* (read together) with the UCC. Regulations of the Department of Labor & Industry have adopted, by reference, the following codes or parts of codes into the UCC: specified chapters of the International Building Code, International Mechanical Code, International Fuel Gas Code, International Performance Code, International Plumbing Code, International Residential Code, International Fire Code, International Energy Conservation Code, International Existing Building Code, International Wildland-Urban Interface Code, and certain appendices of the above codes. See 34 Pa. Code § 403.21. A city may adopt an ordinance that is equal to or exceeds the minimum required of the UCC; however, such ordinances are subject to review by the Department of Labor and Industry as specified in Section 503 (j)(2) of that Act. Section 4104-A permits cities to adopt property maintenance ordinances including any standard or nationally recognized property maintenance code. Ordinance publication requirements and penalties and fines for violating the property maintenance code are specified in Section 4104-A (b) and Section 4104-A(c), respectively. If council designates property maintenance inspectors and they enter upon property to conduct inspections, they are subject to administrative search warrant standards as provided in Section 2308. In addition, the powers of the city provided under the property maintenance provisions are in addition to any other remedies available to the city under statutes such as the Abandoned and Blighted Property Conservatorship Act (Act 135 of 2008), the Neighborhood Blight Reclamation and Revitalization Act (53 Pa.C.S. Chapter 61), and Title 68 Pa.C.S., Part II, Subpart A (relating to creation of Land Banks.) Section 4105-A reserves the historical powers of a city in relation to the adoption of standard codes and health and safety regulations if, by some legislative act, the UCC or any replacement code is no longer made applicable to cities.

**Article XLII – Aeronautics**

There are no substantive amendments to this article. Section 4201 is clarified to state that any city utilizing condemnation proceedings to condemn land outside of its boundaries for an airport must adhere to Section 206 of 26 Pa.C.S. (Eminent Domain), relating to extraterritorial takings.

### **Article – XLIII – Pensions**

There are no significant changes to this article other than editorial. However, Section 4323 has been amended to by removing current language that would cause the forfeiture of a firefighter's pension and ties such a loss of pension to the "Public Employee Pension Forfeiture Act.

### **Article XLIV – Civil Service**

There are several notable and substantive amendments are made to this article. They are:

1. Upon the effective date of this article, there will be one civil service board operative for both police officers and firefighters. The current firefighters' civil service statute, Act 272 of 1933, which is not part of the Third Class City Code, will be repealed (Section 4401).
2. Civil service will apply to police officers and firefighters other than the chief of police and the fire chief, and existing *non-uniformed* civil service employees will be grandfathered and protected by civil service provisions and procedures. This is to alleviate concerns over potential property rights that existing employees may possess in their current employment status (Section 4402.1). Nonuniformed employees who are not grandfathered will be considered employees at-will unless they are covered by collective bargaining agreements.
3. Alternate civil service commission members may be appointed by the governing body. This language, derived from Section 628 of the First Class Township Code, would permit alternate members to serve a four year term and be seated for purposes of a quorum. When seated, the alternate would participate in all proceedings and discussions including the right to vote. The alternate member of the board would continue to be involved in any proceeding involving the matter or case for which he or she was designated to serve or hear (Section 4403.1).
4. A new Section 4403.2, derived from Section 2 of Act 272, is added to permit the civil service board to make investigations and issue subpoenas concerning enforcement of civil service rules and regulations.
5. Section 4404.1(f) defines medical examination for purposes of conforming civil service provisions to federal and state anti-discrimination laws. It also defines physician and qualified medical professional. Section 4406 clarifies that physical fitness or agility examinations that are job related and consistent with business necessity are still permitted to be administered prior to a conditional offer of employment. If a person is conditionally appointed to be a member of the police force or as a firefighter, a physical examination conducted by a physician or other medical professional, and a psychological examination conducted by a psychiatrist or psychologist, may be given. Ultimate recommendation for hiring is to be done by the head of the relevant department after conducting one or more interactive discussions which focus on the issue of whether the conditional appointee can, with or without, reasonable accommodation, perform the essential functions of the position. If the person is deemed not to be qualified by the department head, then a written notice must be submitted to the conditional appointee and the civil service

board. If council does not approve the nomination, the department director shall then submit another nomination. The process then would be repeated.

6. Section 4406.1(a) is modified to omit language authorizing promotions by methods other than competitive examination.

As provided by Act 99 of 2011, Section 4406.1(b) clarifies that mayors or department heads in cities operating under the Optional Third Class City Charter Law of 1957, those who are governed under optional plans of government pursuant to Chapters 30 and 31 of Title 53 Pa.C.S., as well as those subject to any other law that would vest the mayor with the power to promote, may continue to make promotions pursuant to those laws.

Section 4406.1(c) emphasizes that this section does not affect the mayor's power to appoint police chiefs and fire chiefs outside of civil service as provided in Sections 2002 and 2101.1.

7. Veterans' preference provisions relating to appointment to a civil service position are updated to comply with 51 Pa.C.S. Pt. V, Ch. 71 (relating to veterans preference) in the Military and Veterans Code. A veteran who meets the qualifications for and conditions of a position will receive an additional 10 points on an examination. (See 51 Pa.C.S. § 7103(a) applicable to civil service positions, not only in the Commonwealth, but also to political subdivisions). If after the additional 10 points are given, a veteran is on the list of three eligible applicants, the veteran will receive preference in hiring (Section 4405.1).
8. In relation to suspension or discharge for disciplinary reasons, civil service employees who are suspended for more for more than three days without pay may request a hearing before city council or the civil service board if designated by ordinance. A right of appeal from council or the board is to be conducted pursuant to the Local Agency Law, 2 Pa.C.S. Ch. 5, Subch. B, which review shall be exclusive. In a case where a police officer or firefighter who is a member of a collective bargaining unit chooses the above method to appeal, grievance arbitration will not be available. If grievance arbitration is utilized, the above provisions will be foreclosed (Section 4408).

Continuation language is added in Section 440, a technical section at the end of the bill, to clarify that although one civil service board will exist in cities after enactment of the bill, any civil service proceeding that has been initiated or is pending as of the effective date of the section will continue before the applicable boards. Any civil service proceeding initiated after the effective date will be heard before the new board created by this Article.

#### **Article XLIV-A – Veterans' Affairs (New)**

This is a new article that consolidates relevant portions of provisions in paragraphs 34, 35, 36, 37, 38, 39, 40, 41, and 42 in section 2403 of Article XXIV (Corporate Powers) and old Sections 3820 and 3821 in old Article XXXVIII (relating to shade trees and forests) as it relates to support of veterans, appropriations to support the Pennsylvania National Guard and armories, appropriations for cemeteries

for deceased service members, and for the care of memorials and memorial trees. Appropriation limitations for the above purposes have been removed to permit city council to determine the proper amount of monetary support needed.

### **Current Article XLV – Charities and Welfare (repealed)**

This article is being repealed and some of its provisions have been moved to Section 2447 (relating to charitable purposes). Cities, by ordinance, will continue to be empowered to create a bureau to administer support for the impoverished residents of the city. A current special tax of up to 10 mills for support of this bureau is being repealed since apparently none of Pennsylvania's 53 third class cities, including those with home rule charters or optional plans, levy the tax.

### **Article XLV-A – Assessments for Public Improvements (New)**

As was done with the Second Class Township Code recodification in 1995 and the Borough Code in 2012, this new article codifies the procedure to assess benefited property for the costs of public improvements as defined in Section 4501-A (d) *including street lighting*.<sup>huac</sup> Various provisions in the Third Class City Code relating to such assessments have been codified in this article. Section 4502-A identifies the methods of assessment, which may include the proportion to benefit conferred method or the front foot method. A city would also be given the option to pay for the cost of public improvements from city funds (Section 4501-A (b)). Authorization to collect assessments and procedural provisions relating to notice of assessments against property owners, appeals, installment payments, and collection measures are provided. Section 4502-A identifies the several methods by which a city may, by ordinance, impose assessments for a public improvement.

### **Article XLVI – Collection of Municipal Claims by Suit and Compromise of Claims**

The changes to this article are editorial with one exception. In relation to compromise of claims, which have been entered into the prothonotary's office as a lien and that have existed for 10 years, council may agree with the property owner to compromise in a reduction of the amount of the claim and other charges and fees without court approval. Under current law, approval of the court is necessary when a claim is compromised. In addition, language is added to clarify that the filing of claims includes those for payment of water or sewer rates and the removal of nuisances.

### **Article XLVII – Acts of Assembly Repealed; Saving Clause**

Similar to the Second Class Township Code recodification, all repealed laws resulting from the previous codification of the Third Class City Code are listed. A specific repeal of Act 272 of 1933, relating to civil service for firefighters, is added since the provisions related thereto are now incorporated into Article XLIV. Laws relating to annexation are also repealed since annexation is now solely covered by the initiative and referendum procedure established in the state constitution.