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**2013 - PART II
SECTION-BY-SECTION COMMENTARY
THIRD CLASS CITY CODE REVISION**

Act 22 of 2014

(SB 497, PN 1703)

- Page 25 Existing Section 101. Short Title. Editorial amendments.
- Pages 25-26 Existing Section 102. Definitions. Changes/additions to definitions. New definitions are added for "Home Rule Charter and Optional Plans Law," "Municipal Claim and Tax Lien Law," "Municipal authority" or "Municipality authority," "Municipal corporation," "Municipalities Planning Code," "Municipality," "Pennsylvania Construction Code," and "Pennsylvania Election Code."
- Pages 26-27 Existing Section 103. Excluded Provisions. Editorial amendments.
- Pages 27-28 Existing Section 104. Construction of Act Generally to Preserve Existing Situations. Preserves existing corporate provisions of other acts and the corporate powers and duties provided in this act to the extent that such provisions, powers and duties are not repealed by this act. Editorial amendments.
- Page 28 Existing Section 105. Constitutional Construction. Editorial amendments.
- Page 28 Existing Section 106. Construction of References. Editorial amendment.
- Pages 28-30 Existing Section 107. Cities to Which Act Applies. Editorial amendments and updated citations. A new subsection is added to preserve powers granted by home rule charters, optional plans, and optional charters
- Pages 30-31 Existing Section 108. Effective Date. Deletes reference to the effective date of the reenactment of 1952. Refer to the technical sections of the bill for the effective date and applicability date of the new reenactment of this code.
- Page 31 Existing Section 109. Publication of Notices. This section provides an updated cross-reference for newspaper of general circulation by citing 45 Pa.C.S. § 101 (relating to

definitions) which defines a newspaper of general circulation as follows: “A newspaper issued daily, or not less than once a week, intended for general distribution and circulation, and sold at fixed prices per copy per week, per month, or per annum, to subscribers and readers without regard to business, trade, profession or class.” Editorial amendments.

- Page 32 New Section 200. **Definitions.** Provides definitions of “incorporation resolution,” “municipal corporation,” and “referendum question” as used in Article II, Procedures for Incorporation.
- Pages 32-33 Existing Section 201. Creation of Cities. References 53 Pa.C.S. Ch. 7, Subch. C (relating to consolidation and merger), which provides for two or more contiguous municipal corporations that may incorporate as a city. Rephrased and subdivided for clarity.
- Page 33 Old Sections 202 and 203 are deleted.
- Pages 33-34 New Section 203.1. **Incorporating Resolution.** Provides that a referendum question may be placed on the ballot either by action of the governing body or by petition of 200 or more registered voters.
- Page 34 Existing Section 204. Resolution Certified to County Board of Election; Form of Question. Rephrased for clarity.
- Page 34 New Section 204.1. **Notice of Election.** With editorial changes, substantially restates old section 203.
- Page 35 Existing Section 205. Returns of Election. Rephrased and subdivided for clarity with editorial amendments.
- Pages 35-36 Existing Section 206. Effect of Vote Against [City Charter] **Incorporating as a City.** Editorial amendments.
- Page 36 Existing Section 207. Governor to Issue [Charter Where Vote for City Charter] **Letters Patent;** Boundaries. Editorial amendments.
- Page 36 Existing Section 208. Property of Entities Vested in City. Editorial amendments.
- Page 37 Existing Section 209. Existing Governments [Preserved Temporarily; Organization of City] **Temporarily Preserved; City Organization.** A technical amendment is added allowing council in a newly incorporated city to fill any office by appointment (previously by election) until the time fixed under this act for the regular appointment or election (previously only election) of an officer for a full term. Subdivided for clarity.
- Pages 37-38 Existing Section 210. Existing Liabilities, Debts and Claims Transferred to New City. Reorganized for clarity. Editorial amendments.
- Pages 38-43 Article II-A (Alternative Procedure for Incorporation) is merged into Article II (Procedures for Incorporation).

- Pages 43-44 Existing Section 301. Resolution and Petition to Change Corporate Title. Reorganized for clarity. Editorial amendments.
- Pages 44-45 Existing Section 302. Hearing; Decree. Notice of the hearing on a petition to change corporate title must be published once a week for three weeks in a newspaper of general circulation (previously in not more than two newspapers). Subdivided for clarity. Editorial amendments.
- Page 45 Existing Section 303. Recording Decree. Rephrased for clarity.
- Page 45 Existing Section 304. Existing Rights and Liabilities Preserved. Editorial amendment.
- Pages 45-46 Existing Section 401. [Petition for Creation or Division of Wards] **General Power of Council in Creation or Division of Wards.** Now, council, rather than the court, has the power to create or divide wards in compliance with the law relating to municipal reappointment generally. Case law provides that reapportionment is a legislative function pursuant to Article IX, Section 11 of the Pennsylvania Constitution. *See Board of Commissioners, Springfield Township v. Kahn*, 320 A.2d 372 (Pa.Cmwlth. 1974); *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). The Municipal Reapportionment Act, 53 Pa.C.S. § 901 et seq., only permits the court to intervene when there has been inaction by the governing body. In an abundance of caution, Article IV is recommended for amendment in a manner that vests the discretion to reconfigure wards with council, with or without a petition as provided in section 401.1 and subject to the approval by the registered voters in section 407. Subdivided for clarity.
- Pages 46-47 New Section 401.1. **Petition of Registered Voters.** The petition of registered voters, previously provided for in section 401, is now in this new section, although the registered voters petition council to initiate proceedings under section 401, rather than the court. Council then, by motion, determines whether to initiate proceedings. If council proceeds, it appoints a commission pursuant to section 403. If council does not proceed, any ten registered voters may petition the court of common pleas to contest the existing apportionment as violating section 401.
- Pages 47-48 Existing Section 403. Appointment of Commission[; Report; Order of Court]. Conforming amendments. Rephrased and subdivided for clarity.
- Page 49 New Section 403.1. **Expenses of Commissioners.** Council is expressly authorized to make appropriations for the reasonable expenses of the commissioners upon the submission of an itemized account of same to the city controller. The payment of reasonable expenses is in line with another section of the Code that authorizes payment of expenses for commissioners. *See* section 605 (relating to pay and expenses of boundary review commissioners).
- Pages 49-50 New Section 403.2. **Report.** The report, previously submitted to the court, is now submitted to council and includes a recommendation regarding the proposed creation, division or detachment of a ward or wards. Council, upon receipt of the report, then

determines whether to submit the question of the proposed creation, division or detachment of a ward or wards to the registered voters.

Page 50 Existing Section 404. Election[; Form of Ballot]. Now council, rather than the court, determines whether to proceed after receiving the report. If council decides to proceed, it will certify to the county board of elections the question of the creation, division or detachment of the ward or wards to be submitted to the registered voters. Subdivided for clarity.

Pages 50-51 Existing Section 405. Notice of Election; **Review of Report**. In regards to the publication of the notice of election, rather than the mayor directing that notice be given, the city shall publish a notice of election in a newspaper of general circulation. The notice shall reference the report which will be available as a public record pursuant to the Right-to-Know Law (Act 3 of 2008). Rephrased and subdivided for clarity.

Page 51 Existing Section 406. Election Laws to Apply. Rephrased for clarity.

Pages 51-52 Existing Section 407. Computing Vote; Return; [Order of Court;] Resubmission of Question. Now, rather than the clerk of the court computing and certifying the results of the vote on the question to the court, the county board of elections will tabulate and publish the results of the referendum within thirty days of the election. Also, council shall create, divide or detach a ward or wards if a majority voted in favor of the question rather than the court ordering and decreeing the same. Subdivided for clarity. Editorial amendments

Pages 52-53 Existing Section 408. Change of Ward Lines by [Court] **Council**. Rephrased for clarity. Conforming and editorial amendments.

Page 53 New Section 409. Pennsylvania Election Code. Added to expressly provide for the primacy of the Election Code.

Pages 53-68 Article V – Annexation of Territory deleted (§§ 501-506, 515-518, 525-526, 535-536, 540-545, 550-551, 560-562, 570, 580). Annexation is governed by the initiative and referendum procedure provided in Article IX, Section 8 of the Pennsylvania Constitution. This provision was held to have superseded individual municipal code procedures, i.e., nonuniform legislation, governing annexation in *Middle Paxton Township v. Borough of Dauphin*, 10 Pa. Cmwlth. 431, 308 A.2d 208 (1973), *aff'd. sub nom. Derry Tp. Sup'rs. v. Borough of Hummelstown*, 458 Pa. 396, 326 A.2d 342 (1974).

Pages 68-69 Existing Section 601. Navigable Stream Boundaries. Editorial amendments.

Page 69 Existing Section 602. Court to Establish Disputed Boundaries. Rephrased and subdivided for clarity. Editorial amendments.

Pages 69-70 Existing Section 603. Petition to Court; Commissioners; Report. Rephrased for clarity. Editorial amendments.

Page 70 Existing Section 604. [Reviews;] Exceptions and [Issues] **Procedure**. Rephrased for clarity.

- Pages 70-71 Existing Section 605. Pay and Expenses of Commissioners. Commissioners appointed to ascertain city boundaries in disputes will receive reasonable compensation and expenses as determined by the court (previously they were paid \$5 per day and mileage at a rate of .10 per mile). Rephrased for clarity. Editorial amendment.
- Page 71 Existing Section 606. Boundary Monuments. Rephrased for clarity. Editorial amendments.
- Pages 71-75 Existing Section 701. Elected Officers; Term; Eligible to Reelection; Vacancies Where Elected Officer Fails to Qualify. Adds provisions to increase the number of council members (including the mayor) from 5 to 7 or decrease the number from 7 to 5 if elector-approved, borrowing language from section 402 of the Second Class Township Code. Clarification of publication requirements is also provided. New paragraph (5.1) in subsection (b) provides that in cities divided into wards, the two new council members shall serve the city at large until, no sooner than four years after the election, the city may change the representation of either or both the seats from at large to ward representation in accordance with Article IV or any other law. A person must now qualify for a city office in accordance with the provisions of sections 904 (Offices to be Held until Qualification of Successors) and 905 (Oath of Office; Violation of Oath; Penalty), and as applicable, sections 1001, 1201, 1401 or 1701, instead of the requirement that qualification must occur within thirty days after the first Monday of January following the election. Sections 1001, 1201, 1401 and 1701 relate to the qualifications of council members, the mayor, the city treasurer and the city controller, respectively. Subdivided for clarity.
- Page 75 Existing Section 702. First Elections in Newly Created Cities. Rephrased and subdivided for clarity. Editorial amendments.
- Pages 75-76 Existing Section 704. Certificates of Election. Editorial amendments.
- Pages 76-78 Existing Section 801. Vacancies in Council and Office of Mayor. Adds a provision that not only do the members of council appoint a person to fill a vacancy in the office of mayor or other member of council, but they also appoint a person to fill the respective office if the elected mayor or council member failed to qualify pursuant to section 701 (relating to elected officers; term; eligible to reelection; vacancies where elected officer fails to qualify) prior to taking office. Also adds a provision that if the offices of a majority or more of members of city council become vacant, including the position of mayor, that the court of common pleas shall fill the vacancies upon presentation of a petition signed by ten or more qualified electors of the city. Having the court fill vacancies in this circumstance is more similar to the procedure used in the vacancy provisions of other municipal codes. (*See* Section 407 of the Second Class Township Code; Section 901 of the Borough Code; and Section 530 of the First Class Township Code).

In reference to filling vacancies, replaces old specific numbers with the word “majority” to reflect changes in Section 701 which allow voters to increase the number of council members from five to seven.

Deletes a provision that provides that if the offices of three or four members of a five member council become vacant, that the existing member or members of council make successive appointments for the remaining positions of city council and also deletes the provision that the court of common pleas only appoints members of city council, including a mayor, if vacancies exist in the membership of all five members of council or if members of council, by reason of a tie or other reason do not fill the remaining vacancies in city council. Subdivided for clarity. Editorial amendments.

Pages 78-80

Existing Section 802. Vacancy in Office of Controller or of Treasurer. Adds a provision that not only do the members of council appoint a person to fill a vacancy in the office of the city controller or city treasurer, but they also appoint a person to fill the respective office if the elected controller or treasurer failed to qualify pursuant to section 701 (relating to elected officers; term; eligible to reelection; vacancies where elected officer fails to qualify) prior to taking office. Also adds a provision that an elected or appointed person must post any required bond within fourteen days of the date that person is scheduled to take the oath of office or the office of that person shall be deemed to be vacant and the resulting vacancy shall be filled as provided in the act. The fourteen day period mirrors the fourteen day time period in Section 904 (relating to offices to be held until qualification of successors). Subdivided for clarity. Editorial amendments.

Pages 80-81

Existing Section 901. Appointment and Removal of Officers and Employees; **Removal from Elective Office; Employees Not to Hold Elective Office**. Now states that a person may not concurrently hold elective city office and be an employee of the same city. Subdivided for clarity. Editorial amendments.

All elected officials are subject to the constitutional provisions relating to removal from office found in Article VI, Sections 6 and 7, of the Pennsylvania Constitution. Elected officials are removable from office only: (1) by impeachment in the General Assembly; (2) by the Governor for reasonable cause after due notice and full hearing on the address of two thirds of the Senate; and (3) upon conviction of misbehavior in office or of any infamous crime. *See In re Petition to Recall Reese*, 542 Pa. 114, 665 A.2d 1162 (1995) and *South Newton Township Electors v. South Newton Township Supervisor, Bouch*, 575 Pa. 670, 838 A.2d 643 (2005).

Appointees to city offices other than elective offices are subject to removal by the body having the power of appointment except as limited by law or the constitution, or upon conviction of misbehavior in office or any infamous crime. *See Burger v. School Bd. of McGuffey School Dist.*, 592 Pa. 194, 206, 923 A.2d 1155, 1162 (2007) (holding that “as a matter of plain meaning, the Constitution does not vest in the appointing power unfettered discretion to remove. Instead, valid removal depends upon the officer behaving in a manner not befitting the trust placed in him by the appointing authority.”)

States that where this act provides that a person shall forfeit his or her office upon being convicted of a crime, the following shall apply: (1) if a person is elected to office or is appointed to fill a vacancy in an elective office, a court must determine that the conviction is equivalent to a conviction for misbehavior in office or for an infamous crime; or (2) if the person is an appointee to a city office or to other than an elective office, the person shall forfeit his or her office upon conviction.

Pages 81-82 Existing Section 902. Officers and Employees; Number; Duties; Compensation. “May” is preferred over “shall” in regards to council, by ordinance, prescribing the number, duties and compensation of officers and employees because in some cities the city administrator or other official may be delegated certain powers with regard to personnel issues and compensation. Moreover, language is added referencing section 901 on forfeiture of office. Subdivided for clarity. Editorial amendments.

Page 82 Existing Section 903. [Salaries] **Changes in Salary, Compensation and Emoluments of Officers** [not to be Increased After Election]. Now clarifies that any change in salary, compensation or emoluments of the elected office becomes effective at the beginning of the next term of the member of council or other elected official. *See Buckwalter v. Borough of Phoenixville*, 985 A.2d 728 (Pa. 2009). The prohibition to increase or decrease salaries of an elected officer after his or her election does not limit retirement benefits. Subdivided for clarity. Editorial amendment.

Pages 82-83 Existing Section 904. Offices to be Held until Qualification of Successors. The current appointed or elected officer of any city will keep his or her position until the successor takes the oath of office and any other necessary actions to qualify him or her to assume office. If any elected official fails to qualify to assume the position and take the oath of office within fourteen days after the date of the organizational meeting of the council, the elected office will be deemed to be vacant. Provides a way for council members whose terms are expiring to continue on council if a newly elected council member fails to qualify. When the term of office of more than one council member expires and only one of the newly elected council members fails to qualify and assume office, provides for the drawing of lots to determine which of them shall continue to serve on council until the successor qualifies for and takes the oath of office. Prohibits outgoing council members from participating in deliberations and voting to appoint his or her successor. Provides for extensions on the time necessary to qualify for the office. Editorial amendments.

Pages 83-84 Existing Section 905. Oath of Office; Violation of Oath; Penalty. This section cross-references the form of the oath of office by appointed and elected officers of the city as provided in 53 Pa.C.S. § 1141.

New subsection (b). Provides that any person who refuses to take the oath of office shall be deemed not to have met the qualifications to hold office. Also provides that any person who violates his or her oath shall be guilty of a misdemeanor, and upon conviction, shall be subject to a maximum fine of one thousand dollars and/or imprisonment not to exceed one year, and shall be subject to forfeiture of office in accordance with section 901.

- Page 84 Existing Section 906. Bond to be Given by Officers and Agents. Adds language indicating that the bond requirements set forth in this section are in addition to any other requirements for bonding either imposed by this act or any other law.
- Pages 84-85 Existing Section 907. Surety Bonds; **Insurance**; Premiums. Provides that the bond of any officer or employee must be endorsed by a surety company qualified to do business in the Commonwealth. This is a protection mechanism for cities. Also qualifies the existing requirement that a city pay for bond premiums by adding language that the bond premiums are paid for by the city unless provisions are otherwise made in law for the payment of the premium on the bond. Also provides for optional blanket bonds and crime insurance coverage. *See* Article IV, Subdivision (b) “Official Bonds” in the County Code from which the language regarding blanket bonds and crime insurance coverage is derived. Editorial amendments.
- Page 86 Existing Section 908. Officers not to Become Surety on Bonds Given to City; Penalty. Provides that forfeiture of office is in accordance with section 901. Editorial amendments.
- Page 86 Existing Section 909. Moneys and Accounts to be Delivered by Officer to Successor. Language has been added to include “documents” to the list of items that an officer must turn over to his or her qualified successor. A conviction of violating the provisions of this section need not be a “summary” conviction as currently provided in law. Specific penalties are deleted and instead reference is made to 18 Pa.C.S. (relating to crimes and offenses) in regard to punishment for convictions. However, this reference does not limit other remedies at law or in equity available to the city. This amendment is to encourage a smooth transition between new officials and those being replaced. Editorial amendments.
- Pages 86-89 Old sections 910 through 915 are deleted because the crimes and penalties addressed are fully covered in the criminal statutes. (Old Section 910. Receipt of Bribe by Officer or Employee of City; Penalty; Old Section 911. Bribery of Officers or Employees; Penalty; Old Section 912. City Property not to be Used by Officers for Gain; Penalty; Old Section 913. City not to Engage in Private Construction. Old Section 914. Warrants or Claims not to be Purchased by Officers; Penalty; Old Section 915. Imposition of Penalties.)
- Pages 89-90 Existing Section 916. [City Leagues] **Pennsylvania Municipal League** and Other Municipal Affairs Organizations. Permits other municipalities, regardless of class, to join the Pennsylvania Municipal League. Permits municipal members of the League to make appropriations to the League to join in business and training programs of the League. Clarifies that council is authorized to appropriate moneys for the support of and participation in other organizations concerned with municipal affairs “at the national and State level.” Editorial amendments.
- Pages 90-91 Existing Section 917. Powers of Subpoena; Compelling Testimony. Editorial amendments.
- New subsection (d). Addresses the service of subpoenas as well as the filing of the return of service.

New subsection (e). Subpoenas issued by any city official or city agency can be served by any adult person and will be governed by the provisions in law for subpoenas, generally, in the courts of common pleas.

Page 91 Existing Section 918. Consolidation or Integration of Fire and Police Personnel Prohibited. Editorial amendments.

Pages 92-93 Existing Section 1001. Qualifications of [Councilmen] **Council Members**. Council members need to be at least 18 years of age, not 21 years of age as previously provided. While council members continue to be elected by the electors at large, this provision is made subject to the creation of wards pursuant to Article IV. A new condition to qualifying for office is added by requiring each elected council member, prior to being sworn in to office, to present a signed affidavit to the city clerk that states the person resides in the city from which elected, and ward, if applicable, and has resided in the city, and ward, continuously for at least one year immediately before the person’s election. This residency affidavit provision is also required for the mayor, the city treasurer and the city controller.

Deletes the requirement that council members cannot serve on municipal authority boards. This is permitted in other classes of municipalities. Subdivided for clarity. Editorial amendments.

Deletes the requirement that council members cannot serve on municipal authority boards. This is permitted in other classes of municipalities. Subdivided for clarity. Editorial amendments.

Page 93 Existing Section 1002. Vesting of Legislative Power. Editorial amendment.

Page 93 Existing Section 1003. Organization of Council. Designates that council members, at their organizational meeting, shall assemble at their usual place of meeting. Deletes meeting time. This amendment simplifies and clarifies existing law. Editorial amendments.

Pages 94 Existing Section 1004. Oath of [Councilmen] **Council Members**; Quorum; Rules. Language is added stating that a majority of the whole number of council members physically present at a meeting place within the city will constitute a quorum (previously three members). This amendatory language regarding quorums is necessary because of the change in the number of council members that a municipality may have in Section 801. A majority of the whole number of members of council would either be three or four, depending upon whether there are five or seven council members. A council member not physically present at a council meeting could still participate in that meeting by telephone but that member would not count towards the quorum (see section 1005(b)). Editorial amendments.

Pages 94-96 Existing Section 1005. Meetings of Council; Notice; **Participation by Telecommunication Device**. Council members may provide for participation in council meetings via telecommunication device if a majority of the whole number of

council members are physically present at a meeting place within the city and a quorum is established at the convening or reconvening of the meeting. If after the convening or reconvening of the meeting a member who is physically present is disqualified from voting as a matter of law, council members participating by telecommunication device shall be counted to maintain a quorum. The telecommunication device must permit the absent member to hear comments by the other council members, those that are and are not physically present, and the general public and vice versa. The new telecommunication device language provides an avenue for council members to participate in official business even if not physically present, provided that a quorum of the council is physically present and provided that those participating by telecommunication device are absent for a closed set of reasons, i.e., illness or disability of the member of council; care for the ill or newborn in the member’s immediate family; emergency and family or business travel. The language regarding participating by telecommunication device mirrors that added to the Borough Code by Act 43 of 2012. The new language defining special meetings provides councils with the flexibility when they call for a special meeting: the meeting can be for a special purpose or just a general meeting, as advertised. Notice of a special meeting shall state the nature of the business to be conducted at the meeting.

- Pages 96-102 Old Sections 1006 through 1014.1 are deleted.
- Pages 102-104 Existing Section 1015. Attendance of Witnesses and Production of Books Before Council or Committee [Thereof] **of Council**. Mileage provisions are updated to be consistent with federal law. Council now establishes per diem provisions. Editorial amendments.
- Pages 104-106 Existing Section 1016. Salaries. The language retains council’s discretion for its members’ salary amounts but now provides maximum salary amounts, according to population, for council members of newly created cities until changed by ordinance. The initial salary amount is given which can be increased by ordinance. The salaries are in conformity with the provisions of the Borough Code and the First and Second Class Township Codes. Additionally, an alternative method for compensation for council members is now authorized through a per meeting attended basis in lieu of an annual salary. Subdivided for clarity. Editorial amendments.
- Page 106-107 New Section 1016.1. **Appointment of City Clerk**. Replaces old sections 1301-1303 but does not carry over the language specifying a term of four years. Prescribes the duties of the city clerk and clarifies that the city clerk is an at-will employee who has no property interest in the position. The section specifies that the records of the city clerk shall be available in accordance with the “Right-to-Know” Law.
- Page 107 Old Section 1017. Enforcement of Ordinances; Recovery and Payment Over of Fines and Penalties. Deleted. The language concerning warrants, process, and summons was removed as it is covered in court rules.
- Pages 107-108 Old Section 1018. Cost of Maintenance of Prisoners in County Jails. Deleted.

- Pages 108-117 New subdivision (a.1), **Ordinances**, of Article X (sections 1018.1 – 1018.17) is taken from parts of subdivision (a) of this article that dealt with ordinances.
- Pages 108-109 New Section 1018.1. **Ordinances and Resolutions**. Clarifies the distinction between ordinances and resolutions and when each shall be used. Legislative acts shall be enacted by ordinances while resolutions shall be adopted for ceremonial or congratulatory expressions of good will, statements of public policy, approval of certain formal agreements and so forth.
- Pages 109-110 New Section 1018.2. **Voting; No Veto; Vote Necessary to Enact Ordinances or Adopt Resolutions**. States that members of council present or participating via a telecommunication device shall vote on matters before council with listed exceptions. Also states that any ordinance enacted or resolution adopted shall be by an affirmative vote of a majority of the whole number of the members of council rather than by three members of council as it was previously in old section 1007. This section specifies that notice of eminent domain proceedings instituted by resolution shall be published in a newspaper of general circulation.
- Page 110 New Section 1018.3. **Journal of Proceedings; Recording and Withholding of Vote**. Derived substantially from old section 1008. Now cross-references new section 1018.2 in regards to when a council member may withhold his or her vote.
- Page 110 New Section 1018.4. **Signing and Attesting Ordinances**. Restates that all legislative acts shall be by ordinance.
- Page 110-111 New Section 1018.5. **Proposed Ordinances; Titles**. Adds, to the language in old section 1011, that the title of an ordinance shall not be considered in the construction or interpretation of the ordinance by a court.
- Pages 111 New Section 1018.6. **Reading of Proposed Ordinances; Final Enactment**. Subdivides the contents of old section 1012.
- Page 111 New Section 1018.7. **Payments not Authorized by Law**. Replaces old section 1013, but now references 18 Pa.C.S. in regards to punishment if convicted of authorizing or making an unauthorized payment.
- Page 111 New Section 1018.8. **Time of Taking Effect of Ordinances**. Replaces a portion of old section 1014.
- Pages 111-112 New Section 1018.9. **Publication of Proposed Ordinances**. Replaces a portion of old section 1014, but now provides that except as otherwise provided in law, if the full text of a proposed ordinance is not published, that the title and a summary setting forth the provisions in reasonable detail shall be published although it is no longer required that the solicitor prepare the summary. The requirement that if the full text is not published, then a reference to a place in the city where copies of the proposed ordinance may be examined remains. Provides that if substantial amendments are made to a proposed ordinance, council shall readvertise a brief summary in a newspaper of general circulation within ten days, before voting upon enactment.
- Pages 112-113 New Section 1018.10. **Filing of Proposed Ordinances**. The language in subsection (b) regarding the date of the filing of or the failure to file a proposed ordinance with the

county is taken from section 1601 of the Second Class Township Code in order to circumvent procedural validity challenges. Subsection (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.

Pages 113-114 New Section 1018.11. **Records of Ordinances Maintained by the City Clerk.** Based on a portion of old section – 1014.

Page 114 New Section 1018.12. **Proof and Evidence.** Based on a portion of old section 1014.

Pages 114-115 New Section 1018.13. **Standard or Nationally Recognized Codes.** This section is derived from portions of old section 1014 and from section 1601(e) of the Second Class Township Code. Cross-references the Pennsylvania Construction Code Act.

Page 115 New Section 1018.14. **Maps, Plans, or Drawings.** Based on a portion of old section 1014. Now clarifies that a map, plan or drawing shall be amended by ordinance once enacted as part of an ordinance. References the Municipalities Planning Code.

Pages 115-116 New Section 1018.15. **Codification of Ordinances.** Based on old section 1014.1. Reference to minor nonsubstantive changes in a consolidation or codification has been deleted.

Pages 116-117 New Section 1018.16. **Enforcement of Ordinances; Recovery and Payment of Fines and Penalties.** Based on old section 1017. Deletes specific reference to warrants and process.

Page 117 New Section 1018.17. **Penalty.** Compare the language regarding a maximum fine of \$1000 for summary offenses with the maximum fine of \$300 for summary offenses under the Crimes Code.

Pages 117-123 Subdivision (b) (Sections 1030 through 1041) of Article X is retitled: [Initiative] **Initiating Ordinances by Electors.**

Pages 117-118 Existing Section 1030. Initiation of Proposed Ordinances by Petition; Exceptions. Restates those proposed ordinances that may not be submitted to council by petition.

Pages 118-119 Existing Section 1031. Petition; Notice. Rephrased for clarity.

Pages 119-120 Existing Section 1032. Signing; Oath. Changes the hours and days during which the city clerk shall keep his or her office open for the purpose of voters signing a petition for the submission of a proposed ordinance. Editorial amendments.

Page 120 Existing Section 1033. Number of Signatures; Examination and Certificate by City Clerk. Editorial amendments.

Page 120 Existing Section 1034. Submission to Council. Editorial amendment.

Pages 120-121 Existing Section 1035. Actions by Council; Notices. Editorial amendments.

- Pages 121-122 Existing Section 1036. Form of Ballot [or Ballot Label] on Submission to Vote. Rephrased for clarity.
- Page 122 Existing Section 1037. Effect of Majority Vote. Editorial amendments.
- Page 122 Existing Section 1038. No Repeal Within Two Years. Editorial amendments.
- Page 122 Existing Section 1039. Number of Proposed Ordinances to be Submitted; [Special] Elections Limited. Editorial amendments.
- Page 122 Existing Section 1040. Submission for Repeal by Council. Editorial amendments.
- Pages 122-123 Existing Section 1041. Publication of Proposed Ordinances; Repeal or Amendment. Editorial amendments.
- Pages 123-129 Subdivision (c) (Sections 1050 through 1064) of Article X is retitled: [Referendum] **Reconsidering Ordinances by Electors.**
- Pages 123-124 Existing Section 1050. [Referendum; Exceptions.] **Time Ordinances Go Into Effect.** Subdivided for clarity. Editorial amendments.
- Pages 124-125 Existing Section 1051. Petition; Reconsideration of Ordinance. Rephrased for clarity.
- Page 125 Existing Section 1052. Preparation of Petition by City Clerk; Notice. Editorial amendments.
- Page 125 Existing Section 1053. Additional Petitions. Editorial amendments.
- Pages 125-126 Existing Section 1054. Signatures; Oath; Time of Signing. Changes the hours and days during which the city clerk shall keep his or her office open for the purpose of voters signing a petition for the reconsideration of a recently enacted ordinance. Editorial amendments.
- Page 126 Existing Section 1055. Presentation of Petition to Council. Editorial amendments.
- Pages 126-127 Existing Section 1056. Ascertainment of Number of Signers; Report. Editorial amendments.
- Page 127 Existing Section 1057. Ordinances Granting Franchises. Deleted as obsolete. Section 302(d) of Act 177 of 1988, known as the General Association Act of 1988, provided that section 1057 is repealed insofar as it is inconsistent with 15 Pa.C.S. § 1151 (relating to additional powers of public utility corporations).
- Page 127 Existing Section 1058. Petition against Ordinances; Suspension. Deleted as obsolete.
- Pages 127-128 Existing Section 1059. Effect of Petition; Submission to Voters. Editorial amendments.
- Page 128 Existing Section 1060. Certification [of] **to** County Board of Elections; Ballots or Ballot Labels; Expense of Elections. Editorial amendments.
- Pages 128-129 Existing Section 1061. Form of Ballot or Ballot Label. Editorial amendments.
- Page 129 Existing Section 1062. Computing and Filing Returns. Editorial amendments.
- Page 129 Existing Section 1063. Effect of the Vote. Editorial amendments.

- Page 129 Existing Section 1064. Publication of Ordinances Before Election. Now requires a copy of the ordinance to be submitted at a referendum to be published in a newspaper in addition to the existing publication requirements of the Pennsylvania Election Code. Editorial amendments.
- Page 130 Existing Section 1101. Executive Departments. The amendatory language allows for an alternative structure to city departments through an ordinance, but if no ordinance is passed, the five standard departments remain.
- Pages 130-131 Existing Section 1102. Determination of Powers and Duties of Departments. Council may, by ordinance, determine the powers and duties of the departments and officers and employees, among other things. Previously, this power was mandatory and it was not specified that the power must be exercised through an ordinance. It is also clarified that council’s power to assign officers and employees to one or more departments includes directors of departments. Editorial amendments.
- Page 131 Existing Section 1103. Designation of [Departments] **Department Directors**; Changes. The amendatory language specifies that the preexisting law regarding the assigning of council members as department heads applies unless council provides otherwise by ordinance pursuant to other sections in Article XI. If council members are assigned as department heads of the standard departments pursuant to this section, the designation shall be by resolution. Clarifies that the mayor retains his or her powers of supervision over city police regardless of whether or not a department of public affairs is created. This clarification is needed to preserve existing authority of the mayor under this section and section 2002 (relating to designation of chief and other officers).
- Pages 131-132 Existing Section 1104. Department Directors Responsible for City Property and Supplies; Perpetual Inventory Reports. Clarification is provided with whom a copy of the inventory of property and supplies shall be filed with or made available to. Editorial amendments.
- Page 132 New Section 1105. Quarterly Reports from Directors of Departments. This section is derived from a portion of old section 1206.
- Page 133 Existing Section 1201. Qualifications. Reduces the age requirement from 21 to 18 for an individual seeking the office of mayor. A new condition to qualifying for office is added by requiring the elected mayor, prior to being sworn in to office, to present a signed affidavit to the city clerk that states the person resides in the city from which elected and has resided in the city continuously for at least one year immediately before the person’s election. This residency affidavit provision is also required for each council member, the city treasurer and the city controller. Editorial amendments.
- Page 133 Existing Section 1202. Chief Executive; Inauguration. Clarifies the inauguration and oath of office procedures for the mayor.
- Pages 133-136 Existing Section 1203. Execution of Laws; Powers of Sheriff Conferred; Emergency Powers. Provides that the mayor shall provide an annual report to the council and the

public on the work of the previous year and the condition of the city government and may make recommendations for action to council. Clarifies when the mayor may issue a proclamation of emergency and provides that activities prohibited by the mayor during an emergency must now be those that could cause a clear and present danger to life, health, property or the public peace. Updates the penalty provisions for violation of an emergency proclamation. Compare with the definition of “local emergency” in 35 Pa.C.S. § 7102 where the local governing body declares such an emergency. Editorial amendments.

Page 136 Existing Section 1204. Official Seal of Mayor. Amendatory language allows a mayor’s seal to be optional rather than required, and that if a seal is provided it cannot be changed during the mayor’s term of office.

Page 136 Existing Section 1205. Supervision of Conduct of City Officers. Editorial amendments.

Pages 136-137 Existing Section 1206. [Quarterly Reports from Directors of Department;] Report of Mayor to Council; Information from Directors of Departments. Portions of this section are deleted and moved to new section 1105. Editorial amendments.

Page 137 Existing Section 1207. [Criminal and Civil Jurisdiction; Docket; Fees.] **Power to Take Acknowledgments and Oaths and to Formalize Marriages.** Re-titled. Editorial amendments.

Pages 137-140 Existing Section 1208. Salary. Increases the minimum salary amount for all mayors from \$500 to \$2500, and sets new maximum salary amounts for mayors of newly created cities according to population. As examples, a mayor of a city with a population of 30,000 would have a salary of \$15,000; a mayor of a city with a population of 45,000 would have a salary of \$22,500. Clarifies when salaries of mayors in cities other than newly created cities may be fixed and when salaries of all mayors may be increased or decreased by ordinance.

New language is added to permit mayors to receive an honorarium, fee or reimbursement of expenses related to the performance of a marriage ceremony in Pennsylvania provided that the mayor first notifies council in writing of his or her intention to perform marriage ceremonies. A cap is set at \$150 for each ceremony performed. Quarterly reporting requirements to council are provided for. Specifically states that these fees received shall not be considered a violation of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) and shall not be considered compensation under this act.

Pages 140-141 Existing Section 1209. Acting Mayor; Powers and Duties. Clarifies that a council member should not be permitted to get a double salary when acting as mayor. Editorial amendments.

Pages 141-145 Article XII-A (relating city administrator or manager) was added by Act 75 of 2011. Prior to this language being added to Article XII-A, the language was in proposed form in Article XIII of SB 874 (PN 890).

- Page 142 Section 1203-A. Employment Agreement. One clarification is added to this section from what was added by Act 75 of 2011. The clarification is that any employment agreement with a city administrator executed on or after a municipal election but before the first meeting in January the year after the municipal election shall be void. This is intended to prevent a lame duck governing body from entering into an employment agreement after the municipal election.
- Pages 145-146 The substantive portions of previous Sections 1301 through 1303 relating to the city clerk have been moved to new section 1016.1 (relating to appointment of city clerk).
- Page 146 Existing Section 1401. Qualifications. Deletes the qualifier “competent” in regards to a city treasurer being an accountant based on *Com. ex rel. Adams v. Stephens*, 345 Pa. 436, 437, 28 A.2d 924, 924 (Pa.1942) (The court discussed a similar provision in the borough code by stating: “We do not think that we need concern ourselves with the contention that the respondent was not a competent accountant. He had such knowledge of accounts as men engaged in managing their own business possess, and we think that this requirement of the Act was a directory and not a mandatory provision and one for the voters, themselves, to determine.”) A new condition to qualifying for office is added by requiring the elected treasurer, prior to being sworn in to office, to present a signed affidavit to the city clerk that states the person resides in the city from which elected and has resided in the city continuously for at least one year immediately before the person’s election. This residency affidavit provision is also required for each council member, the mayor and the city controller. Editorial amendments.
- Pages 146-150 Existing Section 1402. Bond; Insurance; Salary. This section on the city treasurer’s bond and insurance is rephrased and subdivided for clarity. Council may now require two separate bonds, instead of one, where one bond is for the city treasurer’s official duties other than that as tax collector and another bond for his or her role as a tax collector. Instances of when a city treasurer is discharged from further liability on the bond as tax collector is expanded. Cross-reference is made to subsection 907(c) which discusses insurance.
- Page 150 New Section 1402.1. **City Treasurer to be Tax Collector.** This section is based on old section 2532 and a portion of old section 2534.
- Pages 150-151 New Section 1402.2. **Date of Delivery of Duplicate; Collection.** This section is based on former section 2535. References county institution districts and while “[a]ll county institution districts in counties of the fourth, fifth, sixth, seventh and eighth classes are hereby abolished. . . .” 16 P.S. § 2161, such districts may remain in other classes of counties. The section is modified to provide that duplicates in the possession of the treasurer are subject to inspection by the public rather than taxpayers.
- Page 151 New Section 1402.3. **Tax Liens; Schedule of Uncollected Taxes; Liability for False Return.** This section is based on former section 2537.
- Pages 151-152 Existing Section 1403. Receipt and Payment of Moneys; Daily Transmittal of Receipts; Duplicates. Clarifies the current practices of treasurers.

- Page 152 Existing Section 1404. Method of Keeping Accounts. Deletes that the city treasurer will keep separate and distinct accounts for the sinking fund, the water and lighting department and also of every special fund. Editorial amendments.
- Page 152 Existing Section 1405. Moneys Appropriated Only to be Paid Out. Clarifies council's role in the approval of spending and appropriation of funds.
- Pages 152-153 Existing Section 1406. Depositories of City Funds **Entrusted to the Treasurer by City Council**. Editorial amendments.
- Page 153 Existing Section 1407. Delivery of City Property in [His] **Treasurer's** Possession to Successor. Editorial amendments.
- Pages 153-154 Existing Section 1408. [Assistants and Employes] **Appointment of Deputy Treasurer and Employes; Powers; Responsibility**. Provides the city treasurer with the flexibility to appoint additional help if needed. The city treasurer may appoint a deputy treasurer, and may, but is no longer required to, appoint assistants and employes. Any employes appointed, however, shall be bonded.
- Pages 154-163 As regards Article XV, subdivision (a) as a title, has been deleted as unnecessary even though its contents are being retained because both the title and contents of subdivisions (b) and (c) are being deleted, with the relevant portions of the contents of those two subdivisions being moved to other articles. Substantive portions of subdivision (b) have been moved to the new Article XXVII (relating to real estate registry) and part of the contents of subdivision (c) has been moved to Article XXIX (relating to Streets). References to duties of the engineer in both subdivisions (b) and (c) have been moved to section 1503.
- Pages 154-155 Existing Section 1501. [Election of the City Engineer; Term; Bond; Filling of Vacancies.] **Appointment of City Engineer**. This restated section provides council with more flexibility in determining the appointment, tenure and compensation of an engineer or engineering firm. It removes the four year term for city engineers who will now serve at the pleasure of council. Bonding requirements are now removed.
- Page 155 Existing Section 1502. Control of Engineering Matters. Retains supervision of engineering matters by the city engineer but removes the provision concerning the appointment of assistants and employees.
- Pages 155-156 Existing Section 1503. Duties[; Preparation of Plans]. Retains existing duties of the city engineer regarding engineering work when required by council. Provides examples of duties that may be required of a city engineer.
- Pages 156-158 Existing Section 1504. [Certificate of] **Certifying** Commencement and [of] Completion of Municipal Improvements. Clarifies duties of the city engineer with regard to certifying the commencement as well as completion of municipal improvements, and specifically providing for notice to be given to the city solicitor.
- Page 158 Existing Section 1505. Surveys; **Entering Upon the Lands of Others**. Editorial Amendments.

- Pages 158-160 Subdivision (b) (relating to real estate registry) (sections 1515 through 1521), is being deleted. Substantive portions of this deleted subdivision have been moved to a new Article XXVII (relating to real estate registry) which authorizes, but does not mandate, the creation of a real estate registry. Other provisions relating to the duties of the engineer that were in this subdivision are now encompassed in section 1503.
- Pages 160-163 Subdivision (c) (relating to topographical survey) (sections 1530 through 1538), is being deleted and part of its contents have been moved to Article XXIX (relating to streets). Duties of an engineer that were in this subdivision are now encompassed in section 1503.
- Pages 163-164 Existing Section 1601. Appointment of City Solicitor[; Term; Compensation; Bond; Filling of Vacancies]. Deletes the specific provisions regarding the time of appointment, term, bonding and salary of the solicitor, and the requirement that the solicitor reside within the city. This section now simply provides that council will determine the manner of appointment and compensation of the city solicitor, which may be a law firm.
- Page 164 Existing Section 1602. Direction of [Law] **Legal** Matters. Editorial amendments.
- Pages 164-165 Existing Section 1603. Duties. Adds provision that the solicitor shall perform such other duties as council may direct. Editorial amendments.
- Pages 165-166 Existing Section 1604. Written Opinions to be Furnished. This section is now subdivided into subsections. Council may regulate the manner in which questions are presented to the city solicitor by any city official and may limit the questions submitted. Editorial amendments.
- Pages 166-167 Existing Section 1607. Satisfaction of Liens Due City. Clarifies procedure for payment and satisfaction of liens. Editorial amendments.
- Page 167 Existing Section 1609. Assistant Solicitor. Editorial amendments.
- Pages 167-168 Existing Section 1610. Special Counsel. Editorial amendments.
- Pages 165-167 Old Sections 1605, 1606, 1608. Deleted.
- Pages 167-174 Article XVII is being divided into two subdivisions: one addressing the controller and the other addressing the independent auditor.
- Pages 168-169 Existing Section 1701. **Qualifications; Bond; Compensation**. Updates residency requirement to be in line with other sections of the Code. Incorporates provisions of the deleted sections 1702 and 1703. A new condition to qualifying for office is added by requiring the elected city controller, prior to being sworn in to office, to present a signed affidavit to the city clerk that states the person resides in the city from which elected and has resided in the city continuously for at least one year immediately before the person’s election. This residency affidavit provision is also required for each

council member, the mayor and the city treasurer. Provides for bonding in accordance with section 907. Subdivided for clarity. Editorial amendment.

Pages 169-171 Existing Section 1704. [Examination and Audit of Accounts.] **Powers and Duties.** Provides for the powers and responsibilities of the city controller. *See* Act 205 of 1984 (“Municipal Pension Plan Funding Standard and Recovery Act”) in regards to auditing pension accounts. Specifies that annual or periodic statements related to the results of an examination of accounts are public records as provided in the “Right-to-Know” Law. Editorial amendments.

Page 171 New Section 1704.1. **Deputy Controller; Employees.** Replaces old section 1708 by providing for a deputy controller. Also provides for assistants and employees.

Pages 171-172 New Section 1704.2. **Temporary Deputy Controller.** Replaces old section 1709 by providing for a temporary deputy controller.

Page 172 New Section 1704.3. **Continuation of Office.** Establishes that the appointment of an independent auditor in subdivision (b) does not abolish the office of the elected controller.

Page 172 New Section 1704.11. **Appointment of an Independent Auditor.** Provides for the appointment of an independent auditor by council. The independent auditor may be a certified public accountant or a firm of certified public accountants.

Pages 172-173 New Section 1704.12. **Powers and Duties of the Independent Auditor.** Vests certain powers and duties in the independent auditor that includes an annual audit of accounts relating to city funds.

Pages 173-174 Existing Section 1705. Annual Report to Council; Filing Copy in Court and Appeal [Therefrom]. Replaces the section’s reference to the city controller with a reference to the independent auditor and instructs the independent auditor to prepare an annual summary of reports, which are public records pursuant to the “Right-to-Know” Law. This section is subdivided for clarity.

Pages 174-175 Old Sections 1706-1709. Deleted.

Page 175 Existing Section 1801. Fiscal Year. Editorial amendment.

Pages 175-176 Existing Section 1802. [Director of Accounts and Finance;] **Chief Fiscal Officer; Bond; Administering Oaths.** Provides for the chief fiscal officer who may be the director of the department of accounts and finance or the city administrator. This section is subdivided into subsections for clarification.

Page 176 Existing Section 1803. Deputy. Provides for the deputy, who shall be required to furnish bond, and the temporary deputy, who may be required to furnish bond, of the chief fiscal officer. Conforming and editorial amendments.

Pages 176-178 Existing Section 1804. Regulations Concerning Appropriation. This section is divided into subsections for additional clarity with council being given broader authority over both intra- and inter-departmental financial transfers. Deletes the provision that four

members of council must vote in favor of any transfer of over 5% of an appropriation item when it is within a department or between departments. Editorial amendments.

- Pages 178-181 Existing Section 1804.1. Investment of City Funds. Modernizes and updates provisions relating to investments of city funds, including the addition of two permissible investments that can be made by cities. The language that adds these two new investments (repurchase agreements and deposits in investment pools) uses the same language as found in Act 511 of 1965 (“The Local Tax Enabling Act”). As regards investments in FDIC accounts, Congress has, at least temporarily, increased the basic FDIC insurance coverage limit. As regards amendments to investments in certain certificates of deposit, per telephone conversation with the legislative liaison of the Pennsylvania Department of Banking, savings and loan associations and savings banks are still around; however, the Federal Savings and Loan Insurance Corporation, the Pennsylvania Deposit Insurance Corporation and the Pennsylvania Savings Association Insurance Corporation are no longer in existence or have been merged into the FDIC. Editorial amendments.
- Pages 181-182 Existing Section 1805. Countersigning [Warrants] **Documents; Money Available; Evidence Required**. Conforming and editorial amendments.
- Pages 182-183 Existing Section 1806. Record of Assets, Property, Trusts, Debts Due, Receipts and Expenditures. Conforming amendment.
- Page 183 Existing Section 1807. Supervision of Accounts of Departments. Conforming amendment.
- Page 183 Existing Section 1808. Suggestions [by Director] for Improvement of City Finances. Conforming and editorial amendments.
- Pages 183-185 Existing Section 1809. Annual Budget; Presentation to Council; Notice; Revision; Adoption. Conforming and editorial amendments. This section is subdivided into subsections for clarity.
- Page 185 Existing Section 1810. Amending Budget; Notice. Annually, rather than bi-annually, as formerly permitted, permits council during the month of January, to amend the city budget and conform city taxes thereto. This section is subdivided into subsections for clarification. Editorial amendments.
- Pages 185-186 Existing Section 1811. Appropriations; Tax Rate; **Limitations**. This section is subdivided into subsections for clarification. Editorial amendments.
- Pages 186-187 Existing Section 1811.2. Borrowing in Anticipation of Current Revenue. Rewrites the section to make sure borrowing is done in accordance with the Local Government Unit Debt Act, 53 Pa.C.S. Pt. VII, Subpt. B (relating to indebtedness and borrowing). Editorial amendments.
- Pages 187-189 Existing Section 1812. Annual Reports; Publication; Filing Report with Department of Community and Economic Development; Penalty. Publication of report to be made in accordance with section 109 at least 10 days prior to the April meeting referred to in subsection (a). Editorial and conforming amendments.

Pages 189-191 Existing Section 1813. Committee to Prepare Uniform Forms. This section is subdivided into subsections for clarity. Conforming and editorial amendments.

Page 191 Existing Section 1814. Annual Reports to Council on Insurance and Bonds. Conforming and editorial amendments.

Pages 191-197 New sections 1901 through 1901.2 replace portions of old section 1901.

New Section 1901. **Power to Make and Regulate the Awarding of Contracts.**

New Section 1901.1. **Contracts or Purchases in Excess of the Base Amount of Eighteen Thousand Five Hundred Dollars.**

New Section 1901.2. **Contracts or Purchases Not in Excess of the Base Amount of Eighteen Thousand Five Hundred Dollars.**

These sections make provisions for contracts or purchases both up to, and in excess of, \$18,500 as provided by Act 91 of 2011. Previously, the trigger amount for competitive bidding was \$10,000, rather than \$18,500. The base amount of \$18,500 will be subject to a cost of living adjustment as provided in Section 1903.1 (Technical language is added on page 561 that ensures that increases in the bidding threshold that went into effect on January 1, 2013, will not be impacted by the potential reenactment of the Third Class City Code as proposed by Senate Bill 497). The new provision also permits council to establish a category of small or routine purchases or incidental expenses which need not be subjected to a formal approval process. The Third Class City Code has not previously required telephonic quotations, like, e.g., section 3102(b) of the Second Class Township Code, section 1402(a.1) of the Borough Code, section 1802(a.1) of the First Class Township Code, or section 1801(b) of the County Code.

New subsection 1901(b) provides that contracts for the sale of real and personal property shall be conducted in conformance with section 2402.1.

Eliminates the need to post advertising at city hall. Pursuant to section 1901.1(b), posting would now be “in the city office designated by council.”

Page 197 New Section 1901.3. **Determining the Amount of a Contract.** Replaces old subsection 1901(c). Editorial amendment.

Pages 197-199 New Section 1901.4. **Contracts or Purchases Not Requiring Advertising or Bidding.** Replaces old subsection 1901(d). Retains the previous exceptions to advertising and competitive bidding and adds provisions concerning the purchase of electricity, natural gas or telecommunication services similar to those in Section 1802 of the County Code. Also excluded from advertising and competitive bidding are new purchases made as part of a cooperative purchasing program with the Commonwealth or a council of governments provided the program has publication requirements. A new exception is added for contracts entered into during a state of emergency and would extend to those made pursuant to emergency declared by the governor or pursuant to 35 Pa.C.S. Pt. V (relating to emergency management services).

- Pages 199-200 New Section 1901.5. **Receipt, Opening, Award, or Rejection of Bids.** Replaces old subsection 1901(e). Changes the receipt and timing of bids by council from the third meeting from which bids are received to within 60 days from the meeting at which bids are received.
- Pages 200-201 New Section 1901.6. **Bid, Performance, and Payment Security.** New subsection (a) replaces old subsection 1901(f) which updates language concerning bid security which may be required, by adding the general term “bid security” and deleting specified types of bid security. Paragraph (a)(1) uses language from the Commonwealth Procurement Code. New subsection (b) replaces old subsection 1901(g) which updates language concerning performance bonds or performance security.
- Pages 201-202 New Section 1901.7. **Compliance with Other Laws.** Lists various laws, including the Steel Products Procurement Act (see old subsection 1901(k)), with which all applicable contracts of a city should comply.
- Page 202 New Section 1901.8. **Prohibitions.** Replaces old subsection 1901(l). This revised section removes exceptions to the rule, and unequivocally provides that no city officer or employee shall be paid any fee or compensation or receive any portion of a fee or compensation paid by the city for contracted services.
- Page 202 New Section 1901.9. **Lowest Responsible Bidder.** This new section explicitly provides that the lowest responsible bidder need not be the bidder with the lowest bid amount. Other reasonable factors may be considered to give flexibility to council in awarding the contract to a bidder who is responsible.
- Pages 202-203 Existing Section 1902. Evasion of Advertising Requirements. Retains provisions regarding letting contracts on a piecemeal basis to avoid competitive bidding and extends the scope of the section to appointed officials with purchasing powers.
- Pages 203-205 New Section 1903.1. Adjustments to Base Amount Based on Consumer Price Index for All Urban Consumers. Added by Act 91 of 2011. This section provides that adjustments to the base amounts specified under sections 1901.1, 1902 and 1909 shall be made as provided in the section.
- Page 206 Old Section 1904. Reference of Expenditures for Approval by Council. Deleted. Council may regulate small expenditures and purchases.
- Pages 206-207 Old Section 1905. Personal Interest in Contracts. Deleted. The subject matter is addressed in 65 Pa.C.S. §§ 1103(f) (relating to an interest in contracts), and 1103(j) (relating to voting conflicts).
- Pages 207-208 Existing Section 1906. Designation of Appropriations; Certification in Excess of Appropriation; Contracts for Governmental Services for More than One Year. Rephrased for clarity and deletes the provision of certain duties of the director of accounts and finance.
- Pages 208-209 Old Section 1907. Security for the Protection of Labor and Materialmen. Deleted and its contents are put in new section 1901.6(c).

- Page 209 Old Section 1908. Purchasing Department. Deleted. The powers exist in Article XI (relating to the Executive Department).
- Page 210 Existing Section 1908.1. Purchase Contracts for Petroleum Products; Fire Company, Etc., Participation. Rephrased for clarity.
- Page 211 Existing Section 1909. Separate Bids for Plumbing, Heating, Ventilating and Electrical Work, Elevators and [Moving Stairs] **Escalators**. Retains provisions for and modernizes language of requirements for separate bids for plumbing, heating, etc. in construction contracts above the competitive bidding threshold.
- Pages 211-213 Existing Section 1910. Acceptance by Contractor of [Workmen’s] **Workers’** Compensation Act. Subdivided and rephrased for clarity.
- Page 213 Existing Section 1911. Contracts for Improvements; Assignment of Assessments. Editorial amendments.
- Pages 213-214 Existing Section 1912. Architects and Engineers in Employ of City; Prohibitions from Bidding on Public Works; Penalty. Divided into subsections; provisions are added concerning 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).
- Pages 214-216 New Section 1916. **Contracts with Passenger or Transportation Companies.** Replaces old sections 1913, 1914 and 1915.
- Old Section 1913. Contracts With Transportation Companies. Deleted.
- Old Section 1914. Contracts for Relocation of Railroads. Deleted.
- Old Section 1915. Contracts with Street Railways for Exclusive Right to Lay Tracks. Deleted.
- Pages 217-218 Old Section 1917. Sales of Personal Property. Now found in portions of Section 2402.1.
- Pages 218-219 Old Section 1918. Street Construction and Improvement by City Employees. Deleted. This provision is addressed in section 1901.4(b)(2).
- Pages 219-220 Old Section 1919. Sales of Real and Personal Property to Certain Entities. Now found in portions of Section 2402.1.
- Page 219 As regards the old title to Article XX (“Police Bureau”), the word “bureau” is not otherwise used in this article in connection with the police. It was used only once in section 918 which has been modified accordingly. Therefore, the article is renamed “Police Force.”
- Pages 220-221 Existing Section 2001. Appointment, Number, Rank, Compensation and Qualifications of [Policemen] **Police Officers**. Deletes minimum salary provisions to allow for flexibility in determining police compensation. Subdivided for clarity.
- Page 221 Existing Section 2002. Designation of Chief and Other Officers. Now specifies that the mayor shall designate the chief of police and from within the police force. A new provision is added which authorizes the appointment of a chief of police from without the ranks if no qualified officer within the ranks has applied. Now also provides that

officers, other than the chief of police shall be designated in accordance with the civil service article, Article XLIV. Rephrased for clarity.

- Page 222 Existing Section 2003. Extra [Policemen] **Police Officers**; Compensation. Editorial amendments.
- Page 222 Existing Section 2005. Powers of [Policemen] **Police Officers** to Arrest. Cross references sections 8952 (relating to primary police jurisdiction) and 8953 (relating to statewide police jurisdiction) of 42 Pa.C.S.
- Pages 222-223 Existing Section 2006. Service of Process; Fees; Payment into Treasury. Clarifies the authority of city police to serve and execute criminal process for violation of a city ordinance anywhere in the Commonwealth, not just within the city or other specified properties.
- Page 223 Existing Section 2007. Supervision by Mayor. Clarifies that the chief of police will be the contact person with the mayor. Deletes the provision that the mayor will exercise a constant supervision and control over the conduct of police officers. Editorial amendments.
- Page 223 Existing Section 2008. Extra Compensation Prohibited, Exception; Penalty. Clarifies that a violation of this section shall be a misdemeanor of the third degree. Editorial amendments.
- Pages 223-224 Existing Section 2009. Compensation or Insurance for Volunteer [Policemen] **Police Officers**. Editorial amendments.
- Pages 224-226 Existing Section 2010. School Crossing Guards. Reorganized for clarity. Editorial amendments.
- Pages 226-227 Existing Section 2101. Organization of Fire Bureau; Maintenance; Apparatus. Now provides that the means of creating a fire bureau shall be by ordinance.
- Page 227 Existing Section 2101.1. **Appointment and** Demotion of Fire Chief [and Deputy Fire Chief]. Makes provisions for the appointment in addition to the demotion of the fire chief. A new provision is added which authorizes the appointment of a fire chief from without the ranks if no qualified officer within the ranks has applied. Appointments and demotions are now made by the mayor with approval and consent of council in the same manner as the fire marshal.
- Pages 227-228 Existing Section 2102. Paid Bureau; Election of Officers and Companies. Removes outdated minimum salary provisions now allowing council to establish the same.
- Pages 228-230 Existing Section 2103. Platoon System; Hours of Service[; Vacation; Sick Leave]. Retains provisions concerning creation of shifts, bodies or platoons. Although current language 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.

Pages 230-231 Existing Section 2104. Fire Marshal; Powers. The fire marshal now has the authority to investigate any suspicious fires, as opposed to the mayor. Editorial amendments.

Page 231-232 Existing Section 2105. Obstructing Fire Marshal; Fine. Increases fine limits for obstructing the fire marshal.

Page 232 Existing Section 2106. Investigation of Cause of Fire; Power of Mayor. Editorial amendments.

Pages 232-233 Existing Section 2107. Fire Chief Ex-officio Fire Marshal. Clarifies that, pursuant to ordinance, the fire chief shall be the ex-officio fire marshal if the office is not separately filled. Editorial amendments.

Page 233 Existing Section 2108. Compensation Insurance for Injured Volunteer [Firemen] **Firefighters** or Special Fire Police. Editorial amendments.

Page 233 Existing Section 2109. Salary of Nonunion City Fire Officers. Editorial amendment.

Pages 233-237 The proposed new language in Article XXII, now called “Surveys and Surface Support in Coal Mining Areas,” was reviewed by the Bureau of Mining and Reclamation, DEP.

Page 233-234 Old Sections 2201 and 2202. Deleted.

Page 234 Existing Section 2203. [Inspection] **Survey** of Mines. Deletes authority to inspect mines but retains authority to survey any mine within a city. Inspection of mines is a responsibility of the Department of Environmental Protection.

Pages 234-235 Existing Section 2204. Operators to Furnish Maps; Contents. Conforming amendment regarding furnishing maps of mines at the request of council.

Page 235 Existing Section 2205. Extensions to be Placed on Maps. Rephrases requirements regarding updating maps of mines.

Pages 235 Existing Section 2206. Certain Surface Supports Not to be Removed. Makes it unlawful to remove certain surface supports from beneath any city (previously, only cities in the anthracite region or in the bituminous region).

Page 235-236 Existing Section 2207. Penalty for Surface Support Violations. Increases potential fines for violations by specifying that each day, rather than five continuous days, would now constitute an offense under this section. Also, eliminates the need for the violator to be “the owner, lessee or operator” of a coal mine in order to be held liable for surface support violations.

- Pages 236 Old Section 2208. General Penalties. Deleted. Since the specific penalties in section 2207 have been increased, the general penalties in section 2208 would likely be a redundancy.
- Page 236-237 Existing Section 2209. Enactment of Ordinances. Editorial amendment.
- Page 237 Existing Section 2301. Board of Health[; Incompatibility]. This section provides for a board of health, but deletes the provision that membership on the board shall be incompatible with other city offices.
- Pages 237-239 Existing Section 2302. [Qualifications; Term; Removal] **Members of Appointed Boards of Health**. New language is added which updates and clarifies the qualifications, term of office and removal of the members of the board of health. Subdivided for clarity.
- Page 239 Existing Section 2303. Oath of Office; Organization; Secretary. Deletes the provisions that the secretary must give a fidelity bond or to take an oath since the secretary is viewed as an employee of the city. Subdivided for clarity.
- Pages 239-240 Existing Section 2304. Duties of Secretary. Editorial amendments.
- Pages 240-241 Existing Section 2305. Health Officer; Qualifications; Oath [and Bond]. Council (previously the board) will determine, by ordinance, the manner and method of selection of a health officer. The health officer must be or must become certified for the office of health officer within 6 months of taking office (previously the health officer could not take office until the officer was certified). The bond requirement for a health officer is removed since the office does not seem appropriate for bonding. Provisions are added regarding the qualifications and powers of the principal health officer, who may not be a board member, but may be the manager or chief administrator employed and compensated by a nonprofit corporation that is appointed as a board of health. Subdivided for clarity.
- Pages 241-242 Existing Section 2306. Duties of Health Officer. Clarifies the powers and authority of a health officer in regards to the power to issue citations for violations of applicable laws or ordinances. Subdivided for clarity.
- Pages 242 Existing Section 2307. Duties of Board of Health. Adds a provision that the board of health, in carrying out its duties, shall enforce the laws of the commonwealth that are relevant to and relate to its duties. Subdivided for clarity.
- Pages 242-246 Existing Section 2308. Powers of Board of Health. Sets forth constitutional standards for the issuance of an administrative search warrant by a magisterial district judge to the board of health if entry upon any premises is refused by an owner, agent of an owner, or tenant when such premises are suspected of infectious or contagious disease or a nuisance prejudicial to the public health. Deletes obsolete powers of a board of health.

- Pages 246-247 Existing Section 2309. Effect of Rules and Regulations. Clarifies that when council approves the rules and regulations of a board of health that the approval shall be by ordinance.
- Page 247 Existing Section 2310. Fees and Penalties. Fees collected by the board or an officer will be paid as received (previously monthly) to the city treasurer in order to conform to good financial management practices.
- Page 246-247 Existing Section 2311. Proceedings of Board to be Public. Now specifies that the journal of proceedings to be open to inspection of the public rather than taxpayers.
- Pages 247 Existing Section 2320. [Definition] **Determination of Public Nuisances**. Subdivided for clarity. Editorial amendments.
- Pages 247-248 Existing Section 2321. [Procedure for the] Abatement of Public Nuisances **by Designated Department**. Provides for abatement of nuisances declared by the department of health to be abated in conformity with the new Article XXVII-A (relating to nuisance abatement).
- Pages 248-251 Old Sections 2322-2324. Deleted. These provisions are now provided for in the new Article XXVII-A (relating to nuisance abatement).
- Pages 251-253 Existing Section 2330. Board of Directors of Corporation to be Appointed Members of Board of Health. Reorganized and subdivided for clarity.
- Page 253 Old Section 2331. Councilmen and School Directors Eligible for Appointment. Deleted.
- Page 253 Existing Section 2332. Power of Board. Editorial amendments.
- Pages 253 Existing Section 2333. Health Officer. Editorial amendments. Cross-reference is made to new subsection 2305(b).
- Page 253-254 Existing Section 2334. Secretary. Editorial amendments.
- Pages 254 Existing Section 2335. Filling of Vacancies. Rephrased for clarity.
- Page 254-255 Old Section 2336. Appointment and Removal of Health Employes. This section is deleted since the subject is already covered in this article.
- Page 255 Existing Section 2337. No Compensation for Members. A portion of this section has been deleted and moved to new section 2338. Editorial amendments.
- Page 255 New Section 2338. **Applicability of Subdivision**. This new section is derived from the portion of section 2337 that dealt with the applicability of subdivision (c) (relating to Corporations Acting as Boards of Health) of Article XXIII.
- Pages 255 Existing Section 2340. **Penalty**. More accurately identifies the offense of a violation of this article or any order, and now also regulation, of the board of health as a summary offense rather than a misdemeanor.
- Page 256 Old Section 2401. Existing Powers Saved. Deleted, and the provisions are moved to section 104(b).

- Pages 256-257 Existing Section 2402. Powers of [City] **Cities**. Portions of this section are now set forth in new section 2402.1. Subdivided for clarity.
- Pages 257-261 New Section 2402.1. **City Property and Affairs**. Portions of sections 1917, 1919 and 2402 are set forth in this new section. Provides council the broad power and authority to purchase, use, manage, lease, convey, sell, and make contracts relating to real and personal property. Also provides council the power to exchange personal property. Currently, under the Third Class City Code, as opposed to the codes governing boroughs and townships, the sale of real property valued above a stated level is not statutorily required to be competitively bid or sold by other specified procedures. Subsection (b) relates to selling real property and subsection (c) relates to selling personal property to the best responsible bidder if valued over \$1,000. Subsection (b) now requires advertising for the sale of real property valued in excess of \$1500. Subsection (d) relates to the sale of personal property of a city by means of an online or electronic auction sale. The language in subsection (d) is derived in large part from Act 15 of 2011 (which amended old section 1917). Subsections (e) (advertising requirements not required where city real or personal property is sold to certain entities) and (f) (nominal consideration) are derived from old section 1919.
- Pages 257 Old Section 2402.1 Sale of Real Estate. Deleted, since these powers are in new section 2443.
- Page 261-262 Old Section 2402.2 Typewritten, Printed, Photostated and Microfilmed Records Valid; Recording or Transcribing Records. Deleted, since these powers are in new section 2444.
- Pages 263-286 Section 2403. [Specific Powers] **Payment of Debts and Expenses**. Replaces old section 2403(1). Formerly, all specific powers were in various paragraphs of section 2403. Section 2403, as renamed, covers only one specific power. All other retained and new specific powers formerly in section 2403 are now set forth under separate subsequent sections in this amended article. A few of the previous specific powers are not retained in any section because they are obsolete.
- Pages 263-272 Old Sections 2403(7), (11), (13)-(15), (15.1), (24), (27)-(28), and (30)-(31). Deleted.
- Page 272 Old Section 2403(33). Prohibition of Fire Producing Devices in Certain Retail Stores. Deleted. The court in *Mitchell’s Bar and Restaurant, Inc. v. Allegheny County*, 924 A.2d 730 (Pa.Cmwlt. 2007) held that section 15.1 of the Fire and Panic Act preempted local legislation in the area of smoking and that the county was without authority to enact an ordinance regulating smoking. Also, Act 27 of 2008 (“Clean Indoor Air Act”) (Section 11) preempts and supersedes local ordinances concerning smoking in a public place.
- Pages 272-276 Old Sections 2403(34)-(42) are deleted as they are now found in new Article XLIV-A (relating to veterans’ affairs).
- Pages 275-281 Old Sections 2403(43)-(44), (46), (49), (52), (58). Deleted.
- Page 284 Old Section 2403(67). Adoption and Amendment of Codes by Reference. Now see section 1018.13.

- Pages 286-287 New Section 2404. **Creation of Capital and Operating Reserve Funds**. Replaces old section 2403(1.1). Eliminates the requirement that four-fifths of the council is required to vote in favor of using funds in a capital reserve fund for a purpose other than that specified at the time the fund was created, giving council broader powers in managing the reserve fund. Adds provisions for operating reserve funds of up to 25% of estimated revenues. The language concerning the operating reserve funds is the same as in section 1508.1 of the Second Class Township Code following the passage of Act 133 of 2013.
- Page 287 New Section 2405. **Hiring of Employes; Salaries**. Replaces old section 2403(2). Editorial amendments.
- Page 287-288 New Section 2406. **Creation of Necessary Offices or Boards**. Replaces old section 2403(3). Restates council’s power to create any city office or public board, and now also adds the power to create a bureau or commission. The power to create departments is deleted in this section since city departments are created in accordance with Article XI. Deletes the provision from old section 2403(3) prohibiting council from enacting an ordinance increasing or diminishing the salary or compensation of any officer after his or her appointment. However, the Pennsylvania Supreme Court in *Buckwalter v. Borough of Phoenixville*, 2009 WL 5067591 (Pa.), Dec. 28, 2009, held that Article III, Section 27 of the Pennsylvania Constitution prohibits municipalities from increasing or decreasing the compensation of their public officials after they have been elected to office and during their respective terms since the term “law” as it is used in Article III, Section 27 also applies to ordinances.
- Page 288 New Section 2407. **Lock-ups**. Replaces old section 2403(4). Subdivided for clarity. Subsection (b) provides parameters relating to the location of lock-ups in relation to a public school building, a provision previously located in Article XXXVI (relating to public buildings and works).
- Pages 288 New Section 2408. **Market Places**. Replaces old section 2403(5). Reorganized for clarity.
- Pages 288-291 New Section 2409. **Accumulation of Ashes, Garbage, Solid Waste and Refuse Materials**. Replaces old section 2403(6). This section is expanded based on Article XXI of the Second Class Township Code. The reference to contract renewal periods of five years in section 2409(b) is from section 304(e) of Act 101 of 1988, known as the “Municipal Waste Planning, Recycling and Waste Reduction Act.”
- Page 291 New Section 2410. **Regulation of Pets and Feral Animals**. This section is loosely based on old paragraphs (8) and (9).
- Page 291 New Section 2411. **Inspection and Regulation of Fireplaces, Chimneys, Et Cetera; Smoke Regulations**. Replaces old section 2403(10). This power is to be exercised in conformity with state and federal laws and regulations. Editorial amendments.
- Pages 291 New Section 2412. **Fireworks and Inflammable Articles**. This section is loosely based on old paragraphs 11, 26 and 27.
- Page 291-292 New Section 2413. **Regulation of Division Fences, Party Walls, Foundations**. Replaces old section 2403(12). Reference is made to the Pennsylvania Construction

Code Act. Provision is made for fines and penalties for violations of ordinances enacted pursuant to this section as opposed to regulations. Editorial amendments.

Page 292 New Section 2414. **Nuisances**. Replaces old section 2403(16). Reference is made to the new Article XXVII-A (relating to nuisance abatement).

Pages 292 New Section 2415. **Regulation of Encroachments**. Replaces old section 2403(17). This power to regulate encroachments references encroachments in general, and deletes specific examples.

Page 292-293 New Section 2416. **Shade Trees**. Replaces old section 2403(18). This section is expanded to include information previously found in old Article XXXVIII (relating to shade trees and forests), and specifies that meetings of a shade tree commission shall be subject to the provisions of 65 Pa. C.S. Ch. 7 (relating to Open Meetings).

Page 293 New Section 2417. **Numbering of Buildings**. Replaces old section 2403(19). Editorial amendment.

Page 293 New Section 2418. **Transportation Stands**. Replaces old section 2403(20). Editorial amendments.

Pages 293 New Section 2419. **Police Force**. Replaces old section 2403(21). References the intergovernmental cooperation law in relation to providing police services. Clarifies that police services provided for by contract, by purchase or by joining or developing a consolidated regional police service shall be performed by municipal police officers.

Page 293 New Section 2420. **Police Regulations**. Replaces old section 2403(22). Deletes reference to the mayor having jurisdiction to hear and determine violations of these ordinances. Editorial amendments.

Page 294 New Section 2421. **Rewards**. Replaces old section 2403(23). Editorial amendment.

Page 294 New Section 2422. **Prevent Riots**. Replaces old section 2403(25). Editorial amendment.

Page 294 New Section 2423. **Regulate Discharge of Guns and Deadly Weapons**. Replaces old section 2403(26). Deletes reference to discharge of rockets, powder or combustible material as this is now found in new section 2412. *See* 18 Pa.C.S. § 4416 which provides that, among other things, carrying a deadly weapon, concealed upon the person is a misdemeanor. Adds reference that council may regulate, prohibit and prevent the discharge of guns to the extent such regulation is in compliance with federal and other state law. *See, e.g., District of Columbia v. Heller*, 128 S.Ct. 2783 (2008) (holding, among other things, a statute that banned handgun possession in the home or that prohibited an individual from keeping a lawful firearm operable for immediate self-defense within the District violated the Second Amendment). Editorial amendments.

Page 294 New Section 2424. **Racing; Dangerous Practices; Et Cetera**. Replaces old section 2403(29). Editorial amendments.

Page 294 New Section 2425. **Bathing; Recreational Swimming Establishments; Boat Houses and Bath Houses**. Replaces old section 2403(32). References the Public Bathing Law,

which includes “swimming pools” in the definition of “recreational swimming establishments” (*See* Section 2(6) of the Public Bathing Law). The word “municipal” in the phrase “municipal boat houses, bath houses, and recreational swimming establishments” modifies all of the terms following it in that sentence. Editorial amendments.

Pages 294 New Section 2426. **Municipal Music**. Replaces old section 2403(45). Editorial amendment.

Page 294-295 New Section 2427. **Aid to Historical Societies**. Replaces old section 2403(47). Deletes the limitation on the amount that council may appropriate for support and maintenance of a historical society. Also deletes reference to membership requirements, number of meetings, and storage of city and historical documents and records.

Page 295 New Section 2428. **Establishment of Institutions to Collect Educational Collections**. Replaces old section 2403(48). Editorial amendments.

Page 295 New Section 2429. **Ambulances and Rescue and Life Saving Services**. Replaces old section 2403(51). Reference is now made to rescue and life saving services, in addition to ambulance services, in regards to appropriations. Editorial amendments.

Pages 295-296 New Section 2430. **Insurance**. Replaces old section 2403(53), (57). States that the referenced contracts of insurance shall be as required by law or a collective bargaining agreement. Deletes express reference to the authority to deduct from an officer’s or employe’s pay or salary his or her premium. However, retains the statement that the city may pay *part* or all of the premiums or charges for the contracts. Other types of insurance contracts previously listed elsewhere in this article are now consolidated into this one section. Subdivided for clarity.

Pages 296 New Section 2431. **Parking Lots**. Replaces old section 2403(54). References the Vehicle Code and the Pennsylvania Human Relations Act in relation to the council’s regulation of parking lots. Editorial amendments.

Page 296-297 New Section 2432. **Disorderly Conduct**. Replaces old section 2403(55). Discusses the definition of “disorderly conduct” and references 18 Pa.C.S. § 5503 (relating to disorderly conduct), in light of *City of Chester v. Elam*, 184 A.2d 257 (Pa. 1962), which held, among other things, that the definition should bear a striking resemblance to the definition in the Penal (now Crimes) Code.

Page 297 New Section 2433. **Official Expenses on City Business**. Replaces old section 2403(56). Editorial amendment.

Page 297 New Section 2434. **Municipality Authorities; Cooperation with Other Political Subdivisions**. Replaces old section 2403(59). Now references 53 Pa.C.S. Ch. 56 (relating to municipal authorities) and 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

Pages 297 New Section 2435. **Local Self-Government**. Replaces old section 2403(60). Rephrased and reorganized for clarity.

- Page 297-298 New Section 2436. **Historical Property.** Replaces old section 2403(61). Includes properties that are not just listed in the National Register of Historical Places, but those that are eligible for listing as well. Editorial amendments.
- Page 298 New Section 2437. **Appropriations for Handling, Storage and Distribution of Surplus Foods.** Replaces old section 2403(62). Editorial amendment.
- Page 298 New Section 2438. **Junk Dealers and Junk Yards.** Replaces old section 2403(63). Editorial amendment.
- Pages 298 New Section 2439. **Appropriations for Industrial Promotions.** Replaces old section 2403(64). References the Job Enhancement Act. Editorial amendments.
- Page 298-299 New Section 2440. **Non-debt Revenue Bonds.** References the Local Government Unit Debt Act. Replaces old section 2403(65). Specific examples of what the moneys may be used for are deleted. Editorial amendments.
- Page 299 New Section 2441. **Appropriations for Urban Common Carrier Mass Transportation.** Replaces old section 2403(66). Editorial amendments.
- Pages 299 New Section 2442. **Appropriation for Nonprofit Art Corporation.** Replaces old section 2403(68). Editorial amendment.
- Page 299-300 New Section 2443. **Ratification and Validation of Real Estate Sales.** The general contents of this section are from the previous Section 2402.1. This section provides certainty of ownership in real estate conveyed by a city. Editorial amendments.
- Pages 300 New Section 2444. **Maintenance and Validation of Certain Records.** This section clarifies record keeping guidelines in light of electronic recordkeeping and is based on old section 2402.2 and section 1 of the act of May 9, 1949 (P.L. 908, No. 250), which is cited in the Municipal Records Act, 53 Pa.C.S. § 1388 (relating to recording and copying records). Editorial amendments.
- Page 300-301 New Section 2445. **Rights Within Streets and Rights-of-way.** This section permits cities to maintain control over the laying of pipes, wires, etc. on property which they have a right-of-way and is partly based on old Section 2403(50). Also references the Public Utility Code.
- Pages 301-302 New Section 2446. **Emergency Services.** This section is based on Act 31 of 2008 and was originally enacted as section 2403(69). A city is responsible for providing fire and emergency medical services by the means and to the extent determined by the city in consultation with fire and emergency medical services providers.
- Page 302 New Section 2447. **Charitable Purposes.** This section is substantially based on old article XLV (relating to charities and welfare). Reference is also made to the limitations of the Pennsylvania Constitution. See Article III, Section 29 (relating to appropriations for public assistance).

- Pages 302-317 Old Sections 2501-2506, 2508-2521. Deleted. Old section 2504.1 (relating to temporary tax exemption for residential construction) is now provided for in new subsection 2522(c).
- Pages 317-320 New Section 2522. **Assessment Powers.** Portions of this new section are derived from several old sections in Article XXV. City council has the power to appoint persons to conduct assessments if the city has not or does not elect to be subject to the appropriate county assessment law. If the city has or does elect to be subject to the county assessment law, the city council may not switch back to conducting its own assessments. The remaining sections of this subdivision are deemed unnecessary, and therefore, repealed, since procedures under the appropriate county assessment law are “bootstrapped.” Currently, only a few cities still conduct their own assessments.
- Pages 320-323 Existing Section 2531. Tax Levies. This section is extensively reorganized.
- Taxes for general revenue purposes cannot exceed 30 mills, with the exception of special purpose levies. Previously this tax could not exceed 25 mills, although council was permitted to petition the court for the right to levy up to five additional mills. The increase in the millage cap to 30 without court approval is necessary because 25 mills is outdated. Cities need access to the additional 5 mills to cover the cost of municipal services. (Section 1302 of the Borough Code authorizes a levy of 30 mills with an additional 5 mills with court approval as does Section 1709 of the First Class Township Code.)
- Adds a new annual tax levy, not to exceed five mills, for street lighting. This is necessary as cities are responsible for providing lighted thoroughfares. (Section 1302(a)(4) of the Borough Code authorizes an annual tax for street lighting not to exceed eight mills. Section 3205(a)(2) of the Second Class Township Code authorizes this tax not to exceed five mills.)
- Both the annual tax for maintaining and operating recreation places and programs and the annual tax for shade trees, previously located elsewhere in the Third Class City Code, are now consolidated into this section.
- Modifies language borrowed from Section 706 of the Second Class Township Code to prohibit a city treasurer or council member from using special purpose tax revenue for any purpose other than that for which the revenue was collected. Provides penalties.
- Page 323-324 Existing Section 2531.1. Exemptions from Taxation. Now persons making \$12,000 or less are exempt from paying a per capita or residence tax. Previously, the cap was \$5,000.
- Page 324 New Section 2531.2. Certification of Schedule. Replaces old section 2538. Rephrased for clarity.
- Pages 324 Old Sections 2532 and 2534. Deleted. See new section 1402.1.
- Page 324 Old Section 2533. Oath of City Treasurer as Collector of Taxes. Deleted since section 905 provides for the oath of all appointed and elected officers of the city.

- Pages 325-326 Old Sections 2535-2538. Deleted. See new sections 1402.2, 1406, and 1402.3, respectively.
- Pages 327-328 New Section 2542.1. Public Sale of Property to Satisfy Tax Claims. Replaces old section 2541. Now references the Real Estate Tax Sale Law and the Municipal Claim and Tax Lien Law and any other remedies provided for the collection of delinquent city taxes.
- Page 328 Existing Section 2543. Certification of Schedules **to Treasurer** [of Taxes]. Rephrased for clarity.
- Pages 329 Existing Section 2546. Record of Sales; [to be Kept; City May] Purchase **and Resale** [Lands at Sale]. Now references new sections 2542.1 and 2402.1(b). Provides an alternative place, in addition to the treasurer’s office, for the keeping of records of property sales to satisfy city tax liens. Modifies the information that must be kept in the records. Editorial amendments.
- Page 335 New Section 2562.1. **Conduct of Tax Sales.** States that the procedures and requirements for the sale of property for delinquent taxes shall be governed by the Real Estate Tax Sale Law or the Municipal Claim and Tax Lien Law and any applicable rules or procedures.
- Pages 327-335 Old Sections 2541, 2542, 2544, 2547-2552, 2560-2562. Deleted.
- Pages 336-337 Existing Section 2601. [License Taxes for Revenue Purposes.] **Licensing and Regulatory Powers.** Each city will have the licensing and regulatory authority provided in this article. Removes the authority to levy and collect a license tax not to exceed \$100 annually and also removes listed specific businesses and professions as to who may be taxed as previously set forth.
- Page 337-338 New Section 2601.1. **Registration of Businesses or Occupations.** This section is modified by providing broad authority to council to designate by ordinance the types or kinds of businesses or occupations that will be subject to an annual registration with the city with a registration fee not to exceed \$100. This administrative *fee* replaces the previous license *tax* for general revenue imposed previously, and since it is a fee, should reasonably relate to the actual cost of administering the registration program.
- Pages 338-339 Existing Section 2602. Regulation of Motor Vehicles. Now provides that the authority to regulate transportation by motor vehicle shall not extend to that which is preempted by or is inconsistent with applicable federal and state laws and regulations or policies or orders of federal and state regulatory agencies.
- Page 339 Existing Section 2603. Licensing of Plumbers. Editorial amendment.
- Pages 339-340 New Section 2604. **Power to Regulate and License Transient Merchants.** Replaces old sections 2620 and 2621. This new section now increases the penalty for a violation of an ordinance relating to the regulation and licensing of transient merchants from not exceeding \$300 to not exceeding \$500. Increases the amount of a transient merchant

license from an amount not to exceed \$200 to not to exceed \$250 for each month or fractional part thereof where any sale or solicitation is continued.

Pages 340-341 New Section 2605. **Regulation of Special Events.** This new section explicitly provides that council has broad authority, under the city’s police power, but subject to constitutional limitations, to reasonably regulate, by ordinance, special events and to require a permit for the same. Relying on the police power of the city in new Section 2435 (old section 2403(60)), new Section 2605 partially replaces the now deleted old subdivision (d) of this article (relating to public dances and dance halls) which had been comprised of sections 2630 through 2640 as well as part of old section 2403(31).

Page 341 Old Section 2610. Farmers. Deleted. The substance of this section has been moved to new section 2651.

Page 341 Old Section 2611. Insurance Business. Deleted. The substance of this section has been moved to new section 2652.

Page 341 Old Section 2612. Persons Taking Orders by Samples. Deleted. The substance of this section has been moved to new section 2653.

Page 341-342 Old Section 2620. Power to Regulate and License. Deleted. The substance of this section has been moved to new section 2604.

Page 342 Old Section 2621. Exceptions. Deleted. The substance of this section has been moved to new section 2604.

Page 342 Old Section 2622. Commonwealth License Saved. Deleted. The substance of this section has been moved to new section 2654.

Pages 342-346 Old Sections 2630-2640. Deleted.

Pages 346-347 Existing Section 2650. Regulation[; Revenue; Bonding] **of Parking Lot and Parking Garage** Operators. Now also includes for profit parking *garages* in addition to for profit parking *lots*. Now references the Vehicle Code, the Americans with Disabilities Act of 1990, and the Pennsylvania Human Relations Act. Deletes requirements for the operator to obtain a bond, but now requires each operator to obtain insurance to protect the public from loss of or damage to vehicles in the garage or lot. Subdivided for clarity.

Page 347-348 New Section 2651. **Farmers.** This new section is derived from old section 2610.

Page 348 New Section 2652. **Insurance Business.** This new section is derived from old section 2611.

Page 348 New Section 2653. **Persons Taking Orders By Samples.** This new section is derived from old section 2612.

Page 348 New Section 2654. **Commonwealth License Saved.** This new section is derived from the old section 2622. New language is also added that no Commonwealth license tax or fee shall preempt the registration, license, or regulatory powers of a city in relation to the licensing and regulation of businesses and occupations unless the preemption is expressly authorized.

- Page 348 Old Section 2701. No Unauthorized Debt to be Created. Deleted. Sections 2701 and 2703 are the entire contents of the article on indebtedness. This article is deleted since the Local Government Unit Debt Act is applicable to the debt of a third class city.
- Page 348-349 Old Section 2703. Liability in Bond Transfers. Deleted. See comment for old section 2701.
- Pages 349-350 New Section 2704. **Real Estate Registry.** This new article, comprised of section 2704, is based on previous subdivision (b) (relating to real estate registry), sections 1515 through 1521 in Article XV (relating to the city engineer). References Act 110 of 2008, known as the “Uniform Municipal Deed Registration Act.” Authorizes a city to establish, by ordinance, a real estate registry and establishes the responsibilities of property owners, city officials, and the county sheriff in relation to that registry.
- Pages 351-352 New Section 2701-A. **Definitions.** Defines “abatement,” “department,” “owner,” “property,” “public nuisance,” and “summary abatement” as used in this new article XXVII-A (relating to nuisance abatement) which authorizes abatement procedures to protect the health, safety and welfare of citizens.
- Pages 352-353 New Section 2702-A. **Report and Investigation of a Public Nuisance.** Instructs council to designate a department to which reports of possible public nuisances shall be made. Establishes criteria for making, investigating and following-up on the reports, including instances where extraordinary and immediate action is justified.
- Pages 354-355 New Section 2703-A. **Summary Abatement.** Establishes criteria by which the city has the authority to utilize summary abatement without prior notice to the owner or to any lienholders. Also establishes what actions a city must take and what notice a city must provide within 10, 20 or 30 days following a summary abatement.
- Pages 355-357 New Section 2704-A. **Prior Notice of Abatement.** Provides authority to a city’s designated department to abate a public nuisance with prior notice if it is first established that a public nuisance exists. Establishes the criteria for providing notice to the owner and any lienholders and for the contents of the notice. The notice shall include that if the public nuisance is not abated within 30 days of the notice that the city shall abate the nuisance at the expense of the owner. An owner shall be responsible for compliance with the notice and liable for costs, even if the property is boarded up, or even if the owner conveys his or her interest in the property after the notice is issued and served.
- Page 357 New Section 2705-A. **Abatement by Owner.** An owner must remove and abate a nuisance within thirty days after a written notice has been provided pursuant to section 2704-A. The department may grant an additional specific time period for an owner to abate the nuisance upon written application of the owner.
- Pages 357-358 New Section 2706-A. **Appeal Procedures; Hearing.** Cities shall provide procedures by which an owner may request an appeal on the determination of whether a public nuisance does in fact exist. Cities shall designate a public nuisance appeals board. An

appeals board may extend the time for compliance if limited to a specific time period, or may uphold, amend or modify the department’s determination. An appeal tolls the running of the time period during which a nuisance must be abated until the board renders its decision.

Page 358 New Section 2707-A. **Abatement by City After Notice; Statement of Costs.** Authorizes the department to take reasonable measures to abate a public nuisance if the owner has not abated the nuisance within 30 days or within any additional allotted time as determined by the department or appeals board.

Page 358 New Section 2708-A. **Assistance in Abatement.** Authorizes the department to use other city departments or divisions for assistance or to enter into a private contract to abate the nuisance.

Pages 358-359 New Section 2709-A. **Salvage of Material.** Authorizes the department to salvage and sell any material derived from the abatement of a public nuisance and provides for the disposition of the proceeds.

Pages 359-360 New Section 2710-A. **Notice of Assessment; Appeal of Charges.** Provides for notice to the owner and any lienholders of the amount of the statement of costs for a summary abatement or for abatement with notice that the city proposes to assess against the property unless written objection is made within 20 days from the date of mailing of the notice. Authorizes that the costs, fees and penalties may be entered as a lien against the property. Provides for appeals to the department and to the appeals board and for the reduction or cancellation of the proposed assessment under certain conditions.

Page 360-361 New Section 2711-A. **Personal Liability of Owner.** Provides for personal liability of the owner in addition to the city’s right to pursue in rem proceedings. Personal liability shall extend to the amount of the assessment including all interest, civil penalties and other charges.

Page 361 New Section 2712-A. **Administrative Fee and Civil Penalties.** Provides that the statement of costs shall include the city’s actual cost of abatement, plus an administrative fee not to exceed 10%, and a civil penalty of \$250 for the first abatement within any two year period and \$500 for any subsequent abatement within the two year period. The additional penalty shall apply regardless of whether it is the same or a different property of the owner.

Pages 362-363 Existing Section 2801. Exercise of Eminent Domain. Clarifies the city’s right to exercise eminent domain for the listed public purposes which now also encompasses transfer facilities, public transportation facilities, homeless shelters, communications facilities and other public buildings and public works. Deletes outdated terms. Previously, a city could exercise eminent domain for the acquisition of lands for the Pennsylvania National Guard, but this has now been altered to include easements and property. Deletes specific ordinance requirements and deletes the requirement for notice of the ordinance by registered mail to the affected property owners and instead references the provisions of the Eminent Domain Code which provides for procedures and requirements relating to eminent domain. Editorial amendments.

- Pages 363-364 Existing Section 2802. Restrictions as to Certain Property. Editorial amendments.
- Page 364 New Section 2803. **Title Acquired.** Replaces old section 2850.
- Page 364 Old Section 2809. Value of Land or Property not to be Assessed as Benefits; Exception. Deleted. This section had provided that it was unlawful to assess any damage done to or the value of land appropriated for a public use, other than for streets, against an adjoining property or property in the vicinity of the appropriated property.
- Pages 364-365 Old Section 2823. Assessment of Damages and Benefits. Deleted.
- Page 365 Old Section 2850. Title Acquired. Deleted, as the provisions in this section are now found in new section 2803.

All subdivision titles in Article XXIX (Streets) are removed.

- Page 365-366 New Section 2901. **Map of Streets.** Permits council to authorize and approve a comprehensive map of city streets that may or may not be part of an official map pursuant to the Municipalities Planning Code. Provides for the amendment of the comprehensive map when streets are subsequently laid out in accordance with the Third Class City Code.
- Page 366 New Section 2902. **Laying Out Streets.** Provides for the laying out of streets by either identifying the street on a comprehensive map of streets or in a recorded subdivision or land development plan or by ordinance that lays out an area for a future public street. Provides for the filing of the ordinance with and the indexing by the recorder of deeds when the lines of the laid out street include property not subject to use as a public passageway.
- Pages 366 New Section 2903. **Effect of Laying Out of Street.** Clarifies that the laying out of a street on land not previously used as a passageway for public travel does not authorize entry on the property, constitute the opening of a street or the taking or acceptance of any land, or obligate the city to improve or maintain the street or land.
- Page 366-367 New Section 2904. **Improvements Within Laid Out Streets.** Prohibits the issuing of a building permit for property within the lines of a laid out street and also prohibits the recovery of any damages when land is taken for a public use and the improvements were constructed within the lines of the laid out street that were included in the general plan or official map. Also, any such improvement would need to be removed at the owner’s expense.
- Pages 367-368 Existing Section 2915. Power to Open, Etc. Now requires that the power of cities to vacate highways laid out by the Commonwealth within the city limits and which has remained unopened for 30 years must have the approval of the Pennsylvania Department of Transportation. This section is now subdivided. Editorial amendments.
- Pages 368 Existing Section 2916. Ordinances [when] **When** no Petition is Presented. States that city-instituted roadwork on streets requires affirmative action by “a majority of the whole number of members of the council plus one.” This is not a substantive change since this general rule replaces the specific examples of the number of members of

council needed to affirmatively vote in favor of the work. In regards to the required newspaper advertising, now references “a newspaper” which is defined in section 102 and which references 45 Pa.C.S. §101 (relating to definitions). This section is now subdivided. Editorial amendments.

- Page 368-369 Existing Section 2917. Erection of Improvements Restricted. Editorial amendments.
- Page 369 Existing Section 2918. Petition for Opening, Etc. This section is now subdivided. Editorial amendments.
- Pages 369-370 Existing Section 2919. Notice of [Ordinance and] Petition[; Appeal]. Language now conforms to the fact that a public hearing is held prior to the enactment of an ordinance pursuant to the petition. Published reference to a map or drawing in the proposed ordinance may be made in accordance with section 1014. Specifies that notice of any ordinance enacted pursuant to a petition must be advertised in a newspaper of general circulation once a week for three consecutive weeks. Editorial amendments.
- Page 370 Old Section 2920. Appeal from Ordinance. Deleted as section 2919 now provides for a public hearing prior to council’s enactment of the ordinance.
- Page 370 Old Section 2921. Effect of Failure to Appeal. Deleted.
- Page 371 Existing Section 2922. Assessment of Damages and Benefits. Reference is made to the Eminent Domain Code in Title 26 of Pa.C.S., and the assessment of benefits as provided for in the Third Class City Code. Editorial amendments.
- Pages 371 Existing Section 2930. Power to Grade, Pave, Macadamize, Et Cetera. “Highway” was deleted since “street” includes a highway in the city for which the city is legally responsible. See section 2939. “Cartway” has been substituted for “carriage-way line.” Subdivided for clarity. Editorial amendments.
- Page 371-372 Existing Section 2931. Payment of Cost of Improvement. Editorial amendments.
- Pages 372-374 Old Sections 2932-2937. Deleted, since the contents of these sections are now found in the new Article XLV-A (relating to assessments for public improvements).
- Pages 374-375 Existing Section 2938. Preparation of Streets for Paving or Repairing. Rephrased and subdivided for clarity. Editorial amendments.
- Page 375-376 Existing Section 2939. Highways in Cities. Clarifies that a city may be legally responsible for streets and highways of the city “pursuant to agreement or otherwise.” Also updates the citation for the State Highway Law. Editorial amendments.
- Pages 376 Existing Section 2950. **Grade Crossing; Public Utility Commission; Jurisdiction; Damages** [Consent of Public Utility Commission]. Subsection (a) of this section constitutes the original section 2950; new subsection (b) replaces old section 2951. Editorial amendments.
- Pages 377-378 Existing Section 2955. Acquisition of Unobstructed Views. Language relating to condemnation proceedings is deleted as the Eminent Domain Law provides for such procedures. Editorial amendments.

- Pages 378 Existing Section 2960. Use of Abutting Lands for Embankments, Slopes, Fills, and Culverts. References section 2801 (relating to exercise of eminent domain), as regards 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. Rephrased for clarity. Editorial amendments.
- Page 379 Old Section 2963. Maintenance and Improvement of Condemned and Abandoned Turnpikes. Deleted.
- Pages 379-380 Old Section 2965. Repayment of Assessments Paid to City by Owners of Property Unlawfully Assessed. Deleted in light of Act 27 of 1943. Act 27 is titled, “Authorizing political subdivisions to refund money erroneously or inadvertently paid by persons and corporations into the treasury thereof for municipal improvements, or upon municipal assessments, liens whereof have been subsequently declared illegal and invalid.”
- Page 380 Existing Section 2970. Appropriation for Connections with Highways. Previously, cities were authorized to appropriate and expend money for the improvement of streets beyond the city limits, provided the street was less than one mile in length, for purposes of connecting to highways. The limitation on the length of the street has been removed. Editorial amendments.
- Pages 380-383 Existing Section 2975. **Street Closings; Detours.** [Streets not to be Closed to Vehicular Traffic; Exceptions]. This section is a revised version of this section and old sections 2976 through 2979. Clarifies that the city department that has jurisdiction over public streets has authority to close streets to vehicular traffic. Clarifies that the mayor, the police or fire marshal may, by order, close streets to vehicular traffic “in cases of emergency where immediate action is necessary to protect public safety.” Also clarifies that “except in cases of emergency, where immediate action is necessary to protect public safety” no street that has been designated as a detour by the Department of Transportation may be closed to vehicular traffic, with some exceptions. This revised section has been reviewed by PennDOT.
- Signs shall now be erected and maintained at “reasonable intervals” instead of at each intersection for the entire length of the detour.
- As regards penalties for certain violations of this section, references section 1018.17 (relating to penalty). Section 1018.17 standardizes penalties throughout the Code.
- Subdivided for clarity. Editorial amendments.
- Pages 382-385 Existing Sections 2976-2979. Deleted.
- Pages 385-386 Existing Section 2985. Maintenance of Streets Forming Boundaries. Provides for maintenance of streets regardless of the classification of the municipal corporation to which the street abuts. This section formerly dealt only with township-city boundary streets. The term “municipal corporation” is used since pursuant to 1 Pa.C.S. § 1991 (relating to definitions), a municipality includes counties, but a municipal corporation does not include counties. Editorial amendments.
- Pages 386-387 Existing Section 2986. Streets, the Center Line of Which Is the Boundary [between Municipalities in the Same County] **Between a City and Another Municipal**

Corporation. Now requires only that a street be the dividing line between a city and another municipal corporation, instead of the “center line” of the street. Also, prior reference had been to a township within the same county as opposed to a municipal corporation without reference to the same county. Expands the type of road work that may be agreed upon between the municipal corporations to include “draining.” (Old section 2990, now deleted, had referenced “draining.”) No longer references how the costs should be divided, and county commissioners no longer play a role either as a party to the contract or in funding the road alterations and improvements.

Pages 387-389 Old Section 2987. Street, the Center Line of Which is the Boundary between Municipalities in Different Counties. Deleted. Since section 2986 no longer distinguishes between a city and a township in the “same county,” this section that distinguishes between a city and a township in an “adjacent county” is no longer needed.

Pages 389-390 Existing Section 2988. Streets More Than Half of Whose Width is Within City. Now references property “within and without the city, that abuts the street” in regards to assessment of benefits instead of merely referencing property that abuts on the side of the street that is located outside the city limits. Changes reference from a “municipality” to a “municipal corporation.” Subdivided for clarity. Editorial amendments.

Page 390 Existing Section 2989. Assessment **for Improvements** on Property Outside Limits Where Street Entirely Within City. Now references a “municipal corporation” instead of a “municipality or township located in the same county.” Now all properties “within and without the city, that abuts the street,” not just “opposite the present line” of the city, may be assessed for the improvements to the street.

Pages 390-392 Old Section 2990. Street the Center Line of Which is the Dividing Line Between a City and Borough or Township of the First Class; Assessments. Deleted, since the subject is addressed in the previous sections.

Page 392 Existing Section 3001. Power to Lay Out and Grade Sidewalks; Compel Construction of Sidewalks. Now adds that written consent of the Department of Transportation is needed if the sidewalks, etc. are along a state highway.

Pages 392-394 Existing Section 3002. Construction by Cities Upon Failure of Owner So to Do; Collection of Cost. Clarifies that an owner is an “owner of property abutting on any street.” Clarifies that the completion of the work relating to sidewalks shall be certified in accordance with section 1504 (relating to certifying commencement and completion of municipal improvements). Council may, by ordinance, specify a period, which may be more, but shall not be less than 45 days after the service or posting, during which owners shall comply with the notice. Previously, council could establish by ordinance a period of not less than ten days for owners to comply with the notice. Subdivided and rephrased for clarity. Editorial amendments.

Page 394 Existing Section 3002.1. Ordinances. Editorial amendment.

Pages 394-396 Existing Section 3003. Emergency Repairs; Notice; **Cost**. Clarifies that if the officer or designated individual in charge of repairs to sidewalks, upon inspection of a sidewalk, finds that a “substantial and immediate danger exists to the public health, safety and welfare” shall prepare a written report which shall be conclusive evidence of the need for emergency repairs. Previously, only a “dangerous condition” was required to exist that could be repaired by not more than an expenditure of \$50.

New language is added regarding service of the written report along with notice to make emergency repairs to the sidewalk within 48 hours of service upon the abutting property owner. The notice shall include the statement that the city may make the emergency repairs to the sidewalk if the owner has not done so within the prescribed time.

Subsection (c) regarding cost of repairs to be a lien until paid is from old section 3004.

Subdivided and rephrased for clarity. Editorial amendments.

Pages 396 Existing Section 3101. Construction and Maintenance of Bridges [and Viaducts]. References to viaducts throughout this article are now deleted. A viaduct is a type of bridge and included within the term “bridge.” Rephrased for clarity. Editorial amendments.

Page 396-397 Existing Section 3102. Ordinance for Location of Bridges; Procedure. Editorial amendments.

Page 397 Existing Section 3103. Right to Appropriate Property; Assessment of Damages. Reference is made to the Eminent Domain Code. Editorial amendments.

Pages 397-398 Existing Section 3110. [Contract] **Agreement** for Joint Construction and Maintenance. Subsection (a) is comprised of the previous language from this section. New subsection (b) replaces old section 3111 and generally provides that the contracts referenced in this section shall provide for the respective duties, obligations and responsibilities of the parties, instead of, as previously, specifically stating the possible payment or construction arrangements between the parties. New subsection (c) replaces old section 3112. Editorial amendments.

Page 399-400 Existing Section 3115. Power to Construct Boundary Bridges. Now references entering into an intergovernmental agreement as opposed to the current language “unite with.” Deletes reference to paying an equal share of the expenses and now permits the parties to apportion the costs as they decide. Editorial amendments.

Pages 401 New Section 3135. **Acquisition of Existing Bridges**. Replaces old subdivision (c) (relating to acquisition of existing bridges).

Pages 398-401 Old Sections 3111-3113, 3120, 3130, 3133-3134. Deleted.

All subdivision titles in the Sanitary Sewer article are deleted.

- Pages 402 Existing Section 3201. Construction of **Sanitary** Sewers; Cost. Now clarifies that a city has the power to construct or reconstruct sanitary sewers of all kinds. References that assessments may be made in accordance with the new Article XLV-A (relating to assessments for public improvements). Also references the Eminent Domain Code. Editorial amendments.
- Page 403 New Section 3201.1. **Required Connection; Other Fees** [Fee for Tapping Where Sewer is Paid For by City]. Replaces old section 3202. Now provides that a city may, by ordinance, require connection to the sanitary sewer system. Also references 53 Pa.C.S. § 5607(d)(24) regarding the fees that may be imposed and charged to property owners as a condition of connection to a city-owned sewer facility. Even in cases where the cost of constructing the sewer is paid entirely by assessments, the city may still charge these fees. (Section 2 of Act 209 of 1990 provided that the provisions of this Code relating to the charging of a tapping fee for connection to a municipality owned water or sewer system are repealed insofar as they are inconsistent with Act 209, which amended Act 247 of 1968 (MPC). Section 507-A of the MPC prohibits the imposition of a tapping fee or similar fee unless such fee is calculated as provided in the applicable provisions in the Municipality Authorities Act of 1945, now 53 Pa.C.S. Ch. 56 (relating to municipal authorities).)
- Pages 403-404 Old Sections 3203 through 3205. Deleted, since the issue is now addressed in section 3201(b).
- Pages 404-405 Existing Section 3206. Construction of **Sanitary** [Sewerage System and] Sewage Treatment Works; Assessment of Cost. Reference to extensions of a sewer system and lateral and branch sewers is deleted as this is now referenced in section 3201. Reference is made to section 206 of the Eminent Domain Code (relating to extraterritorial takings).
- Pages 405-407 Old Sections 3207 through 3210. Deleted, since these provisions are now in the new Article XLV-A (relating to assessments for public improvements).
- Pages 407-410; Old Sections 3211 through 3214. Deleted. See comment to new section 3213.1.
- Pages 407-410 New Section 3213.1. **Rental Fees or Charges**. This section (subsections (a)-(c) and (e)) is a compilation of previous sections 3211 through 3214. Previously, cities could charge an *annual* rental, rate or charge for sewer usage; now cities are authorized to make *monthly, quarterly, semi-annual or annual* charges. Clarifies that the charges constitute a lien until paid against the property connected to the sanitary sewer system and therefore deletes reference to the charges being a lien on the property from the date set in the ordinance. Deletes reference to the 30 days' notice required in order to initiate collection and also deletes reference to the collection of the charges by distress of personal property on the premises. Now states that the charges collected shall be deposited in a special fund. New subsection (d) provides that city council may transfer part of the sanitary sewer rentals in the special fund to the general fund to meet immediate 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.

- Pages 410 Old Section 3215. Tapping Fees. Deleted, since this is now provided for in new section 3202.1.
- Pages 411-412 Old Sections 3220, 3221 and 3222. Deleted.
- Pages 412 New Section 3222.1. **Acquisition of Existing Sanitary Sewer Systems** Replaces old section 3220. Now clarifies that a city must enact an ordinance to acquire all or part of an existing sanitary sewer system. Now also references community subsurface sanitary sewage collection and treatment systems as well as the sanitary sewer system.
- Page 413 Existing Section 3230. **Sewers Outside Cartway and Curb Lines.** [Power to Construct.] Subsection (a) is comprised of the previous language in this section; subsection (b) replaces old section 3231. Editorial amendment.
- Pages 413-417 Existing Section 3240. Building Joint Sewers. Throughout this section, any action a city may make or agreement that a city may enter into with other municipalities may also now be made or entered into with a municipal authority. Reference is made to the new Article XLV-A (relating to assessments for public improvements), the Eminent Domain Code, and 53 Pa.C.S. Pt. VII, Subpt. B (relating to indebtedness and borrowing).
- Page 417 Existing Section 3241. Approval of [Sanitary Water Board] **the Department of Environmental Protection.** Conforming and editorial amendments.
- Page 418 Old Sections 3242 through 3244. Deleted. See comment to new section 3245.1.
- Page 418 Old Section 3245. Report of Viewers; Appeals to Court. Deleted in part; the portion that is retained is now in new section 3245.1(c).
- Pages 419 New Section 3245.1. **Municipal Corporation; Municipal Authority; Agreements for Connections; Appointment of Viewers.** This revised section is a compilation of old sections 3242 through 3245. Clarifies that in order for a court to determine whether a connection can be made without impairing the usefulness of the existing sewer, the court shall fix a day for a hearing and notify all interested parties. Previously, a city could connect with the existing sewer of an adjacent municipality. Now a city may connect with the existing sewer of any municipal corporation or municipal authority for either sanitary sewage collection or treatment purposes.
- Page 420 Existing Section 3250. Sewers Extended Outside of City. Previously, a city was authorized to extend the sewer system “into the county and municipalities of the county in the *vicinity* of such cities.” Now a city may extend the sanitary sewer system “beyond the city’s boundaries into *adjoining* municipalities in the county where the city is located.” Editorial amendments.
- Pages 420-423 Old Article XXXIII – Collection by Instalment of the Cost of Street and Sewer Improvements. Entire article deleted. Provisions for installment collections for assessments for public improvements are now found in new Article XLV-A.

- Page 424 As regards the revised title to Article XXXIV, Pennsylvania statute generally uses “water courses” or “watercourses,” not “water-courses.” Section 2801 (relating to exercise of eminent domain), uses “watercourses,” therefore, that term is used in Article XXXIV.
- Pages 423-425 Existing Section 3401. [Changing of Water-Courses] **Establishing and Changing Watercourses, Flood Protection Projects, and Storm Water Systems**; Removing Obstructions [Therefrom]. Now references the Eminent Domain Code and various state environmental laws in relation to realigning, changing or vacating watercourses and providing for flood protection. Clarifies that the city’s authority to construct and maintain dams in a watercourse flowing through the city is for the purpose of improving the public’s health, safety and welfare. Now provides authority for a city to manage and control storm water since the Code does not otherwise mention storm water except in the article relating to eminent domain. Reorganized and rephrased for clarity.
- Pages 425-427 Old Sections 3402 through 3406. Deleted.
- Page 427 Existing Section 3407. **Assessment of Benefits**; Liens. Now references the new Article XLV-A (relating to assessments for public improvements).
- Page 427 Existing Section 3408. Waters Excepted. Editorial amendments.
- Pages 427-428 Old Section 3409. Construction of Dams. Deleted. Portions of this section have been incorporated into section 3401.
- Pages 429-430 New Section 3501.1. **Right to Furnish Water, Lighting, Electric, Gas or Other Similar Utility Service**. Previously, old section 3501 provided a city the exclusive right to supply the city with water. A city now is authorized to supply water, lighting (see old section 3575), electric, gas or other similar utility service for public and private uses within the city and may fix the applicable rates and charges. This new section references 53 Pa.C.S. Pt. VII, Subpt. B (relating to indebtedness and borrowing). Reference to “exclusive” in old section 3501 is deleted. Also deleted is reference to a city making contracts with persons, companies or associations the privilege of furnishing water for any length of time not to exceed ten years, and reference to a frontage tax.
- Page 430 Old Section 3505. Appropriation of Lands and Waters. Deleted. This power is now provided for in section 3501.1.
- Page 433 Old Sections 3520 and 3521. Deleted. See new subsection 3501.1(c).
- Pages 433; 436; 439 Old Sections 3530, 3550, 3575. Deleted. These powers are now found in section 3501.1.
- Pages 434-436 Old Sections 3531, 3532, 3540, and 3553. Deleted. These powers are now found in new section 3540.1.
- Page 435 New Section 3540.1. **Power to Furnish Utilities to Consumers Outside City**. Authorizes cities that provide utility service with the power to provide that utility

service or services to surrounding municipalities, or portions thereof that do not have those services if provided in accordance with law and PUC regulations.

Page 440 Old Section 3580. Creation of Water and Lighting Department. Deleted. Council has broad powers to create any department it desires.

Pages 439; Old Sections 3576 and 3586. Deleted. These powers are now provided for in
442-443 the new Article XLV-A (relating to assessments for public improvements).

Pages 442 Existing Section 3585. Payment of Cost of Extensions [by Property Owners; Frontage Tax]. Now provides that when a city extends pipes, wires or conduits in order to supply utility service to portions of the city not previously supplied with that service that an assessment may be made in accordance with the new Article XLV-A (relating to assessments for public improvements).

Page 443-444 Existing Section 3587. Fixing Rates. Now provides that council shall fix utility rates or council may delegate to a city department the power to fix utility rates with council's approval. Previously, the board of commissioners for water and lighting, on an annual basis, could fix water and lighting rates with the approval of council.

Pages 444-445 Existing Section 3588. Collection of [Lighting and Water] **Utility** Charges. Now expands the collection of not just water and lighting charges, but also electric, gas or other similar utility service charges. References the Municipal Claim and Tax Lien Law.

Pages 445-446 Old Section 3589. Report to Council; Accounts of City Treasurer; Disposition of Surplus. Deleted. The power relating to the disposition of surplus of revenues is now found in new section 3590.

Page 446 New Section 3590. **Disposition of Revenues**. This section is based on portions of previous section 3589. States how revenues derived from the provision of utility service may be applied.

Pages 430-439; Old Sections 3506-3507, 3515-3519, 3551-3552, 3560-3564, 3570-3572,
440-442; 443-445 3581-3584, 3586. Deleted.

Pages 446-448 Existing Section 3601. [Hospitals, Jails, Poor Farms, Et Cetera] **Public Buildings Generally**. Now provides a broad definition of public buildings and eliminates most examples of what constitutes a public building. Clarifies that council may acquire private lands, buildings and property by any lawful means including eminent domain, in order to erect, establish or maintain public buildings. Reorganized and rephrased for clarity.

Page 448 Old Section 3602. Public Auditoriums, Libraries, Memorials and Monuments. Deleted. Generally provided for in subsection 3601(b).

Pages 448 Existing Section 3603. Payment of Cost of Erection and Maintenance. Now references incurring debt in accordance with 53 Pa.C.S. Pt. VII, Subpt. B (relating to indebtedness)

and borrowing). Now references “public buildings” in general as opposed to specific types of such buildings.

Page 448-449 Old Section 3604. Proceedings for Assessment of Damages. Deleted. The Eminent Domain Code provides for the assessment of damages.

Page 449 Existing Section 3605. Donation of Land by City for Library Purposes; Contributions [toward] **Toward** Maintenance. Now references The Library Code in relation to making appropriations, donations and gifts for library purposes. Continues to permit acquisition and donation of land for library purposes but deletes reference to the library association being required to furnish funds for the erection of the library building and the library association being compelled to put back into the property surplus earnings from the library’s operation.

Pages 449 Existing Section 3606. Rental of Public Auditoriums; Disposition of Proceeds. Editorial amendments.

Pages 449-451 Existing Section 3607. **Long Term Improvement Leases** [Leasing of City Property as Memorials]. This rephrased section is a compilation of sections 3607 through 3611. Subdivided for clarity.

Page 452 Old Section 3612. Location of City Jails Restricted. Deleted. The subject matter has been moved to subsection 2407(b) (relating to lock-ups).

Pages 452-453 Existing Section 3703. Acquisition of Lands and Buildings. Clarifies that a city may purchase or acquire buildings outside the city limits for recreation places provided that the governing body of the municipal corporation where the land or buildings are situated gives its consent. Editorial amendments.

Page 453 New Section 3703.1. **Powers of Council; Delegation.** Replaces old section 3704. Deletes the provision that council shall fix the compensation of officers and employees of the recreation places, or may delegate the power to the recreation commission, if the city pays for more than one-half of the total costs of the supervision and maintenance of such places. Deletes reference to certain job titles since “other officers or employees” would include all titles.

Pages 454-455 Existing Section 3705. **Creation and** Composition of **Recreation** Board. Now states that if council establishes a recreation board, the board shall consist of five or seven persons. Previously the board was to consist of a minimum of five or a maximum of nine persons. Deletes the provision that two of the board members are to be appointed by the school board and the provision that council may appoint persons to serve as members of a school district recreation board.

Page 455 Existing Section 3706. Organization of Board[; Employees]. New language specifies that meetings of the recreation board are subject to the provisions of 65 Pa. C.S. Ch. 7 (relating to Open Meetings). Editorial amendments.

Page 455 Existing Section 3707. Joint Ownership and Maintenance. Editorial amendments.

Pages 455 Existing Section 3708. [Issue of Bonds] **Borrowing**. Now references 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing).

Page 456 Existing Section 3709. Maintenance and Tax Levy. Now references section 2531 (relating to tax levies). Clarifies that expenses incurred for the maintenance of, as well as the operation of, recreation places may be paid from the city treasury. Rephrased for clarity.

Pages 456-457 New Section 3709.1. **City Trusts**. Replaces old section 3714. Establishes parameters for council’s receiving donations, gifts, and so forth, and council having control of the same, for the purpose of establishing or maintaining a public park or other public purpose.

Language used in this section is similar to 53 Pa.C.S. Section 1391 (relating to acceptance of gifts or donations by municipalities) which was derived from section 1 of 2002, Dec. 30 (P.L. 2001, No. 230). Act 230 of 2002, however, was held unconstitutional in its entirety by the Pennsylvania Supreme Court in *City of Philadelphia v. Com.*, 575 Pa. 542, 838 A.2d 566 (2003) as having been enacted in violation of the single subject rule of the State Constitution.

Pages 457-460; Old Sections 3710-3713, 3715-3717 and 3721. Deleted.

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Page 460-461 Existing Section 3718. [Appointment of Park Guards] **Park Rangers**. Includes language from sections 3719 and 3720. Replaces old term “park guard” with “park ranger.” Provides that for purposes of Act 193 of 1935, referred to as the Enforcement Officer Disability Benefits Law or Heart and Lung Act, park rangers shall mean park guards. Park rangers now have arrest powers only to the extent authorized by 53 Pa.C.S. Ch. 21, Subch. D (relating to municipal police education and training). Provides for an alternative department to oversee park rangers if no Department of Parks and Public Property exists. Editorial amendments.

Pages 462-470 The entire Article XXXVIII (relating to Shade Trees and Forests), is deleted. The authority to regulate shade trees has been moved to section 2416 in the corporate powers article. The authorization for levying a tax on shade trees has been moved to section 2531(a)(5) in the taxation article. The sections relating to memorial trees were moved to the new veterans’ affairs article. The subdivision relating to forests has been deleted since the act of Jan. 19 (1968), 1967, P.L. 992, No. 442, Preserving Land for Open Air Spaces, authorizes local government units in section 5(c)(1), which cross-references section 5(a)(2) and (3), to acquire land generally for forests for timber purposes or to protect the “scenic, aesthetic or watershed values” of forests.

Pages 470-472 The entire Article XXXIX (relating to wharves and docks) is deleted.

Page 472 The entire Article XL (relating to city planning) was previously deleted.

- Pages 472-479 Article XLI (relating to Zoning, Building, Housing, Fire Prevention, Plumbing and Electrical Ordinances, and Public Nuisances) has been deleted. Sections 4101 through 4107, 4110 through 4114, 4120 through 4129 were previously repealed. Sections 4130, 4131, 4131.1, 4132 and 4133 have been incorporated into the new Article XLI-A, now relating to Uniform Construction Code, Property Maintenance Code, and Reserved Powers. The remaining sections in old Article XLI, Sections 4140 through 4143 have been moved to the new article on nuisance abatement.
- Page 479-480 New Section 4101-A. **Primacy of Uniform Construction Code.** Establishes that the Pennsylvania Construction Code Act (Act 45 of 1999) and the Uniform Construction Code adopted pursuant to Act 45 applies to the construction, alteration, repair and occupancy of all buildings within the city. This new article does not supersede or abrogate Act 45 or the Uniform Construction Code and shall be read in pari materia with them.
- Page 480 New Section 4102-A. **Changes in Uniform Construction Code.** References section 503 of the Pennsylvania Construction Code Act which permits the city to enact an ordinance that equals or exceeds the minimum requirements of the Uniform Construction Code.
- Pages 480-481 New Section 4103-A. **Public Nuisance.** Authorizes a court of law to declare any building, housing or property that is erected, altered, and so forth, contrary to an ordinance enacted pursuant to this article, to be a public nuisance and abatable as such, provided that a violation of the Uniform Construction Code or any ordinance that exceeds the Code must be enforced in accordance with the Code and appropriate regulations.
- Pages 481-482 New Section 4104-A. **Property Maintenance Code.** Authorizes a city to enact a property maintenance ordinance notwithstanding the primacy of the Uniform Construction Code. Authorizes a city to enact or incorporate any standard or nationally recognized property maintenance code, or variations or parts thereof, as its ordinance. In regards to such ordinance, provisions address advertising, availability for public inspection, recordation, property fines and penalties or imprisonment. Authorizes council to institute appropriate actions or proceedings at law or in equity to prevent or restrain property maintenance violations. Provides authority for council to appoint property maintenance inspectors who will have the right to enter upon, subject to constitutional standards in a similar manner as provided in section 2308 (relating to powers of the board of health), and inspect any and all premises at reasonable hours for the administration and enforcement of the city’s property maintenance code or ordinance incorporating a property maintenance code. Additionally, the powers of a city as provided in this section will be in addition to, but not limited to, the powers provided in Act 135 of 2008 known as the “Abandoned and Blighted Property Conservatorship Act” (provides for court-appointed conservators to bring residential, commercial and industrial buildings into municipal code compliance when owners fail to comply) and 53 Pa.C.S., Ch. 61, known as the “Neighborhood Blight Reclamation and Revitalization Act” (authorizes a municipality to institute certain actions against the

owner of any real property that is in serious violation of a code or for failure to correct a condition which causes the property to be regarded as a public nuisance).

Pages 482-484 New Section 4105-A. **Reserved Powers.** Provides that if through 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, and the Uniform Construction Code or any replacement code is no longer applicable to cities, that cities reserve certain powers to enact and enforce ordinances governing and regulating the construction, alteration, maintenance, occupation, sanitation, fire prevention, and so forth, and the use and inspection, of all buildings and housing, including the roofs, walls and foundations. These codes may be combined or separately enacted or combined with the property maintenance code. Provides for the incorporation of any standard or nationally recognized code, or variations or parts thereof, as its ordinance. In regards to such ordinance, addresses advertising, availability for public inspection, recordation, property fines and penalties or imprisonment.

Provides that cities may require that prior to constructing or repairing any building, the approval of plans and specifications be secured. Authorizes council to appoint building inspectors, housing inspectors, property maintenance inspectors, fire prevention inspectors, electrical inspectors and plumbing inspectors and fix their compensation. The inspectors will have the right to enter upon, subject to constitutional standards in a similar manner as provided in section 2308 (relating to powers of the board of health), and inspect any and all premises at reasonable hours for the administration and enforcement of the city’s enacted codes or ordinances incorporating the codes. Authorizes council to institute appropriate actions or proceedings at law or in equity to prevent or restrain the unlawful construction, alteration, repair, maintenance or occupation, and so forth, of property located within the city.

Page 484-485 Existing Section 4201. Power to Acquire Land for Aeronautical Purposes; Maintenance of Municipal Airports, Etc. Obsolete reference to “approval of the Pennsylvania Aeronautic Commission” is deleted. Also, “aviation easements” are added to the kinds of interests that a city may acquire. The powers granted in this section must be read together with the provisions of the Aviation Code, 74 Pa.C.S., Pt. III.

Page 485 Old Section 4202. Proceedings for Condemnation. Deleted. The provisions of the Eminent Domain Code provide for such proceedings.

Pages 485-486 Existing Section 4203. Leasing of Land Acquired for Aeronautical Purposes. Editorial amendments.

Page 486 Existing Section 4204. Operation of Facilities Jointly. Reference is made to 53 Pa.C.S. Ch. 23, Subch. A (relating to intergovernmental cooperation).

Page 486 Existing Section 4205. Appropriation for Support of Air Navigation Facilities. Editorial amendments.

Pages 486-488 Existing Section 4301. Police Pension Fund[; Direction of]. Clarifies that if council designates officers of the city or other persons or entities to the custody and

management of the police pension fund that the designation must be by ordinance. Editorial amendments. Subdivided for clarity.

- Pages 488-489 Existing Section 4302. Retirement; Final Discharge. Clarifies that council may establish terms and conditions under which retired members, if not unfit by reason of age, disability, or otherwise, shall be subject to service as a police reserve. Subdivided for clarity. Editorial amendments.
- Pages 489-490 Existing Section 4302.1. Limited Vested Benefit. Reorganized for clarity. Editorial amendments.
- Pages 490-494 Existing Section 4303. Allowances and Service Increments. Reference to “the effective date of this amendment” in subsection (d)(2)-(5) was changed to January 1, 1952, the effective date of Act 596 of 1951 which added that language. Reference to “the effective date of this clause” in subsection (d)(6) was changed to June 19, 2002, the effective date of Act 65 of 2002 which added that language. Reference to “the effective date of this amendment” in subsection (e) was changed to August 1, 1963, the effective date of Act 232 of 1963 which added that language. Reorganized for clarity. Editorial amendments.
- Page 494-495 Existing Section 4303.1. Increase of Allowances After Retirement. Subdivided for clarity. Editorial amendments.
- Pages 495-496 Existing Section 4303.2. Total Disability. Editorial amendments.
- Page 496 Existing Section 4304. Inalienable Rights in Fund. Editorial amendments.
- Pages 496-497 Existing Section 4305. Payments to **Police** Pension [Funds] **Fund** by City. References the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984). Editorial amendments.
- Page 497 Existing Section 4306. [Designation of Organization to Manage] **Management of Police** Pension Fund. Rephrased for clarity.
- Page 497-498 Existing Section 4307. Trusts for Benefit of Police Pension Fund. Editorial amendments.
- Pages 498 Existing Section 4308. Repayment Before Retirement. Subdivided for clarity. Editorial amendments.
- Pages 499-501 Existing Section 4320. [Firemen’s] **Firefighters’** Pension Fund; Management; Annuity Contracts. Specifies that city council may appoint another department director to the board of managers if the city has not created a department expressly provided. Subdivided for clarity. Editorial amendments.
- Pages 501-503 Existing Section 4320.1. Limited Vested Benefit for Firefighters. Reorganized for clarity. Editorial amendments.
- Pages 503-504 Existing Section 4321. Retirement; Final Discharge. Clarifies that council may establish terms and conditions under which retired members, if not unfit by reason of age, disability, or otherwise, shall be subject to service as a firefighters’ reserve. Subdivided for clarity. Editorial amendments.

- Pages 504-507 Existing Section 4322. Pensions and Service Increments. Reference to “effective date of this amendment” in paragraphs (d)(2),(3) was changed to “September 18, 1968,” the effective date of Act 204 of 1968, which added the language. Editorial amendments.
- Pages 507-508 Existing Section 4322.1. Increase of Allowances After Retirement. Subdivided for clarity. Editorial amendments.
- Pages 508 Existing Section 4323. Causes for Forfeiture of Rights in Fund; Other Employments. Also restricts the causes of forfeiture of pensions to those contained in the Public Employee Forfeiture Act. Subdivided for clarity. Editorial amendments.
- Page 508-509 Existing Section 4324. Payments to [Firemen’s] **Firefighters’** Pension [Funds] **Fund** by City. References the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984). Editorial amendments.
- Pages 509-510 Existing Section 4325. [Transfer of Funds] **Transfers** from Other Pension Funds. Subdivided for clarity. Editorial amendments.
- Pages 510 Existing Section 4326. Trusts for Benefit of [Firemen’s] **Firefighters’** Pension Fund. Editorial amendments.
- Page 510-511 Existing Section 4327. Repayment Before Retirement. Subdivided for clarity. Editorial amendments.
- Page 512 Existing Section 4340. Pension Funds for Employes other than Police or City-Paid [Firemen] **Firefighters**. Subdivided for clarity. Editorial amendments.
- Pages 512-513 Existing Section 4341. Pension Board; Duties. Subdivided for clarity. Editorial amendments.
- Page 513 Existing Section 4342. Retirement Age. Subdivided for clarity. Editorial amendments.
- Pages 513-516 Existing Section 4343. Retirement Allowance; Proof of Disability; Joint and Single Coverage Members Defined. Subdivided for clarity. Editorial amendments.
- Page 516-517 Existing Section 4343.1. Retirement Allowances; Full Coverage; Payments. Editorial amendments.
- Pages 517-519 Existing Section 4343.2. Limited Vested Benefit. Editorial amendments.
- Pages 519-520 Existing Section 4344. Amount of Payments into Fund; Repayment before Retirement. Editorial amendments.
- Pages 520-521 Existing Section 4344.1. Determination of Liability Upon Extension of Social Security. Editorial amendments.
- Page 521 Existing Section 4345. Payments by Laborers Optional. Editorial amendment.
- Page 521-522 Existing Section 4346. Heads of Departments to Certify List of Employes. Editorial amendments.
- Page 522 Existing Section 4347. Receipt, Investment and Payment of Funds. Editorial amendments.

- Pages 522 Existing Section 4348. Appropriations and Contributions to Fund. Editorial amendments.
- Page 522-523 Existing Section 4349. Application. Editorial amendments.
- Page 523-524 Existing Section 4352. Definitions. Editorial amendments.
- Pages 524-525 Existing Section 4361. Right to a Pension if Salary is Refused. Editorial amendments.
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- Page 525 Existing Section 4401. Examinations Required of All Appointees. This section deletes civil service hiring requirements for nonuniformed departments (persons appointed to the engineering department, electrical department, or as building inspectors, health officers, sanitary policemen or health department inspectors). Now only those persons appointed to any uniformed position in the police or fire departments, excluding chiefs, are covered by the civil service provisions. *But see* the civil service grandfathering provision for existing nonuniformed employees under new section 4402.1.
- Pages 525-526 Existing Section 4402. Appointment of Examining [Boards] **Board**. Now makes provisions for only one civil service board. This civil service board shall provide for and oversee the civil service examinations for appointments to and promotions for positions in the police or fire departments, excluding, however, chiefs as provided in section 4401. Deletes provisions for a board to examine health officers, sanitary policemen or health department inspectors and a board to examine applicants for appointment to positions in the engineering or electrical departments or to positions as building inspectors. Subdivided for clarity.
- Page 526 New Section 4402.1. **Existing Civil Service Positions**. This section provides a grandfather clause for existing nonuniformed civil service positions. Civil service employees develop “property rights” in their positions and this grandfathering is to prevent a negative impact on such rights as may have accrued to existing nonuniformed city civil service employees.
- Pages 526-527 Existing Section 4403. Terms; Filling of Vacancies; Compensation; Quorum. The amendments to this section clarify that civil service board members are appointed. Now references 53 Pa.C.S. § 1141 (relating to form of oaths of office) instead of referencing an oath of office prescribed by this act. Provides that the board shall, after organizing, elect a chairperson and a secretary.
- Pages 527-528 New Section 4403.1. **Alternate Board Members**. Provides for appointment of no more than three qualified electors of the city to serve as alternate members of the civil service board. Also provides for when and how the alternate members may be seated and the role of the alternate members. This language is based on sections 626 and 628 of the First Class Township Code.
- Page 528 New Section 4403.2. **Investigations and Subpoenas**. Authorizes the civil service board to make investigations regarding the administration and enforcement of its rules and regulations. The board is also authorized to issue subpoenas to require the attendance of witnesses and the production of records and papers relating to matters before the board. Subsection (a) is based on Section 1178 of the Borough Code and

Section 632 of the First Class Township Code. Subsection (b) is based on portions of Section 1179 of the Borough Code and Section 633 of the First Class Township Code.

- Pages 528-530 Existing Section 4404. Rules and Regulations; Examinations. Provides that the civil service board’s rules and regulations are subject to council’s approval. The rules and regulations shall not only be for the selection and appointment of qualified persons but also for the promotion of such persons. The adopted rules and regulations shall ascertain and determine “the knowledge, skills, aptitude, mental and physical abilities, experience, education, and character” of all applicants in relation to the respective positions. Lists what the rules and regulations may include. Subdivided for clarity.
- Pages 530-532 Existing Section 4404.1. Physical and Psychological Medical Examinations. This section was added by Act 77 of 2010, and provides for physical or psychological medical examinations for conditionally appointed applicants in an attempt to conform police (see Act 77 of 2010) and firefighter (see Act 76 of 2010) civil service provisions to federal and state antidiscrimination laws. Editorial amendment.
- Page 532 Old Section 4405. Grading for Discharged Servicemen. Deleted. The provisions of this section are now found in section 4405.1.
- Page 532-533 New Section 4405.1. **Veterans’ Preference**. Replaces old section 4405. References 51 Pa.C.S. Pt. V, Ch. 71 (relating to veterans’ preference). Now provides for a veteran’s preference of ten *points* (see 51 Pa.C.S. § 7103(a), applicable to not only Commonwealth civil service, but also to political subdivisions thereof) that is added *after* the veteran meets the qualifications for and conditions of the position including successful passage of an examination, rather than a veteran’s preference of 15 *per centum* added to the applicant’s grade if the applicant’s grade was passing. (The court in *Taxpayers of the City of Carbondale v. City of Carbondale*, 553 A.2d 119 (Pa.Cmwlth. 1989) held that 51 Pa.C.S. § 7103(b) violated the state constitution since it required a veteran’s examination be graded 15 per centum perfect *prior* to scoring his or her examination.)
- Now clarifies that if a veteran is on the list of three eligible applicants after receiving the additional ten points, the veteran shall receive preference in hiring over non-veterans on that list. *See Rasmussen v. Aspinwall*, 519 A.2d 1074 (Pa.Cmwlth. 1987).
- Pages 533-536 Existing Section 4406. Selection of Appointee from Certified List of Applicants. The enumerated list in this section relates to civil service selection, conditional appointments, and appointments and is to be incorporated by reference in the civil service board’s rules and regulations. The enumerated list, among other things, clarifies the types of examinations that may be used, including physical fitness or agility examinations that are to be job-related and consistent with business necessity and which are to be conducted on a pass-fail basis; discusses passing scores for written and oral examinations and eligibility lists; and provides that the certified eligibility list shall be a public record and shall be maintained for two years or until council certifies a new list, whichever occurs first. Editorial and conforming amendments.
- Pages 536-537 Existing Section 4406.1. Promotions. Deletes the provision that the civil service boards may recommend, without examination, those in the employ of a department for

promotion if the person is competent for the position. Now, similar to the First Class Township Code (Section 642) and the Borough Code (Section 1188), requires an examination and the certification of an eligibility list for promotions. City council shall make the appointment from the certified names. Preserves any power a city official may have under other state law to promote pursuant to that law. Also specifies that this section shall not apply to the mayor’s designation or appointment of a chief of the police or fire departments. Act 99 of 2011 is incorporated into the language of this section in regards to a mayor or other elected or appointed official of a city that has adopted an optional charter, optional plan or any other law authorized or permitting the mayor of other elected or appointed official to promote a candidate to do so pursuant to that law despite the language in section 4406.1 which provides that city council shall make an appointment from the names certified on the civil service eligibility list.

Pages 537-538 Existing Section 4407. Tenure; [Preference in Appointment to Discharged Serviceman;] Temporary Appointments. Deletes reference to a preference given to a veteran’s spouse. Deletes reference to an outdated phrase relating to persons retaining their positions without being required to pass an examination. Subdivided for clarity.

Pages 538-540 Existing Section 4408. Suspension, [and] Discharge **and Discipline**; Reduction of Employes; Appeals. Now provides for the discipline as well as the suspension and discharge of employes subject to civil service. Provides that an employe may request a hearing before city council for discipline more serious than a suspension for three days without pay. Previously, an employe could only request a hearing if suspended for a period of ten days, with or without pay.

Deletes reference to, if necessary for economic reasons to reduce the number of employes in a department that the reduction shall be according to seniority rights with the employes serving the shortest time to be removed first.

Now references 2 Pa.C.S. Ch. 7 Subch. B (relating to judicial review of local agency action) as regards appeals from the decision of council or the civil service board. Now gives a police officer or firefighter the option to be subject to suspension, discharge or discipline by the above cited appeal, or by proceeding in grievance arbitration. Subdivided for clarity.

Page 540 Existing Section 4409. [Secretaries of Boards] **Secretary**; Compensation. Now provides that the civil service board *shall*, as opposed to *may*, appoint a secretary and prescribe the secretary’s duties. “Shall” is added here to conform to section 4403 that has a shall provision regarding electing a member as secretary. Now provides that the board’s stationery and supplies shall be supplied by the city, rather than as council may direct by ordinance.

Pages 540 Existing Section 4410. Review of Eligibility Lists. Editorial amendments.

Page 541 New Section 4401-A. **Appropriations to Post of Veterans**. This section is based on old sections 2403(34) and 2403(40). Deletes reference to specific veterans organizations that council may appropriate sums to, and instead, provides generally that council may make an annual appropriation to veterans’ organizations whether

denominated a camp, post, detachment, association, chapter or otherwise, or to an organization of American Gold Star Mothers. Also provides that council may make an appropriation for expenses such as rent payments for such organizations for their regular meetings. Deletes the \$300.00 cap on the appropriation.

Page 541 New Section 4402-A. **Rooms for Meetings of Veterans.** This section is based on old section 2403(41). In regard to council providing rooms in a public building for veterans’ monthly meetings, deletes reference to veterans of specific wars and children of veterans and now provides generally that council may provides rooms in a public building for periodic meetings of veterans of the United States Armed Services.

Pages 441-542 New Section 4411-A. **Support of Pennsylvania National Guard Units.** This section is based on old section 2403(35). Deletes the appropriation caps of \$750.00 and \$1,500.00 for the support and maintenance of various units of the Pennsylvania National Guard. Editorial amendments.

Page 542 New Section 4412-A. **Appropriation of Money, Et Cetera, to Assist in Erection of Armories.** This section is based on old section 2403(36). Editorial amendments.

Pages 542 New Section 4413-A. **Eminent Domain for National Guard Purposes.** This section is based on old section 2403(37). Editorial amendments.

Page 542-543 New Section 4414-A. **Lands for Armory Purposes.** This section is based on old section 2403(38). References section 206 of the Eminent Domain Code (relating to extraterritorial takings). Editorial amendments.

Page 543 New Section 4421-A. **Purchase of Burial Grounds for Deceased Service Persons.** This section is based on old section 2403(39). Editorial amendments.

Pages 543 New Section 4422-A. **Care of Memorials.** This section is based on old section 2403(42). Editorial amendments.

Page 544 New Section 4423-A. **Memorial Trees.** This section is based on old section 3820.

Page 544 New Section 4424-A. **Penalty for Injury to Memorial Trees.** This section is based on old section 3821. Editorial amendment.

Pages 544-546 Old Article XLV (relating to charities and welfare) is now deleted in its entirety.

Old Section 4501. Creation of Department of Charity. Deleted. The power to create a city bureau or agency for charitable purposes is now in section 2447 (relating to charitable purposes).

Old Section 4502. Power to Levy Special Tax. Deleted. None of Pennsylvania’s 53 third class cities, including those which operate under optional charters, home rule charters, or optional plans, use this special purpose tax for support of a Bureau of Charity.

Old Section 4503. Hospitals; Appropriations; Free Treatment for Poor. Deleted.

Old Section 4504. Appointment of Trustees for Gifts; powers. Deleted.

Old Section 4505. Appropriations or Other Assistance for Hospitals. Deleted.

- Pages 546-547 New Section 4501-A. **Authority to Assess.** Authorizes cities to assess all or any portion of the costs of a public improvement, including related administrative fees, against the benefited properties. Alternatively, authorizes cities to pay for the cost of public improvements, in whole or in part, from either general city funds or from a special city fund dedicated to that purpose. Clarifies that if a city incurs indebtedness pursuant to 53 Pa.C.S. Pt. VII Subpt. B for the purpose of funding public improvements that any assessments paid must be applied to pay the debt service. Provides examples of types of public improvements but clarifies that public improvements are not limited to those examples.
- Pages 547-548 New Section 4502-A. **Method of Assessment.** Provides that council shall by ordinance establish the method and procedure by which assessments shall be made, so long as the assessment results in fairly allocating all or a portion of the costs and expenses of the public improvement among all properties benefited in reasonable proportion to the benefits conferred upon each property. Such methods may include an equal assessment per front foot, or by lot, parcel, dwelling unit, or square foot, or by an assessment made by viewers. Historically, the front foot method was a convenient way of assessing benefits for benefits conferred.
- Page 548-549 New Section 4503-A. **Notice of Assessment.** Provides for the methods of personal notice of the amount assessed to the owner of each property assessed and shall give the owner 30 days to appeal the assessment.
- Page 549 New Section 4504-A. **Appeals to Court.** Provides that appeals shall be made within 30 days after receipt of the notice of assessment and shall be made to the court of common pleas in the county where the assessed property is located. Courts shall be restricted to determining whether the property assessed received any special benefits or whether the assessment made exceeds the special benefits received except in cases of fraud, mistake or illegality.
- Pages 549-550 New Section 4505-A. **Benefits and Damages.** Provides for the awarding of damages or assessment of benefits that result from a public improvement or nothing if both are equal.
- Page 550 New Section 4506-A. **Return by City of Assessments Paid on Property Unlawfully Assessed.** Provides for a city’s return of payments made on an unlawful assessment either voluntarily within two years of receiving payment of an assessment or under certain conditions, by court order. Provides for interest on repayments to owners.
- Pages 550-551 New Section 4507-A. **Payment of Assessments in Installments.** Permits an ordinance that assesses the cost of a public improvement on the benefited properties to authorize installment payments. The ordinance shall set the length of time for repayment, the frequency of payments and the interest rate pursuant to certain guidelines. Requires written installment agreements, provides for collection when installments remain unpaid for sixty days after the same is due and payable, and provides for early repayment.

- Page 551-552 New Section 4508-A. **Collection of Assessments.** Not only provides for collection of assessments by the city treasurer or other named official, but further provides that assessments that remain unpaid for 60 days after personal notice was given may be collected either pursuant to the Municipal Claim and Tax Lien Law or by action of assumpsit against the property owner unless an installment agreement has been entered into. Provides for interest, for all of a property owner’s lots to be embraced in one claim and for the place of payment of assessments.
- Page 552-553 Existing Section 4601. Collection of Municipal Claims by Suit. Clarifies that a city may file liens not only for the collection of municipal claims for the completion of improvements, but also for water rates, sewer rates and the removal of nuisances. Also clarifies that a city may file an action in assumpsit against the person who was the owner at the time the water or sewer rates or the cost of the removal of a nuisance first became payable and provided that the action is filed within six years after the rates or the cost first became payable. These modifications are intended to centralize and conform powers of third class cities to those enjoyed by other municipalities. *See* Act 229 of 1929. Editorial amendments.
- Pages 553-554 Existing Section 4602. Compromise of Municipal Claims[; Court Approval]. Old sections 4603 (relating to satisfaction) and 4604 (relating to certain claims excluded) are now part of section 4602 as subsections. Deletes the requirement that court approval is required for compromise of municipal of claims that have existed for ten or more years. Editorial amendments.
- Pages 555-560 Existing Section 4701. Repeals and Saving Clause. Subsection (b) repeats the acts and parts of acts of Assembly that were previously repealed. The rule of statutory construction, in 1 Pa.C.S. § 1977, provides: “The repeal of a repealing statute shall not be construed to revive the statute originally repealed.” However, this subsection could be retained and, in fact, in the revision of the Second Class Township Code, the existing repealer section was repeated in the reenactment. Act 272 of 1933 (relating to civil service for firefighters) is added to subsection (b) as repealed since provisions in this law have been incorporated into Article XLIV (relating to civil service). Those laws referenced in subsection (d) that relate to annexation are deleted, since annexation is now solely covered by the initiative and referendum procedure established in the state constitution. New subsection (e) provides that nothing in the act shall be construed to repeal any provision in or the act of the Right-to-Know Law; any provision in 45 Pa.C.S. (relating to legal notice); or any provision in 65 Pa.C.S. (relating to public officers). Provides updated citations and current names for certain boards or departments. Editorial amendments. Subdivided for clarity.