

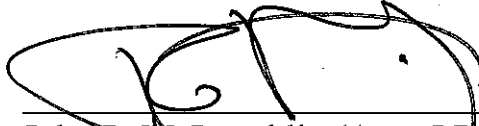
distressed municipality. 53 P.S. §11701.703(e). The Receiver submits that the foregoing plan amendment approval scope of review is satisfied and that the proposed Plan amendments should be confirmed.

The need for this Plan Modification is outlined below and more fully in the Plan modification itself. The City of Chester (the “City”) on the verge of bankruptcy and City officials are continuing to obstruct the Receiver almost two-and-a-half years into receivership. The Receiver must seek this Plan modification in order to be able to fulfill his responsibility of ensuring that Chester residents are provided with vital and necessary services.

Due to the urgency of this matter and for ease of review, rather than file an entirely new complete Plan document, the Receiver has filed only the new modified sections of the existing Amended Recovery Plan. Initiatives in the existing Amended Recovery Plan that are not specifically modified will remain as

is, but the Receiver will file a new completely modified Plan document if or when ordered by the Court.

Respectfully submitted,



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Dated: November 8, 2022

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Neal R. Weaver, in his capacity as
Acting Secretary of the Department of
Community and Economic
Development,
Petitioner,

No. 336 MD 2020

v.

City of Chester,
Respondent.

**Memorandum of Law Regarding
the Receiver for the City of Chester Amended Recovery Plan Modification**

The Receiver for the City of Chester (the “Receiver”) files this Memorandum of Law to provide the legal basis for his requested modification to the existing Amended Recovery Plan of Fiscal Recovery (the “Plan Modification”).¹ The need for this Plan Modification is outlined below and more fully in the Plan modification itself but with the City of Chester (the “City”) on the verge of bankruptcy and City officials continuing to obstruct the Receiver almost two-and-a-half years into receivership, the Receiver must take this action to fulfill his responsibility of ensuring that Chester residents are provided with vital and necessary services.

¹ Due to the urgency of this matter and for ease of review, rather than file an entirely new complete Plan document, the Receiver has filed only the new modified sections of the existing Amended Recovery Plan. Initiatives in the existing Plan that are not specifically modified will remain as is, but the Receiver will file a new completely modified Plan document if or when ordered by the Court.

Through damaging decisions made by City elected officials, their lack of communication with the Receiver following those actions, their refusal to initiate or cooperate with investigations into these actions, and their interference with City operations and the Receiver's duties, City elected officials continue the long pattern of disregarding the Receiver's mission and duties and now ignoring this Court's orders. Recent incidents, which are more fully described in the Plan Modification document, range from unauthorized payments to an incarcerated employee who should have been terminated to the wire transfer of more than \$400,000 to a fraudulent City vendor which was compounded by the City's failure to inform the Receiver of the error for approximately three (3) months. Those damaging decisions, the failure to communicate with the Receiver, and interference by City elected officials with the Receiver's and the Chief Operating Officer's duties make the Receiver's ability to complete his mission virtually impossible without the initiatives in the Plan Modification. The Receiver has and will provide greater factual detail on the issues and legal reasoning for his requested Plan Modification initiatives below.

In the section of the Plan Modification relevant to this memorandum of law, the Receiver seeks to change the administrative duties of City elected officials as they relate to day-to-day operational management so that the Receiver can ensure that the City provides vital and necessary services to its residents. These initiatives

in the proposed Plan Modification are authorized by Act 47 and consistent with the City's form of government. They are also completely authorized under the City's Charter. The decision of this Court in this matter is critical to confirm the Receiver's power and the effectiveness of Chapter 7 of Act 47 as it will define the scope of the Receiver's abilities to fulfill his duties under Act 47 when confronted with City elected officials who either refuse to cooperate with or actively undermine the Receiver and his team.

Factual Overview of the Reasons for the Modified Plan

The facts, issues and evidence underlying and that highlight the need for this Plan Modification are stated in the attached document that details the Receiver's Plan Modification proposal. Those facts are incorporated herein by reference as if fully stated herein.

The City of Chester is at a critical point in its history. For more than 27 years, the City has been subject to some sort of fiscal oversight. The City's finances and operations cannot continue on their current path or under the current operational structure. The Receiver has attempted to address this situation in the past, only to meet opposition by the City based on erroneous legal arguments that do not serve the best interests of the City. As established by the latest incidents, the management of the City, by City officials is getting worse, not better.

The Receiver must be empowered by this Court to be able take the necessary action to allow the City to succeed. The Receiver files this Plan Modification to modify current initiatives and to add new initiatives in order to allow the Receiver to ensure that the City's departments and overall operations are managed competently and cohesively toward the common goal of making the City a viable fiscal and operational entity that provides all vital and necessary services as defined by Act 47 (and more).

The effect of the new initiatives is to require the Chief Operations Officer (COO) to report directly to the Receiver and to change the administrative duties of City elected officials with respect to managing day-to-day operations of the City. The Receiver also seeks to change the duties of the City's COO so that the COO will have the powers of the City's Chief of Staff position, as those powers and duties are set forth in the City's current Administrative Code.

The Receiver highlights the foregoing initiatives because they not only are the most critical, but also if past is prologue, the City will claim that those initiatives constitute "a change in the form of government" which the City erroneously contends is prohibited by Act 47.

Any such claim by the City is meritless and based on, at best, a misreading of Act 47 and the Pennsylvania Constitution. The Receivership provisions of Act 47 were intended to allow the Receiver to have broad authority to take the action that

is necessary to avoid further fiscal decay. As the past has shown, the current situation of elected officials effectively serving as autonomous department heads is the single greatest operational obstacle to the City's ability to provide an adequate level of vital and necessary services. City departments currently operate with little to no accountability and with department heads who are not qualified to run them.

Managing the operations of a City, especially one that is on the brink of bankruptcy, requires expertise and a special skill set. If individuals serving as department heads do not possess such a skill set (which is currently the case) and/or simply disregard City policies (which is also currently the case), no initiative in any recovery plan will be able to ensure the continued provision of vital and necessary services *unless* the City's departments are managed by qualified people who have the necessary skill set.

In addition, the foregoing initiatives are necessary from a factual and practical perspective. The history of the Receiver's engagement with the City highlights that the Receiver has tried multiple times unsuccessfully to work with the City elected officials. This Court has also provided the City's elected officials with enough leeway and chances, but to no avail. If the initiatives in the Plan Modification are not approved, the Receiver will be handcuffed in his work and will not be able to ensure the provision of vital and necessary services to the detriment of City residents and contrary to the intent of Act 47.

Legal Discussion

The receivership provisions of Act 47 and the structure of Act 47 overall establish that the Receiver has very broad powers to address a municipality's insolvency and to ensure its "continued provision of vital and necessary services."² 53 Pa. Stat. Ann. § 11701.703(b)(1)(i). Indeed, the continuation of vital and necessary services is such a priority that Act 47 explicitly mandates the Receiver's Fiscal Recovery Plan "shall" provide for the continuation of such services.

The General Assembly's decision to not limit the Receiver's broad powers to a purely financial role makes sense as finances and operations are inextricably intertwined in a municipality. A municipality which is in financial distress, particularly one that is on the verge of bankruptcy, needs to manage its operations in a way that does more with less. Furthermore, providing vital and necessary

² Section 703(b)(1)(i). Act 47 defines "vital and necessary services" as: "[b]asic and fundamental municipal services, including any of the following:

- (1) Police and fire services.
- (2) Ambulance and rescue services.
- (3) Water supply and distribution.
- (4) Wastewater services.
- (5) Refuse collection and disposal.
- (6) Snow removal.
- (7) Payroll and pension obligations.
- (8) Fulfillment of payment of debt obligations or any other financial obligations."

53 Pa. Stat. Ann. § 11701.703(b)(1)(i).

services is not just a function of money.³ It requires ensuring that policies, personnel and technology are competent to address the tasks.

In Act 47, the General Assembly recognized the need to empower the Receiver to require the municipality to “take action necessary to implement the recovery plan.” 53 P.S. § 11701.706(a)(1). Indeed, in passing Act 47, the General Assembly went so far as to impose an express duty on elected officials, regardless of what is in the applicable City Charter or governing document or the form of government, to implement the provisions of an approved plan and suspending the authority of elected officials if their powers interfered with the receiver’s powers or the goals of the confirmed recovery plan.⁴ The General Assembly did so with clear and unequivocal language in § 704(a) of Act 47, which provides:

The confirmation of the recovery plan and any modification to the receiver’s plan under section 703 *shall have the effect of:*

- (1) imposing on the elected and appointed officials of the distressed municipality or an authority a mandatory duty to undertake the acts set forth in the recovery plan;

³ Notably, the duty imposed on the Receiver in Section 703(b)(i) does not limit the requirement to “funding” vital and necessary services but rather states “provision” of vital and necessary services.

⁴ Under Section 703(d) of Act 47, the Receiver’s modified plan must be confirmed *unless* the Court finds “clear and convincing evidence that the plan is arbitrary, capricious or wholly inadequate to alleviate the fiscal emergency in the distressed municipality.” The Receiver has drafted this plan based on evidence and action and inaction by City officials during the past 2.5 years and the Receiver submits that not only is there no “clear and convincing evidence that the plan is arbitrary, capricious or wholly inadequate to alleviate the fiscal emergency in the distressed municipality” but that the evidence establishes that the new initiatives are necessary for the Receiver to be successful.

- (2) *suspending the authority of the elected and appointed officials of the distressed municipality or an authority to exercise power on behalf of the distressed municipality or authority pursuant to law, charter, ordinance, rule or regulation to the extent that the power would interfere with the powers granted to the receiver or the goals of the recovery plan; and*
- (3) superseding the emergency action plan developed by the secretary under section 602.

53 P.S. § 11701.704 (a) (emphasis added).

Based on section 704 of Act 47 and this Court's previous orders, once the Receiver's proposed initiatives are approved, those initiatives expand the duties of the elected officials of the City to undertake acts set forth in the Plan and restricts their power when there is a conflict between the Plan and the Home Rule Charter or other law. *See* 53 P.S. § 11701.704 (a); Order dated December 23, 2020, Judge Andrew Crompton, at 2; Order dated March 14, 2022, Judge Ellen Ceisler, at 10. It would make little sense for the General Assembly to task a Receiver with ensuring that a municipality provide vital and necessary services but prohibit the receiver from actually effectuating that result due to uncooperative elected officials. That is precisely why the General Assembly went so far as to impose the affirmative duty on elected officials of the distressed municipality to implement the provisions the Plan and expressly suspended the authority of elected officials if their powers prior to the Plan's implementation interfered with the receiver's powers or the goals of the recovery plan. 53 P.S. § 11701.704(a).

By imposing that affirmative duty on elected officials and the restrictions on their powers (even those provided in the City's Charter) during the period of receivership, the General Assembly realized that such a change could lead to the argument that Recovery Plan mandates change the City's form of government which would be unconstitutional. To foreclose that argument, which if accepted would gut the Receiver's ability to make the very significant changes he needs to make, the General Assembly included an explicit provision in Section 704(b) that affirmatively and unequivocally declares such changes are not a change in the form of government. Otherwise, one could argue that any Recovery Plan restriction on a City elected official's powers as set forth in the City's Charter is a change in the form of government.

As in the past, it is expected that the City will oppose the Receiver's modified initiatives by making the same argument that the General Assembly anticipated and foreclosed which is that the Receiver's initiatives change the City's form of government and are prohibited by section 704(b) of Act 47 and the Pennsylvania Constitution. The City's argument is erroneous. The argument completely misreads and misinterprets Act 47 and must be rejected if the Receiver has any chance to ensure that the City can provide vital and necessary services to its residents.

A. The New Initiatives in the Plan Modification do not Change the City's Form of Government.

Before addressing the City's previous erroneous interpretation of Act 47, it is important to understand that the Receiver's proposed initiatives do not in any way change the City's "form of government." Rather, implementing these initiatives, which address administrative organization and duties, are permitted under the City's existing Home Rule Charter and Administrative Code.⁵ The City's Charter is attached as Tab "A" and the City's Administrative Code is attached as Tab "B".

1. Powers of the Mayor and City Council in the City's Home Rule Charter

The City is a City of the Third Class which has been operating under a Home Rule Charter since 1980. The City's government is organized with an elected Mayor and a five-member City Council, one of whom is the Mayor. [City Charter, at Section 201.] The Mayor is a member of Council with full voting rights. [City Charter, at Section 201.] Council members are elected from the city at large

⁵ To the extent the Court feels it has addressed these issues in the March 2022 Mandamus action, the Receiver respectfully requests that the Court reconsider its position because the brief discussion of this issue in the Court's previous order, dated March 22, 2022, did not fully evaluate this issue. As a further distinction, the mandamus matter involved the Receiver's request to enforce an order. In this proceeding, the Receiver is not seeking the enforcement of an order, but rather the confirmation of initiatives in a Plan Modification that directly deal with changing the administrative duties of City elected officials. Those City elected officials will remain in office, but the administrative duties with respect to managing day-to-day City operations (as opposed to making legislation and policy) will be changed.

to serve for four-year staggered terms. The Council forms the legislative branch of the City government, and the Mayor has no right to veto the Council's legislation.

Council's legislative powers are defined in the City Charter. [City Charter, at Section 215.] Those powers include adopting a budget and making appropriations, levying taxes, adopting and modifying the City's Administrative Code to "create, alter, combine and/or abolish municipal departments, bureaus, boards, commissions, to prescribe procedures consistent with applicable law, to adopt ordinances and resolutions and to make provision for any matter not otherwise provided by law or the City's Charter. [City Charter, at Section 215.]

The Charter provides that the mayor is the chief executive of the City; however, it provides little additional specific guidance as to what powers the mayor actually has by virtue of that position.⁶ [City Charter, at Section 301.] The Charter defines the duties of the mayor as a member of City Council having power conferred by the City's Administrative Code and Charter. The Charter also provides that the mayor supervises "City Officers" and "examine[s] the grounds of

⁶ The City's Administrative Code appears to grant a different position powers similar to a chief executive officer. Section 112.06 of the City's Administrative Code establishes the position of "Chief of Staff" whose duties are very similar to the duties and powers of a City Manager including being responsible for "the proper and efficient administration of the affairs of the City," "supervis[ing] and be[ing] responsible for the activities of all City Departments," "see[ing] that all laws and ordinances are duly enforced," and "establish[ing] lines of administrative direction and control for all City departments and agencies, and provid[ing] personal direction of all operating personnel through the establishment of administrative lines of procedure whereby he shall recommend the appointment or removal of all City-operating employees, not subject to civil service."

all reasonable complaints against any of them, and cause of their violations or neglect of duty to be promptly punished or reported to the Council for correction.”⁷

[City Charter, at Section 303.]

2. *The City’s Form of Government is NOT the Commission Form of Government*

Although City elected officials often characterize Chester’s form of government as the “commission” form of government, examining the City’s Home Rule Charter clearly shows that this is not the case. The governing structure set forth in the City’s Home Rule Charter makes no mention of the “commission form of government” or any other form of government other than that described above.

The “commission” form of government, which is defined by the Third Class City Code, states that City Council shall appoint members of Council as department directors. 11 Pa.C.S.A. § 11103(b). The commission form of government, therefore, **mandates** that council members serve as department directors.

⁷ The City’s Administrative Code appears to also provide a similar power to the Chief of Staff position. Section 112.06(n) of the City’s Administrative Codes provides, “All complaints regarding services or personnel of the City shall be referred to the office of the Chief of Staff. He, or an officer designated by him, shall investigate and dispose of such complaints, and Chief of Staff shall report thereon to the City Council.”

Unlike the commission form of government which mandates that council members serve as department directors, the City's Home Rule Charter provides that council members **may** serve as **department heads**. Chester's Home Rule Charter is therefore permissive, not mandatory.⁸ Section 11.6-601 states "The Council **may**, by ordinance, ... designate department heads from City Council." In addition, §11.6-603 provides at "the annual organizational meeting of Council, the Mayor **may** assign to each Council Member a responsibility as department head of one or more departments or agencies of the city government."⁹ (emphasis added). A "commission" form of government is the default government structure for Third Class cities provided under the Third Class City Code. 11 Pa.C.S.A. § 11001-11209. Such cities typically have not adopted an optional form of government such as a home rule charter, as Chester, or other optional form of government provided by law under the Home Rule Charter and Optional Plans Law. 53 Pa. Stat. and Cons. Stat. Ann. § 2901 (West). While a city that has adopted a Home Rule Charter can create a commission form of government, it generally defeats the purpose of becoming home rule in the first place and is typically not done. As the

⁸ In addition, Chester's Home Rule Charter also uses the term "department head" rather than "department director." Chester's Administrative Code defines the duties of "department directors" but it does not define the duties of "department heads."

⁹ The Receiver also notes the obvious conflict between sections 11.601 and 11.603 of the Charter which appear to provide both the City Council and the Mayor the permissive, not mandatory, ability to designate department heads from City Council. There is no language in the Charter or the Administrative Code that provides for resolution in the event City Council and the Mayor cannot agree.

plain language of the City's Charter demonstrates, this was certainly not done in the City of Chester.

3. The City's Form of Government is Home Rule Charter

The City's form of government is not a "commission form of government" as the City argues, but a "home rule charter" form of government as defined in the City's Home Rule Charter. In this regard, the Home Rule Charter and Optional Plans law ("HRCL") effectively defines that the "form of government" a city or municipality selects under that law is the City's "*form of government.*" 53 Pa.C.S.A. §§2911, 2918, 2925-2926. The HRCL provides that a government study commission be created prior to the adoption of a charter form of government. Under the HRCL, the "government study commission shall study the *form of government* of the municipality to compare it with other available forms under the laws of this Commonwealth and determine whether or not in its judgment the government could be strengthened or made more clearly responsible or accountable to the people or whether its operation could become more economical or efficient under a changed *form of government*. In Chester's case, the "form of government" the citizens chose was and still is a Home Rule Charter form of government. 53 Pa. Stat. and Cons. Stat. Ann. § 2918.

4. *The Receiver's Proposed Initiatives Do Not Change the City's Form of Government and are Permitted Under the City's Charter and Current Administrative Code*

Regardless of the name given to the City's governmental structure, the initiatives in the Receiver's proposed modified Plan do nothing to change the City of Chester's form of government in any way. The City is still operating under the same Charter with a mayor and five member council who have the same executive and legislative powers respectively.

In this regard, the Pennsylvania Supreme Court's decision in *Harrisburg School District v. Zogby*, 828 A.2d 1079 (Pa. 2003) is instructive. In *Zogby*, the Pennsylvania Supreme Court addressed whether the Educational Empowerment Act (EEA), which allowed mayors of certain medium-sized cities to assume control of failing school districts, changed Harrisburg's form of government in violation of the Commonwealth of Pennsylvania's Constitution and the HRCL.

The Court adopted Webster Collegiate Dictionary's 'definition of "form" as "the organization, or essential character of something, as opposed to its matter" and determined that the EEA's addition of such duties was not inconsistent with the basic structure, and powers of the office of mayor or the other branches of city government, and thus, did not alter its "form." *Zogby* at 1092. The Supreme Court explained in *Zogby* that its reading of Webster's definition of "form" was consistent with the provisions of the Charter Law itself and noted that those basic

structures tend to focus on such things as the size of the city council, the manner in which city officials are elected, identifying the city's elected officials (i.e., the mayor, the city council the treasurer, and the controller), the length of terms of office, the size of the city council, and the separation of powers between branches of government, all of which remained intact and were unaffected by the additional grant of power authorized to the mayor per the EEA. Thus, the Court determined the form of government was not changed.

The same is true in this case. The Receiver's proposed modified Plan initiatives do not change the City of Chester's form of government in any way. The City is still a third class city operating under the same Charter with a mayor and five member council as stated in the City's Charter. The Mayor and Council, the number of council members, how they are elected, and their term in office all remain intact and unchanged.

Through his initiatives, the Receiver is not seeking changes to the "form of government," but rather to the administrative organization and assignment of duties of Council members *if* they are assigned to be "department heads." The Administrative Code is not the City's form of government, rather it is the administrative organization of city government, and its establishment is provided in section 11.6-602 of the City's Home Rule Charter which states:

The Council may, **by ordinance**, adopt an Administrative Code, which shall provide for the

administrative organization of the city government, the assignment of duties and responsibilities to officers and employees, and procedural requirements set forth in the general laws or in the Charter. All changes in organization and procedures set forth in the Administrative Code shall be effected by amendment to the Administrative Code in the same manner as other ordinances are enacted and amended. [City Charter §6-602.] (emphasis added).

The Administrative Code, thus, is passed by ordinance. [City Charter §6-602.] The Charter, which would contain the form of government, must be passed and amended via a referendum of the voters. 53 Pa.C.S.A. § 2925. To the extent that the Receiver's initiatives change anything, they are changing the administrative organization of city government and the assignment of duties and responsibilities of officers and employees which, by the City's Charter, are clearly established by ordinance, not via referendum after study by a local government commission.¹⁰

The City is operating under the same Charter with a mayor and five member council. It will continue to do so after the Receiver's new initiatives are adopted. Even if the Court were inclined to further consider the City's "change in form of government" argument based on the City's erroneous contention that it is a "commission" form of government, it is important to note that the City Charter does not mandate that any City elected official be a department head.

¹⁰ See also 11.6-601 which states "The Council may, **by ordinance**, create alter, or abolish and prescribe the functions of city departments, agencies, and offices, not inconsistent with the general laws or this Charter, and designate department heads from City Council." (emphasis added).

The “City Administration” section of the City’s Charter—not the section of the Charter that defines the make-up, authority and term of City Council or the Mayor¹¹--provides that the Mayor *has the option* to, that is, “*may* assign to each Council Member *a responsibility* as department head of one or more departments or agencies of city government.” *See* City Charter, Section 603 (emphasis added). Such an assignment is not mandatory as it is in the commission form of government, and, in fact, the Charter obviously envisions such responsibilities not being assigned by the Mayor at all because § 601 of the City Charter provides that the “*Council may*, ...designate department heads from City Council.”¹² [*See* City Charter, Section 601.]

In this proceeding, the Receiver is not seeking to remove any council member from council. Those Council members will remain in office, but their administrative duties with respect to day-to-day operations and managing the City (as opposed to making legislation and policy) will be changed. Section 602 of the Charter further provides that “Council *may*, by ordinance, adopt an administrative Code which shall provide for the administrative organization of the City

¹¹ The fact that this discretionary division of duties and responsibility appears in the City Administration section of the Charter is telling. If the duties of a Council member were part of the City’s “form of government,” such duties would have been specified in the section of the Charter that defines the form of government, Article II and III of the Charter, not the City Administration section of the Charter, Article VI.

¹² Even if the Court found that the Mayor could appoint Council Members as department heads, the administrative duties of those individuals is still found in the City’s Administrative Code and thus is not part of its form of government.

government, the assignment of duties and responsibilities to officers and employees" See City Charter, Section 602. Since the City Charter does not specify or mandate that Council members exercise the administrative duties or responsibilities of a department head, there is no law supporting such a conclusion and no factual or logical way to interpret the City of Chester's "form of government" as encompassing such an arrangement.

The City's Administrative Code already envisions a similar arrangement to the one that the Receiver is seeking. Article 112 of the City's Administrative Code identifies a Chief of Staff position, which is currently unfilled. [City Administrative Code, Section 112.] The powers and duties of the Chief of Staff position listed in the Administrative Code are broad and deal with respect to the general management of the City, with oversight over the City's operations. [Administrative Code Section 112.06.] Those powers include being responsible for "the proper and efficient administration of the affairs of the City," "supervis[ing] and be[ing] responsible for the activities of all City Departments," "see[ing] that all laws and ordinances are duly enforced," and "establish[ing] lines of administrative direction and control for all City departments and agencies, and provid[ing] personal direction of all operating personnel through the establishment of administrative lines of procedure whereby he shall recommend the appointment or removal of all City-operating employees, not subject to civil service." The

Receiver includes an initiative to have the COO assume the powers of the Chief of Staff or in the alternative the ability for the Receiver to appoint the COO as the Chief of Staff under the same terms and conditions of his employment. This is precisely the purpose of the Receiver's proposed initiatives.¹³

B. The General Assembly Explicitly Contemplated and Foreclosed the City's Likely Argument that the Receiver's Initiatives are an Unconstitutional Change to the City's Form of Government

A repeated refrain by the City in response to many of the Receiver's most needed and important actions is that they (a) "change the City's form of government" which is (b) not permitted by Act 47. Both assertions in that argument are erroneous. The Receiver's proposed new initiatives do not impact the City's form of government in any way. Second, even if they did, Act 47 does not prohibit such an initiative by the Receiver; in fact, it anticipates and condones such an initiative. The City's constant refrain in this regard relies upon a misreading and misinterpretation of Section 704(b)(1) of Act 47 and the Pennsylvania Constitution.

Such an argument is a red-herring argument purportedly based on two separate legal provisions that, in reality, are intended to be read jointly. If one reads these two provisions as the General Assembly intended, the drafting of Act 47

¹³ It is noteworthy that the duties and powers of the Chief of Staff position in section 112.06 of the City's Administrative Code are also very similar to those of the Manager in the Council-Manager Optional Form of government under the HRCL. 53 Pa.C.S.A. § 3062.

reflects a well-designed and sophisticated model of legislative draftsmanship which fits neatly into an exception in a Pennsylvania Constitutional provision and is artfully designed to achieve a very important purpose in a critical piece of legislation, Act 47.

First, the misguided argument relies upon a portion of Article III, § 2, which provides:

Municipalities shall have the right and power to frame and adopt home rule charters. Adoption, amendment or repeal of a home rule charter shall be by referendum. The General Assembly shall provide the procedure by which a home rule charter may be framed and its adoption, amendment or repeal presented to the electors. If the General Assembly does not so provide, a home rule charter or a procedure for framing and presenting a home rule charter may be presented to the electors by initiative or by the governing body of the municipality. ***A municipality which has a home rule charter may exercise any power or perform any function not denied by this Constitution, by its home rule charter or by the General Assembly at any time.***

Pa. Const. art. IX, § 2 (emphasis added). Second, the misguided argument also relies upon Section 704(b)(1) of Act 47, which provides:

Form of government.--Confirmation of the recovery plan and any modification to the plan under section 703 shall not be *construed to*:

- (1) *change the form of government* of the distressed municipality or an authority; or
- (2) *except as set forth in subsection (a)*, affect powers and duties of elected and appointed officials of the distressed municipality or an authority.

53 P.S. § 11701.704(b) (emphasis added).¹⁴

Neither of the foregoing provisions prevent the Court from approving the Receiver's proposed initiatives in this matter. Any argument to the contrary is based on a misreading of the Pennsylvania Constitution and the purpose of § 11701.704(b) of Act 47.¹⁵ Contrary to the City's anticipated argument, the two

¹⁴ Section 704(a) of Act 47 is quoted and discussed above. That section provides that once the Receiver's Plan initiatives are approved, those initiatives expand the powers and duties of the elected officials of the City to undertake acts set forth in the Plan and restricts their power when there is a conflict between the Plan and the Home Rule Charter or other law. *See* 53 P.S. § 11701.704 (a); Order dated December 23, 2020, Judge Andrew Crompton, at 2; Order dated March 14, 2022, Judge Ellen Ceisler, at 10.

¹⁵The City's argument is counter to and ignores "one of the most basic precepts of governmental structure in this Commonwealth, *i.e.*, that "local governments are creatures of the legislature from which they get their existence." ROBERT E. WOODSIDE, *Pennsylvania Constitutional Law* 507 (1985). The subordinate role of municipalities within Pennsylvania's system of governance has been explained by this court and the Pennsylvania Supreme Court as follows:

[I]t is fundamental that municipal corporations are creatures of the State and that the authority of the Legislature over their powers is supreme. Municipal corporations have no inherent powers and may do only those things which the Legislature has expressly or by necessary implication placed within their power to do.

Com., Off. of Atty. Gen. ex rel. Corbett v. E. Brunswick Twp., 956 A.2d 1100, 1107 (Pa. Commw. Ct. 2008) (quoting *Denbow v. Borough of Leetsdale*, 556 Pa. 567, 576, 729 A.2d 1113, 1118 (1999) (citations and quotation omitted). Under the Pennsylvania constitution, local government and its powers begins and ends with enabling legislation enacted by the General Assembly. Article IX, Section 1 states:

The General Assembly shall provide by general law for local government within the Commonwealth. Such general law shall be uniform as to all classes of local government regarding procedural matters.

PA. CONST. ART. IX,, § 1. *See also Com., Off. of Atty. Gen. ex rel. Corbett v. E. Brunswick Twp.*, 956 A.2d 1100, 1107 (Pa. Commw. Ct. 2008); *City of Philadelphia v. Southeastern Pennsylvania Transportation Authority*, 1 Pa.Cmwlth. 101, 114, 271 A.2d 504, 510 (1970), *aff'd* 441 Pa. 518, 272 A.2d 921 (1971) (quoting *White Oak Borough Authority Appeal*, 372 Pa. 424, 427, 93 A.2d 437, 438 (1953)) ("neither authorities nor municipalities are sovereign; they have no original or inherent or fundamental powers of sovereignty or of legislation; they have only the power and authority granted them by enabling legislation.") Thus, having created and authorized the City's powers under the law, the General Assembly has also clearly outlined the circumstances under which those powers are limited under Act 47. Thus, since the General Assembly created and authorized the City's powers under the law, the General

provisions clarify and support the legal basis for this Court to approve the Receiver's new Plan initiatives.

Article IX, Section 2 of the Pennsylvania Constitution provides home rule municipalities with the right to broad self-government, but that same provision has a built-in exception applicable to powers "denied by the General Assembly." *See* Pennsylvania Constitution, Article IX, Section 2 (quoted and emphasized above). Under Article IX, Section 2 of the Pennsylvania Constitution, if the General Assembly denied a municipality the power to take any action, the municipality has no authority to take the prohibited action.

As noted above, Act 47 provides the Receiver with broad powers and conversely limits the powers of elected officials with respect to any Court-approved provision of the Recovery Plan. Act 47 contains clear and very powerful language that expressly "denies" City officials from taking any action that is in any way contrary to a confirmed Recovery Plan and requires them to implement the Plan.

Through Chapter 7 of Act 47, specifically § 11701.704(a) of Act 47, the General Assembly utilized the exception language in the last line of Article III, §

Assembly has also clearly and lawfully limited those powers for municipalities and cities, like Chester, operating the Receivership provisions of Act 47.

2 of the Pennsylvania Constitution and actually “denied” any home rule municipality, including the City, the power to act contrary to the Court approved Plan provisions. Thus, Act 47 is one of the acts of the General Assembly to deny cities and municipalities in Receivership under Act 47 the broad powers that it would otherwise have if the Receivership provisions of Act 47 did not apply.

The General Assembly thus actually envisioned the City’s argument and rendered it meritless. Otherwise, every action that the Receiver took could be argued to be a change in the form of government. As a result, § 11701.704(a) of Act 47 and Article III, § 2 of the Pennsylvania Constitution actually validate and support the Receiver’s request for confirmation of initiatives in the proposed Plan Modification because once confirmed, City officials cannot act contrary to those provisions.

In addition, the Court cannot overlook the clear language used by the General Assembly in §704(b) of Act 47. That language is illuminating and reflects careful legislative drafting by the General Assembly. Section 704(b) does not state that the Receiver’s Act 47 Recovery Plan is prohibited from changing or that it cannot *change* the form of government. It also does not state that a Plan cannot be confirmed if it “changes the form of government.” Instead, it states only that the “[c]onfirmation of the recovery plan and any modification to the plan under section 703 shall not be construed to...*(1) change the form of government*

of the distressed municipality".¹⁶ The use of the word "construe" limits this provision and signals that it is a rule of interpretation provided by the General Assembly for any Court reviewing a Recovery Plan that has been confirmed by a court. As this Court noted in footnote 10 of its Order declaring the City's parking contract to be void, "[I]n construing these [Act 47 statutory] provisions, this Court must presume that the General Assembly carefully chose the words used in each subsection of Section 706 and intended that they have distinct applications. See *Pa. State Lodge of Frat. Ord. of Police v. Bailey*, 562 A.2d 985, 987 (Pa. Cmwlth. 1989) (stating that when construing statutory language, "this Court must assume that the legislature intended that every word of a given statute would have effect and that the legislature uses words in their standard and accepted sense"), *aff'd sub nom. Pa. State Lodge of Frat. Ord. of Police v. Hafer*, 579 A.2d 1295 (Pa. 1990). Based on the text of section 704(b), it is clearly not a prohibition or limitation on the Receiver's powers.

Section 704(b) of Act 47 also confirms the intent of the legislature to emphasize and strengthen the broad powers of the Receiver under Chapter 7 of

¹⁶ Under the Pennsylvania Statutory Construction Act, "[w]ords and phrases shall be construed according to rules of grammar and according to their common and approved usage...." 1 Pa. Stat. and Cons. Stat. Ann. § 1903. The common definition of "construe" is to analyze the arrangement and connection of words (in a sentence or sentence part) or to understand or explain the sense or intention of usually in a particular way or with respect to a given set of circumstances. <https://www.merriam-webster.com/dictionary/construe>.

Act 47. It provides express statutory language that confirms that Chapter 7, specifically § 11701.704(a) of Act 47, is a provision passed by the General Assembly to deny the municipality the power to stifle or interfere with the Receiver's powers under Act 47. The impact of § 704(b) of Act 47 is thus directly contrary to what the City suggests. Instead of limiting the Receiver's powers, it confirms the Receiver's broad powers. In other words, the contents of a Recovery Plan or Plan Modification that has been confirmed by the Court, regardless of the contents of that confirmed Plan, shall not be construed to be a change in the form of government and the confirmed Plan supersedes the powers of the elected officials as stated in §11701.704(a) of Act 47.

The General Assembly, therefore, anticipated the instant situation where City officials actively or passively obstruct the Receiver from fulfilling his duties. The General Assembly gave the Receiver the ability to address such a situation in a recovery plan or plan modification approved by a court and, by including section 704(b), the General Assembly explicitly foreclosed the "form of government" argument.

It is apparent from the other provisions of Act 47 that the General Assembly knew how to prohibit the Receiver from taking certain actions if it wanted to do so. If the General Assembly wanted to limit the Receiver's powers in the manner

that the City suggests, it could have and would have done so expressly, just as it did in other sections of Act 47. For example, in § 706(b) of Act 47, the General Assembly expressly listed the prohibitions that apply to the Receiver and listed the actions that the Receiver cannot take. 53 P.S. § 11701.706(b). The General Assembly also listed specific “restrictions” of the Receiver’s recovery plan in § 703(c) of Act 47.

There is thus no legal basis for the City to argue or for this Court to find that Act 47 limits the Receiver’s powers or for this Court to not approve a Plan Modification initiative in this matter. The General Assembly has cleared this argument and removed it as a potential hurdle or limit on the Receiver’s powers.

C. The Receiver’s Plan Modification should be Confirmed by the Court.

As this Court noted previously, the Court’s role under the Receivership provisions is extremely limited. Act 47 is unequivocal and provides the Receiver broad authority to “take action necessary to implement the recovery plan.” 53 P.S. Section 11701.706(a)(1).

Indeed, the law emphasizes the Receiver’s broad authority in several places and the General Assembly clearly limited judicial review of the Receiver’s plan of action to address the municipality’s dire financial and operational condition. Section 11701.703(d) clarifies that the Court “shall” confirm the Receiver’s Plan or any modification of that Plan unless it finds “clear and convincing evidence that

the plan is arbitrary, capricious or wholly inadequate to alleviate the fiscal emergency in the distressed municipality.” 53 P.S. Section 11701.703(d). There is no basis to make such a finding in this matter.

The Receiver has provided the rationale for his proposed initiatives in his Plan Modification. Those facts, which are based on two-and-a-half years of the Receiver’s first-hand experience with the City, and the supporting reasoning will not be repeated here. The Receiver did not immediately seek to include these new initiatives in its first or second Plan of Recovery. The Receiver has tried many times to address these problems, including through a mandamus action, but has been unable to do and now must take this action. Those facts confirm that the initiatives are far from arbitrary and capricious. Although not necessary in order for the Court to approve the Receiver’s Plan Modification, the Receiver has shown that there is a clear need for the initiatives. Given the City’s critical financial and operational circumstances, the Receiver cannot afford to delay any further.¹⁷

All of the Receiver’s proposed initiatives are based on a proven need and are designed to help the Receiver take the action that is necessary to ensure the City provide vital and necessary services. As such, there is no legal or factual basis for

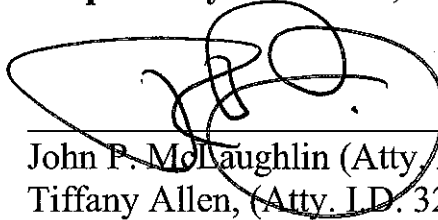
¹⁷ As this Court noted in a December 23, 2020, Order approving the creation of a Chief Operating Officer, “[C]onstant oversight and involvement of this Court is not feasible or contemplated by Act 47, and such would delay actions that, to be fully realized, must occur on a day-to-day basis.” December 23, 2020, Order at p. 2.

this Court to find that the initiatives in the proposed Plan Modification are arbitrary, capricious or wholly inadequate to alleviate the fiscal emergency in the City. In fact, the facts establish the exact opposite.

Conclusion

Accordingly, based on the foregoing, the Receiver requests this Court to confirm his Plan Modification and to order cooperation and compliance with the Receiver's efforts to implement the Amended Recovery Plan and the Plan Modification.

Respectfully submitted,



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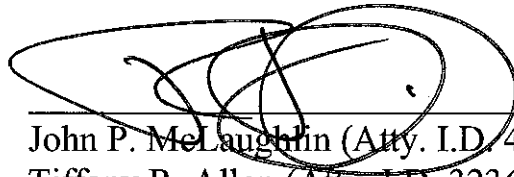
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CERTIFICATE OF SERVICE

I, John P. McLaughlin, hereby certify that I am this day serving the foregoing Status Update upon all counsel of record as provided on the Record of Service accompanying this electronic filing, including the counsel listed below:

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Dated: November 8, 2022

TAB A

HOME RULE CHARTER
OF THE
CITY OF CHESTER
DELAWARE COUNTY, PENNSYLVANIA

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PREAMBLE

In accordance with Article IX, Section 2, of the Pennsylvania Constitution and Act 62 (1972) of the General Assembly, the citizens of the City of Chester, by referendum in the Spring Primary 1980, adopt the following Home Rule Charter to establish a form of government to provide for the health, safety, and well-being of its citizens, to provide a government responsive to the citizens, to provide municipal services and facilities with a high degree of efficiency and economy, and to bring to the people of the City of Chester the greatest grant of local self-government powers that a municipality can have under the Constitution of the Commonwealth of Pennsylvania.

ARTICLE I

NAME, BOUNDARIES, AND POWERS OF THE CITY

Section 101: Name and Boundaries

The City of Chester shall continue as a municipal corporation under the name of the City of Chester with the actual boundaries at the time this Charter takes effect and as may be lawfully changed thereafter. As used in this Charter the words Chester and city shall mean the Home Rule Municipality City of Chester, Delaware County, Pennsylvania.

Section 102: General Powers

Chester shall have and may exercise any powers and perform any function not denied by the Constitution of Pennsylvania, the General Assembly of the Commonwealth of Pennsylvania, or this Charter.

Section 103: Interpretation

The powers of Chester shall be liberally construed in favor of the City in order to provide Chester with the greatest possible power of self-government under the Pennsylvania Constitution. Any specific mention of the powers in the Charter shall not be construed as limiting in any way the general powers of the city as stated in this Article.

Section 104: Powers Vested in the City Council

The legislative powers of Chester shall be exclusively vested in the City Council as set forth and limited in this Charter,

Section 105: Continuation

All powers and functions contained in any and all ordinances and resolutions of the City of Chester prior to the effective date of this Charter, which are in force on the effective date of this Charter, and not inconsistent herewith, shall continue in force until amended, repealed, superseded, or expired by their own terms.

ARTICLE II

CITY COUNCIL

Section 201: Name and Composition

The legislative body of Chester shall be the City Council, hereinafter referred to as the Council. The Council shall be composed of five members, one of whom will be elected under the title of Mayor. The Mayor will participate as a member of Council, with full voting rights thereon, and shall be the presiding officer of Council. All references to Council Members in this Charter shall include the Mayor. Council members shall be elected from the city at large.

Section 202: Qualifications for Office

A member of the City Council, including the Mayor, hereinafter referred to as a Council Member, shall be a citizen of the United States; a qualified voter of the city; must retain such status during the term of office for which elected; should not have been convicted of any crime classified as a misdemeanor of the second class or higher; must have been a resident of the City of Chester for at least one (1) year prior to filing a petition for election; and must not otherwise be disqualified from office by the terms of this Charter or by the laws of the Commonwealth of Pennsylvania.

Section 203: Prohibitions

No Council Member shall, during the terms of office of the Council Member, hold any other compensated position in the City of Chester government. This prohibition shall not preclude a nonpaying position with any local, state, or federal board or authority. Reimbursement of expenses shall not be considered compensation.

Section 204: Forfeiture of Office

The office of Council Member shall be forfeited if the Council Member is declared by any court in this Commonwealth to:

A - Lack any qualifications for the office prescribed by this Charter or laws of the General Assembly;

B - Have willfully violated any express prohibition of this Charter;

C - Be convicted of any crime classified as a misdemeanor of the second class or higher, under the laws of the Commonwealth or of the United States, or be convicted of any comparable crime under the laws of any other state in the United States.

Section 205: Term of Office

Council Members shall serve for four-year staggered terms beginning at 10:00 a.m. of the first Monday of January following the year in which they are elected except for Council Members appointed or elected to fill a vacancy, who shall serve for the remainder of the unexpired term, of the member succeeded or as otherwise provided in Section 208 of this Charter.

Section 206: Elections

The procedure for the nomination and election of Council Members shall be as provided in the election laws of the Commonwealth of Pennsylvania.

Section 207: Vacancies

The office of Council Member shall become vacant upon death, resignation, removal of place of residence from the city, legal certification of mental and/or physical disability, or forfeiture of office as directed by this Charter, or as otherwise provided by law.

Section 208: Filling of Vacancies

Whenever a vacancy exists in the office of Council Member, the vacancy shall be filled as set forth in the Administrative Code.

Section 209: Compensation

The compensation of the Council Members under this Charter shall be as set by City Council. Council may establish by ordinance the annual compensation of succeeding Council Members. It is the intent of this Charter that all Council Members, except the Mayor, elected to office at the same time shall be paid at the same rate and that the Council shall not change the compensation of Council Members then in office for the remainder of their present term. They shall be authorized to receive reimbursement of reasonable expenses

actually incurred in the performance of their duties in accordance with regulations which shall be set forth in the Administrative Code or other ordinance.

Section 210: Organization of the Council

The Council shall organize at a meeting at 10:00 a.m. on the first Monday of January of each year. If the first Monday is a legal holiday, the organizational meeting will be held on the first day following which is not a legal holiday. At the organizational meeting the Council shall elect from its membership a Deputy Mayor to serve at the pleasure of the Council. The Deputy Mayor shall serve as presiding officer of Council during any temporary absence of the Mayor and shall serve as the city's representative at ceremonial occasions during any temporary absence of the Mayor or at such other times as the Mayor may request. The Council shall also appoint a City Clerk to maintain records of Council and perform such other duties as prescribed for City Clerks by general law, this charter, the Administrative Code, or other direction of Council.

Section 211: Council Meetings and Procedures

The Council shall meet regularly at least once in every month at such time and place within the city, as the Council may prescribe by ordinance or resolution.

At its first meeting each year, the Council shall designate and advertise the calendar of regular monthly meetings for the remainder of the year. Special meetings may be held on the call of the presiding officer by providing notice to each Council Member at least twenty-four hours in advance of such special meeting, which meeting notice shall be prominently posted at the City Hall. In the event of an emergency which makes it necessary to convene a meeting with less than twenty-four hours' advance notice, such notice requirement may be waived, provided all reasonable effort is made to provide Council with direct notice. The Council may, in the Administrative Code or other ordinance, adopt rules and regulations for its meetings which shall be designed to assure full and equal participation in the deliberations of the Council by all of its members and shall not be inconsistent with specific provisions of this Charter. All regular meetings of the Council, and any special meetings at which official actions are taken, shall be open to the public and public notice of such meetings shall be given.

Section 212: Quorum and Majority Action

A majority of the members of the Council shall constitute a quorum. The Council shall conduct no business except in the presence of a quorum. The action of a majority of Council Members present and entitled to vote shall be binding upon and

constitute the action of the Council, provided a quorum is present, except as otherwise stated in this Charter. The phrase "majority of the total membership of the Council" or similar language is used elsewhere in this Charter to indicate actions which must be taken by a majority of the total membership rather than by a majority of a quorum.

Section 213: Official Action

All actions of the Council shall be taken by the adoption of an ordinance, resolution, or motion. All legislation shall be enacted by the adoption of an ordinance. All ordinances and resolutions shall be in written form and enacted only after reasonable notice, except as otherwise provided in this Charter, or the Administrative Code. All final action in adopting ordinances and resolutions shall be by voice vote unless a roll-call is required by a member of Council, and the vote of each Council Member shall be entered in the record of the meeting.

Section 214: Records and Reports

The City Clerk shall maintain a written record of the minutes and proceedings of all meetings of the Council. All ordinances and resolutions shall be entered, as approved, in the record books of the city. All records and reports shall be open and available for public inspection at City Hall, throughout normal office hours. No citizen of Chester shall be denied reasonable access to all public records

of the city. Copies of the minutes, ordinances, resolutions, and other official reports and actions of the Council shall be available to the public at a reasonable fee established by Council.

Section 215: Legislative Powers and Duties

All legislative powers and duties of the city shall be exclusively vested in and exercised by the Council. The Council shall provide for the exercise of and performance of all legislative powers and duties imposed on the city by law or this Charter, and specifically, but not limited to, the following:

A - To adopt the budget, make appropriations for expenditures for all lawful purposes and levy taxes authorized by law and limitations thereon imposed by this Charter or general law;

B - To adopt, amend, and repeal an Administrative Code to create, alter, combine, and/or abolish municipal departments, bureaus, boards, and commissions, and prescribe procedures not inconsistent with this Charter or general law.

C - To make or cause to be made such studies or post-audits and investigations as it deems to be in the best interest of the city;

D - To adopt ordinances and resolutions not inconsistent with or restrained by the Constitution and laws of the Commonwealth or by this Charter, and prescribe fines and penalties consistent with general law for the violation of City ordinances;

E - To make provision for any matter of the city government not otherwise provided for in this Charter or general law, and not inconsistent therewith.

ARTICLE III

MAYOR

Section 301: Chief Executive

The Mayor shall be the chief executive of the city. He shall be inaugurated and take the oath of office at 10:00 a.m. of the first Monday of January next, succeeding his election, or as soon thereafter as possible.

Section 302: Duties of Mayor

The Mayor shall be a member of City Council and shall have any and all additional powers and duties which may be conferred upon him by the Administrative Code and this Charter.

Section 303: Supervision of City Officers

The Mayor shall supervise the conduct of all city officers, examine the grounds of all reasonable complaints against any of them, and cause all of their violations

or neglect of duty to be promptly punished or reported to the Council for correction. For the purposes aforesaid, he is hereby empowered to issue subpoenas and compulsory processes, under his official seal, for the attendance of such persons and the production of such books and papers as he may deem necessary, and shall have like enforcement of such subpoenas.

Section 304: Emergency Power of the Mayor

In order to enable the Mayor effectually to preserve the public peace within the city, all the powers which are devolved by the laws of this Commonwealth upon sheriffs, to prevent and suppress mobs, riots, and unlawful and tumultuous assemblies, are hereby conferred upon him. When the Mayor, or chief executive, considers that a state of emergency exists, he may issue his proclamation, which shall be in writing and copies of which shall be made available to all news media, and to each member of City Council declaring a state of emergency for a period not to exceed five (5) days, unless extended by action of Council. In his proclamation he may prohibit, for all or any part of the city in which there is a clear and present danger to life or property through civil disorder:

(1) Any person being on the public streets, or in the public parks or at any other public place during the hours declared by him to be a period of curfew;

(2) The assembling or gathering of a group of people, in such numbers to be designated by him, upon the public streets, parks, or other public places;

(3) The entry or departure of persons into or from any restricted area;

(4) The sale, purchase, or dispensing of any commodities or goods, as designated by him;

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

(6) Any other such activities as he reasonably believes should be prohibited to help preserve life, health, property, or the public peace.

The proclamation shall describe any restricted area with particularity and shall specify the hours during which such restrictions are to be in effect.

Any person violating such proclamation of emergency shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine not to exceed Three Hundred Dollars (\$300) or to undergo imprisonment not to exceed thirty (30) days or both.

Section 305: Administrative Assistant

The Mayor may appoint an assistant to assist in the administration of the functions of the Mayor. The Administrative Assistant will serve at the pleasure of the Mayor, shall be qualified by education and/or experience to carry out the duties of the office; and shall be compensated by a salary which shall be set by Council in the Administrative Code or other ordinance.

ARTICLE IV

ORDINANCES

Section 401: Action Requiring Ordinances

The following action of City Council shall require an ordinance:

A - Provide for a fine or other penalty, or establish a rule or regulation for violation of which a fine or other penalty is imposed;

B - Establish, levy, and collect taxes, and decrease or increase the rates of existing taxes;

C - Establish, alter, or abolish rates or charges for any utility or other service supplied by the City;

D - Authorize the borrowing of money, except for revenue anticipation loans or emergency loans as provided elsewhere in this Charter;

E - Grant, renew, or extend a franchise;

F - Exercise the power of eminent domain;

G - Establish, alter, or amend any zoning ordinance, subdivision procedure, land development, land use, or building regulation;

H - Amend or repeal any ordinance previously adopted,

Section 402: Standard Codes of Technical Regulations

The Council may adopt any standard code of technical regulation by adopting an ordinance incorporating said code by reference. The details of such standard codes need not be advertised, but copies of such codes shall be available at City Hall for public inspection and for purchase at a reasonable fee fixed by the Council.

Section 403: Procedure for Enactment

An ordinance may be introduced by any Council Member at any regular or special public meeting. Except where specifically provided otherwise in this Charter, an ordinance shall proceed as provided in the Administrative Code.

Section 404: Effective Date

Except as specifically provided otherwise in this Charter, an ordinance shall take effect immediately after final adoption or such later date as the Council may prescribe.

Section 405: Recording

The City Clerk shall cause the full text of any ordinance, with proof of publication, to be recorded as a permanent record within one month after its final adoption. The permanent record shall be open and available for public inspection throughout normal office hours.

Section 406: Codification

The Council shall provide for the maintenance of a general codification of all city ordinances having the force and effect of law. The general codification shall be published in loose-leaf form and include this Charter and the Administrative Code required by this Charter. The compilation shall be known and cited as "The General Laws of the City of Chester" and copies shall be made available for purchase by the public at a reasonable price set by the Council. All amendments to the General Laws and all new ordinances shall be integrated in said compilation and distributed as aforesaid.

Section 407: Emergency Ordinances

Notwithstanding any other provisions of this Article, the Council may, in the event of substantial public emergency affecting the life, health, property, and peace of the citizens of Chester, adopt one or more emergency ordinances. Emergency ordinances shall be introduced in the form

required for ordinances and shall be so designated and shall clearly state the nature of the emergency in specific terms. No prior publication of an emergency ordinance shall be required, and an emergency ordinance may be introduced, adopted, and take effect immediately at any meeting in which it is introduced. An emergency ordinance shall require the approval of a majority of the total members of the Council, except for emergencies at which it is impossible for the total membership to be present, in which case an emergency ordinance may be adopted by a two-thirds vote of the members present provided there is a quorum. Emergency ordinances shall not levy taxes or authorize the borrowing of money except as provided elsewhere in this Charter. An emergency ordinance shall become effective immediately upon adoption and shall automatically stand repealed as of the thirty-first day following the date of its adoption, but may be reenacted as provided herein if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

ARTICLE V

CONTROLLER

Section 501: Election, Qualifications, and Compensation

There shall be an office of Controller, elected under the election laws of the Commonwealth of Pennsylvania for a term of four (4) years. Candidates for the office shall be registered voters of the City of Chester and shall be qualified by education and experience to perform the duties of the office.

The provisions of this Charter applying to Council Members on qualifications for office (Section 202), Prohibitions (Section 203), Forfeiture of Office (Section 204), and Vacancies (Section 207) shall apply to the office of Controller.

Section 208 of this Charter applying to the filling of vacancies in the office of Council Member shall apply to filling vacancies in the office of Controller. A person appointed to fill a vacancy shall serve for the remainder of the unexpired term.

The compensation for the Controller shall be as set by Council. Council may by ordinance establish the compensation for future offices of Controller, provided that no ordinance increasing the salary of the Controller

shall take effect until the expiration of the term of the officer holding the office at the time the ordinance was adopted. Ordinances affecting the compensation of future Controllers shall be enacted prior to the first day of February in municipal election years in order to apply to the officers elected in such years.

Section 502: Personnel

Council shall authorize the employment of such personnel as it deems necessary for the performance of the functions assigned to the Controller. Employees of the offices of Controller shall be employees of the City and subject to all rules and regulations of Council on personnel administration.--

Council shall designate a qualified employee of the office of the Controller to serve as deputy during any temporary absence or disability of the Treasurer or the Controller. Persons appointed as deputy shall have all the powers and responsibilities of their principal.

Section 503: Duties of the Controller

The duties of the Controller shall be:

A - Approve all orders of disbursement submitted when such disbursements are for a lawful purpose and there is sufficient unexpended balance in the appropriate account. If the order of disbursement is not for a lawful purpose or,

if there is not a sufficient unencumbered balance in the account to which the disbursement is to be charged, the Controller shall return the order and state the reasons for withholding approval.

B - Approve all contracts and purchase orders after determining that there is a sufficient unencumbered balance in the proper account to which the eventual expenditure will be charged and the expenditure will be for a lawful purpose.

C - Review monthly financial report and report promptly in writing to Council any exceptions thereto.

D - To administer, subject to the direction of the various pension boards, all city employee pension funds and to make such reports and keep such records as are necessary for the proper administration of said funds.

E - To perform an internal audit of all city accounts on a quarterly basis and to report to Council the results of said audit every fiscal year.

ARTICLE VI.

CITY ADMINISTRATION

Section 601: General Provisions

The Council may, by ordinance, create, alter, or abolish and prescribe the functions of the city departments, agencies, and offices, not inconsistent with the general laws or this Charter, and designate department heads from City Council.

Section 602: Administrative Code

The Council may, by ordinance, adopt an Administrative Code which shall provide for the administrative organization of the city government, the assignment of duties and responsibilities to officers and employees, and procedural requirements set forth in the general laws or in the Charter. All changes in organization and procedures set forth in the Administrative Code shall be effected by amendment to the Administrative Code in the same manner as other ordinances are enacted and amended.

Section 603: Legislative Review

At the annual organizational meeting of Council, the Mayor may assign to each Council Member a responsibility as department head of one or more departments or agencies of the city government. Council shall act as a body in formulating programs and policies of all departments and agencies of the city government, which policies and programs shall be implemented

through the Administrative Code, other ordinances of Council, or departmental regulations approved by Council.

Section 604: Boards and Commissions

The Council may create, modify, or abolish boards, commissions, authorities, or other agencies and special committees of the city government if not inconsistent with general laws or this Charter. The Council may appoint by a majority vote of its total membership, subject to Section 203, the members of such agencies if not otherwise provided by this Charter or general law.

Section 605: Director of Personnel

The Mayor, with the approval of Council, may appoint a qualified person to serve as Director of Personnel. The Director of Personnel will be responsible for the functions of personnel administration as may be set forth in the Administrative Code or other ordinance.

Section 606: Compensation

The compensation of all officers, if not otherwise provided in this Charter, shall be set by Council in the Administrative Code or other ordinance, and may be changed from time to time by amendment of the same at the discretion of the Council. Compensation of employees other than officers shall be in accordance with the pay plan established under the Administrative Code.

Section 607: City Solicitor, Assistant Solicitors, and
Special Counsel

The Council shall, on the first Monday of January, One Thousand Nine Hundred and Eighty-one, and on the first Monday of January every fourth year thereafter, or as soon thereafter as practicable in each of said years, appoint a City Solicitor, who shall be learned in the law and admitted to practice in the Supreme Court of the Commonwealth, and shall maintain an office in the city. He shall serve for a term of four years from the said first Monday of January and until his successor is qualified. He shall receive a fixed annual salary to be provided by ordinance. He shall give lawful bond to the city, with a surety or other company authorized by law to act as surety, to be approved by Council, in such sum as they shall by ordinance direct, conditioned for the faithful performance of his official duties. Vacancies in said office shall be filled by Council for the unexpired term.

Council may appoint one or more Assistant City Solicitors whose term of office shall be concurrent with that of the City Solicitor, and whose compensation shall be fixed by resolution, and who shall assist the Solicitor in the performance of all duties prescribed for him.

Council may, at its discretion, retain special counsel for particular proceedings or matters of the city and fix his compensation by resolution.

All duties, obligations, and other matters pertaining to the Solicitors and to special counsel shall be as set forth in the Administrative Code.

Section 608: City Engineer

The Mayor, with the approval of the majority of the total membership of the Council, shall appoint and fix the compensation of a City Engineer who shall be a professional civil engineer registered in Pennsylvania, or an engineering firm similarly registered. The City Engineer or engineering firm shall perform the duties required by the Council through the Administrative Code or other action, or as may be required of a City Engineer by general law.

Section 609: Director of Planning

The Mayor, with the approval of the majority of the total membership of the Council, shall appoint a Director of Planning, who shall be qualified by education and/or experience in city planning and zoning, to direct the planning and zoning of the city and to perform such duties as prescribed for such officer in this Charter and as the Council may require in the Administrative Code or other ordinance.

Section 610: City Treasurer

Council may appoint a Treasurer to perform such functions and receive such salary as shall be set forth in the Administrative Code or by ordinance.

Section 611: Civil Service Commission

Council shall appoint a Civil Service Commission pursuant to the authority vested in Section 604 of this Charter. In no event shall the members of said Commission be members of City Council nor be a member of any of the departments over which the Commission has control.

ARTICLE VII

FINANCIAL ADMINISTRATION

Section 701: Fiscal Year

The fiscal year of the city shall be the calendar year. However, after 1981, if not prohibited by law, the Council may, by ordinance, adopt a different fiscal year, specifying an orderly procedure for financial and budgetary controls in making such transition.

Section 702: Classification of Accounts

The Council shall adopt in the Administrative Code a uniform classification of accounts and codes to be used and followed in all financial plans, budgets, and financial reports.

Section 703: Budget Submission

At least ninety (90) days before the end of the fiscal year, the director of each department may prepare in detail and submit to the chief financial officer their proposed operating budget for the ensuing fiscal year.

At least forty-five (45) days before the end of the fiscal year the chief financial officer shall prepare and submit to the Council a proposed operating budget for the ensuing fiscal year.

The procedure for budget submission, form of the budget, and all other matters affecting the budget submission shall be set forth in the Administrative Code unless specifically provided for in this Charter.

Section 704: Balanced Budget

The proposed budget, and the budget subsequently adopted by the Council, shall be balanced so that appropriations shall not exceed the estimated revenues and available surplus.

Section 705: Council Review

On or before thirty (30) days prior to the end of the fiscal year, the Council shall complete its review of the proposed budget, make such adjustments as it deems necessary, and adopt a preliminary budget.

Section 706: Advertising and Public Hearing

No later than ten (10) days following the adoption of the preliminary budget by the Council, the City Clerk shall cause to be published in one or more newspapers of general circulation in the city, a notice of the date, time, and

place at which the Council shall hold a public meeting on the proposed budget which shall take place at any regular or special meeting of the Council prior to the final adoption of the budget. The preliminary budget shall be available for public inspection at City Hall and copies shall be available for the public at a reasonable fee to be set by the Council.

Section 707: Budget Adoption

Following advertising and public hearing, at which interested citizens shall have the right to express their views on the budget, the Council, by a majority vote of its total membership, shall adopt a final budget with such amendments as the Council considers advisable. The budget shall be adopted by ordinance which shall be effective as of the start of the fiscal year. The provisions of Article IV of this Charter shall not apply to ordinances adopting and amending proposed budgets. Should the Council for any reason fail to adopt a budget before the start of the fiscal year, the appropriations of the preceding year, prorated on a month-to-month basis, shall be considered to be adopted temporarily pending adoption of a final budget.

Section 708: Levy of Taxes

At the time of adopting the annual budget, the Council shall simultaneously by ordinance levy sufficient taxes from authorized sources which, with other revenues and available receipts and balance, will provide for a balanced budget.

Section 709: Revised Budget

Notwithstanding any other provisions of this Article, when the fiscal year of the City is the calendar year, in any year following a municipal election year the Council may, within forty-five (45) days after the start of the fiscal year, revise the budget and tax levies adopted by the previous Council. The procedures for adopting a revised budget shall be in accordance with Subsections 706, 707, and 708 above, with the time periods adjusted to forty-five (45) days after the start of the fiscal year. Ordinances adopting a revised budget shall be effective as of the start of the fiscal year and shall rescind and replace the budget ordinance of the previous Council. It is the intent of this Charter that a new Council, in the year following a municipal election, shall have the power to revise the budget and tax levies adopted by the previous Council.

Section 710: Budget Execution

The chief financial officer shall cause the appropriations voted by the Council to be entered in the accounting records of the city and shall approve no contract or expenditure which would exceed the unencumbered balance of appropriations in any account. The Council may at any time amend the operating budget, but changes in appropriations, either increases or decreases, shall be made only pursuant to an ordinance authorizing such changes. Supplemental appropriations may be made by the Council in the event that revenues are found and certified by the Mayor to exceed estimates in the budget. If revenues are found and certified by the Mayor to fall short of estimates in the budget, the Mayor shall recommend reductions in appropriations to offset the deficiency in revenues, and the Council shall make necessary adjustments in appropriations to maintain a balanced budget. All appropriations shall lapse at the end of the fiscal year.

Section 711: Capital Budget

The capital program and the capital budget shall be adopted by the Council only after advertisement and public hearing as provided for the adoption of the operating budget. The capital budget may be financed from appropriations of current revenues or monies borrowed as authorized by law or by this Charter. The chief financial officer shall control expenditures in the capital budget in the same manner as

provided for the operating budget. The Council may amend the capital budget at any time, but before doing so must amend the capital program.

All appropriations for the capital budget shall lapse at the end of the fiscal year, but sufficient amounts to complete projects in progress may be appropriated in the budget for the year following.

Section 712: Receipts

The Council shall, in the Administrative Code, provide for the receipt, deposit, and accounting for all monies due and received by the city. Such procedures shall be assigned to employees of the Treasurer or the chief financial officer as Council deems most appropriate consistent with other provisions of this Charter. The Mayor, with the approval of the Council, shall designate the depositories for city receipts.

Section 713: Contracts

The Council may make contracts for all lawful purposes, subject to general law or this Charter. No contract shall be made or obligation incurred unless the chief financial officer or his designee shall certify that there is a sufficient unencumbered balance in an appropriation and that sufficient monies therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. The Council shall provide in the Administrative Code the procedures for letting contracts which shall not be inconsistent with general law or this Charter.

Section 714: Disbursements

The chief financial officer shall authorize disbursement of city monies only after determining that all goods and services which have been contracted for have actually been received or performed. The Council shall provide in the Administrative Code for the signing and countersigning of all checks, drafts, or other orders of payment by three of five persons, designated by Council, two of whom shall be the Director of the Department of Accounts and Finance and the Controller.

Section 715: Records and Reports

The chief financial officer shall:

A - Provide for the recording of all financial transactions and related activities of the city in terms of dollars and other appropriate units of measurement, in accordance with the form and procedures prescribed by the Council in the Administrative Code, and as shall be directed by the Council, in order that the required reports and analysis may be produced for the proper management and control of such activities.

B - Prepare periodic financial reports, at least monthly, and at such other times as the Mayor may direct, and at the end of each fiscal year prepare an annual financial report. The monthly reports shall be submitted to the Council at its regular meetings and made available to the public.

C - Provide for the preservation of official financial records, which shall be kept at City Hall and shall be available for public inspection during regular office hours, in conjunction with state historical records preservation standards.

Section 716: Independent Audit

The Council shall provide for an annual independent audit of city receipts, expenditures, accounts, and reports by a Certified Public Accountant or a Certified Public Accounting firm, experienced in municipal finance, having no personal interest, direct or indirect, in the fiscal affairs of the city or any of its elected or appointed personnel. The Council may provide for more frequent audits at its discretion.

Section 717: Bonding of Officers and Employees

The Council shall provide in the Administrative Code for the bonding of all officers and employees who are responsible for the handling and/or authorization of receipts, disbursements, materials, and supplies. All such bonding shall be approved by the City Solicitor for form and sufficiency. The premium for such bonding shall be paid for by the city.

Section 718: Tax Levy

Council shall establish tax rates and levy on the various subjects of taxation subject to the limitations of Section 17 of an act entitled the Local Tax Enabling Act (Act No. 511 of 1966; P.L. 1257, Section 17, 53 P.S. § 6917).

ARTICLE VIII
PROHIBITIONS AND CONFLICT OF INTEREST

Section 801: Prohibited Activities

The following activities shall be prohibited in the operation of the city government.

A - Discrimination. No person shall be favored or discriminated against in employment by the city in any capacity, appointment to any board, commission, or agency, or removal therefrom, because of race, sex, age, political or religious opinions or affiliations.

B - Improper Gifts. No person who seeks appointment to any city office, board, commission, or agency shall directly or indirectly give or pay any money, service, or other consideration to any person in connection with such appointment.

C - Gifts to the City. No gift of real estate, or any interest in real estate, to the city may be accepted without approval of Council.

Section 802: Conflict of Interest

The following shall constitute a conflict of interest and shall be prohibited and punishable as provided herein:

A - Improper Advantage. No elected or appointed official of the city government shall:

1. Engage in any activity or take any action by virtue of the elected or appointed position from which activity or action the official, or any other person or entity in whose welfare the official is interested, shall benefit or realize a gain or advantage. Such benefit, gain, or advantage shall not be construed to be prohibited if the action in question is in behalf of a group of citizens of the city and such benefit and relationship is generally known and acknowledged.

2. Solicit or accept, directly or indirectly, any gift, favor, service, commission or other compensation or consideration that might reasonably tend to influence that official in the discharge of the duties of the office.

3. Seek to influence, directly or indirectly, the awarding of any contract where such official, or other person or entity in whose welfare the official is interested, would benefit directly, financially or otherwise, from said contract. Such action is not intended to apply to actions of a Council Member on behalf of a group or class of citizens of the city who would benefit from the contract, and such benefit is generally known and acknowledged.

B - Disqualification from Action. Any elected or appointed official of the city, or employee thereof, having any direct or indirect financial interest with any person or other entity proposing to contract with the city for the

..... D. -- Addressing suggestions to the Council and others to provide guidance for their actions;

Section 902: Participation Encouraged

The Council shall make every effort to appoint qualified citizens of the city to boards, commissions, authorities, or other agencies of the city government in order that the greatest possible use be made of the talents and interests of city citizens in promoting public interest and welfare of the City of Chester.

ARTICLE X

GENERAL PROVISIONS

Section 1001: Effective Date

This Charter shall become effective on January 7, 1981, except for the transitional provisions of Article XI of this Charter which shall become effective upon certification of the adoption of the Charter.

Section 1002: Amendment

Amendments to this Charter may be made in accordance with the provisions of Act 62 of 1972 of the General Assembly of Pennsylvania, as amended or as otherwise provided by law.

Section 1003: Severability

If any provision of this Charter is held invalid, the remaining provisions of the Charter will not be affected thereby.

If the application of the Charter or any of its provisions to any person or circumstances is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE XI

TRANSITIONAL PROVISIONS

Section 1101: Elected Officers

Elected officers in office on the day before this Charter becomes effective shall continue in office for the remainder of the term to which they were elected. On the effective date of this Charter, they will assume the functions and duties of their respective offices as set forth in this Charter and shall be compensated as provided therein.

Section 1102: Rights and Privileges Preserved

Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights and privileges of persons who are officers and employees of the city at the time of adoption of this Charter. An employee holding a position in the city government at the time this Charter takes effect, and who was serving in the same or similar position at the time of the adoption of this Charter, shall not be subject to competitive tests as a condition of continuation in the same or similar position, but in all other respects shall be subject to the personnel system set forth in the Administrative Code.

Section 1103: Departments, Offices, Boards, Commissions, and Agencies

The organization of the city government under this Charter after the seventh day of January 1981 shall be set forth in the Administrative Code required by this Charter. However, nothing in this section shall be construed to abolish the office or terminate the terms of any officer or employee protected by a tenure of office law or collective bargaining agreement, and it is the intent of this Charter that qualified officers and employees be reappointed to the same or similar positions in the organization to be set forth in the Administrative Code. All appointed members of boards, commissions, authorities, or other agencies shall continue in office with the same or similar bodies for the remainder of the term of their original appointment. However, nothing in this Section shall limit the right of the Council to create, modify, or abolish boards, commissions, authorities, or other agencies as provided in this Charter.

Section 1104: Pending Matters

All actions and proceedings of a legislative, executive, or judicial character which are pending upon effective date of this Charter shall be maintained, carried on or dealt with by the city officer, department, or agency appropriate under this Charter.

Section 1105: Transition Committee

In order to establish an orderly procedure for transition to the new form of government provided by the Charter, and to ensure that all necessary action is taken to make this Charter fully effective on its effective date, the Council may within fifty (50) days after adoption of this Charter appoint a Transition Committee comprised of such members of the Council, the Government Study Commission, administrative staff of the city, and such representatives of civic agencies as the Council shall select to draft the necessary rules and regulations, ordinances, and resolutions as set forth below.

Not less than forty-five (45) days prior to the effective date of this Charter, the Council Members shall meet with the Transition Committee to review and prepare the final draft of the necessary ordinances and any other appropriate ordinances to implement this Charter.

CERTIFICATION OF CITY CLERK

CITY OF CHESTER, PA

The undersigned hereby certifies that:

1. He is the duly qualified and acting City Clerk of the Council of the City of Chester and is the keeper of its records;

2. The attached Home Rule Charter of the City of Chester is a true and correct copy of the Home Rule Charter adopted by the Government Study Commission in its Final Report dated November 15, 1979;

3. The attached Home Rule Charter of the City of Chester is a true and correct copy of the Home Rule Charter adopted by the electorate of the City of Chester on April 22, 1980, as certified by the County Board of Elections of Delaware County, Pennsylvania, on May 13, 1980;

4. The undersigned is duly authorized to execute this certificate.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and the seal of the City this 5th day of June, A.D. 1980.


CITY CLERK

TAB B

CODIFIED ORDINANCES OF CHESTER
PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

- Art. 101. Codified Ordinances.
- Art. 103. Official Standards.
- Art. 105. Real Estate Registry.
- Art. 107. Assessments.
- Art. 109. Minority Participation in City Contracts.

TITLE THREE - Departments and Offices

- Art. 111. Council.
- Art. 112. Chief of Staff.
- Art. 113. City Clerk.
- Art. 115. City Treasurer.
- Art. 117. City Solicitor.
- Art. 119. City Controller.
- Art. 120. Chief Financial Officer.
- Art. 121. Police Department.
- Art. 123. Fire Department.
- Art. 125. Economic Development.

TITLE FIVE - Authorities, Boards and Commissions

- Art. 131. Boards and Commissions Generally.
- Art. 133. Civil Service.
- Art. 135. Human Relations Commission.
- Art. 136. Accident Review Board.
- Art. 137. Authorities.
- Art. 138. Board of Chester Community Center.
- Art. 139. Homestead Program.
- Art. 140. Vacant Property Review Committee.

TITLE SEVEN - Employment Provisions

- Art. 141. Employees Generally.
- Art. 142. Aggregated Pension Fund.
- Art. 143. Police Pension Fund.
- Art. 145. Officers and Employees Optional Retirement System.
- Art. 147. Paid Firemen's Pension Fund.

CODIFIED ORDINANCES OF CHESTER
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-
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-

ARTICLE 101
Codified Ordinances

- 101.01 Codification adopted; procedure.
- 101.02 Component codes; short title; citation.
- 101.03 Amendments and supplements; numbering.
- 101.04 Interpretation.
- 101.05 Separability of provisions.
- 101.06 Exceptions.
- 101.99 General penalty.

EDITOR'S NOTE: The provisions of this Article 101 will be incorporated in the ordinance which adopts the Codified Ordinances of Chester, Pennsylvania, 1978.

CROSS REFERENCES

Codification of ordinances - see 3rd Class §1014.1 (53 P.S. §36014.1)

101.01 CODIFICATION ADOPTED; PROCEDURE.

(a) The ordinances of a general and permanent nature of the City of Chester, Pennsylvania, consolidated and codified with minor nonsubstantive changes into looseleaf book form are attached hereto and made a part hereof (Exhibit A), are ordained as the general body of ordinances of the City revised to 1978; and are hereby approved, adopted and enacted as the "Codified Ordinances of Chester, Pennsylvania, 1978."

(b) This ordinance shall be introduced in Council, notice of introduction shall be published, and legal advertisement of the contents of the Codified Ordinances shall be made in conformity with subsections 1014.1(b) and (c) of the Act of June 23, 1931 (P. L. 932) as amended by the Act of July 10, 1957 (P. L. 631), 53 P.S. §36014.1.
(Adopting Ordinance)

101.02 COMPONENT CODES; SHORT TITLE; CITATION.

The Codified Ordinances of Chester, Pennsylvania, 1978, hereby adopted, shall be comprised of the following component parts:

- Part One - Administrative Code
- Part Three - Business Regulation and Taxation Code
- Part Five - Traffic Code
- Part Seven - General Offenses Code
- Part Nine - Streets, Utilities and Public Services Code
- Part Eleven - Public Health Code
- Part Thirteen - Planning and Zoning Code
- Part Fifteen - Fire Prevention Code
- Part Seventeen - Building and Housing.

The Codified Ordinances of Chester, Pennsylvania, may be referred to as the "Codified Ordinances," any component code of the Codified Ordinances may be referred to by its name, such as the "Traffic Code," and sections of the Codified Ordinances may be cited by their number, such as Section 101.01. (Adopting Ordinance)

101.03 AMENDMENTS AND SUPPLEMENTS; NUMBERING.

(a) The Codified Ordinances of Chester, Pennsylvania, 1978, may be amended or supplemented at any time and, when any amendment or supplement is adopted in such form as to indicate the intention of Council to make the same a part thereof, such amendment or supplement shall be incorporated in, and deemed a part of, the Codified Ordinances, so that a reference to the Codified Ordinances shall be understood and construed as including the Codified Ordinances of Chester, Pennsylvania, 1978, and any or all amendments and supplements thereto.

(b) All amendments and supplements enacted as a part of the Codified Ordinances shall be integrated therewith by following the form of arrangement and plan set forth in the original Codified Ordinances as follows: each code shall be subdivided into titles, each title shall be subdivided into articles, and each article shall be subdivided into sections, which shall be numbered in accordance with the decimal numbering system. The numbering of all sections except the penalty sections, shall be consecutive within each article commencing with the first section of Article 101, which shall be numbered 101.01, the first "1" signifying Code 1, the two figures "01" before the decimal signifying the article within the Code, and the two figures "01" after the decimal signifying the first section in Article 101 of the Code. Penalty sections shall be designated ". 99" and shall be the last section of the article.
(Adopting Ordinance)

101.04 INTERPRETATION.

In the construction of the Codified Ordinances the following rules shall control, excepting those inconsistent with the manifest intent of Council as disclosed in a particular provision, section or article:

- (a) "Adopting Ordinance" means the ordinance of the City adopting the Codified Ordinances of Chester, Pennsylvania, 1978, in conformity with the Third Class City Code of Pennsylvania, and this Article 101.
- (b) "Authority" as given to an officer or requiring an act to be performed, shall be construed to permit exercise by such officer and such act may be performed, at the instance of such officer, by a deputy or subordinate, unless contrary to law or to the clear intent of any such particular provision.
- (c) Calendar; Computation of Time. "Month" and "year" mean the calendar month or year. The time expressed in days within which an act is to be done or a period is to expire shall be computed by excluding the first and including the last day, except if the last is Sunday, it shall be excluded. If time is expressed in hours, the whole of Sunday shall be excluded.
- (d) "City" and "Municipality" mean the City of Chester, Pennsylvania.
- (e) Conjunctions. "And" includes "or" and "or" includes "and" if the sense so requires.
- (f) "Council" means the Council of the City of Chester, Pennsylvania.
- (g) "County" means the County of Delaware, Pennsylvania.
- (h) Gender. Words importing the masculine shall extend and be applied to the feminine and neuter genders.
- (i) General Rule. Except as otherwise provided in this section, words and phrases shall be construed according to the common usage of language, provided, however, that technical words and phrases and such others as may have acquired a special meaning in the law shall be construed according to such technical or special meaning.
- (j) Joint Authority. Words giving authority to a board, commission, authority or to three or more officers or employees or other persons shall be construed as giving authority to a majority thereof, unless otherwise specifically provided.
- (k) "Keeper" or "proprietor" includes persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or as a servant, agent or employee.
- (l) "Land" or "real estate" includes rights and easements of incorporeal nature.
- (m) Number. Words in the plural include the singular and in the singular include the plural number.
- (n) "Oath" includes affirmation. When an oath is required or authorized by law, an affirmation in lieu thereof may be taken by a person having conscientious scruples to taking an oath. An affirmation has the same force and effect as an oath.
- (o) "Owner" when applied to property, includes a part owner, joint owner or tenant in common, of the whole or any part of such property.
- (p) "Person" includes associations, clubs, corporations, firms, partnerships and bodies politic, as well as individuals.
- (q) "Premises", when used as applicable to property, includes land and buildings.

- (r) "Property" includes real and personal, and any mixed or lesser estates or interests therein. "Personal property" includes every kind of property except real property. "Real property" includes lands, tenements and hereditaments.
- (s) Reasonable Time. In all cases where provision is made for an act to be done or notice to be given within a "reasonable time," it means such time only as may be reasonably necessary for the prompt performance of such act or giving of such notice.
- (t) "Sidewalk" means any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.
- (u) "State" or "Commonwealth" means the Commonwealth of Pennsylvania.
- (v) "Street" includes alleys, avenues, boulevards, lanes, roads, streets and other public ways in the City.
- (w) "Tenant" or "occupant", as applied to building or land, includes any person holding a written or oral lease of or who occupies the whole or any part of a building or land, alone or with others.
- (x) Tenses. The use of any verb in the present tense includes the future.
- (y) "The Third Class City Code" means the Pennsylvania Act of June 28, 1951, P.L. 662, as amended.
- (z) "Written" or "in writing" includes any representation of words, letters or figures, whether by printing or otherwise. (Adopting Ordinance)

101.05 SEPARABILITY OF PROVISIONS.

Each section and each part of each section and each provision of the Codified Ordinances is declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, Council hereby declares it to be the controlling legislative intent that if any such section, part or provision thereof, or the application thereof to any person or circumstances, is held to be invalid, the remaining sections, parts or provisions and the application of such provision to any other person or circumstances, other than those as to which it is held invalid, shall not be affected thereby, and it is declared to be the legislative intent that the Codified Ordinances would have been adopted independently of such sections, parts or provisions so held to be invalid.
(Adopting Ordinance)

101.06 EXCEPTIONS.

Unless otherwise specifically provided herein, the adoption of the Codified Ordinances shall not affect:

- (a) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the adoption of these Codified Ordinances.
- (b) Any ordinance or resolution promising or guaranteeing the payment of money by or to the City, or authorizing the issuance of any bonds of the City, or any evidence of the City's indebtedness, or any contract or obligation assumed by the City.
- (c) The administrative ordinances or resolutions of Council not in conflict or inconsistent with the provisions of the Codified Ordinances.
- (d) Any right, license or franchise conferred by any ordinance or resolution of Council on any person or corporation.

- (e) Any ordinance establishing, naming, relocating or vacating any street or public way.
- (f) Any ordinance or part thereof providing for the establishment of positions, for salaries or compensation.
- (g) Any prosecution, suit or other proceeding pending, or any judgment rendered on or prior to the adoption of these Codified Ordinances.
- (h) Any ordinance levying or imposing taxes or assessments.
- (i) Any ordinance establishing or changing the boundaries of the City.
- (j) Any ordinance or resolution adopted by Council after December 31, 1977.
(Adopting Ordinance)

101.99 GENERAL PENALTY.

(a) Whenever in the Codified Ordinances or in any ordinance of the City of Chester any act is prohibited or is made or declared to be unlawful or an offense, or whenever in the Codified Ordinances or in any ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violator of any such provision or any ordinance may be proceeded against under this section.

(b) Such violator shall, upon conviction in a summary proceeding, be fined not more than one thousand dollars (\$1,000) for a violation of any building, housing, property maintenance, health, fire or public safety code or ordinance provision, and for any water, air and noise pollution violation; and not more than six hundred dollars (\$600.00) for a violation of any other ordinance provision, recoverable with costs, together with imprisonment for not more than ninety days, if the amount of such judgment and costs are not paid.

(c) This section and the foregoing penalties shall not be construed to limit or deny the right of the City or any person to equitable or other remedies as may otherwise be available, with or without process of law.
(Ord. 4-1990. Passed 6-6-90.)

ARTICLE 103
Official Standards

103.01 City flag; design and display.

103.02 Datum plane; adoption and controlling elevation.

CROSS REFERENCES

Official time standard - see 76 P. S. §171

Mayor's official seal - see 3rd Class §1204(53 P.S. §36204)

103.01 CITY FLAG; DESIGN AND DISPLAY.

(a) The following design for a flag is hereby adopted as the official flag for the City:

- (1) Seal. The City flag shall contain a seal which consists of the following features: a keystone representing the Commonwealth; a sailing ship representing the Port of Chester with its available commerce on the Delaware River; a cogwheel representing the various industries of the City; a shield with attached filigree and silver star, emblematic of the official seal of Governor Johan Printz in the year 1643; and an eagle representing the principles of good Americanism.
- (2) Colors. The colors for the design on the flag shall be basically buff and blue with a navy blue background on which the design seal shall be placed.
- (3) Ribbons. Ribbons shall appear on the flag on which shall be inscribed the words "Chester" and "Pennsylvania's First", to signify the fact that Chester, then named Upland, in 1682 was the first seat of government in Pennsylvania history under the proprietor, William Penn.
- (4) Leaves. There shall be crossed leaves under the shield.

(b) The flag adopted by the preceding section shall be displayed as emblematic of the City. (1956 Code §1-16, 1-17.)

103.02 DATUM PLANE; ADOPTION AND CONTROLLING ELEVATION.

(a) The datum plane of the City is hereby fixed and declared to be the datum plane at Sandy Hook of the United States, as fixed by the United States Coast and Geodetic Survey. Such datum plane is hereby adopted as that of the City. The elevations established in the City at the present time shall have added thereto a constant increment of 7.1 feet so as to bring such elevations to the Sandy Hook datum plane.

(b) The City Engineer is hereby authorized and directed to mark on the official plan of the City elevations to agree and be in accordance with the datum plane of the City.

(c) The controlling elevation in the City shall be a brass bolt in the stone door step on the north side of the old City Hall, immediately next to the building line on the west side of Market Street, between Fourth Street and Fifth Street, in the City, the elevation of which is 32.103 feet datum plane, Sandy Hook.
(1956 Code §1-18 to 1-20.)

ARTICLE 105
Real Estate Registry

- | | |
|---|---|
| <p>105.01 Purpose.</p> <p>105.02 Books, plans and maps.</p> <p>105.03 Presentation of deed or conveyance for registration.</p> <p>105.04 Property description to be furnished City Engineer. (Repealed)</p> | <p>105.05 Fee for registry of deed or conveyance.</p> <p>105.06 Registry of properties sold at judicial sales. (Repealed).</p> <p>105.07 Fee for certified copies of Engineer's entries.</p> <p>105.99 Penalty.</p> |
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CROSS REFERENCES

- Real estate registry - see 3rd Class §1515 et seq. (53 P.S. §36515 et seq.)
 City Engineer - see ADM. 111.08
 Building numbering - see BLDG. Art. 1729

105.01 PURPOSE.

For the purpose of procuring accurate information in reference to ownership of all real estate in the City, the registry thereof is hereby provided for, in accordance with the Act of June 23, 1931 (P.L. 932) 53 P.S. §36515 to 36521. (1956 Code §28-1.)

105.02 BOOKS, PLANS AND MAPS.

The City Engineer shall take charge of such maps and plans as have been prepared by the Delaware County Trust Company, under an agreement with the City, showing the names of the owners of all real estate in the City, and a description of each particular piece of real estate, and he shall cause to be made all such necessary books, maps and plans as will show the situation and dimension of each property in the City, in accordance with the provisions of the Act of June 23, 1931, (P.L. 932), 53 P.S. §36516 and 36517. (1956 Code §28-2)

105.03 PRESENTATION OF DEED OR CONVEYANCE FOR REGISTRATION.

The City Engineer shall obtain the information needed to register the ownership of real property within the City limits from the Recorder of Deeds for the County of Delaware pursuant to the agreement entered into between the County of Delaware and the City of Chester in compliance with the requirements of Section 5 of Act 110 of 2008, known as the Uniform Municipal Deed Registration Act. (Ord. 8-2009. Passed 1-14-09.)

105.04 PROPERTY DESCRIPTION TO BE FURNISHED CITY ENGINEER.**(REPEALED)**

(EDITOR'S NOTE: Former Section 105.04 was deleted in its entirety by Ordinance 8-2009.)

105.05 FEE FOR REGISTRY OF DEED OR CONVEYANCE.

Each purchaser, devisee or person acquiring title by partition, sheriff's deed or by any deed or instrument of conveyance or otherwise shall pay a registration fee of ten dollars (\$10.00). (Ord. 8-2009. Passed 1-14-09.)

105.06 REGISTRY OF PROPERTIES SOLD AT JUDICIAL SALES. (REPEALED)

(EDITOR'S NOTE: Former Section 105.06 was deleted in its entirety by Ordinance 8-2009.)

105.07 FEE FOR CERTIFIED COPIES OF ENGINEER'S ENTRIES.

Certified copies by the City Engineer of any of the entries in the books or upon the maps or plans pertaining to the registration provided for in this article shall be furnished to any person desiring the same. For any copy of such entry, a fee of five dollars (\$5.00) shall be paid to the City Treasurer.

(Ord. 11-1980 §2. Passed 5-14-80.)

105.99 PENALTY.

Any person neglecting or refusing to comply with any provision of this article shall be fined twenty-five dollars (\$25.00) for each separate violation with respect to any deed or instrument of conveyance or description, to be recovered with costs of suit, in the name and for use of the City. (Ord. 11-1980 §3. Passed 5-14-80.)

ARTICLE 107
Assessments

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| <p>107.01 Triennial valuation certification to Council.</p> <p>107.02 Time for filing appeals.</p> | <p>107.03 Predetermined ratio of assessed value to market value.</p> |
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CROSS REFERENCES

Assessments and revisions - see 3rd Class §2501 et seq. (53 P.S. §37501 et seq.)

Local tax collection law - see 72 P.S. §5511.1 et seq.

107.01 TRIENNIAL VALUATION CERTIFICATION TO COUNCIL.

The City Assessor is hereby directed to classify all real estate in the City in such manner and upon such testimony as may be adduced before him so as to distinguish between buildings on land and the land exclusive of the buildings, and he shall certify to Council the aggregate valuation of all real estate subject to taxation for City purposes within each such classification for the triennial period beginning January 1, 1958, and for each triennial period thereafter. (Ord. 43-1957 §1. Passed 7-9-57.)

107.02 TIME FOR FILING APPEALS.

All appeals from real estate tax assessments not changed as a result of a triennial assessment shall be filed with the Board of Revision of Taxes and Appeals of the City not later than September 1 in any triennial year after 1972. (Ord. 18-1972 §1. Passed 3-21-72.)

107.03 PREDETERMINED RATIO OF ASSESSED VALUE TO MARKET VALUE.

(a) The City Assessor's Office shall determine the actual market value of each and all properties in the City by multiplying the current assessment by four. (Ord. 7-2014. Passed 12-17-14.)

(b) The predetermined ratio of assessed value to market value is set at three and one-tenth percent (3.1%) to be effective for the 1994 tax year. (Ord. 23-1993 §1, 2. Passed 12-21-93.)

ARTICLE 109
Minority Participation in City Contracts

109.01	Definitions.	109.04	Waiver.
109.02	Applicability.	109.05	Severability.
109.03	Construction contract hiring and purchasing goals.	109.99	Penalty.

CROSS REFERENCES

Minority Business Development Authority Act - see Act 206 of
 1974 (73 P.S. §390.1 et seq.)

109.01 DEFINITIONS.

For the purpose of this article, the following terms shall have the following respective definitions:

- (a) "Minority owned business" means:
- (1) A sole proprietorship where the sole proprietor is a minority person; or
 - (2) A business corporation where fifty-one percent (51%) of the interests in such corporation are beneficially owned by minority person(s); or
 - (3) A partnership where fifty-one percent (51%) of the partnership interests in such partnership are beneficially owned by minority person(s); or
 - (4) Any other business or professional entity where fifty-one percent (51%) of the interests are beneficially owned by minority person(s).
- (b) "Female owned business" means:
- (1) A sole proprietorship where the sole proprietor is a woman; or
 - (2) A business corporation where fifty-one percent (51%) of the interests in such corporation are beneficially owned by women; or
 - (3) A partnership where fifty-one percent (51%) of the partnership interests in such partnership are owned by women; or
 - (4) Any other business or professional entity where fifty-one percent (51%) of the interests are owned by women.
- (c) "Minority person" includes: Black Americans; Hispanic Americans; Native Americans (American Indians, Eskimos, Aleuts or Native Hawaiians); Asian Pacific Americans (persons with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, U.S. Trust Territory of the Pacific Islands, Northern Mariana Islands, Laos, Cambodia or Taiwan).
- (d) "Joint ventures, ventures partnerships and other multiple firm arrangements":
- (1) Mean a combination of contractors or firms performing a specific contract in which minority and/or female owned businesses participate in the net profits or net loss; and
 - (2) Mean venture partnerships, other multiple firm arrangements and sub-contracting in which fifty percent (50%) of the effort excluding the cost of materials, goods and supplies shall be with minority and/or female owned firms.

- (3) None of the definitions of ownership expressed in subsection (a) and (b) hereof shall preclude or exclude joint ventures partnerships, and any other joint or multiple firm arrangement from obtaining any benefit under this article so long as:
- A. A minority and/or female owned business can demonstrate substantial benefit derived from such an arrangement; and
 - B. The minority and/or female owned participant is substantially involved in all phases of the contract including bidding, planning, staffing and daily management; and
 - C. Such an arrangement is customary.
- (e) "Sub-contracting":
- (1) Means the specific allocation of work by a minority and/or female owned business as prime contractor to other contractors for specific tasks to be performed thereunder or the allocation of work by a majority owned business to a minority and/or female owned business as sub-contractor.
 - (2) None of the definitions expressed in subsection (a) and (b) hereof shall preclude or exclude sub-contracting so long as:
 - A. The minority and/or female owned contractor perform at least fifty percent (50%) of the contracting effort, excluding the costs of materials, goods and supplies, with its own organization and resources; and
 - B. For contracts up to one million dollars (\$1,000,000) the minority and/or female owned prime contractor shall perform at least fifty percent (50%) of the onsite work with its own force, excluding the cost of materials, goods, supplies and equipment; and
 - C. For contracts greater than one million dollars (\$1,000,000) the minority and/or female owned contractor shall perform that portion of on-site work with its own work force which demonstrates that he or she is fiscally and managerially responsible as the prime or sub-contractor, demonstrates that it derives substantial benefit from the contract; and
 - D. The minority and/or female owned business either as prime or sub-contractor is substantially involved in all phases of the contract including bidding, planning, staffing and daily management.
- (f) "Sheltered market" means a process whereby contracts or sub-contracts are designated before solicitation of bids for limited competition from minority and/or female owned businesses on either a negotiated or competitive bid basis.
- (g) "Female" includes persons of the female gender.
- (h) "City contracts" includes all City of Chester contracting whether by the competitive bid process, single source contracting or other procurement processes and whether or not done in conjunction with other governmental entities or public or private agencies.
(Ord. 7-1987 §1. Passed 6-3-87.)

109.02 APPLICABILITY.

This article shall be applied to all contracts of the City, the departments and agencies of the City and all other commissions, councils, departments and agencies which receive any funding from the City or derive any part of their authority and/or existence from City laws and ordinances, involving any work upon buildings, roads, sewers or in any way employing members of the construction trades and involving the purchase of materials, supplies and equipment.

(Ord. 7-1987 §2. Passed 6-3-87.)

109.03 CONSTRUCTION CONTRACT HIRING AND PURCHASING GOALS.

(a) For any construction contract there are hereby established the following goals for employment at the construction site:

- (1) Twenty-five percent (25%) of the work hours shall be furnished by City residents;
- (2) Fifteen percent (15%) of the work hours shall be furnished by minority workers; and
- (3) Ten percent (10%) of the work hours shall be furnished by female workers.

(b) To the extent practicable, the goals set forth in subsection (a) hereof shall apply to each and every trade, craft or skill employed to perform the construction contract and shall be reflected throughout the various levels of employment within each trade, craft or skill; however, in no event shall the total work hours furnished by minority workers, female workers and City residents be less than the goals established in subsection (a) hereof.

(c) In determining the total work hours to be furnished at the construction site, there shall be included the number of hours devoted to all tasks customarily performed on a construction site whether or not such tasks are, in fact performed on the construction site.

(d) For any contract involving the purchase of materials, supplies or equipment, the specifications for such contract shall provide that at least twenty-five percent (25%) of the amount of such contract shall be expended for minority and/or female owned businesses. (Ord. 7-1987 §3. Passed 6-3-87.)

109.04 WAIVER.

Notwithstanding anything contained in this article, Council shall have the power to waive the herein stated percentage goals for particular types of contracts when no minority or female contractors can be found or when to do so would be in the best interest of the City. Such waiver is subject to review by Council upon petition by an aggrieved minority or female contractor or other interested person. (Ord. 7-1987 §4. Passed 6-3-87.)

109.05 SEVERABILITY.

If any section, subsection, clause, sentence or phrase of this article is found to be unlawful by reason of other superior laws of the United States or the Commonwealth of Pennsylvania, such a determination shall not affect the validity of the remaining portions of this article. The applicable law in determining the parties rights and liabilities under this article are the laws of the Commonwealth of Pennsylvania. (Ord. 7-1987 §6. Passed 6-3-87.)

109.99 PENALTY.

Any City department or agency that fails to meet the goals established in Section 109.03 and which is also unable to demonstrate to Council that it has made a good faith effort to comply with this article and/or has failed to adhere to the procedures established herein shall be subject to the following actions:

- (a) Cancellation of present contracts deemed appropriate and all future City contracts after enactment of this article, which shall contain a conditional clause whereby the contracting parties acknowledge and agree to possible cancellation upon determination that this article has been violated.
- (b) Council may designate that as to a certain number of and/or dollar amount of future contracts to be let by an agency or department, responsible minority and/or female owned businesses bidding shall have an absolute first right to such contracts.
- (c) If a department, agency, authority, commission, etc., or individual fails to comply with the provisions of this article or with the regulations promulgated as a result hereof, Council is empowered to petition the Court of Common Pleas for a judicial order to enforce compliance with this article.
- (d) Any minority or female owned business aggrieved by a violation of this article or by a violation of the procedures hereafter established may appeal such grievance or determination to Council.
(Ord. 7-1987 §5. Passed 6-3-87.)

TITLE THREE - Departments and Offices

- Art. 111. Council.
- Art. 112. Chief of Staff.
- Art. 113. City Clerk.
- Art. 115. City Treasurer.
- Art. 117. City Solicitor.
- Art. 119. City Controller.
- Art. 120. Chief Financial Officer.
- Art. 121. Police Department.
- Art. 123. Fire Department.
- Art. 125. Economic Development.

ARTICLE 111
Council

- | | |
|---|---|
| 111.01 Meeting time and place. | 111.06 Director of Public Safety. |
| 111.02 Special meetings. | 111.07 Director of Streets and Public Improvements. |
| 111.03 Departments generally; powers, reports and rules. | 111.08 City Engineer. |
| 111.04 Mayor as Director of Public Affairs. | 111.09 Director of Parks and Public Property. |
| 111.05 Director of Accounts and Finance; City Accountant. | 111.10 Director of Civil Defense. |

CROSS REFERENCES

- City Council - see 3rd Class §1001 et seq. (53 P.S. §36001 et seq.)
- Vacancies - see 3rd Class §801 (53 P.S. §35801)
- Powers as to officers and employees - see 3rd Class §901 et seq. (53 P.S. §35901 et seq.)
- City Engineer - see 3rd Class §1501 et seq. (53 P.S. §36501 et seq.)

111.01 MEETING TIME AND PLACE.

Council shall meet on the second and fourth Wednesdays of each month in the Council Chamber of the Municipal Building, 1 Fourth Street, Chester, Pennsylvania; or at such other place as Council may determine. The time for the meetings shall be as follows: beginning in January the meetings shall be held at 10:00 a.m. with the exception that every third month (March, June, September, and December), one meeting shall be held at 7:00 p.m. However, if the Wednesday on which any meeting is scheduled is a legal holiday, such meeting shall be held on the following day at the same hour.
(Ord. 3-2010. Passed 1-27-10.)

111.02 SPECIAL MEETINGS.

The Mayor may, and upon the request of two Councilmen shall, call a special meeting of Council upon twenty-four hours' notice to each member, which notice shall state whether such meeting is to be convened for special or general business. Such notice may be waived by unanimous consent of Council.

(Ord. 5-1973 §2. Passed 2-13-73.)

111.03 DEPARTMENTS GENERALLY; POWERS, REPORTS AND RULES.

(a) **Powers and Duties.** The several departments of the City government, for the performance of executive and administrative functions, shall have power and authority to do and are charged with the duty of performing the duties which Council assigns to them.

(b) **Directors Subject to Council Supervision.** The directors of departments are only the agents of Council and all their acts shall be subject to review and to approval or revocation by Council, except where otherwise provided by law or ordinance.
(1956 Code §2-52 to 2-56.)

(c) **Directors' Reports.** Every department director and any other officer shall, as required by law or ordinance or on request by resolution of Council, or whenever said director deems it necessary for the good of the public service, report to Council in writing respecting the business of the particular department or office of matters connected therewith.
(Ord. 3-2010. Passed 1-27-10.)

(d) **Rules and Regulations.** The director of each department shall make and enforce such rules and regulations not inconsistent with this Administrative Code or other laws, ordinances or rules and regulations adopted by Council, as may be necessary to provide efficient conduct of the service of his department or the business in charge thereof.

(e) **Assistants and Employees.** Except as otherwise provided by law or ordinance, the director of each department shall appoint or employ such assistants or employees as may be authorized by Council as necessary to the efficient conduct of the service in the department and the director may dismiss the same for the good of the department, subject to approval by Council. (1956 Code §2-52 to 2-56.)

111.04 MAYOR AS DIRECTOR OF PUBLIC AFFAIRS.

The Mayor, as Director of the Department of Public Affairs, shall perform and discharge the duties and powers assigned by law and ordinance. The Mayor shall have supervision over the Police Department and all policemen, officers and employees therein and the Sealer of Weights and Measures. The Mayor shall have supervision of the City Planning Commission. The Mayor shall have supervision over all traffic control devices and shall compel the compliance with all laws and ordinances, except where such duty is vested elsewhere by law or ordinance.

(Ord. 3-2010. Passed 1-27-10.)

111.05 DIRECTOR OF ACCOUNTS AND FINANCE; CITY ACCOUNTANT.

(a) The Director of the Department of Accounts and Finance shall perform and discharge the duties and powers assigned by law and ordinance. The Director shall supervise the Department of Human Resources, and City Printing unless otherwise provided for, investigate and report to Council, all bills, accounts, payrolls and claims before such are acted upon or allowed, unless otherwise provided by law or ordinance, and report to Council any failure to make reports or to pay monies due the City; together with specific recommendation in relation thereto, as the Director deems proper.
(Ord. 3-2010. Passed 1-27-10.)

(b) The City Accountant in the Department of Accounts and Finance shall be the official bookkeeper of the financial accounts and affairs of the City. The City Accountant shall keep books of accounts in accordance with generally accepted municipal bookkeeping practices of the receipts and expenditures of the City, funded and floating debt, assets and property of the City and such other matters requiring account. Upon request, the City Accountant shall prepare and furnish statements and reports to department heads and Council of the City's financial affairs or of the appropriation and expenditures and outstanding obligations of any department, and prepare as the law provides a report for the preceding fiscal year of the receipts and expenditures of the City, and other information which department heads or Council may require. (1956 Code §2-67 to 2-73.)

111.06 DIRECTOR OF PUBLIC SAFETY.

(a) The Director of the Department of Public Safety shall perform and discharge the duties and powers assigned by law and ordinance; have supervision of the Fire Department and all officers, employees and property and apparatus therein belonging to the City, including fire plugs and the fire alarm system; and have supervision of the health officer, building inspector, plumbing inspector, electrical inspector, mechanical inspector and housing inspectors.

(b) All matters pertaining to health and all City officers and employees connected with public health, and all property used in connection with health matters, are assigned to the Department of Public Safety. (1956 Code §2-74 to 2-76.)

111.07 DIRECTOR OF STREETS AND PUBLIC IMPROVEMENTS.

(a) The Director of Streets and Public Improvements shall perform and discharge the duties and powers assigned by law and ordinance and supervise municipal refuse collection. The Director shall superintend and have charge of all public work connected with the streets and alleys of the City including the cleaning of streets and public places and the erection, construction, making, repairing and reconstruction of all streets and street improvements, pavements, sidewalks, sewers, bridges, viaducts and conduits. The Director shall supervise street excavations and issue permits therefor, supervise and control the giving of notice to property owners to curb and recurb and to reset curb, and to pave, repave and repair sidewalks. The Director shall keep accurate records of all such notices, and effectuate a system whereby defective sidewalks, curbs and streets are reported, proper notice given and repairs made; in this connection the Director may call on other departments for assistance.

(b) The Director of Streets and Public Improvements shall have supervision over street signs and encroachments permitted in streets by law or ordinance. The Director shall supervise signs erected or to be erected in, on or above any street, avenue or alley of the City and billboards. The Director shall have control and supervise landfills and public comfort stations. The Director shall supervise all public service utilities and companies rendering service in the City under any franchise, contract or grant from the City and report to Council any failure of such persons to render service or to observe the requirements or conditions of the franchise, contract, grant or law, under which such public service utility is operated. (Ord. 3-2010. Passed 1-27-10.)

(c) The City Engineer and any engineering employees are assigned to the Department of Streets and Public Improvements and shall be under the supervision and direction of the Director thereof. (1956 Code §2-79 to 2-81.)

111.08 CITY ENGINEER.

(a) The office of City Engineer is hereby created to serve a term of four years and until a successor is qualified. (Ord. 3-2010. Passed 1-27-10.)

(b) The engineers in the Department of Streets and Public Improvements shall be appointed in accordance with the rules pertaining to civil service of cities of the third class. (1956 Code §2-84 to 2-92.)

(c) The City Engineer shall supervise and control all surveys and regulations authorized by State law and City ordinances, and shall officially sign all plans and profiles of surveys, bridges and culverts. The City Engineer shall furnish Council with all plans and specifications for laying out, grading and regulating streets and public ways, and for bridges, culverts, common sewers, location of inlets and other improvements to be done under the supervision of Council. The City Engineer shall perform all other duties imposed by law or ordinance. (Ord. 3-2010. Passed 1-27-10.)

(d) The City Engineer shall lay out and survey such parts of the City as may be required and shall designate the proper lines, levels and grades, as established upon the confirmed plans of the City. When the improvements mentioned in Section 117.02(c) are built or constructed by contract, no estimate shall be paid without the certificate of the City Engineer as to its correctness.

(e) The City Engineer shall keep an accurate record in a book provided for that purpose of all surveys and adjustments of building lines, and all surveys, plans and records, minutes, notes, memoranda and regulations shall be delivered to his successor in office at the termination of his official service.

(f) The City Engineer shall keep in his office and under his custody, certified copies of all records and plans relating to the surveys, regulations, sewerage and bridging of the City. (1956 Code §2-84 to 2-92.)

111.09 DIRECTOR OF PARKS AND PUBLIC PROPERTY.

The Director of the Department of Parks and Public Property shall perform and discharge the duties and powers assigned by law and ordinance. The Director shall have supervision over all public parks and public property, including buildings and contents, not otherwise assigned, wharves and docks. The janitor of City Hall and other City buildings, and the tenders of the wharves and docks of the City shall be under the Director's supervision. The Director shall have control, management and direction of lighting the streets and alleys, and of public parks, grounds and buildings, not otherwise assigned, and of all lights, material and persons charged with the care thereof. The Director shall have supervision over the banks and waterfront on the Delaware River and on the Chester and Ridley Rivers, insofar as the same belong to the City, or are under its control, or in which it has an interest. The Director shall have jurisdiction and control over all public parks, playgrounds and recreation centers of the City, and all officers and employees, including park policemen and watchmen employed therein and of all property used in connection therewith. The Director shall have charge and supervision over the improvements, maintenance, lighting and care of parks, playgrounds and recreation centers including buildings and property therein or thereon. The Director shall have charge of enforcing the provisions of law and City ordinances relating to trees in public streets, alleys, parks and other public places. The Director shall have such assistance from the City Engineer as may be necessary in surveying and laying out parks, playgrounds and recreation grounds and improvements thereto. The Director shall have charge of enforcing rules and regulations relating to parks, playgrounds and recreation centers.
(Ord. 3-2010. Passed 1-27-10.)

111.10 DIRECTOR OF CIVIL DEFENSE.

The position of Director of Civil Defense is hereby created with appointment to be made by Council. The Director shall serve for no fixed term and is subject to removal at any time by Council.
(1956 Code §2-10, 2-11.)

**ARTICLE 112
Chief of Staff**

- | | | | |
|--------|--------------------------|--------|--------------------|
| 112.01 | Creation of office. | 112.04 | Compensation. |
| 112.02 | Appointment and removal. | 112.05 | Bond. |
| 112.03 | Qualifications. | 112.06 | Powers and duties. |

112.01 CREATION OF OFFICE.

The Office of Chief of Staff is hereby created by the City of Chester.
(Ord. 13-2004. Passed 12-8-04.)

112.02 APPOINTMENT AND REMOVAL.

The Chief of Staff shall be appointed by a majority of all the members of the City Council. The Chief of Staff shall serve at the pleasure of the City Council.
(Ord. 13-2004. Passed 12-8-04.)

112.03 QUALIFICATIONS.

The Chief of Staff shall be chosen solely on the basis of his education, executive and administrative abilities, with special reference to his actual experience in or his knowledge of accepted practices in respect to the duties of his Office as herein outlined.
(Ord. 13-2004. Passed 12-8-04.)

112.04 COMPENSATION.

The salary and fringes of the Chief of Staff shall be fixed from year to year by the City Council. (Ord. 13-2004. Passed 12-8-04.)

112.05 BOND.

Before entering upon his duties, the Chief of Staff shall give a bond to the City with a bonding company as surety, to be approved by City Council, in the sum of no less than fifty thousand dollars (\$50,000), conditioned for the faithful performance of his duties. The premium shall be paid by the City.
(Ord. 13-2004. Passed 12-8-04.)

112.06 POWERS AND DUTIES.

The Chief of Staff shall be the Chief of Staff Officer of the City and he shall be responsible to the City Council as a whole for the proper and efficient administration of the affairs of the City. His powers and duties as set by Council from time to time shall relate to the general management of all City business not expressly by statute imposed or conferred upon other City Officers.

Subject to recall by ordinance of the City Council, the powers and duties of the Chief of Staff shall include the following:

- (a) He shall supervise and be responsible for the activities of all City Departments. Council members acting in their executive capacity as Department Directors may execute their direction through the Chief of Staff.
- (b) He shall recommend to City Council the hiring, suspension or discharge of employees under his supervision.
- (c) He shall prepare and submit to the City Council in accordance with the Charter and Third Class City Code, a budget for next fiscal year and an explanatory budget message. In preparing the budget, the Chief of Staff, or an officer designated by him, shall obtain from the head of each department, agency, board or officer, estimates of revenues and expenditures and other supporting data as he requests. The Chief of Staff shall review such estimates and may revise them before submitting the budget to the City Council.
- (d) He shall be responsible for the administration of the budget after its adoption by the City Council.
- (e) The Chief of Staff shall be ex officio Zoning Officer, Health Officer, City Clerk, Officer for the Handicapped and Building Inspector unless such offices, or either of them, are duly filled by appointment; and he shall perform the duties of each such office in the absence of such appointment to either of them. In addition, he shall hold such other City offices or head one or more of the City departments as the City Council may from time to time direct.
- (f) He shall attend all meetings of the City Council and its committees as requested by the Mayor of the City with the right to take part in the discussion and he shall receive notice of all special meetings of the City Council or its committees.
- (g) He shall prepare or cause to have prepared for approval of the agenda, resolutions and ordinances for each public meeting of the City Council.
- (h) He shall keep the City Council informed as to the conduct of City affairs; submit periodic reports on the condition of the City finance and such other reports as the Mayor requests; and make such recommendations to the City Council as he deems necessary.
- (i) He shall submit to the City Council, in accordance with the Charter and Third Class City Code, a complete report on the financial and administrative activities of the City for the preceding year.
- (j) He shall see that the provisions of all contests, leases, permits and privileges granted by the City are observed.
- (k) He may recommend when necessary experts and consultants to perform work and to advise in connection with any of the functions of the City.
- (l) He shall attend to the letting of contracts in due form of law, with prior approval of the majority of the City Council and the City Solicitor, and he shall supervise the performance and faithful execution of the same except insofar as such duties are expressly imposed upon some other City Officer by statute.

- (m) He shall see that all money owed the City is promptly paid and that proper proceedings are taken for the security and collection of all City claims.
- (n) All complaints regarding services or personnel of the City shall be referred to the office of the Chief of Staff. He, or an officer designated by him, shall investigate and dispose of such complaints, and Chief of Staff shall report thereon to the City Council.
- (o) He shall see that all laws and ordinances are duly enforced.
- (p) The Chief of Staff shall keep a current inventory showing all real and personal property of the City and its location, and shall be responsible for the care and custody of all such property including equipment, buildings, parks and all other City property, which is not by law assigned to some other officer or body for care and control.
- (q) It shall be the duty of the Chief of Staff to see to the publication of all notices, ordinances or other documents required by law to be published and to prepare or cause to be prepared all reports which the City or any of the officials thereof are required by law to prepare.
- (r) Establish lines of administrative direction and control for all City departments and agencies, and provide personal direction of all operating personnel through the establishment of administrative lines of procedure whereby he shall recommend the appointment or removal of all City-operating employees, not subject to civil service.
- (s) Act as Chief of Staff and Coordinator of the quasi-governmental bodies, as directed by City Council, to include the Community Development Block Grant Program, Commissions and Civic Committees.
- (t) The Chief of Staff shall maintain an office in the City Municipal Building and shall spend such time in the performance of his duties as may be required by the City Council. (Ord. 13-2004. Passed 12-8-04.)

ARTICLE 113
City Clerk

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| <p>113.01 Office created; term.
113.02 Duties as Clerk of Council and generally.</p> | <p>113.03 Fees to be paid to City treasury monthly.</p> |
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CROSS REFERENCES

City Clerk - see 3rd Class §1301 et seq. (53 P.S. §36301 et seq.)
To keep Council records - see 3rd Class §1303 (53 P.S. §36303)

113.01 OFFICE CREATED; TERM.

The office of City Clerk is hereby created. Council shall appoint a City Clerk on the first Monday of May, 1952, and on the first Monday of May every four years thereafter. He shall serve for a term of four years and until his successor is duly appointed and qualified. (1956 Code §2-23.)

113.02 DUTIES AS CLERK OF COUNCIL AND GENERALLY.

(a) The person appointed as City Clerk shall also be Clerk of Council, and his term of office shall be the same as that of City Clerk. The Clerk of Council shall attend all the meetings of Council, keep the minutes thereof, assist in the preparation of motions, resolutions and ordinances, and perform such other duties as devolve upon a Clerk of Council or that Council may designate.

(b) The City Clerk shall perform such duties as are prescribed for a City Clerk in cities of the third class and such other as are prescribed by law or ordinance.

(c) The City Clerk shall assist the Director of the Department of Accounts and Finance in keeping such books and accounts as the Director is required by law to keep, for which service he shall receive no additional salary. (1956 Code §2-24 to 2-26.)

113.03 FEES TO BE PAID TO CITY TREASURY MONTHLY.

All fees received by the City Clerk in his capacity as City Clerk or Clerk of Council shall be paid into the City treasury monthly. (1956 Code §2-27.)

ARTICLE 115
City Treasurer

<p>115.005 Appointment, duties, bond and salary.</p> <p>115.01 Bond.</p> <p>115.02 Insurance against loss of public moneys.</p> <p>115.03 Prorating insurance premiums and salaries.</p> <p>115.04 Accounts.</p> <p>115.05 Receipt of taxes and paying warrants.</p>	<p>115.06 Sale of delinquent lands.</p> <p>115.07 Buying in lands.</p> <p>115.08 Compensation by City.</p> <p>115.09 Contract procedure and award.</p> <p>115.091 Contract set aside for minority or female ownership or labor force.</p> <p>115.10 Pennsylvania Local Government Investment Trust.</p>
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CROSS REFERENCES

City Treasurer - see 3rd Class §1401 et seq. (53 P.S. §36401 et seq.)

Vacancy - see 3rd Class §802 (53 P.S. §35802)

Duty to collect earned income tax - see B.R. & T. 303.05

Occupation privilege tax collection - see B.R. & T. 305.10

Mercantile license tax collection - see B.R. & T. 307.11

115.005 APPOINTMENT, DUTIES, BOND AND SALARY.

(a) The City Treasurer shall be appointed by the Mayor and Council, to serve at the will of Mayor and Council.

(b) The City Treasurer shall perform the following duties:

- (1) Be responsible for accounting and payment over of all moneys received by him in his capacity as City Treasurer and the safe keeping and payment over of all public moneys entrusted to his care.
- (2) Be responsible for the collection of City and school taxes.
- (3) Perform such other duties as may be required by law or dictated by the Mayor and City Council.

(c) The City Treasurer shall be required to provide a lawful fidelity bond to the Commonwealth and to the City to insure his performance and safe keeping and payment over of all moneys collected by him in an amount to be determined by the Mayor and Council.

(d) The City Treasurer shall be paid in accordance with the annual salary ordinance. (Ord. 1-1990 §1-4. Passed 1-2-90.)

115.01 BOND.

The City Treasurer shall execute and deliver to the City a fidelity bond in an amount to be approved by Council, conditioned that such Treasurer shall account for and pay over all moneys received by him in his capacity as Treasurer and safe keep and pay over all public moneys entrusted to his care and that as collector of the City, County, Institution district, school and poor taxes he shall account for and pay over all moneys received by him as taxes, penalties and interest, and shall collect and pay over or certify to Council for entry as liens in the office of the Prothonotary or return to the County Treasurer or City Treasurer for sale, or in the case of personal property, occupation, poll and per capita taxes, a record of those taxes which remain uncollected if filed with the tax authority as provided in Section 1402 of the Act of June 23, 1931 (P.L. 932) 53 P.S. §36402 as amended. (1956 Code §2-29.)

115.02 INSURANCE AGAINST LOSS OF PUBLIC MONEYS.

The City Treasurer shall, in addition to the fidelity bond furnished by him and approved by Council, furnish adequate insurance protection against any losses of money received by him in his capacity as City Treasurer and all public moneys entrusted to his care and all taxes, penalties and interest received by him as collector of the City, County, institution district and school taxes through fire, burglary, larceny, theft, robbery or forgery, in a sum to be approved by Council. (1956 Code §2-30.)

115.03 PRORATING INSURANCE PREMIUMS AND SALARIES.

(a) The premium of the bonds and insurance required by this article of the City Treasurer shall be shared pro rata by the taxing districts for which he is collector according to their respective tax interests.

(b) The City shall pay one-third of the amount of the salaries of the deputies, clerks and collectors or assistants, and the extra clerks under this article, in the same manner as officers of the City.

(c) Provisions shall be made in each appropriation ordinance for the payment of the City's one-third share of all the salaries referred to in this section, as well as the salary of the Treasurer as collector pursuant to Section 115.03(b) and the supplies purchased and arranged for by the City Treasurer as collector of taxes. (1956 Code §2-31 to 2-33.)

115.04 ACCOUNTS.

The accounts of the City Treasurer shall be kept in such manner as to clearly exhibit all the items of receipts and expenditures of the City, the sources from which the moneys are received, and the objects for which the same are disbursed. He shall keep separate and distinct accounts of the receipts and expenditures of the City, and the water and lighting respectively, and also of every special fund which may come into his hands. (1956 Code §2-34.)

115.05 RECEIPT OF TAXES AND PAYING WARRANTS.

The Treasurer shall receive all taxes and public assessments payable and receivable within the limits of the City and shall pay all warrants that are drawn upon him by the proper officers but in no case shall he pay warrants drawn for account of any department where the appropriation made by Council to such department has been exhausted nor shall he pay any warrant that does not state on its face the department, if any, to which it is chargeable. (1956 Code §2-35.)

115.06 SALE OF DELINQUENT LANDS.

The City Treasurer is authorized to sell at public sale for the collection of delinquent City taxes all property upon which City taxes, assessed and levied, have not been paid and have become delinquent, in the manner and under the authority prescribed by the Act of June 23, 1932 (P. L. 932) 53 P.S. §37541 to 37552. (1956 Code §2-36.)

115.07 BUYING IN LANDS.

The City Treasurer is authorized to protect the interest of the City and to buy in properties, if necessary, for such purpose and any expense that may be incurred in and about such sales, as well as legal costs, shall be paid out of the contingent fund, after such bill has been approved by the City Treasurer. (1956 Code §2-37.)

115.08 COMPENSATION BY CITY.

(a) The salary of the City Treasurer as Treasurer shall be in lieu of all other compensation except the salary paid to the Treasurer as Tax Collector and all fees and emoluments received by the City Treasurer in his official capacity shall be paid into the City treasury.

(b) The portion of the salary of the City Treasurer as Collector of Taxes, payable by the City, shall be paid in the same manner as other officers of the City. (1956 Code §2-38, 2-39.)

115.09 CONTRACT PROCEDURE AND AWARD.

(a) All contracts where the amount exceeds ten thousand dollars (\$10,000) shall be awarded and given to the lowest responsible bidder, after advertising, as is provided in the Third Class City Code.

(b) The placement and the awarding of all contracts, both less than and more than ten thousand dollars (\$10,000) in amount shall be through the City Purchasing Agent in accordance with the rules and regulations established by such Purchasing Agent. (Ord. 9-1990 §1. Passed 10-31-90.)

115.091 CONTRACT SET ASIDE FOR MINORITY OR FEMALE OWNERSHIP OR LABOR FORCE.

(a) Except to the extent that the Purchasing Agent with the approval of Council determines otherwise, no contract of the City involving any work upon buildings, roads, sewers or in any way employing members of the construction trades and/or involving the purchase of materials, supplies and equipment shall be awarded unless the specifications for such contract shall provide that at least fifteen percent (15%) of the amount of such contract shall be expended for qualified minority owned and/or female owned businesses and/or for the employment of qualified minority local manpower labor force where possible and unless the lowest responsible bidder on such contract shall give satisfactory assurances to the Purchasing Agent of compliance with such specifications.

(b) For purposes of this section, the terms minority owned and female owned businesses shall mean a business of which fifty-one percent (51%) is owned by minority or female members or, in case of a publicly owned business, at least fifty-one percent (51%) of the stock is owned by minority or female members. Minority members shall mean citizens of the United States who are negroes, hispanics, orientals or who are members of any other group able to demonstrate that their group have been the victims of past discrimination comparable to that suffered by the other designated minority groups. A minority surname or less than fifty percent (50%) minority ancestry shall not be sufficient to qualify a person as a minority group member.

(c) The financing and composition of any individual, partnership, firm, corporation, etc., representing himself, herself, themselves or itself to be a minority owned or female owned business shall be disclosed, upon request to Council through its Purchasing Agent. The minority owned and/or female owned share or shares of such business shall be genuine and may not be provided or financed except as a result of an arms length, bona fide loan or other business transaction, nor shall the profits of the business inure to the owners or shareholders of such business on other than a proportional basis.

(d) The Purchasing Agent with the approval of Council is hereby authorized to issue waivers to the requirements of this section in those instances where the bid of a minority owned and/or female owned business is deemed to be unreasonable and where the excess amount of such bid is not attributable to the effects of past discrimination. In addition thereto, the Purchasing Agent with the approval of Council is hereby authorized to extend waivers or to reduce the requirements of this section in those instances where there is a lack of qualified and/or skilled minority owned and/or female owned businesses to bid on a contract where an emergency situation exists and the contract must be let without prior notice to and solicitation of minority owned and/or female owned businesses; and where the nature of the contract is such that would be impractical for the contractor to employ a subcontractor for fifteen percent (15%) or more of the contract.

(e) Any person, partnership, firm or corporation who violates any provisions of this section shall, upon conviction before any District Justice, be fined not more than three hundred dollars (\$300.00) or, in default thereto, imprisoned not more than ninety days. Each day's violation of any of the provisions of this section shall constitute a separate violation hereof.

In addition to the foregoing penalties, any person, partnership, firm or corporation who violates any provision of this section shall be civilly liable to the City for any and all damages and/or losses caused thereby and shall also be liable for any surcharge or penalty as permitted by law.

(Ord. 42-1982 §1-5. Passed 12-22-82.)

115.10 PENNSYLVANIA LOCAL GOVERNMENT INVESTMENT TRUST.

(a) The City shall join with other municipalities in accordance with the Pennsylvania Intergovernmental Cooperation Act by becoming a settlor of the Pennsylvania Local Government Investment Trust and entering into the Declaration of Trust, which is adopted by reference with the same effect as if it had been set out verbatim in this section and a copy of which shall be filed with the minutes of the meeting at which this section (Ordinance 17-1981) was adopted.

(b) The City is authorized to purchase shares in the Trust from time to time with available Municipal funds, and to redeem some or all of those shares from time to time as funds are needed for Municipal purposes. These actions are to be taken by the officers designated for this purpose, pursuant to general or specific instructions by the governing body adopting this section.

(c) The Trustees of the Trust are designated as having official custody of the City's funds which are invested by the purchase of shares in the Trust.

(d) As required by the Intergovernmental Cooperation Act, the following matters are specifically found and determined:

- (1) The conditions of the agreement are set forth in the Declaration of Trust referred to in subsection (a) hereof;
- (2) The City's participation in the Trust shall be terminable at any time by ordinance;
- (3) The Declaration of Trust and the purchase of its shares are for the purpose of investing the City's funds in obligations which are otherwise legal investments as part of a pooled arrangement with other governmental units, thereby achieving economic and other advantages of pooled investments;
- (4) It is not necessary to finance the agreement authorized herein from Municipal funds except through the purchase of shares in the Trust;
- (5) The Trust shall be managed by a Board of Trustees as set forth in the Declaration of Trust and the By-Laws provided for therein; and,
- (6) Shares may be purchased and redeemed from time to time as this City may determine to be necessary or appropriate to meet its cash investment requirements. (Ord. 17-1981 §1-4. Passed 5-13-81.)

ARTICLE 117
City Solicitor

117.01 Tax collection.

117.02 Contract preparation and approval.

CROSS REFERENCES

City Solicitor - see 3rd Class §1601 et seq. (53 P. S. §36601 et seq.)

117.01 TAX COLLECTION.

The City Solicitor is authorized and directed to collect all taxes certified to him by the City Treasurer. (1956 Code §2-45.)

117.02 CONTRACT PREPARATION AND APPROVAL.

(a) All contracts and agreements wherein the City is a party shall be prepared by the City Solicitor when requested by Council and each contract and agreement, before its execution, shall be submitted by him to Council or the director of the proper department. After proper execution by the other contracting party, the City Solicitor shall mark his approval as to the form and the execution thereof. (1956 Code §2-46.)

(b) Each contract or agreement wherein the City is a party shall be signed on behalf of the City by the director of the department having jurisdiction of the subject matter thereof and by the City Clerk, and the City seal shall be attached thereto.

(c) All general plans of sewers, bridges or other improvements to be constructed shall be approved by Council, and no contract for such improvement shall be commenced until the plans therefor have been approved. (1956 Code §2-7, 2-8.)

ARTICLE 119
City Controller

EDITOR'S NOTE: There are no sections in Article 119.
This article has been established to provide a place for cross
references and any future legislation.

CROSS REFERENCES

City Controller - see 3rd Class §1701 et seq. (53 P.S. §36701 et seq.)
Vacancy in office - see 3rd Class §802 (53 P.S. §35802)

ARTICLE 120
Chief Financial Officer

120.01	Creation of the office.	120.05	Bond.
120.02	Appointment and removal.	120.06	Powers and duties.
120.03	Qualifications.	120.07	Disability or absence of the Chief Financial Officer.
120.04	Compensation.		

CROSS REFERENCES
Financial administration - see CHTR. Art. VII

120.01 CREATION OF THE OFFICE.

The Office of Chief Financial Officer is hereby created by the City of Chester.
(Ord. 16-2016. Passed 8-19-16.)

120.02 APPOINTMENT AND REMOVAL.

The Chief Financial Officer shall be appointed for a term to be decided by a majority of all the members of the City Council. The Chief Financial Officer shall serve at the pleasure of the Mayor and may be removed at any time by a majority vote of all its members. At least thirty (30) days before such removal becomes effective, the City Council shall furnish the Chief Financial Officer with a written statement setting forth its intention to remove said Officer and the reasons therefore. In the event the removal is without just cause then the City shall pay to Chief Financial Officer a severance pay in an amount equal to two month's salary. However, in the event there exists a contract of employment between the City and the Chief Financial Officer, the provisions of said contract shall supersede this section as to severance of employment.

(Ord. 16-2016. Passed 8-19-16.)

120.03 QUALIFICATIONS.

The Chief Financial Officer shall be chosen solely on the basis of executive and administrative abilities, with special reference to actual experience in accounting, finance, business or knowledge of accepted practices in respect to the duties of the Office as herein outlined.

The Chief Financial Officer need not be a resident of the City or of the State of Pennsylvania at the time of appointment, but during the tenure of office shall reside within the City. (Ord. 16-2016. Passed 8-19-16.)

120.04 COMPENSATION.

The salary and fringes of the City Chief Financial Officer shall be fixed from year to year by the City Council. (Ord. 16-2016. Passed 8-19-16.)

120.05 BOND.

Before entering upon said duties, the Chief Financial Officer shall be able to obtain a bond with a bonding company as surety, to be approved by City Council, in the sum of no less than fifty thousand and 00/100 (\$50,000.00) dollars, conditioned for the faithful performance of said duties. The premium shall be paid by the City.
(Ord. 16-2016. Passed 8-19-16.)

120.06 POWERS AND DUTIES.

(a) The Chief Financial Officer shall be the Chief Financial Officer of the City and shall be responsible to the City Council as a whole for the proper and efficient administration of the affairs of the City. The powers and duties shall relate to the general management of all City business not expressly by statute imposed or conferred upon other City officers.

(b) Subject to recall by Ordinance of the City Council, the powers and duties of the City Chief Financial Officer shall include the following:

- (1) Overall responsibility for developing, implementing and the administration of the City's annual budget after its adoption by City Council.
- (2) Serve as the City's representative with respect to various financial institutions, banks, creditors, lenders, auditors and others.
- (3) Work with department heads, City Council and the Mayor to develop short term and long term financial goals.
- (4) Monitor and evaluate the City's financial performance and ensure that it is consistent with established short term and long term goals, including Act 47 Recovery Plan.
- (5) Overall responsibility for City revenues, including revenue enhancement efforts and revenue collection rates.
- (6) Approve all expenditures and contracts for goods and service above \$3,000 dollars; work with the Solicitor to ensure compliance with applicable procurement laws.
- (7) Manage cash flow planning process and ensure fund availability; oversee cash, investments and asset management, and ensure investments consistent with fiduciary and legal obligations.
- (8) Actively monitor accounts payable and accounts receivable; oversee the collection process, including coordination with third party vendors hired for that purpose.
- (9) Administer payroll and employee benefit programs, including all employee fringe benefit programs and the City's tax compliance responsibilities.
- (10) Evaluate department's expenses and develop budgetary recommendations based on alignment of resources with City's strategic goals and objectives.
- (11) Shall keep the Mayor and City Council informed as to the conduct of City affairs; by the preparation and submission of monthly, quarterly and annual financial reports, cash flow statements, budget to actual statements, and other financial statements, on the condition of the City finances and such other reports as the Mayor requests; and make such recommendations to the City Council as deemed necessary.
- (12) Regularly evaluate operating budget and make recommendations to the Mayor and City Council regarding the attainment of financial objectives.
- (13) Identify and implement internal financial controls, policies and procedures.

- (14) Develop and implement financial controls, policies and procedures.
- (15) Oversee the City's debt.
- (16) Oversee coordination of grants program.
- (17) Oversee the development of a comprehensive risk management plan.
- (18) Work with payroll firms, auditors and other third parties as required to deliver necessary services.
- (19) Oversee the external audit process and engage auditing best practices.
- (20) Oversee reconciliation of bank statements, journals, entries and other financial statements.
- (21) Supervise Deputy Chief Financial Officer (CFO) and others in the implementation of key budgetary, financial and accounting initiatives.
- (22) Serve as Chief Administrative Officer responsible for the administration of all City pension, retirement and savings plans.
- (23) Serve on City bargaining teams with respect to labor negotiations.
- (24) Serve on other teams and committees as directed by the Mayor and City Council.
- (25) Perform other related duties as assigned.
- (26) Supervise and be responsible for the activities of all City Departments. Serve as Deputy Director of all City Departments. Council members acting in their executive capacity as Department Directors and may execute their direction through the City's Chief of Staff.
- (27) Shall recommend to City Council the hiring, suspension or discharge of employees under said supervision.
- (28) Shall prepare and submit to the City Council in accordance with the Charter and Third Class City Code, a budget for next fiscal year and an explanatory budget message. In preparing the budget the Chief Financial Officer, or designated Officer, shall obtain from the head of each department, agency, board or officer, estimates of revenues and expenditures and other supporting data as he requests. The Chief Financial Officer shall review such estimates and may revise them before submitting the budget to the City Council.
- (29) Shall attend all meetings of the City Council and its committees as requested by the Mayor of the City Council with the right to take part in the discussion and shall receive notice of all special meetings of the City Council or its committees.
- (30) Shall submit to the City Council, as soon as possible after the close of the fiscal year, a complete report on the financial and administrative activities of the City for the preceding year.
- (31) Shall see that the provisions of all contests, leases, permits and privileges granted by the City are observed.
- (32) May employ, by and with the approval of the City Council, experts and constituents to perform work and to advise in connection with any of the functions of the City.
- (33) Shall attend to the letting of contracts in due form of law, with prior approval of the majority of City Council and the City Solicitor and shall supervise the performance and faithful execution of the same except insofar as such duties are expressly imposed upon some other City Officer by statute.

- (34) Shall see that all money owed the City is promptly paid and that proper proceedings are taken for the security and collection of all City's claims.
- (35) All complaints regarding services or personnel of the City shall be referred to the Office of the Chief of Staff, or an officer designated and shall investigate and dispose of such complaints, and the Chief Financial Officer shall report thereon to the City Council.
- (36) The Chief Financial Officer shall keep a current inventory showing all real and personal property of the City and its location, and shall be responsible for the care and custody of all such property including equipment, buildings, parks and all other City property, which is not by law assigned to some other officer or body for care and control.
- (37) Establish lines of administrative direction and control for all City departments and agencies, and provide personal direction of all operating personnel through the establishment of administrative lines of procedure whereby he shall recommend the appointment or removal of all City-operating employees, not subject to civil service.
- (38) The Chief Financial Officer shall maintain an office in the City Municipal Building and shall spend such time in the performance of duties as may be required by the City Council.
(Ord. 16-2016. Passed 8-19-16.)

120.07 DISABILITY OR ABSENCE OF THE CHIEF FINANCIAL OFFICER.

In the event that the Chief Financial Officer shall be absent from the City or incapacitated from performing the duties of his position, the Deputy Chief Financial Officer, or a person designated by a majority of City Council shall act as Chief Financial Officer during such absence or incapacity. (Ord. 16-2016. Passed 8-19-16.)

ARTICLE 121
Police Department

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|--------|--|--------|---|
| 121.01 | Designation of chief executive officer. | 121.04 | Rules and regulations; reports. |
| 121.02 | Powers and duties of Commissioner of Police generally. | 121.05 | Powers and duties of police officers generally. |
| 121.03 | Chain of command; obedience to superiors. | 121.06 | Uniforms; issuance, inspection and replacement. |

CROSS REFERENCES

Supervision by Mayor - see ADM. 111.04
Police Bureau - see 3rd Class §2001 et seq. (53 P.S. §37001 et seq.)
Police Pension Fund - see ADM. Art. 143
Traffic enforcement - see TRAF. 503.01

121.01 DESIGNATION OF CHIEF EXECUTIVE OFFICER.

In the absence of the Mayor or acting mayor, the Commissioner of Police shall be the chief executive officer of the police force.
(Ord. 1-2016. Passed 1-27-16.)

121.02 POWERS AND DUTIES OF COMMISSIONER OF POLICE GENERALLY.

A Commissioner of Police subject to the supervision and approval of the Mayor shall be in immediate command of the police force. It shall be his duty to see that members of the force perform their duties efficiently and obey the commands of their superior officers and the rules and regulations of the police force. He shall report to the Mayor any infraction of duty, insubordination and any act unbecoming a member of the police force.
(Ord. 1-2016. Passed 1-27-16.)

121.03 CHAIN OF COMMAND; OBEDIENCE TO SUPERIORS.

The chain of command in the Police Department shall be the Commissioner of Police, Deputy Commissioner of Police, Chief of Police, majors, captains, sergeants, corporals and patrolmen, in that order. Each officer shall be immediately subordinate in command and render strict obedience to the Commissioner of Police and every superior officer in the chain of command and in the absence of the ranking officer on duty. However, at all times the Mayor or acting Mayor may assume control or give orders.
(Ord. 1-2016. Passed 1-27-16.)

121.04 RULES AND REGULATIONS; REPORTS.

Council shall have the power to prescribe rules and regulations for the organization and government of the police force and to change the same as necessary. Reports shall be submitted to the Mayor who in turn shall report to Council. The Mayor shall exercise constant supervision and control over conduct of the police force.
(1956 Code §26-5.)

121.05 POWERS AND DUTIES OF POLICE OFFICERS.

Police officers are charged with the general duties of enforcing laws of the Commonwealth and the provisions of City ordinances. (1956 Code §26-7.)

121.06 UNIFORMS; ISSUANCE, INSPECTION AND REPLACEMENT.

(a) The City shall furnish such uniforms or clothing to police officers as Council shall provide. Such uniforms and clothes shall remain the property of the City to be returned by any member of the police force who leaves or is removed.

(b) Uniforms shall be inspected as often as is necessary to ensure they are in good condition and repair.

(c) If any uniform or part thereof has to be renewed or repaired because of lack of proper care on the part of a police officer, such officer shall pay the cost thereof.
(1956 Code §26-8 to 26-10.)

**ARTICLE 123
Fire Department**

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|--------|---|--------|---|
| 123.01 | Organization and components. | 123.09 | Intoxicating liquors in firehouses or at fires. |
| 123.02 | Officers; qualifications, term and vacancies. | 123.10 | Use of apparatus and personnel. |
| 123.03 | Police status of officers. | 123.11 | Use of public fire hydrants. |
| 123.04 | Proceedings against officers or companies. | 123.12 | Control of Department at fires; fire lines. |
| 123.05 | Duties of Chief; investigations and reports. | 123.13 | Member's misconduct at fires; expulsion and appeal. |
| 123.06 | Duties generally of assistant chiefs. | 123.14 | Disposition of foreign fire insurance funds. |
| 123.07 | Eligibility for membership. | 123.99 | Penalty. |
| 123.08 | Badges; membership lists. | | |

CROSS REFERENCES

- Supervision by Safety Director - see ADM. 111.06
 Fire Bureau - see 3rd Class §2101 et seq. (53 P.S. §37101 et seq.)
 Paid Firemen's Pension Fund - see ADM. Art. 145
 Enforcement of Fire Prevention Code - see FIRE PREV. 1501.02
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123.01 ORGANIZATION AND COMPONENTS.

(a) The Fire Department of the City is hereby created, organized and shall consist of the Franklin Fire Company, the Hanley Hose Company, the Moyamensing Hook and Ladder Company, the Good Will Fire Company No. 2, the Felton Fire Company and such other companies as may be added by Council.

(b) No fire company shall be allowed to organize in the City without first obtaining prior consent of Council. (1956 Code §7-1, 7-2.)

123.02 OFFICERS; QUALIFICATIONS, TERM AND VACANCIES.

(a) The officers of the Fire Department shall be a Chief and two assistant chiefs. The Chief and the first assistant chief shall have had at least five years experience in active service in the Fire Department and the second assistant chief shall have had at least three years experience in active service in the Fire Department. The Chief and the assistant chiefs shall be at least twenty-five years of age, citizens of the United States and residents of the City for at least five years preceding the appointment.

(b) The terms of officers shall commence on the first Monday of January, and continue for four years or until their successors are appointed. If a vacancy occurs in any of such offices by reason of death, removal, resignation or any other reason, the vacancy shall be filled by Council for the unexpired term. (1956 Code §7-3, 7-4.)

123.03 POLICE STATUS OF OFFICERS.

The Fire Chief and the assistant chiefs shall be ex-officio members of the police force at fires and alarms and each shall take and subscribe the proper oath of office. (1956 Code §7-5.)

123.04 PROCEEDINGS AGAINST OFFICERS OR COMPANIES.

(a) Upon its own motion or upon complaint to Council by any fire company or a member of the Fire Department, against the Chief or either of the assistant chiefs of drunkenness, conduct unbecoming an officer or gross inefficiency, Council shall consider such charges and hold a hearing of which due notice shall be given to the company and to the official against whom charges have been filed. At such hearing the company and such official may appear with witnesses and counsel and be heard. Council shall render a decision and make such orders as may be deemed expedient and necessary. Council shall have the right to suspend or remove the Chief or either of the assistant chiefs.

(b) Should any fire company refuse to obey the authority or lawful commands of the Chief of the Fire Department, or be engaged in riotous or disorderly conduct, the Chief may suspend such company from active service for not more than three months, and shall at once report such suspension to Council. During the suspension of any company, it shall forfeit a sum to be fined by Council and to be deducted from its appropriation. From the decision of the Chief, there shall be no appeal to Council, except where a suspension of a company exceeds five days and is requested by the suspended company. The decision of Council shall be final in the matter. (1956 Code §7-6, 7-7.)

123.05 DUTIES OF CHIEF; INVESTIGATIONS AND REPORTS.

(a) The Chief of the Fire Department shall enforce all laws, ordinances and regulations of Council relating to and governing the Fire Department, and providing for the care of property and for the extinguishment of fires.

(b) The Chief shall investigate all fires and keep accurate records of same. The Chief shall submit monthly and annually a report to Council containing an account of all fires with the probable cause and loss as nearly as can be ascertained, the amount of insurance thereon, and a full statement of the condition of the Fire Department personnel and equipment.

(c) The Chief shall visit each company at least once a week, inspect its apparatus, ascertain its condition and report the same to the Director of Public Safety. (1956 Code §7-8 to 7-10.)

123.06 DUTIES GENERALLY OF ASSISTANT CHIEFS.

The assistant chiefs of the Fire Department shall assist the Chief in the discharge of the duties of his office and, in his absence, the first assistant chief shall assume his duties and become invested with his powers and duties as provided in Section 123.05. In the absence of both the Chief and the first assistant chief, the second assistant chief shall assume control and discharge the duties of the Chief and be vested with all his powers and duties. (1956 Code §7-11.)

~~123.07 ELIGIBILITY FOR MEMBERSHIP.~~

To be eligible to membership in the fire companies, persons shall be eighteen years of age or older, citizens of the United States, residents of the City for one year immediately preceding their appointment, of good moral character and shall be appointed in accordance with the bylaws of the individual volunteer fire companies within the City. No person shall be eligible for membership who at any time has been expelled from membership of any fire company of the City. (1956 Code §7-12.)

123.08 BADGES; MEMBERSHIP LISTS.

Each fire company shall require its members attending fires or alarms of fire to wear a uniform metal badge bearing the name of the company. No person not a member of the Fire Department shall wear any such badge. The Secretary of each fire company shall keep a register of the members of his company with the corresponding badge numbers, and furnish the Chief and assistant chiefs with a register copy. The Secretary shall immediately report all changes in the list of members, including new members, as well as those removed. (1956 Code §7-13.)

123.09 INTOXICATING LIQUORS IN FIREHOUSES OR AT FIRES.

No intoxicating liquors of any kind shall be allowed or used in any firehouse or the premises pertaining thereto, or at any fire or alarm of fire, or in going thereto or returning therefrom. (1956 Code §7-14.)

123.10 USE OF APPARATUS AND PERSONNEL.

(a) Outside City. Subject to mutual aid agreements made by the Fire Chief, no fire apparatus shall leave the City without the prior consent of the Chief of the Fire Department, an assistant chief, the Director of Public Safety or the Mayor.

(b) Trials and Tests. No fire company shall permit its fire apparatus to be used on a trial of skill or for testing the power or capacity of its engine or truck without the prior consent of the Chief or an assistant chief.

(c) Discontinued Company. If any company goes out of service or is expelled from service or ceases to be a member of the Fire Department, Council shall have the power to take charge of all apparatus and other property belonging to the City which is in the care and control of such company and make such disposition of it as Council may determine. (1956 Code §7-15 to 7-17.)

123.11 USE OF PUBLIC FIRE HYDRANTS.

(a) The members of the Fire Department shall have the exclusive right to use all public fire hydrants which in the judgment of the Chief or an assistant chief may be required for the extinguishment of any fire.

(b) No person shall interfere with, molest or in any way deprive or attempt to deprive any fireman from the free and uninterrupted use of public fire hydrants.
(1956 Code §7-18, 7-19.)

123.12 CONTROL OF DEPARTMENT AT FIRES; FIRE LINES.

(a) The Chief shall have full control of the Fire Department at all fires, assign to each company its respective duties when necessary, direct the various companies in the fighting of the fire and dismiss them when their services are no longer required. He shall enforce such orders as in his judgment may be best calculated for the protection of property and the extinguishment of fires.

(b) The Chief may order any company to return to its firehouse when in his opinion it is necessary for only one company to go into service.

(c) On a fire ground it shall be the duty of the Chief or an assistant chief to cause to be roped off from the place of fire a space which in their judgment shall be sufficient to enable the members of the Fire Department to perform their duties without hinderance or interference from any person.

(d) No person shall interfere in any manner with the roping off of a fire ground space nor shall any person, other than the proper City officials, policemen, members of the Fire Department, public service employees on duty, representatives of the press and proper representatives of insurance underwriters remain within such space after notice from the Chief or an assistant chief to leave same. (1956 Code §7-21 to 7-24.)

123.13 MEMBERS MISCONDUCT AT FIRES; EXPULSION AND APPEAL.

(a) If any member of the Fire Department is ordered from the fire ground by the Chief and refuses or neglects to depart therefrom, the Chief may have him removed from the fire grounds.

(b) Should any member of any fire company refuse to obey the authority or commands of the Chief or be engaged in any riotous or disorderly conduct, the Chief may order him from the fire ground and suspend him for a maximum of five days, during which time the offending member is not entitled to exercise the duties or privileges of a fireman. For a second offense, the Chief shall suspend such member for a maximum of three months, during which time the offending member is not entitled to exercise any of the duties or privileges of a fireman.

(c) For a third offense, the Chief shall report the matter to the company of the offending fireman who shall expel such offending member from its rolls of membership within thirty days thereafter.

(d) Within such thirty day period, the offending member shall have the right to appeal from the action of the Chief directing his expulsion from the company to a Board of Appeal.

(e) The Board of Appeal shall fix an early date for a hearing, at which the Chief and the appellant may appear with witnesses and counsel, if so desired, and be heard. The Board shall, after hearing the charges and the evidence, decide whether the appellant shall be expelled from his company or not, which decision shall be final on all parties.

(f) The Board shall consist of the Director of Public Safety and the foremen of all fire companies except the fire company of which an appellant is a member. A quorum of the Board shall consist of three members thereof and a majority of a quorum may act in the absence of the other members. (1956 Code §7-25 to 7-31.)

123.14 DISPOSITION OF FOREIGN FIRE INSURANCE FUNDS.

One-half of such sums of money as are received by the City Treasurer in accordance with the Acts of June 28, 1895 (P. L. 408) 72 P. S. §2261 and 2262, and the Act of April 22, 1953 (P. L. 184) 72 P. S. §2263.4 are hereby declared to be received for the benefit of the Chester Volunteer Firemen's Relief Association. (1956 Code §7-34.)

123.99 PENALTY.

Any person who violates any provision of this article where such violation is not otherwise provided for shall be fined not more than one hundred dollars (\$100.00) and costs, and in default of payment thereof shall be imprisoned not more than thirty days. (1956 Code §7-35.)

**ARTICLE 125
Economic Development**

125.01 Office created.

125.03 Board composition.

125.02 Duties of Executive Director.

125.01 OFFICE CREATED.

The office of Economic Development is hereby created. Council shall appoint an Executive Director who shall report to Council as a whole.

(Ord. 29-1994 §1. Passed 10-20-94.)

125.02 DUTIES OF EXECUTIVE DIRECTOR.

The duties of the Executive Director shall include the following:

- (a) To re-establish a strong economic base in order to generate jobs and taxes;
- (b) To assist businesses with location and expanding within the City of Chester;
- (c) To coordinate the various departments and agencies within the City of Chester in attracting and assisting businesses;
- (d) To administer the City's Enterprise Zone Development Program;
- (e) To administer the City's UDAG recapture funds;
- (f) To insure minority and female participation in all aspects of development within the City of Chester; and
- (g) Such other duties and responsibilities as Council may designate by resolution, ordinance or through the Administrative Code.

(Ord. 29-1994 §2. Passed 10-20-94.)

125.03 BOARD COMPOSITION.

The Board of Economic Development shall consist of the members of Council or their designees as appointed by Council.

(Ord. 29-1994 §3. Passed 10-20-94.)

TITLE FIVE - Authorities, Boards and Commissions

- Art. 131. Boards and Commissions Generally.
- Art. 133. Civil Service.
- Art. 135. Human Relations Commission.
- Art. 136. Accident Review Board.
- Art. 137. Authorities.
- Art. 138. Board of Chester Community Center.
- Art. 139. Homestead Program.
- Art. 140. Vacant Property Review Committee.

ARTICLE 131**Boards and Commissions Generally**

EDITOR'S NOTE: There are no sections in Article 131. This article has been established to provide a place for cross references and future legislation.

The following is a synopsis of boards and commissions otherwise created or referenced in the Codified Ordinances which are not established in this Title Five.

<u>Section</u>	<u>Agency</u>
125.03	Economic Development Board
143.14	Police Pension Fund Commission
143.16	Police Pension Trust Fund Advisory Board
145.04	Officers and Employees Retirement Fund
147.02	Paid Firemen's Pension Fund Board of Managers
123.13	Firemen's Board of Appeal
1101.02	Board of Health
53 P.S. §10202	Planning Commission
1327.01	Zoning Hearing Board
1701.01 (BOCA §127.0)	Building Code Board of Appeals
1703.03 (BOCA §H-105.13)	Housing Board of Appeals
1705.03 (BOCA §M-119.5)	Mechanical Board of Appeals
1705.03 (BOCA §M-119.6)	Mechanical Examining Board
1707.03 (BOCA §P-118.3)	Plumbing Board of Examiners
1709.04	Electrical Examining Board
1709.15	Electrical Board of Appeals
1721.05	Contractors Licensing Board

ARTICLE 133
Civil Service

- | | |
|--------------------------------------|-------------------------------------|
| 133.01 Probationary period required. | 133.03 Commission for paid firemen. |
| 133.02 Board for health employees. | 133.04 Board for engineers. |

CROSS REFERENCES

Examining boards - see 3rd Class §4402 (53 P.S. §39402)
Firemen's Civil Service - see 53 P.S. §39861 et seq.

133.01 PROBATIONARY PERIOD REQUIRED.

No appointment to a civil service position in the City shall be deemed complete until after the expiration of a probationary period of twelve months. Such probationary period shall commence from the date of appointment. This section shall be effective on and after January 1, 1970. (Ord: 81-1969 §1,2. Passed 12-2-69.)

133.02 BOARD FOR HEALTH EMPLOYEES.

(a) The City Civil Service Board for health employees is hereby created for the examination of applicants for appointment as health officers other than registered physicians, or as sanitary policemen or inspectors in the health service of the City.

(b) Successors to or vacancies in the three original appointees to such Board shall be filled by Council as provided by law. (Ord. 91-1968 §1,2. Passed 10-22-68.)

133.03 COMMISSION FOR PAID FIREMEN.

(a) A Civil Service Commission for City paid firemen is hereby created and established. The Commission shall consist of three residents appointed by Council for terms of four years or until their successors are duly appointed and qualified. In case of vacancy among the Commission members, a successor shall be chosen for the unexpired term.

(b) The Commission is hereby empowered and authorized to make all rules and regulations necessary to carry out its purposes as provided by the applicable provisions of the Third Class City Code, and to exercise all the powers and perform all the duties and obligations conferred or imposed upon it by the applicable provisions of the Third Class City Code. (Ord. 18-1973 §1,2. Passed 4-18-73.)

133.04 BOARD FOR ENGINEERS.

A Civil Service Board for the examination of applicants as engineers, consisting of three persons is hereby created, and Council shall by resolution appoint three persons in the manner and for the terms as provided in the Act of June 23, 1931, (P.L. 932), 53 P.S. §39402 and 39403. (1956 Code §2-9.)

ARTICLE 135
Human Relations Commission

- | | |
|---|--|
| <p>135.01 Declaration of policy.</p> <p>135.02 Commission creation; members, terms and officers.</p> <p>135.03 Secretary and field worker.</p> <p>135.04 Commission duties.</p> | <p>135.05 Purposes.</p> <p>135.06 Cooperation; subcommittees and aid by City agencies.</p> |
|---|--|

CROSS REFERENCES

- State Human Relations Act - see 43 P. S. §951 et seq.
 Rental housing discrimination - see 35 P. S. §1680.402a
 Service uniform discrimination - see 18 Pa. S. §7323

135.01 DECLARATION OF POLICY.

In the City of Chester, with its large cosmopolitan population, consisting of all the races, nationalities, religious and ethnic groups which constitute America, no greater menace threatens the peace, good order, security and welfare of the City and its inhabitants than the existence within it of groups antagonistic to one another and prejudiced against each other because of differences of race, creed, color, national origin or ancestry.

The Mayor and Council hereby find and declare that the practice of prejudice, intolerance, bigotry and discrimination and the disorder occasioned thereby, tends to create breaches of the peace and threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. To the end that such prejudice, intolerance, bigotry and discrimination shall be stamped out, this law is enacted to provide an instrumentality through which the City may officially encourage and bring about mutual understanding and respect by all groups in the City, eliminate prejudice, intolerance, bigotry, discrimination and disorder and help give effect to the guarantee of equal rights for all as assured by the Constitution and laws of Pennsylvania.

The enactment hereof shall be deemed an exercise of the police power of the City for the protection and preservation of the public health, safety and welfare of this City and its inhabitants and in fulfillment of the provisions of the Constitution and laws of this State guaranteeing civil rights. (Ord. 10-1964 §1. Passed 3-6-64.)

135.02 COMMISSION CREATION; MEMBERS, TERMS AND OFFICERS.

(a) There is hereby created in the office of the Mayor a Commission to be known as the Chester Human Relations Commission, herein referred to as the Commission. The Commission shall consist of not less than fifteen nor more than twenty-five persons,

broadly representative of the racial, religious and ethnic groups in the City. Members of the Commission shall be appointed by the Mayor and Council for terms of one year. The Chairman shall be designated by the Mayor.

(b) All members shall serve without compensation.
(Ord. 10-1964 §2, 6. Passed 3-6-64.)

135.03 SECRETARY AND FIELD WORKER.

There are hereby created in the office of the Mayor the positions of Secretary and Field Worker to the Commission, which positions shall be filled by the Mayor at such compensation as the Mayor and Council may designate by ordinance. Appointments to such positions shall be for a one year period. (Ord. 10-1964 §3. Passed 3-6-64.)

135.04 COMMISSION DUTIES.

(a) It shall be the duty of the Commission to study problems of group relationship within the City, and to advise and cooperate with the Mayor, Council and all other City agencies, boards and officials with relation to any such problems. The Commission shall further make recommendations to the Mayor, Council, agencies and officials for the betterment of intergroup relationships within the City.

(b) The Commission is further authorized to:

- (1) Devise and recommend to the Mayor and Council ways and means of discouraging and combating prejudice, intolerance and bigotry in all groups and in their relations with one another.
- (2) Discover all practices and policies calculated to create conflicts and tensions and recommend ways and means for their elimination.
- (3) Report and recommend means of eliminating any unfair or unjust discrimination against any person or group which would be deemed detrimental to the best interests of the City.
- (4) Assemble, analyze and disseminate authentic and factual data relating to interracial and other group relationships.
- (5) Receive, hear and investigate complaints of discrimination by or against any person or group and to make a report to the Mayor of any violations of this article and of any discrimination found to exist.

(Ord. 10-1964 §4. Passed 3-6-64.)

135.05 PURPOSES.

The Commission, through its committees, shall maintain contacts with groups in the City which are concerned with interracial and intercultural understanding to report to the Commission regarding the activities of these groups; to serve as a source of accurate and reliable data on the problems in the abovementioned fields; to implement the decisions of the Commission; to work in cooperation with the directors of all City departments and other governmental divisions in the improvements of services; to eliminate whatever sources of

interracial friction may exist; to work to remove inequalities which pertain to minority groups status on such problems as housing, recreation, education, employment, law enforcement, vocational guidance and related matters, and to do and perform such other and further acts and things as may be directed by the Commission.

(Ord. 10-1964 §5. Passed 3-6-64.)

135.06 COOPERATION; SUBCOMMITTEES AND AID BY CITY AGENCIES.

(a) The Commission shall invite and enlist the cooperation of all racial, religious and ethnic groups and all other City organizations in carrying on its work, and shall act as a coordinating agency among such other groups in the establishment and maintenance of educational programs in the City with a view to bringing about better intergroup and racial relationships. The Commission shall also cooperate with State and Federal agencies wherever such cooperation is appropriate in effectuating the policy of this article.

(b) The Commission may name such subcommittees as in its judgment will aid in effectuating the purpose of this article and may empower them to study the problems of prejudice, intolerance, bigotry and discrimination in all or any fields of human relationship within the purview of this article.

(c) The service of all City departments and agencies shall be made available by their respective heads to the Commission at its request, and information in the hands of any department or agency shall be furnished to the Commission when requested. Upon receipt of recommendations in writing from the Commission, each department or agency shall submit a reply in writing indicating the disposition of and action taken with regard to such recommendations. (Ord. 10-1964 §7 to 9. Passed 3-6-64.)

ARTICLE 136
Accident Review Board

- | | | | |
|--------|-----------------------|--------|---|
| 136.01 | Creation and purpose. | 136.05 | Procedure. |
| 136.02 | Definitions. | 136.06 | Employees signature to
acknowledge copy receipt. |
| 136.03 | Composition. | | |
| 136.04 | Powers and duties. | | |

CROSS REFERENCES

- Written report of accident by driver or owner - see Act 81
(1976 Vehicle Code §3747)
False reports - see Act 81 (1976 Vehicle Code §3748)
Accident report forms - see Act 81 (1976 Vehicle Code §3752)
Accident reports - see TRAF. 503.04

136.01 CREATION AND PURPOSE.

Council is hereby authorized to create an Accident Review Board whose purpose shall be to review all accidents which occur involving damages to vehicles owned by the City and to determine who is at fault, to recommend assessment of damages and discipline employees involved in such accidents when necessary.
(Ord. 5-1985 §1. Passed 3-6-85.)

136.02 DEFINITIONS.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning.

- (a) "Accident" means any incident which results in damage to any motor vehicle which is the property of the City.
- (b) "Operator" means one who is in possession of or who is operating a City-owned vehicle at the time of accident.
- (c) "Day" does not include Saturday or Sunday and is limited to Monday through Friday.
- (d) "Report" means written information to be supplied the Personnel Office regarding the occurrence of an accident.
- (e) "Damage" means loss sustained which requires some repair to any motor vehicle owned by the City.
- (f) "Board" means the Accident Review Board.
(Ord. 1-1983 §2. Passed 2-9-83.)

136.03 COMPOSITION.

The Board shall be composed of five members who shall be appointed for a one year term by Council. A quorum shall consist of three members.

The members of the Board shall receive no compensation and shall, by majority vote, appoint a Chairman.

All recommendations made by the Board shall be reached by a majority vote of the members present and voting. (Ord. 11-1986 §1. Passed 6-11-86.)

136.04 POWERS AND DUTIES.

The Accident Review Board has the following powers and duties:

- (a) To hold hearings and hear evidence regarding all vehicle accidents involving City-owned vehicles.
- (b) To recommend assessment of damages on the responsible party or parties up to a maximum of one thousand dollars (\$1,000) to the appropriate director of the department.
- (c) To recommend discipline of responsible party or parties, including but not limited to suspension for up to ten days to the appropriate director of the department.
- (d) To recommend dismissal to Council of employees in appropriate cases.
(Ord. 5-1985 §3. Passed 3-6-85.)

136.05 PROCEDURE.

An operator who is involved in an accident shall report such accident to the personnel office of the City within two days of its occurrence. Any person who claims that his City-owned vehicle was not damaged, shall within one day after the accident, bring his vehicle to the City Scale House, Second and Dock Streets, to have his vehicle examined by a member of the Highway Patrol who shall report his findings to the personnel office immediately.

- (a) A hearing before the Board shall be held within ninety days of the filing of the report with the personnel office.
- (b) The operator shall receive at least ten days written notice prior to the date of the hearing. The notice shall inform him of the date, time and place of the hearing. The notice shall also advise him of his right to have an attorney present and of his right to present evidence in his behalf.
- (c) After hearing the evidence presented, the Board shall make a determination of fault and if the operator is found to be responsible for the accident, the Board shall have the power to recommend one or more of the following sanctions:
 - (1) Assessment of damages up to a maximum of one thousand dollars (\$1,000).
 - (2) Suspension of the operator from his employment without pay up to a maximum of ten days.
 - (3) In the case of an employee who has been involved in three or more accidents or where the Board finds that the personnel policy of the City requires it, recommend to Council that the employee be dismissed.
 - (4) In addition to the sanctions mentioned above, any operator who does not report an accident to the personnel office within two days of its occurrence shall receive an automatic two days suspension from his employment without pay.

- (5) Any person who is involved in an accident and fails to appear at the hearing of the Board after receiving proper notice shall receive an automatic suspension of two days without pay.
- (d) Any testimony presented before the Board and any findings of the Board or sanctions imposed by the Board may not be used as evidence in any other proceeding or be discoverable in any civil or criminal proceeding.
- (e) The Board shall render a recommendation in all matters within thirty days of the hearing and shall send written notice and a copy of their recommendation to the operator.
- (f) Any operator aggrieved by the recommendation of the Board may appeal to Council within thirty days of his receipt of the recommendation of the Board and shall receive a hearing before Council.
- (g) Any operator may appeal the decision of Council to the Court of Common Pleas of Delaware County within thirty days of the receipt thereof.
(Ord. 5-1985 §4, Passed 3-6-85.)

136.06 EMPLOYEES SIGNATURE TO ACKNOWLEDGE COPY RECEIPT.

(a) A copy of this article is to be given to every City employee. The Director or head of each department is to provide the Accident Review Board a list with the signature of every employee who received a copy of this article.

(b) All new employees are to be given a copy of this article by the Personnel Department and are to acknowledge their receipt thereof by placing their signature on a document provided by the Personnel Department.
(Ord. 1-1983 §6, Passed 2-9-83.)

ARTICLE 137
Authorities

EDITOR'S NOTE: This article has been established to provide a place for cross references and any future legislation, and to provide a synopsis of existing City legislation relative to authorities.

Chester Municipal Authority was formed and organized by an ordinance passed June 26, 1939 pursuant to an Act of June 28, 1935 (P.L. 463) as amended. Name was changed to Chester Water Authority and its existence increased to fifty years by Ordinance 3-1965, passed February 23, 1965.

Chester Marine Terminal Authority was formed and organized by Ordinance 41-1966, passed June 16, 1966, pursuant to an Act of May 2, 1945 (P.L. 382) as amended.

Chester Sewer Authority was formed and organized by Ordinance 75-1967, passed October 10, 1967 pursuant to an Act of May 2, 1945 (P.L. 382) as amended. Subsequently by Ordinance 39-1973, passed October 17, 1973, the City sewage collection, conveyance and treatment system was sold to the Delaware County Regional Water Quality Control Authority. (DELCORA).

Chester Redevelopment Authority was formed and organized pursuant to the Urban Redevelopment Law, Act of May 24, 1945 (P.L. 991), as amended (53 P.S. §1701 et seq.).

Chester Parking Authority was formed and organized by Ordinance 29-1966, passed May 31, 1966, pursuant to an Act of June 5, 1947 (P.L. 458) as amended. Ordinance 95-1968, passed November 4, 1968, approved proposed action of the Parking Authority to acquire and construct parking lots.

Chester Economic Development Authority was formed and organized by Ordinance 5-1995, passed February 9, 1995, pursuant to the Municipality Authorities Act of May 2, 1945 (P.L. 382).

137.01 Redevelopment Authority.

CROSS REFERENCES

Municipal Authorities Act - see 53 P.S. §301 et seq.
 Parking Authorities Law - see 53 P.S. §344 et seq.
 Housing Authorities Law - see 35 P.S. §1541 et seq.
 Urban Redevelopment Law - see 35 P.S. §1701 et seq.

137.01 REDEVELOPMENT AUTHORITY.

(a) The Council of the City of Chester (the "City") hereby declares a need for a Redevelopment Authority (the "Authority") to be organized and to function within the territorial limits of the City under the Urban Redevelopment Law (1945, May 24, P.L. 991) as amended.

(b) The Authority shall be known as the Redevelopment Authority of the City of Chester.

(c) The Authority shall have all the powers allowed by law.

(d) Pursuant to 35 P.S. §1706 the Mayor shall appoint five persons as members of the Authority, each of whom shall serve for a term commencing on the date of their appointment and expiring on staggered dates as shall be specified at the time of their appointment. A member shall receive no compensation for his/her services, except reasonable costs and expenses incurred in the discharge of his/her duties.

(e) The proper City officials are authorized to file a certified copy of this enabling ordinance with the Department of State and a duplicate thereof with the Department of Community Affairs and to pay the required filing fees.
(Ord. 5-2000. Passed 2-10-00.)

ARTICLE 138
Board of Chester Community Center

138.01 Establishment.
138.02 Purposes.

138.03 Composition, term, meetings
and officers.

138.01 ESTABLISHMENT.

Council hereby establishes the Board of the Chester Community Center.
(Ord. 12-1991 Sec. 1. Passed 12-4-91.)

138.02 PURPOSES.

The Chester Community Center Board, 3 Eyre Drive, Chester, Pennsylvania
19013, is established for the following purposes:

- (a) To do all things necessary and proper for the operation of the
Community Center in accordance with the proposals submitted to the
granting agencies listed below for the rehabilitation of the building:
 - (1) Department of Community Affairs:
 - A. Legislative Initiative Program;
 - B. Recreational Improvement Rehabilitation Act Program
(RIRA);
 - (2) Department of Interior:
 - A. National Park Services;
 - (3) Community Development Block Grant Program; and
 - (4) City of Chester.
- (b) To provide for additional programs for recreational or other purposes
which conform with the use of the building as a Community Center;
- (c) To hire and fire all personnel as it deems appropriate for the operation,
maintenance and use of the facility as a Community Center; and
- (d) To provide to the Mayor and Council on a quarterly basis a financial
report and status report concerning the operation of that Community
Center. The Board shall submit to Council, for approval, on or before
October 2 of each year, an annual budget for the Community Center to
be approved by Council.

(Ord. 22-1991 Sec. 2. Passed 12-4-91.)

ARTICLE 139
Homestead Program

- | | | | |
|--------|--|--------|--|
| 139.01 | Creation; purpose. | 139.11 | Qualified applicants for property. |
| 139.02 | Establishment of program. | 139.12 | Offer of property to qualified applicant; conditions. |
| 139.03 | Homestead Board; creation. | 139.13 | Habitation of property. |
| 139.04 | Composition of Homestead Board. | 139.14 | Surrender of property. |
| 139.05 | Compensation of Homestead Board members. | 139.15 | Offer to person or organization not intending to occupy. |
| 139.06 | Powers and duties. | 139.16 | Execution of conditional deed. |
| 139.07 | Regulations generally. | 139.17 | Loan to homesteader. |
| 139.08 | Acquisition of properties. | 139.18 | Assistance of other City agencies. |
| 139.09 | Catalog of dwellings for rehabilitation or new construction. | 139.19 | Conflict. |
| 139.10 | Approval of property disposition. | 139.20 | Applicability. |

139.01 CREATION; PURPOSE.

Council is hereby authorized to create the Homestead Program Agency, whose purposes shall be to administer the Homestead Program and to facilitate the rehabilitation of vacant and abandoned properties in the City. The Agency shall consist of both Board and staff members. (Ord. 11-1981 §1. Passed 3-18-81.)

139.02 ESTABLISHMENT OF PROGRAM.

The Homestead Program is hereby established to become effective immediately upon approval by Council, County Council and the School Board. (Ord. 11-1981 §5. Passed 3-18-81.)

139.03 HOMESTEAD BOARD; CREATION.

Council is hereby authorized to appoint a board to be known as the Homestead Board. (Ord. 11-1981 §2. Passed 3-18-81.)

139.04 COMPOSITION OF HOMESTEAD BOARD.

The Homestead Board shall be composed of nine members, with a quorum consisting of five members. (Ord. 15-1982 §1. Passed 5-12-82.)

138.03 COMPOSITION, TERM, MEETINGS AND OFFICERS.

- (a) The Board shall consist of not less than five and no more than fifteen members.
- (b) The Board members shall serve for a period of five years or until a successor is named.
- (c) The members shall be appointed by Council.
- (d) The Board members shall receive no compensation, except reimbursement of expenses.
- (e) The Board shall conduct meetings at such times and at such places as the Board may determine.
- (f) The Board shall comply with all requirements of the "Sunshine Act" in conducting of its meetings.
- (g) The Board shall establish its own bylaws which shall be consistent with the requirements mentioned above.
- (h) The Board shall meet and select its own officers which shall at least consist of a Chairman, Co-Chairman, Secretary and Treasurer.
(Ord. 22-1991 Secs. 3-10. Passed 12-4-91.)

139.09 CATALOG OF DWELLINGS FOR REHABILITATION OR NEW CONSTRUCTION.

The City Planning Department shall compile and maintain a catalog of all dwellings and vacant lots available to the Homestead Program through HUD, gifts and/or tax delinquent status which the Homestead Program Agency shall determine to be parcels that can be utilized for rehabilitation or new construction by private individuals.

(Ord. 11-1981 §7. Passed 3-18-81.)

139.10 APPROVAL OF PROPERTY DISPOSITION.

The Homestead Board, upon recommendation of the Homestead Program Agency, shall approve the parcels cataloged under Section 139.09, for disposition for the public purpose of improving the quality of housing in accordance with the Homestead Program.

(Ord. 11-1981 §8. Passed 3-18-81.)

139.11 QUALIFIED APPLICANTS FOR PROPERTY.

An applicant for property under the Homestead Program shall meet the following criteria:

- (a) Be at least eighteen years of age and be the head of a household and/or a primary individual;
- (b) Be a citizen of the United States or a registered alien;
- (c) Prove financial and/or technical ability to rehabilitate an existing dwelling or construct a new dwelling; and
- (d) Submit a minimum fee to cover application and credit processing costs.

(Ord. 11-1981 §9. Passed 3-18-81.)

139.12 OFFER OF PROPERTY TO QUALIFIED APPLICANT; CONDITIONS.

Homestead Program property shall be offered to qualified applicants at an initial cost of at least one hundred dollars (\$100.00), on a conditional deed basis provided that the applicant contractually agrees to rehabilitate or construct on the parcel assigned to him/her and provided further that he/she agrees to the following:

- (a) Bring the assigned parcel up to minimum BOCA Housing Code standards within eighteen months after assignment of the parcel to him/her;
- (b) Permit periodic inspections, by the appropriate City departments, for a determination by those departments of whether reasonable, satisfactory progress is being made by the applicant in rehabilitating or constructing on the parcel assigned to him/her; such inspections to be made every three months or less;
- (c) Surrender and quit the assigned parcel in condition at least equal to that when first assigned upon thirty days' written notice by the Homestead Program Agency when, as a result of a periodic inspection, the appropriate departments determine that the recipient has become unable or unwilling to proceed reasonably or satisfactorily toward fulfilling the objectives and conditions of the program; provided, however, that such recipient shall have ten days to submit a written request for a hearing before the Homestead Board to request a six-month extension on the surrender of the premises;

139.05 COMPENSATION OF HOMESTEAD BOARD MEMBERS.

The members of the Homestead Board shall receive no compensation and shall by majority vote appoint a Chairman of the Board.
(Ord. 11-1981 §4. Passed 3-18-81.)

139.06 POWERS AND DUTIES.

The Homestead Board is empowered and has the duty and responsibility to the following:

- (a) Accept gifts of vacant houses and/or lots offered to the Agency;
- (b) Review, select and publicize by newspaper advertising, meetings or some other effective method the availability of Homestead Program properties;
- (c) Accept and review applications and determine the qualifications of applicants within the criteria established by this article and the regulations promulgated hereunder;
- (d) Review and certify applicants with a view toward compatibility of the applicant and the parcel assigned to him;
- (e) Dispose of properties under such reasonable procedures as it shall prescribe, including, but not limited to, sealed bids, direct award, auction or lottery;
- (f) Execute a conditional deed to the assigned parcel upon the applicant's being approved as provided in Section 139.11; and
- (g) Execute and record all documents necessary to certify of record that the applicant has fulfilled all the conditions set forth in Sections 139.11 and 139.12, and that the City has released its right of entry, termination and reverter.
(Ord. 11-1981 §17. Passed 3-18-81.)

139.07 REGULATIONS GENERALLY.

The Homestead Board shall promulgate regulations, consistent with the purpose and spirit of the Homestead Program as outlined herein, such regulations to be reviewed by the City Solicitor's Office and approved by Council.
(Ord. 11-1981 §16. Passed 3-18-81.)

139.08 ACQUISITION OF PROPERTIES.

The Homestead Program Agency shall accept gift properties for use in the Homestead Program upon the following criteria:

- (a) The Homestead Board through the Agency shall determine the acceptability of any offered property before its inclusion in the Program.
- (b) The property shall remain the sole responsibility of the original owner until such time as the Board approves a qualified applicant as recipient of that particular property. Until such time, the original owner is responsible for all aspects of the property including but not limited to all taxes, fees, assessments and BOCA Code violations.
- (c) Upon approval of the qualified applicant, the gift property shall be transferred to the Agency who shall execute a conditional deed to the approved applicant and/or recipient as set forth in Section 139.12.
(Ord. 11-1981 §6. Passed 3-18-81.)

- (d) Live in, occupy and maintain to code standards, as an occupied and/or residential dwelling, the parcel assigned to him/her for a period of not less than three years;
- (e) During the period allowed for fulfillment of the conditions set forth in subsections (a), (b), (c) and (d) hereof, pay all property taxes, fees and assessments before the same become delinquent, and maintain fire and extended insurance coverage as required on the homestead building, with vandalism and malicious mischief coverage; and
- (f) Fully comply with the obligations of any loan made to qualified applicants and/or recipients by a lending institution or by a nonprofit corporation or agency, public or private, to assist in financing the rehabilitation of the homestead parcel.
(Ord. 11-1981 §10. Passed 3-18-81.)

139.13 HABITATION OF PROPERTY.

Approved applicants who have accepted offered property under the Homestead Program shall be permitted to live in the property, so long as rehabilitation of the property is actively taking place. (Ord. 11-1981 §11. Passed 3-18-81.)

139.14 SURRENDER OF PROPERTY.

The qualified applicant and/or recipient under the Homestead Program agrees that, if the property must be surrendered to the Homestead Program Agency under the provisions of Section 139.12, the City and/or the Agency shall not be held liable for any costs expended in the rehabilitation of the property and further agrees that the City and/or the Agency shall be held harmless for any injury or damage caused as a result of any existing violation of the Building or Housing Code.
(Ord. 11-1981 §12. Passed 3-18-81.)

139.15 OFFER TO PERSON OR ORGANIZATION NOT INTENDING TO OCCUPY.

Homestead Program property may also be offered to a person or organization not intending to occupy it upon a determination by the Homestead Board that such an award would best facilitate the rehabilitation of the property and would promote the alleviation of blight in the community. (Ord. 11-1981 §13. Passed 3-18-81.)

139.16 EXECUTION OF CONDITIONAL DEED.

Upon the approval by the Homestead Program Agency of an applicant, as hereinbefore provided, the Agency shall convey to such applicant by conditional deed in proper form for recording the fee simple title to the parcel assigned to such applicant, which deed shall be expressly subject to the conditions set forth in Section 139.12 and to the right reserved to the City, in the event that the grantee therein should breach any of the conditions, to enter upon such parcel and to terminate the estate of the applicant and/or recipient therein with reversion of title to the Agency as though such conveyance to the applicant and/or recipient had never been made; provided that, in the event any such applicant and/or recipient shall have fulfilled the conditions set forth in Section 139.12, the Agency shall promptly execute and record in the office for the Recorder of Deeds in and for Delaware County, a document releasing to such applicant and/or recipient all right of entry, termination and reverter reserved to the City in such parcel.
(Ord. 11-1981 §14. Passed 3-18-81.)

139.17 LOAN TO HOMESTEADER.

In the event any lending institution or any nonprofit corporation or agency, public or private, shall make any loan to any Homestead Program applicant and/or recipient to finance in whole or in part any rehabilitation of the Homestead Program parcel assigned to such applicant and/or recipient, any mortgage securing such loan or any judgment lien for the principal amount owing on such loan, together with the interest, cost, counsel fee or other sums reasonably secured thereby, shall have full priority over all conditions set forth in the deed of conveyance by the Homestead Program Agency to such applicant and/or recipient and over any right of entry, termination or reverter reserved to the Agency therein and such conditions, right of entry, termination and reverter are hereby made subordinate to the lien of any mortgage or judgment lien. (Ord. 11-1981 §15. Passed 3-18-81.)

139.18 ASSISTANCE OF OTHER CITY AGENCIES.

The Homestead Program Agency is empowered to utilize the aid and assistance of other relevant City agencies in the furtherance of the duties and responsibilities of the Agency. Any City department upon written request shall comply in a timely fashion. (Ord. 11-1981 §18. Passed 3-18-81.)

139.19 CONFLICT.

In any case where a provision of this article is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the City existing on the effective date of this section, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this article is found to be in conflict with a provision of any other ordinance or code of the City existing on the effective date of this section which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this article shall be deemed to prevail, and such ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this article. (Ord. 11-1981 §19. Passed 3-18-81.)

139.20 APPLICABILITY.

All provisions of this article, including those containing standards and requirements for dwellings of any type, as defined hereinbefore, shall be applicable to all such dwellings, whether or not such dwellings are in existence at the effective date of this section. (Ord. 11-1981 §16. Passed 3-18-81.)

TITLE SEVEN - Employment Provisions

- Art. 141. Employees Generally.
 Art. 142. Aggregated Pension Fund.
 Art. 143. Police Pension Fund.
 Art. 145. Officers and Employees Optional Retirement System.
 Art. 147. Paid Firemen's Pension Fund.

ARTICLE 141

Employees Generally

- 141.01 Salaries and wages payable for employed period only.
 141.02 Employee vacation.
 141.03 Blanket bond coverage.

CROSS REFERENCES

- Probationary period for civil service - see ADM. 133.01
 Employee provisions - see 3rd Class §901 et seq. (53 P.S. §35901 et seq.)
 Bonds of officers - see 3rd Class §906 et seq. (53 P.S. §35910 et seq.)

141.01 SALARIES AND WAGES PAYABLE FOR EMPLOYED PERIOD ONLY.

Salaries and wages shall be paid to all City officers, clerks and employees entitled thereto, only during the time such officers, clerks and employees are in office or in the employment of the City. (1956 Code §2-58.)

141.02 EMPLOYEE VACATION.

Council shall establish vacations for all City employees by resolution. (Ord. 36-1968 §2. Passed 5-21-68.)

141.03 BLANKET BOND COVERAGE.

The public employees faithful performance blanket position bond in the amount of fifty thousand dollars (\$50,000) shall indemnify the City against any loss caused to the City through the failure of any officer or employee of the City to perform faithfully his duties or to account properly for moneys and properties received by virtue of his position or employment, except those officers and employees which are covered by a specific bond. (Ord. 42-1958 §4. Passed 5-27-58.)

ARTICLE 140
Vacant Property Review Committee

140.01 Creation and purpose.

140.02 Members and appointment.

CROSS REFERENCES

Blighted property removal - see 35 P.S. §1712.1

140.01 CREATION AND PURPOSE.

(a) By virtue and in pursuance of the authority vested in it by Act No. 94 of 1978, passed by the General Assembly of the Commonwealth of Pennsylvania and approved on the 23rd day of June, 1978, by the Governor, a committee is hereby formed to be known as the Vacant Property Review Committee.

(b) The committee is formed for the purpose of carrying out the provisions of the aforesaid Act as stated therein. (Ord. 29-1982 §1, 2. Passed 10-13-82.)

140.02 MEMBERS AND APPOINTMENT.

(a) The committee shall be made up of four members: a member of Council, a representative of the Redevelopment Authority of the City, a representative of the Planning Commission and a representative designated by the Mayor.

(b) The members of the committee shall be appointed by the Mayor and Council. (Ord. 29-1982 §3, 4. Passed 10-13-82.)

142.02 PARTICIPATION VALUE OF ORIGINAL PENSION PLANS.

Each of the aforesaid three pension plans, to wit, the Police Pension Fund, the Paid Firemen's Pension Fund and the Officers and Employees Optional Retirement System, shall have an undivided participation in the assets of the City of Chester Aggregated Pension Fund. For accounting purposes, the value of the participation by each of the aforesaid three pension plans shall be calculated annually. The value of the participation of each of the aforesaid three pension plans for each year subsequent to the aggregation of the aforesaid pension assets shall be that portion of the total value of the Aggregated Pension Fund which bears the same relationship that the value of the participation of each of the aforesaid pension plans, as of the close of the preceding year plus the contributions received by the Fund with respect to that pension plan during the year and reduced by the amount of retirement benefits paid from the Fund to benefit recipients of that pension plan during the year, bears to the total value of all participation in the Fund as of the close of the preceding year plus the total contributions received by the Fund during the year and reduced by the total amount of retirement benefits paid for all benefit recipients during the year. (Ord. 11-1987 §2. Passed 9-29-87.)

142.03 BOARD ESTABLISHED; COMPOSITION.

The City hereby establishes the City of Chester Aggregated Pension Fund Board to act as trustee of the Aggregated Pension Fund and, upon the effective date of this article and thereafter, the Board shall have legal title to the assets in the Fund. The Board shall consist of eleven members and shall be composed of the following:

- (a) The Mayor;
- (b) The Director of the Department of Accounts and Finance;
- (c) The Director of Public Safety;
- (d) The Director of Streets and Public Improvements;
- (e) The Controller;
- (f) The City Treasurer;
- (g) Two active members of the Fire Department and of the Paid Firemen's Pension Fund who shall be elected by the active membership of such plan;
- (h) Two active members of the Police Department and of the Police Pension Fund who shall be elected by the active membership of such plan; and
- (i) One active nonuniformed employee of the City and of the Officers and Employees Optional Retirement System who shall be elected by the active membership of such plan.

(Ord. 20-1989 §1. Passed 12-6-89.)

142.04 BOARD MEMBERS TERM OF OFFICE; VACANCIES.

The term of office of the Mayor, of the Director of the Department of Accounts and Finance, of the Controller and of the Treasurer as members of the City of Chester Aggregated Pension Fund Board shall be concurrent with his, her or their tenure of office as such designated public officials. The term of office of the active and full-time police officer, fireman and nonuniform employee of the City as members of the Board shall be for a period of two years with the initial term for each beginning upon the effective date of this article; and any vacancies in such membership, by reason of retirement, voluntary or involuntary termination of employment, death or otherwise, shall be filled as aforesaid for the balance of the unexpired term. (Ord. 11-1987 §4. Passed 9-29-87.)

142.05 BOARD OFFICERS; MEETINGS; TRANSACTIONS.

Subject to the requirements of Act 205 of 1984 known as "The Municipal Pension Plan Funding Standard and Recovery Act":

- (a) The Mayor shall be the Chairperson of the City of Chester Aggregated Pension Fund Board, the Director of the Department of Accounts and Finance shall be the Vice-Chairperson thereof, the City Controller shall be the Secretary thereof and the City Treasurer shall be the Treasurer thereof.
- (b) The members of the Board shall receive no additional compensation for his, her or their services performed under the provisions of this article.
- (c) The Board shall keep full and accurate accounts of all of its transactions and the minutes of all of its meetings.
- (d) The Board shall have the full power to make rules and regulations for the transaction of its business and for the application and investment of the City of Chester Aggregated Pension Fund subject as aforesaid and subject to any other applicable laws of the Commonwealth of Pennsylvania and ordinances of the City.
- (e) During each calendar year, the Board shall hold one regular meeting on a stated date and at a stated time and place that the Board designates with the initial and first meeting being held on a date, and at a time and place as designated by the Mayor. Special meetings shall be held upon the call of the Chairperson or upon written request of four members of the Board. All meetings, whether regular or special, shall be open to the public. (Ord. 11-1987 §5. Passed 9-29-87.)
- (f) A majority of the Board's members shall constitute a quorum and a majority vote of those present shall be sufficient to carry any motion before the Board. (Ord. 20-1989 §2. Passed 12-6-89.)
- (g) As required by law, each and every year, the Board shall prepare a full and detailed statement of all receipts to and disbursements from the Fund during the preceding calendar year and shall present the same to Council.
- (h) All checks drawn against the Fund shall be signed by the Board's Chairperson and countersigned by the Board's Secretary and Treasurer or by any two of the aforesaid three officers of the Board if one of such officers is unavailable for any reason.
- (i) In the absence of the Chairperson, the Vice-Chairperson shall act as Chairperson during such period of absence.
- (j) The Board's Chairperson, Vice-Chairperson, Treasurer and Secretary shall give a surety bond to the City, in an amount as Council determines by resolution, for the faithful performance of their duties to safekeep, account for and pay over all moneys received by them pursuant to the provisions of this article and any other applicable ordinances. The bond premium shall be paid out of the funds of the Fund.
- (k) All expenditures necessary for the transaction of business of the Board shall be paid from the funds of the Fund. No money shall be paid out of the Fund except for the purposes permitted under the applicable laws of the Commonwealth of Pennsylvania and the applicable ordinances of the City. (Ord. 11-1987 §5. Passed 9-29-87.)

142.06 BOARD TO ADMINISTER FUNDS.

The City of Chester Aggregated Pension Fund Board shall hold, receive, distribute, administer and control the funds and moneys of the City of Chester Aggregated Pension Fund for the purpose of benefits for and pensioning of members of the Police Pension Fund, Paid Firemen's Pension Fund and Officers and Employees Optional Retirement System, as well as the widows and/or children of such members when applicable, pursuant to the requirements of Act 205 of 1984 known as "The Municipal Pension Plan Funding Standard and Recovery Act".
(Ord. 11-1987 §6. Passed 9-29-87.)

142.07 GIFTS OR GRANTS RECEIVED.

The City of Chester Aggregated Pension Fund Board is authorized to receive by gift, grant, devise or bequest any money or property for the benefit of the City of Chester Aggregated Pension Fund. The care, management, investment and disposal of such funds or properties shall be vested in the Board subject to such directions, not inconsistent herewith, as the donors of such funds and property may prescribe.
(Ord. 11-1987 §7. Passed 9-29-87.)

ARTICLE 143
Police Pension Fund

EDITOR'S NOTE: Sections 143.03(b)(1) and (c)(1) and 143.23 are effective July 1, 1989, as mandated by Ordinance 23-1989, passed December 27, 1989.

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|--------|---|--------|--|
| 143.01 | Definitions. | 143.14 | City of Chester Aggregated Pension Fund Board. |
| 143.02 | Application of article. | 143.15 | Commission officers, powers and duties. (Repealed) |
| 143.03 | Pension entitlements and amounts. | 143.16 | Trust Fund creation; Advisory Board members and powers. (Repealed) |
| 143.04 | Contributions by members; wage deductions. | 143.17 | Transfer of principal; payment to trustee. (Repealed) |
| 143.05 | Service increment; entitlement, limitations and contribution. | 143.18 | Duties of corporate trustee. (Repealed) |
| 143.06 | Armed forces leave. | 143.19 | Trust term and termination. (Repealed) |
| 143.07 | Disability pension; examination and proof. | 143.20 | Trustee's compensation. (Repealed) |
| 143.08 | Refunds; benefits for widows and children. | 143.21 | Relation of transfers for pension payments to social security. |
| 143.09 | Inalienable rights in Fund. | 143.22 | Benefits to members restricted to pension payments. |
| 143.10 | Exemption from attachment or execution; nonassignability. | 143.23 | Credit for military time. |
| 143.11 | Payment of accrued pensions after death of pensioner. | 143.24 | Deferred Retirement Option Plan (DROP). |
| 143.12 | Group life insurance. | | |
| 143.13 | Operating Fund, creation and composition. | | |

CROSS REFERENCES

Police Pension Fund - see 3rd Class §4301 et seq. (53 P.S. §39301 et seq.)
Police Department - see ADM. Art. 121

143.01 DEFINITIONS.

As used in this article, certain words are defined as follows:

- (a) "Board" means the City of Chester Aggregated Pension Fund Board designated in Section 143.14. (Ord. 13-1987 §1. Passed 9-29-87.)
- (b) (EDITOR'S NOTE: This subsection was repealed by Ordinance 13-1987, passed September 29, 1987.)
- (c) "Contributor" means a member of the police force contributing to the Police Pension Fund pursuant to Section 143.04 and 143.05(c).
- (d) "Member" means every present or future regular salaried member of the police force who has accepted the provisions of this article.
- (e) "Pension Fund" means the City of Chester Aggregated Pension Fund designated in Section 143.13. The purpose of such pension fund shall include the payment of all police pension commitments. (Ord. 13-1987 §1. Passed 9-29-87.)
- (f) "Retirement allowance" means a pension payable under this article.
- (g) "Service increment" means the sum obtained by computing subject to the limitations prescribed by Section 143.05(b), the number of whole years served above the minimum required by this article during which a contributor to such Fund has been employed by the City and paid out of the City treasury and multiplying the number of years so computed by an amount equal to one-fortieth of the retirement allowance which has become payable to such contributor in accordance with the provisions of this article. (1956 Code §26-13.)
- (h) "Salary" includes regular wages (including personal, sick and vacation days), overtime wages, longevity wages, holiday pay, education benefits and any payment for reimbursement of health premiums. (Ord. 33-1996 §1. Passed 10-10-96.)

143.02 APPLICATION OF ARTICLE.

This article shall apply to all present or future regularly salaried members of the police force who have accepted the provisions of this article in writing as follows:

- (a) All present members of the police force not having in effect already done so, shall become subject to the provisions of this article upon accepting the provisions of this article in writing.
- (b) A person newly appointed as a member of the City police force shall not be permitted to enter upon his permanent employment until he has accepted the provisions of this article in writing. (1956 Code §26-14.)

143.03 PENSION ENTITLEMENTS AND AMOUNTS.

(a) A member who shall have reached sixty years of age shall be entitled upon application to the Board for their approval, to an honorable discharge and shall receive a pension until death. Such pension shall be two percent (2%) of his yearly salary multiplied by the number of years of service, and shall not exceed fifty percent (50%) of his yearly salary. (1956 Code §26-15; Ord. 13-1987 §7. Passed 9-29-87.)

(b) A member who has served continuously for a period of twenty years and has reached the age of fifty years shall be entitled upon application to the Board to retire and to receive a pension until death which shall be fifty percent (50%) of his salary. (Ord. 30-1972 §1. Passed 6-13-72; Ord. 13-1987 §7. Passed 9-29-87.)

(1) A member who was first hired by the City on or after January 1, 1988, and who has served continuously for a period of twenty-five years and has reached the age of fifty-three years shall be entitled upon application to the Board to retire and to receive a pension until death which shall be fifty percent (50%) of the average annual salary of such member which he or she received during the last three years of service immediately preceding retirement. (Ord. 20-1989 §3. Passed 12-6-89.)

(c) A member who becomes physically or mentally incapacitated through disease or ailment and by reason thereof is unable to perform his duty as a member of the police force, shall be entitled upon application to the Board to retire and to receive a pension until death or reinstatement, which shall be two and one-half percent (2-1/2%) of his yearly salary multiplied by the number of years of service. However, such pension shall not exceed fifty percent (50%) of his yearly salary. Any member with five or more years of service who retires on a nonservice connected disability shall be guaranteed a minimal retirement benefit of twenty-five percent (25%) of their annual salary at the time of retirement. (Ord. 23-1996 §1. Passed 6-27-96.)

(1) Every policeman hired after January 1, 1988, who becomes physically or mentally incapacitated through disease or ailment and by reason thereof is unable to perform his duty as a member of the police force, shall be entitled upon application to the Board to retire and to receive a pension until death or reinstatement, which shall be two percent (2%) of his yearly salary multiplied by the number of years of service. However, such pension shall not exceed fifty percent (50%) of his yearly salary. (Ord. 20-1989 §3. Passed 12-6-89.)

(d) A member who becomes physically or mentally incapacitated through injury received while in the actual performance of his duty, and who by reason thereof is unable to perform his duty as a member of the police force, shall be entitled upon application to the Board to retire and to receive a pension until death, or reinstatement. Such pension shall not be paid during the time such member receives compensation allowed him by the law relative to workmen's compensation. Such pension shall be seventy percent (70%) of his yearly salary which will continue until his retirement pension becomes effective. (see Arbitration Award of 1972.) (Ord. 7-1985§1. Passed 3-6-85; Ord. 13-1987 §7. Passed 9-29-87.)

(e) Increase of Allowances after Retirement. The allowances of members receiving allowances of any kind from the Police Pension Fund by reason of and after termination of their services shall be increased in conformity with a uniform scale, which may be based on the cost of living, but the total of any such allowances shall not at any time exceed one-half of the current salary being paid patrolmen of the highest pay grade. (Ord. 32-1970 §1. Passed 6-2-70.)

(f) Beginning January 1, 1982, any police officer who becomes permanently and totally disabled as a result of a disability incurred while in the actual performance of his or her duty and who, by reason thereof, is unable to perform his or her duties as a member of the police force shall be entitled upon application to the Board to retire and to receive a monthly pension until death or reinstatement. Such pension shall be in an amount equal to one hundred percent (100%) of such police officer's average monthly earnings reportable or reported on the police officer's W-2 form in the twelve month period prior to his or her retirement.

The City can claim as an offset from the aforesaid pension the following items:

- (1) One hundred percent (100%) of whatever workers' compensation benefit the retired police officer is receiving as a result of his or her service-connected disability; and
- (2) All earnings from employment which the retired police officer did not have at the time he or she retired and/or all earnings in excess of those average earnings from employment which the retired police officer had at the time he or she retired and which such retired police officer had regularly received during the twelve month period immediately preceeding his or her service-connected disability retirement. This offset for earnings shall be reduced by the annual cost to the retiree of those health insurance benefits such as hospitalization, medical-surgeon, major medical, dental, vision and prescription-drug, chosen and paid for by the retiree provided, however, the annual cost of such benefit shall not exceed the annual cost to the City for providing such benefits to active police officers of the same status as the retiree at the time of his or her retirement (single, married, etc.).

Any police officer receiving a service-connected disability pension pursuant hereto shall, to the extent he or she is able, pursue the maximum benefit to which he or she is entitled under the workers' compensation benefit laws of the Commonwealth of Pennsylvania.

If the total payments from workers' compensation to any police officer receiving a service-connected disability pension exceed the total benefit which such police officer is entitled to receive, the City shall not have any obligation or duty to make any payments from the Police Pension Fund as long as such workers' compensation benefits are received. No police officer shall commute his or her workers' compensation benefits without receiving the prior approval of the City.

Any police officer retiring as provided herein shall, from time to time, upon request of the City, furnish to the City written proof with sufficient documentation of the status of his or her workers' compensation claim, workers' compensation benefits to be received and/or received and/or all aspects of earnings received from other employment both before and after retirement as provided hereinbefore, as well as the names and the addresses of employers, the type of work performed, copies of federal, State and local tax returns, etc. (Ord. 25-1982 §1. Passed 8-4-82; Ord. 13-1987 §7. Passed 9-29-87.)

(g) After completion of twenty full years of continuous service, regardless of age, each police officer shall have the option of retiring from service or continuing in service; and, if any police officer elects to retire after completion of twenty full years of continuous service, his pension shall vest and remain vested but not payable until he attains the age of fifty years. The pension benefits vested by this provision shall vest permanently; and, if an officer who is otherwise eligible to go on pension dies before reaching age fifty, his survivor shall nevertheless be eligible to receive survivor's pension benefits on the date the officer would have reached age fifty, if he had survived.

After electing to retire as aforesaid and upon attaining the age of fifty years, each retired police officer shall receive an annual pension equal to one-half of such police officer's earnings reportable on I.R.S. Form W-2 in the twelve month period prior to his or her election to retire.

If due to a service-related injury any police officer is unable to work all or any portion of the twelve month period prior to his or her election to retire, any portion of the weekly compensation paid to such police officer pursuant to the City's obligation to pay wages under the Workers' Compensation Laws of the Commonwealth of Pennsylvania which is not required to be reportable or reported on the police officer's W-2 form shall be included within the term "compensation" in computing such police officer's pension benefit. (Ord. 47-1982 §1. Passed 12-29-82.)

(h) After completion of twenty-five full years of continuous service, regardless of age, each police officer first hired by the City on or after January 1, 1988, shall have the option of retiring from service or continuing in service; and, if any police officer elects to retire after completion of twenty-five full years of continuous service, his pension shall vest and remain vested but not payable until he or she attains the age of fifty-five years. The pension benefits vested by this provision shall vest permanently; and, if an officer who is otherwise eligible to go on pension dies before reaching age fifty-five, his survivor shall nevertheless, be eligible to receive survivor's pension benefits on the date the officer would have reached age fifty-five years, if he or she had survived.

After electing to retire as aforesaid and upon attaining the age of fifty-five years, each retired police officer shall receive an annual pension equal to one-half of such police officer's average annual earnings reportable on I.R.S. Form W-2 during the last five year period immediately prior to his or her election to retire.

If due to service-related injury any police officer is unable to work all or any portion of the last five year period immediately prior to his or her election to retire, any portion of the weekly compensation paid to such police officer pursuant to the City's obligation to pay wages under the Worker's Compensation Laws of the Commonwealth of Pennsylvania which is not required to be reportable or reported on the police officer's W-2 Form shall be included within the term "compensation" in computing such police officer's pension benefit. (Ord. 13-1987 §3. Passed 9-29-87.)

(i) A one-time post retirement adjustment be provided to the eligible retired members of the Police Pension Plan, the eligibility and amount of such adjustment to be as provided in Act 64 of 2002, and that such adjustment be retroactive to the first monthly pension benefit paid after June 30, 2002. (Ord. 5-2003. Passed 2-26-03.)

143.04 CONTRIBUTIONS BY MEMBERS; WAGE DEDUCTIONS.

(a) Monthly the City Treasurer shall deduct from the salary or compensation of each member of the police force accepting the provisions of this article four percent (4%) of his salary, which shall be applied to the purposes of this article. The City Treasurer is hereby authorized and directed to make deductions and pay the same to himself as Treasurer of the Board. (Ord. 30-1972 §1. Passed 6-13-72; Ord. 13-1987 §7. Passed 9-29-87.)

(b) Monthly the City Treasurer shall deduct from the salary or compensation of each member of the police force accepting the provisions of this article, an additional one percent (1%) of his salary, in addition to amounts deducted pursuant to subsection (a) hereof, which shall be applied to provide sufficient funds for payments required by Section 143.08 for widows. The City Treasurer is hereby authorized to make deductions and pay the same to himself as Treasurer of the Board. (Ord. 5-1969 §1. Passed 1-28-69; Ord. 13-1987 §7. Passed 9-29-87.)

(c) A member of the police force who does not make payment or contributions required from him shall not be entitled to a pension under this article. (1956 Code §26-16)

143.05 SERVICE INCREMENT; ENTITLEMENT, LIMITATIONS AND CONTRIBUTION.

(a) In addition to the retirement allowance which is authorized to be paid from the Police Pension Fund by this article and notwithstanding the limitations therein placed upon such retirement allowances and upon contributions, every contributor who becomes entitled to such retirement allowance shall also be entitled to a service increment in accordance with and subject to the conditions set forth in this section. (1956 Code §26-17)

(b) Service increments shall be the sum obtained by computing the number of whole years after having served a minimum of twenty years as required by the Act of June 21, 1957 (P.L. 378 #202) Section 2, 53 P.S. §39303, during which a contributor has been employed by the City and paid out of the City treasury and multiplying such number of years so computed by an amount equal to one-fortieth of the retirement allowance which has become payable to such contributor in accordance with the provisions of this article. In computing the service increment, no employment after the contributor has reached the age of sixty-five years shall be included, and no service increment shall be paid in excess of one hundred dollars (\$100.00) per month.

It is the intent of this amendment of subsection (b) to determine service increments by computing the number of whole years after having served a minimum of twenty years regardless of the service requirement of twenty-five years provided for in this article. It is further the intent that the service period for retirement shall remain at twenty-five years, but that the increment benefits shall be computed after the service of twenty years. (Ord. 65-1962 §1, 2. Passed 11-7-62.)

(c) Each contributor shall pay into the Pension Fund a monthly service increment contribution in addition to his contribution, which shall be equal to one-half of one percent (.5%) of his salary. Such payment shall not exceed the sum of one dollar (\$1.00) per month. Service increment contribution shall not be paid after a contributor has reached the age of sixty-five years.

(d) Service increment contributions shall be paid at the time and in the same manner as pension contributions, and may be withdrawn in full, without interest, by persons who leave the employment of the City, subject to the same conditions under which pension contributions may be withdrawn. (1956 Code §26-19, 26-20.)

143.06 ARMED FORCES LEAVE.

A member who has enlisted or is drafted into the armed service of the United States shall be granted a leave of absence. Such member, upon his return to active duty in the police force of the City, shall resume his obligations under this article. The time so spent in the armed forces of the United States shall be considered as continuous service entitling such member to all the rights and benefits under this article. During the leave of absence, the member shall not pay into the Pension Fund any moneys whatsoever. (1956 Code §26-21.)

143.07 DISABILITY PENSION; EXAMINATION AND PROOF.

(a) To be entitled to retire and receive a pension as provided in Section 143.03(c) and (d), the member shall submit to a medical examination by a medical commission composed of three physicians, one who shall be the City's physician and the remaining two to be selected by the Police Pension Fund Commission. A majority of such physicians shall certify that the applicant is physically or mentally incapacitated and by reason thereof is unable to perform his duty as a member of the police force. Applicants seeking retirement and pension under Section 143.03(d) shall establish to the satisfaction of the Board that the injury claimed pursuant to such subsection occurred while in the actual performance of duty. (1956 Code §26-22; Ord. 13-1987 §7. Passed 9-29-87.)

(b) The Mayor may direct a member of the police force, who is entitled to retire as provided in Section 143.03, to submit to physical examination as provided in subsection (c) hereof, and if a majority of the physicians report him to be mentally or physically incapacitated and by reason thereof unable to perform his duties as a member of the police force, he shall be retired by the Board and shall be paid a pension as provided in Section 143.03. The Mayor may, also, at his discretion, order a member of the police force entitled to retirement as provided in Section 143.03 to go on retirement, and upon such order, the member shall be retired by the Board and shall be paid a pension as provided in Section 143.03. (Ord. 45-1963 §2. Passed 10-15-63; Ord. 13-1987 §7. Passed 9-29-87.)

(c) At the direction of the Mayor, the Board or upon his own application, a pensioner receiving a pension under Section 143.03(c) or (d) may be examined by three physicians as provided in this section. Should the majority of the physicians report the pensioner to be physically or mentally fit for active service as a member of the police force, the Board shall certify his fitness for duty to the Mayor. The pension shall stop when he is ordered by the Mayor to report to duty. (1956 Code §26-24; Ord. 13-1987 §7. Passed 9-29-87.)

143.08 REFUNDS; BENEFITS FOR WIDOWS AND CHILDREN.

(a) If, for any cause, any member ceases to be a member of the police force or withdraws from the provisions of this article or is not entitled to nor has received a pension hereunder, one hundred percent (100%) of the total amount of the contribution paid into the Pension Fund by the member out of his salary shall be refunded to him without interest. (1956 Code §26-25.)

(b) In the event of the death of a member before he becomes a pensioner or becomes eligible for pension hereunder, one hundred percent (100%) of the total amount of his contribution, without interest, shall be paid to the widow, and if none, to the estate of such deceased member.

(c) The widow of a member of the police force, or a member who retires on pension who dies on or after January 1, 1960, or if no widow survives, or if she survives and subsequently dies or remarries, the child or children under the age of eighteen years of a member of the police force, or a member who retires on pension who dies on or after January 1, 1960, shall, during her lifetime, or so long as she does not remarry, in the case of a widow, or until reaching the age of eighteen years, in the case of a child or children, be entitled to receive a pension calculated at the rate of fifty percent (50%) of the pension the member was receiving or would have received had he been retired at the time of his death. (Ord. 64-1963 §1,2. Passed 12-24-63.)

143.09 INALIENABLE RIGHTS IN FUND.

Whenever any person shall become entitled to receive an allowance from the Police Pension Fund, and has been admitted to participate therein, he shall not be deprived of his right to an equal and proportionate participation therein upon the basis upon which he first became entitled thereto. (1956 Code §26-26.)

143.10 EXEMPTION FROM ATTACHMENT OR EXECUTION; NONASSIGNABILITY.

Pensions payable under this article shall not be subject to attachment or execution and shall be payable only to the beneficiary designated in this article and shall not be subject to assignment or transfer. (1956 Code §26-27.)

143.11 PAYMENT OF ACCRUED PENSIONS AFTER DEATH OF PENSIONER.

In the event of the death of a member after he becomes a pensioner any accrued pension due the deceased is to be paid, whether or not a personal representative has been appointed, to the spouse, any child, the father or mother or any sister or brother (preference being given in the order named) of the deceased pensioner. Payment of such pension shall release the City to the same effect as if payment had been made to a duly appointed personal representative of the decedent.

(Ord. 10-1958 §1. Passed 3-4-58.)

143.12 GROUP LIFE INSURANCE.

A policy of group life insurance shall provide coverage for policemen on active duty in the amount of five thousand dollars (\$5,000) to sixty years of age and two thousand five hundred dollars (\$2,500) thereafter, and one thousand dollars (\$1,000) for retired policemen. The premiums on such policy of insurance shall be paid out of the Police Pension Fund.

(Ord. 45-1969 §1. Passed 6-23-59.)

143.13 OPERATING FUND CREATION AND COMPOSITION.

(a) There is hereby created a Police Pension Operating Fund for the use and benefit of the regular salaried members of the police force of the City to consist of:

- (1) Gifts, grants, devises, bequests of money or property, real, personal or mixed, in accordance with the Act of June 23, 1931 (P.L. 932) 53 P.S. §39307;
- (2) All lost, abandoned, unclaimed or stolen property or money in the possession of the police for the period required by law and for which there shall be no lawful claimant;
- (3) Salary deductions of each member, as provided in Sections 143.04 and 143.05(c);
- (4) The appropriation by the City annually by Council of not less than one-half of one percent (.5%) and not more than one percent (1%) of all City taxes levied by the City other than taxes levied to pay interest on or extinguish the City debt or any part thereof. (1956 Code §26-28.)
- (5) All fees and costs received by City police for service and execution of all criminal processes for City ordinance violations shall be paid directly to the Fund, and Council further appropriates any such past sums and further ratifies and confirms all such payments heretofore made to such Fund.

(Ord. 25-1960 §1. Passed 6-7-60.)

(b) Effective January 1, 1988, all funds, assets, accounts, claims and liabilities of the Police Pension Operating Fund shall be transferred to the City of Chester Aggregated Pension Fund which shall thereafter receive the moneys set forth hereinbefore in subsections (a)(1) through (5), hereof, inclusive.

(Ord. 13-1987 §4. Passed 9-29-87.)

143.14 CITY OF CHESTER AGGREGATED PENSION FUND BOARD.

Effective January 1, 1988, the City of Chester Aggregated Pension Fund Board shall act as trustee of the City of Chester Aggregated Pension Fund and shall have legal title to the assets being transferred as aforesaid to such Fund.
(Ord. 13-1987 §5. Passed 9-29-87.)

(EDITOR'S NOTE: Sections 143.15 through 143.20, inclusive, were repealed by Ordinance 13-1987, passed September 29, 1987.)

143.21 RELATION OF TRANSFERS FOR PENSION PAYMENTS TO SOCIAL SECURITY.

In the event Federal or State legislation shall extend social security or similar benefits to City police officers, only so much of the income and principal from the Trust Fund shall be paid into the Operating Fund as will be required to pay pension benefits fixed by this article less any social security or similar benefits to which any member of the Police Pension Fund shall be entitled.

(1956 Code §26-40.)

143.22 BENEFITS TO MEMBERS RESTRICTED TO PENSION PAYMENTS.

No member of the Police Pension Fund shall benefit from income or principal of the Trust Fund beyond the pension payments to which such member is entitled under this article.
(1956 Code §26-41.)

143.23 CREDIT FOR MILITARY TIME.

Any member of the Police Pension Fund who is a contributor and who served in the armed forces of the United States subsequent to September 1, 1940, and who was not a member of the Police Pension Fund prior to such military service, shall be entitled to have full credit for each year or fraction thereof, not to exceed five years of such service, upon his payment to the Police Pension Fund of an amount equal to that which he would have paid had he been a member during the period for which he desires credit, and his payment to such Fund of an additional amount as the equivalent of the contributions of the City on account of such military service. (Ord. 20-1989 §4. Passed 12-6-89.)

143.24 DEFERRED RETIREMENT OPTION PLAN (DROP).

(a) The following definitions apply to this section, unless the context requires otherwise, in addition to those definitions or defined terms set forth or used elsewhere in this Article 143:

- (1) **Board.** The City of Chester Aggregated Pension Fund Board.
- (2) **DROP.** The deferred retirement option plan established under Section 143.24. The DROP is not a separate pension plan from the Pension Fund described in Section 143.03, but rather operates as a separate account within the Pension Fund.
- (3) **DROP Account.** The total amount credited to an individual DROP Participant due to participation due in the DROP.
- (4) **DROP Benefit.** A member's total DROP Account balance as of the date the member separates from active service with the City as a police officer.
- (5) **DROP Entry Date.** The effective date of the member's participation in the DROP.
- (6) **DROP Participant.** A member who is participating in the DROP.
- (7) **DROP Period.** The duration of a member's participation in the DROP, commencing on the DROP Entry Date and ending on the date the member separates from active service with City as a police officer.

(b) Eligible members of the Pension Fund who elect to participate in the DROP shall make an irrevocable commitment to separate from City service as a police officer and retire upon ceasing participation in the DROP, which they must do no later than five (5) years after entering the DROP. Such members remain employees of the City for all other purposes (except that deductions for member Pension Fund contributions cease and the employee no longer accrues additional service credit for Pension Fund purposes) and are not treated as separated from the City during their participation in the DROP. (With respect to a member who makes an election to participate in the DROP for 2003, 2004 and 2005, any member Pension Fund contributions made prior to such member's DROP Entry Date shall be refunded to the member by the Board as soon as administratively practicable following the member's DROP Entry Date.) However, the determination of the retirement benefit annuity amount under the Pension Fund is made and in-service payment is begun upon entry into the DROP, as if the member had retired with an annuity in pay status then commencing, except payments of that annuity are credited to the member's DROP Account under the Pension Fund subject to certain conditions during the DROP Period, rather than paid to the member directly.

(c) In order to be eligible to participate in the DROP, a member must be an active employee of the City, and must have attained twenty years of service in the Chester Police Department on or before the member's DROP Entry Date. In lieu of separating from employment with the City and commencing receipt of a service retirement benefit annuity under the Pension Fund, any such member may enter into the DROP on or after the date the member satisfies the twenty years of service requirement; provided, however, that the member's participation in the DROP shall commence as of the DROP Entry Date determined in accordance with subsection (d) below. For participation in the DROP to be effective, the member's application must first be approved by the Board.

(d) Except as otherwise provided by this section, an election to participate in the DROP is irrevocable. A member's DROP Entry Date shall be the date provided on the member's application, provided that such date may only be the first day of a month and shall not be earlier than ninety (90) days after the date the DROP application is filed with the Board nor earlier than the date of satisfaction of the member's twenty years of service requirement, except regarding elections made with respect to calendar years 2003, 2004 or 2005 where the timing requirements, but not the years of service requirement, of this sentence shall be waived and members may enroll in the DROP pursuant to uniform rules and regulations promulgated by the Board.

- (e) Credits to a DROP Participant's DROP Account consist of the sum of:
- (1) A monthly amount equal to the member's normal accrued monthly service retirement benefit annuity under the Pension Fund determined as of the member's DROP Entry Date; plus
 - (2) Interest on the member's DROP Account balance computed at a rate determined by the Board. The initial annual interest rate shall be 0.0% upon the effective date of this section and shall be reviewed not less frequently than annually by the Board at the beginning of each year. The Board may adjust the interest rate prospectively following such review, provided that:
 - A. The rate selected shall not exceed 12% and shall not be below 0.0%; and
 - B. The rate selected shall not be more than 3 percentage points lower than the actual rate of return of Fund assets during the previous year.

(f) Credits to a member's DROP Account shall begin on the participant's DROP Entry Date and shall continue until the DROP Participant separates from active service with the City as a police officer, provided that such separation must be no later than five (5) years after the DROP Entry Date. Amounts are creditable for partial crediting periods of not less than one (1) month each. Credits may not be made to a member's DROP Account for any period of time that occurs after the member separates from active service with the City as a paid police officer.

(g) The DROP Accounts shall not be segregated from other assets of the Pension Fund.

(h) Upon a member's entry into the DROP, member contributions made to the Pension Fund under Section 143.04 on behalf of that member shall cease for duration of the DROP Period.

(i) A DROP Participant who separates from active service with the City as a police officer is entitled to receive the member's DROP Benefit in a single sum. In addition, upon the effective date of such separation from service, the member shall be deemed retired, and become eligible to receive a service retirement benefit annuity under the Pension Fund, in the monthly amount calculated pursuant to Section 143.03 (a) and (b).

(j) Once entering the DROP, the member continues to be a DROP Participant until separation from City service as a police officer, at which point the member is deemed retired. A retiree may be re-hired by the City as a paid Participant who is re-hired by the City as a police officer and may be eligible to again participate in the DROP.

(k) Upon the death of a DROP Participant while enrolled in the DROP, the member's total DROP Account balance at the date of death shall be added to any benefit payable under Section 143.08 and be payable to the beneficiary or beneficiaries as determined under that section.

(l) DROP Participants are not eligible for an ordinary disability retirement under Section 143.03(c). If a DROP Participant becomes disabled and does not meet the requirements for a service-connected disability retirement benefit, that DROP Participant shall be terminated from the DROP and separated from service with the City to commence a service retirement benefit annuity under the Pension Fund and to receive the DROP Benefit, as provided in Section 143.24(i).

(m) If a DROP Participant applies for, and the Board grants, a service connected disability retirement benefit under Section 143.03(d) or (f), the member shall be terminated from the DROP and separated from service with the City to begin a service connected disability retirement benefit annuity and to receive the DROP Benefit, as provided in Section 143.24(i), with the service-connected disability retirement benefit being based on the compensation and service levels as determined at the DROP Entry Date.

(n) Upon entry into the DROP, a member's service level is frozen for purposes of the Pension Fund. Therefore, a DROP Participant is not eligible to purchase any past service credit under the Pension Fund; provided, however, that a DROP Participant may complete any installment or other method of purchase within the parameters of Section 143.23.

(o) The DROP shall operate as a cost-neutral benefit. The Board shall conduct an actuarial study of the financial impact of the DROP on the Pension Fund as of the fourth anniversary of the effective date of this section.

(p) The Board may, by regulation, provide for additional details of implementation and interpretation of this Section.

(q) The provisions of this section shall become effective as of January, 1, 2003.
(Ord. 17-2007. Passed 11-28-07.)

ARTICLE 145
Officers and Employees Optional Retirement System

145.01	Authority and creation.	145.12	Persons entitled to benefits.
145.02	Definitions.	145.13	Member of existing pension system.
145.03	Existing system continued and transferred to new system.	145.14	Laborers on per diem wage.
145.04	Aggregated Pension Board.	145.15	Mandatory retirement.
145.05	Duties of heads of departments and offices.	145.16	Receipt and investment of funds; payments.
145.06	Contributions by members; wage deductions.	145.17	Exemption from attachment or execution; nonassignability.
145.07	Right to retire and pension upon retirement.	145.18	Refund for early termination.
145.08	Permanent disability.	145.19	Refund for early voluntary retirement.
145.09	Effect of social security.	145.20	Re-entry into City service.
145.10	Widows or widowers of members.	145.21	Military service.
145.11	Computation of time of service.	145.22	Refund upon death.
		145.23	Effective date.

CROSS REFERENCES

State law provisions - see 53 P.S. §39371 to 39384
Coverage of persons under social security - see 65 P.S. §201 et seq.

145.01 AUTHORITY AND CREATION.

Under authority vested by the Act of May 23, 1945 (P.L. 903) as amended, 53 P.S. §39371 to 39384, a retirement system for officers and employees in the active service of the City, except policemen, firemen and part-time or occasional workers, is hereby established and created to replace and supersede the present retirement system existing under prior ordinances. The newly created retirement system shall assume, administer and control and have transferred to it all funds, accounts, claims and liabilities of the existing retirement system, subject to the rights of all persons now on pension under prior ordinances.
(Ord. 24-1963 §2. Passed 6-11-63.)

145.02 DEFINITIONS.

Certain words and phrases, as used in this article, shall have the following meanings:

- (a) "Person" means an officer or employee of the City.
- (b) "Employee" means a person in the service of the City, except policemen,

- firemen, and part-time or occasional workers, who is either, or who is not now adequately protected under all circumstances by pensions authorized by the laws of this Commonwealth, and in force at the time of passage of this section.
- (c) "Officer" means a person elected or appointed to City service.
(Ord. 24-1963 §1. Passed 6-11-63.)
 - (d) "Board" means the City of Chester Aggregated Pension Fund Board.
(Ord. 14-1987 §1. Passed 9-29-87.)
 - (e) "City" means the City of Chester, Pennsylvania.
(Ord. 24-1963 §1. Passed 6-11-63.)
 - (f) "Fund" means the City of Chester Aggregated Pension Fund.
(Ord. 14-1987 §1. Passed 9-29-87.)
 - (g) "Compensation" means retirement allowance or compensation.
 - (h) "He" includes the masculine and feminine pronouns.
 - (i) "Member" means a person who is a member of the retirement system.
 - (j) "Joint coverage member" means a City employee who becomes a member of the retirement system subsequent to the last date permitted by the City for statement of preference concerning social security coverage, or who, having become a member on or before such date, has filed with the City of Chester Aggregated Pension Fund Board a written statement that he elects social security coverage under an agreement with the Federal Secretary of Health, Education and Welfare entered into by the Commonwealth.
 - (k) "Single coverage member" means a City employee who becomes a member of the retirement system on or before the last date permitted by the City for statement of preference concerning social security coverage, and who either has filed with the retirement board a written statement that he does not elect social security coverage under any agreement with the Federal Secretary of Health, Education and Welfare entered into by the Commonwealth, or has not filed any written statement with the City of Chester Aggregated Pension Fund Board.
 - (l) "Years of service" includes any time not exceeding six years spent by the employee on active duty with the armed forces of the United States, providing he received an honorable discharge or a certificate of satisfactory service and he pays to the Board an amount equal to three percent (3%) of his monthly salary or wage prior to entering on active duty for each month he is not employed by the City, because of his active duty with the armed forces.
 - (m) The singular includes the plural and the masculine includes the feminine and the neuter. (Ord. 24-1963 §1. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)
 - (n) "Salary" is the fixed amount of compensation paid at regular, periodic intervals by the City to the employee and from which pension contributions have been deducted. (Ord. 3-2011. Passed 4-27-11.)

145.03 EXISTING SYSTEM CONTINUED AND TRANSFERRED TO NEW SYSTEM.

- (a) The members of the existing employees pension retirement system having voted to adopt the retirement system for officers and employees, as herein set forth, and as provided by the Act of May 23, 1945 (P.L. 903), as amended 53 P.S. §39371 to 39384, the presently existing retirement system shall continue as to rights and obligations of all employees who have retired as of the effective date of this section. The funds, accounts, claims and liabilities of the existing retirement system shall be transferred to the system herein created, the members of the City of Chester Aggregated Pension Fund Board of which shall assume, administer and control the existing retirement system and the system herein created.
(Ord. 24-1963 §3. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)

(b) Effective January 1, 1988, all funds, assets, accounts, claims and liabilities of the Officers and Employees Optional Retirement System shall be transferred to the City of Chester Aggregated Pension Fund. The presently existing retirement system shall continue as to the rights and obligations of all employees who have retired or who have been hired prior to the effective date of this subsection. However, as to all employees who are first hired by the City on or after January 1, 1988, a revised pension benefit plan as set forth hereinafter shall apply. (Ord. 14-1987 §2. Passed 9-29-87.)

145.04 AGGREGATED PENSION BOARD.

(a) Effective January 1, 1988, the City of Chester Aggregated Pension Fund Board shall act as trustee of the City of Chester Aggregated Pension Fund and shall have legal title to the assets being transferred as aforesaid from the Officers and Employees Optional Retirement System to such Fund.

(b) The Board shall register all persons employed by the City, except policemen, firemen and part-time or occasional employees, shall administer the collection and distribution of the Fund hereinbefore provided for, and shall make such reasonable rules and regulations as it deems necessary to carry into effect the provisions of this Article. (Ord. 14-1987 §3. Passed 9-29-87.)

145.05 DUTIES OF HEADS OF DEPARTMENTS AND OFFICES.

(a) Within thirty days after enactment of this section, the head of every City department and office employing persons entitled under the provisions of this article to receive compensation, shall submit to the City of Chester Aggregated Pension Fund Board statements, showing the name, sex, title, compensation, duties, date of birth and length of service as a City employee, of every City employee under his department or office.

(b) The head of every City department and office shall, on the first day of each calendar month, notify the City of Chester Aggregated Pension Fund Board of the employment or the entering into office of new City officers and employees, submit to the City of Chester Aggregated Pension Fund Board a statement showing the name, sex, title, compensation, duties, date of birth of each such new City officers and employees; and also certify to the City of Chester Aggregated Pension Fund Board at the same time all dismissals, resignations or termination of service together with any changes in salary of any member of the City of Chester Aggregated Pension Fund, which occurred during the preceding month. (Ord. 24-1963 §5. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)

145.06 CONTRIBUTION BY MEMBERS; WAGE DEDUCTIONS.

(a) All officers and employees of the City, who are members of the City of Chester Aggregated Pension Fund, shall pay to the board an amount equal to six percent (6%) of their monthly salaries or wages as such officers and/or employee contribution to the fund. Such contributions are to be made by the City's deduction of same from the salary or wages of each of such officers and employees at each and every payroll period, which sum so deducted shall be applied to the purpose of this article. (Ord. 24-1996 §1-3. Passed 7-11-96.)

(b) All officers and employees of the City, who are first hired by the City on or after January 1, 1988, until February 29, 2016, who are members of the Fund and who are integrated into the Federal Social Security System, shall pay to the Board an amount equal to one percent (1%) of his or her salary or wages as such officer's and/or employee's contribution to the Fund. Commencing March 1, 2016, all officers and employees of the City who are members of the Fund and who are integrated into the Federal Social Security System, shall pay to the Board an amount equal to three and half percent (3.5%) of their salary or wages as such officer's and/or employee's contribution to the Fund. Such contributions are to be made by the City's deduction of same from the salary or wages of each of such officers and employees at each and every payroll period, which sum so deducted shall be applied to the purposes of this article. (Ord. 2-2016. Passed 1-27-16.)

(c) Laborers, on a per diem wage, who elect to become members of the retirement system shall pay the same rates.

(d) Such deductions shall be paid into the City of Chester Aggregated Pension Fund, and a detailed statement of all amounts so transmitted shall be furnished monthly to the Secretary of the City of Chester Aggregated Pension Fund Board.
(Ord. 24-1963 §6. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)

145.07 RIGHT TO RETIRE AND PENSION UPON RETIREMENT.

- (a) (1) Every person now or hereafter elected or appointed to an office or employed by the City, except policemen, firemen and part-time or occasional workers, of the age of sixty years or more who has served as an officer or employee for a period of twenty years or more, shall upon application to the City of Chester Aggregated Pension Fund Board, be retired from service, and shall during the remainder of his life receive the compensation fixed by the Act of May 23, 1945, (P.L. 903), as amended 53 P.S. §39371 to 39384 and this article.
- (2) Any person who has served twenty years and voluntarily retires, shall by continuing his contributions until the age of fifty-five years, be entitled to the above compensation.
(Ord. 24-1963 §7. Passed 6-11-63.)
- (3) During the lifetime of any such person, they shall be entitled to receive as compensation annually from the City of Chester Aggregated Pension Fund, fifty percent (50%) of the amount which would constitute the highest average salary or wages which they earned during any five years of their service for the City, or which they would be determined by the rate of the monthly pay of such person at the date of retirement, whichever is higher. Such compensation to be paid in monthly payments.
(Ord. 4-2015. Passed 7-8-15.)

- (a-1) (1) On or after January 1, 1988, every person first elected or first appointed to an office or first employed by the City, except policemen, firemen and part-time or occasional workers, of the age of sixty-five years or more who has served as an officer or employee for a period of twenty-five years or more, shall upon application to the Board be retired from service, and shall during the remainder of his or her life receive the compensation fixed as set forth hereinafter.
- (2) Any person who is first elected, appointed and/or employed as aforesaid and who has served twenty-five years and voluntarily retires shall, by continuing his or her contributions until the age of sixty years, be entitled to the compensation fixed as set forth hereinafter.
- (3) During the lifetime of any such person, he or she shall be entitled to receive as compensation annually from the Fund an amount equal to seventy-five hundredths percent (0.75%) of the average annual salary which such employee received during the last five years of service immediately preceding retirement times the number of full years of service. Such compensation shall be paid in semi-monthly payments.
(Ord. 14-1987 §5. Passed 9-29-87.)

(b) Where an officer or employee has served for twelve years or more, has attained the age of sixty years and his tenure of office or employment is terminated for reasons other than misconduct, without his voluntary action and before the expiration of twenty years of service, he shall, in such event, during the remainder of his life, be entitled to receive such portion of the full compensation as the period of his service up to date of its termination bears to the full twenty year period of service.

(Ord. 15-1980 §1. Passed 7-9-80.)

(b-1) Where an officer or employee, first elected or appointed or employed by the City on or after January 1, 1988, has served for twelve years or more, has attained the age of sixty-five years and his or her tenure of office or employment is terminated for reasons other than misconduct, without his or her voluntary action and before the expiration of twenty-five years of service, he or shall shall, in such event, during the remainder of his or her life, be entitled to receive such portion of the full pension benefit set forth hereinbefore as the period of his or her service up to the date of termination bears to the full twenty-five year period of service.

(Ord. 14-1987 §6. Passed 9-29-87.)

(c) Where an officer or employee has served for twelve years or more, has not attained the age of sixty years, and his tenure of office or employment is terminated for reasons other than misconduct, without his voluntary action and before the expiration of twenty years of service, he shall, in such event, during the remainder of his life, after attaining the age of sixty years, be entitled to receive such portion of the full compensation as the period of his service up to the date of its termination bears to the full twenty year period of service. (Ord. 15-1980 §1. Passed 7-9-80.)

(c-1) Where an officer or employee, first elected or appointed or employed by the City on or after January 1, 1988, has served for twelve years or more, has not attained the age of sixty-five years and his or her tenure of office and employment is terminated for reasons other than misconduct, without his or her voluntary action and before the expiration of twenty-five years of service, he or she shall in such event, during the remainder of his or her life, after attaining the age of sixty-five years, be entitled to receive such portion of the full pension benefit as set forth hereinbefore as the period of his or her service up to the date of termination bears to the full twenty-five year period of service. (Ord. 14-1987 §7. Passed 9-29-87.)

(d) Where an officer or employee has served for twenty years or more, and his tenure of office or employment is terminated for reasons other than misconduct, and without his voluntary action, he shall be entitled to full compensation for the remainder of his life, after attaining age fifty-five years, and conditioned upon his continuing his contributions into the City of Chester Aggregated Pension Fund at the same rate as when he was dismissed until he attains the age of fifty-five years. (Ord. 15-1980 §1. Passed 7-9-80; Ord. 14-1987 §9. Passed 9-29-87.)

(d-1) Where an officer or employee, first elected or appointed or employed by the City on or after January 1, 1988, has served for twenty-five years or more, and his or her tenure of office or employment is terminated for reasons other than misconduct, and without his or her voluntary action, he or she shall be entitled to full compensation for the remainder of his or her life, after attaining the age of sixty-five years and conditioned upon his or her continuing his or her contributions into the Fund at the same rate as when he or she was dismissed until he or she attains the age of sixty years. (Ord. 14-1987 §8. Passed 9-29-87.)

145.08 PERMANENT DISABILITY.

Should an officer or employee become so permanently disabled as to render him unable to perform the duties of his position or office after fifteen years of service, and before attaining the age of fifty-five years, he shall be entitled to full compensation during such disability. Proof of such disability shall consist of the sworn statement of three practicing physicians, designated by the City of Chester Aggregated Pension Fund Board, that the employee is in a condition of health which would permanently disable him from performing the duties of his position or office. Such person shall thereafter be subject to physical examination at any reasonable time, upon order of the City of Chester Aggregated Pension Fund Board, and upon his refusal to submit to any such examination, his compensation shall cease. (Ord. 24-1963 §8. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)

145.09 EFFECT OF SOCIAL SECURITY.

(a) Where the City has entered into an agreement with the Commonwealth to place certain employees under the Federal Social Security Act, the compensation to be paid such joint coverage members according to the provisions of this article payable after the age and upon that portion of annual compensation on which social security benefits are payable, shall be reduced by an amount equal to forty percent (40%) of the primary insurance amount of social security paid or payable to the member, in accordance with the provisions of the Federal Social Security Act and the Statutes of the Commonwealth then in effect.

(b) Where a city has entered into an agreement with the Commonwealth to place certain employees under the Federal Social Security Act the City of Chester Aggregated Pension Fund Board may authorize any joint coverage member of the retirement system to elect according to the provisions of this subsection to receive compensation without the reduction provided for in subsection (a) hereof, provided he makes a lump sum payment to the City of Chester Aggregated Pension Fund Board equal to the difference between the amount of the accumulated fund to his credit in the City of Chester Aggregated Pension Fund as of the last date for which salary or wages was paid, and the amount which would have been to his credit in such City of Chester Aggregated Pension Fund if contributions had been made on that portion of his salary or wages on which social security allowances are payable at the same rate as made on that portion of his salary or wages in excess thereof from the time that such salary or wages became subject to social security coverage. Such election shall be made in writing in the form prescribed by the City of Chester Aggregated Pension Fund Board and shall be accompanied by the lump-sum payment herein required.

The City of Chester Aggregated Pension Fund Board may authorize any such member to make the election herein provided at any time, and if made prior to retirement such member shall, in addition to any lump-sum payments required, pay to the City of Chester Aggregated Pension Fund Board contributions on his entire salary or wages thereafter received at the rate provided in Section 145.06, for monthly salary or wages in excess of that on which social security allowances are payable.

(c) In determining such age eligibility and such amounts, only wages and compensation received in the employ of the City shall be included.
(Ord. 38-1963 §1. Passed 9-3-63; Ord. 14-1987 §9. Passed 9-29-87.)

145.10 WIDOWS OR WIDOWERS OF MEMBERS.

The widow or widower of a member who retires on pension or is killed in the service of the City or who is eligible for retirement, shall during her or his lifetime, or so long as she or he does not remarry, be entitled to receive a pension calculated at the rate of fifty percent (50%) of the pension the member was receiving or would have been receiving had she or he been retired at the time of her or his death.

(Ord. 17-1969 §3. Passed 3-11-69.)

145.11 COMPUTATION OF TIME OF SERVICE.

The time of service herein specified shall be computed from the time of the first or original service to the City, and need not be continuous.

(Ord. 24-1963 §11. Passed 6-11-63.)

145.12 PERSONS ENTITLED TO BENEFITS.

The benefits conferred by this article shall apply to all persons employed on or after the effective date of this section, in any capacity by or holding positions in the City, except policemen, firemen and part-time or occasional workers.

(Ord. 24-1963 §12. Passed 6-11-63.)

145.13 MEMBER OF EXISTING PENSION SYSTEM.

Those officers and employees, not now on retirement, who are members of the presently existing City retirement or pension system covering its municipal officers and employees, shall not become members of the retirement system established by this article unless the members of such presently existing retirement or pension system elect, by affirmative vote of seventy-five percent (75%) of all the members thereof, to be covered by the retirement system established by this article.

(Ord. 24-1963 §13. Passed 6-11-63.)

145.14 LABORERS ON PER DIEM WAGE.

No person holding a position in the City as a laborer, at a per diem wage, shall be compelled to join this retirement system and to pay or contribute toward the City of Chester Aggregated Pension Fund herein provided for, but he has the option or choice of so doing, and shall only, upon electing to contribute to the City of Chester Aggregated Pension Fund, become entitled to the compensation provided by this article. Such election shall be made within ninety days of the date of employment for new employees and within ninety days of the date of the final passage of this section for present employees. He shall contribute to the City of Chester Aggregated Pension Fund at the same rate as other members thereof. Once a laborer, at a per diem wage, elects to join the City of Chester Aggregated Pension Fund and is accepted by the City of Chester Aggregated Pension Fund Board, he cannot withdraw as a member at a later date. (Ord. 24-1963 §14. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)

145.15 MANDATORY RETIREMENT.

All officers and employees, except elected officers, eligible for full pension hereunder, shall retire at the age of seventy years. (Ord. 24-1963 §15. Passed 6-11-63.)

145.16 RECEIPT AND INVESTMENT OF FUNDS; PAYMENTS.

The City of Chester Aggregated Pension Fund Board shall receive and retain and, when deemed advisable, invest the funds payable in accordance with this article and the Statutes of the Commonwealth, and pay over by warrant or check, the amounts due to such officers and employees. (Ord. 24-1963 §16. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)

145.17 EXEMPTION FROM ATTACHMENT OR EXECUTION; NONASSIGNABILITY.

The compensation herein provided for shall not be subject to attachment or execution, shall be payable only to the beneficiary designated by this article; and shall not be subject to assignment or transfer. (Ord. 24-1963 §17. Passed 6-11-63.)

145.18 REFUND FOR EARLY TERMINATION.

Any person who has been in City service for a period of less than twelve years and whose service terminates for any cause, whatever, shall be entitled only to the return of the total amount of the contributions paid into the City of Chester Aggregated Pension Fund by him, without interest. (Ord. 24-1963 §18. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)

145.19 REFUND FOR EARLY VOLUNTARY RETIREMENT.

Any person who has been in City service for a period of less than twenty years and who is under the age of fifty-five years, who voluntarily retires from such service, shall be entitled only to the return of the total amount of the contributions paid into the City of Chester Aggregated Pension Fund by him, without interest. (Ord. 24-1963 §19. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)

145.20 RE-ENTRY INTO CITY SERVICE.

Any person whose service with the City has terminated and whose contributions to the City of Chester Aggregated Pension Fund have been returned to him and who afterwards re-enters the City service, shall not be entitled to the compensation provided for in this article unless he repays to the City of Chester Aggregated Pension Fund the total amount returned to him, in which event, the required period of service under this article shall be computed from the time he first entered the service of the City, otherwise his period of service shall commence on the date of his re-entry. (Ord. 24-1963 §20. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)

145.21 MILITARY SERVICE.

(a) Any person or employee of the City who is a contributor to the City of Chester Aggregated Pension Fund who enters active duty in the military service shall have his years of active duty military service credited to his retirement, provided that:

- (1) He is a City employee and a contributor to the City of Chester Aggregated Pension Fund on the date he enters the active military service.
- (2) He is re-employed by the City.
- (3) He receives an honorable discharge or a certificate of satisfactory service and produces the same to the City of Chester Aggregated Pension Fund Board.
- (4) For each month of active military service, he pays unto the City of Chester Aggregated Pension Fund an amount equal to three percent (3%) of that portion of his last monthly salary or wages as a City employee on which social security allowances are payable and five percent (5%) of any salary or wages in excess of that on which social security allowances are payable, the same to be paid upon his re-employment by the City.

(b) Credit for military service shall not exceed six years on active duty in the military service. (Ord. 24-1963 §21. Passed 6-11-63; Ord. 14-1987 §9. Passed 9-29-87.)

145.22 REFUND UPON DEATH.

In the event of the death of a member of the City of Chester Aggregated Pension Fund before such member has received any benefits under this article, there shall be paid to his designated beneficiary, or in case no such beneficiary shall have been designated by him, there shall be paid to his estate, the total amount of the contributions paid into the City of Chester Aggregated Pension Fund by him, without interest. (Ord. 13-1977 §1. Passed 7-13-77; Ord. 14-1987 §9. Passed 9-29-87.)

145.23 EFFECTIVE DATE.

This article shall be effective ten days after its final adoption. (Ord. 24-1963 §23. Passed 6-11-63.)

ARTICLE 147
Paid Firemen's Pension Fund

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| <p>147.01 Purpose; Fund creation; definitions.</p> <p>147.02 Aggregated Pension Trust Fund and Aggregated Pension Fund Board.</p> <p>147.03 Fund membership voluntary.</p> <p>147.04 Contributions by paid firemen; wage deductions.</p> <p>147.05 Contributions by City.</p> <p>147.06 Retirement and final discharge.</p> | <p>147.07 Retirement for physical disability.</p> <p>147.08 Pensions and service increments.</p> <p>147.09 Widows and children of members.</p> <p>147.10 Forfeiture of rights in Fund.</p> <p>147.11 Repayment before retirement.</p> <p>147.12 Exemption from attachment or execution; nonassignability.</p> <p>147.13 Effective date.</p> <p>147.14 Deferred Retirement Option Plan (DROP).</p> |
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CROSS REFERENCES

- Firemen's Pension Fund - see 3rd Class §4320 et seq. (53 P.S. §39320 et seq.)
 Fire Department - see ADM. Art. 121
 Civil Service Commission - see ADM. 133.03

147.01 PURPOSE; FUND CREATION; DEFINITIONS:

Whereas, prior to January 1, 1972, none of the firemen in the five fire companies in the City were City employees; and

Whereas, certain paid firemen of the five fire companies in the City became City employees as of January 1, 1972; and

Whereas, pursuant to an award of a Board of Arbitrators dated December 9, 1971, the City is obligated to create and establish a pension plan for the aforesaid paid City firemen to be effective as of January 1, 1972; now therefore this article is hereby enacted.

- (a) A Paid Firemen's Pension Fund is hereby created and established for paid City firemen as set forth in this article.
- (b) The Pension Fund shall consist of the following:
- (1) The contributions from the paid firemen and appropriation of moneys by the City as provided by Section 147.05.
 - (2) All bequests, legacies, gifts, donations and all emoluments made to such Pension Fund; and all net income resulting from activities conducted by or under the supervision of the Fire Department with approval of Council. (Ord. 79-1972 §1. Passed 12-26-72.)
- (c) Definitions. As used in this article, certain words are defined as follows:
- (1) "Salary" includes regular wages (including personal, sick and vacation days), overtime wages, longevity wages, holiday pay, education benefits and any payment for reimbursement of health premiums. (Ord. 27-1996 §1. Passed 8-8-96.)

147.02 AGGREGATED PENSION TRUST FUND AND AGGREGATED PENSION FUND BOARD.

(a) Effective January 1, 1988, all of the funds, assets, accounts, claims and liabilities of the Paid Firemen's Pension Fund shall be transferred to the City of Chester Aggregated Pension Fund.

(b) Effective January 1, 1988, the City of Chester Aggregated Pension Fund Board shall act as trustee of the City of Chester Aggregated Pension Fund and shall have legal title to the assets being transferred as aforesaid to such Fund.

(c) The Fund shall be applied, under such regulations as the Board shall prescribe, for the benefit of the paid City Firemen who receive honorable discharge therefrom by reason of service, age or disability, for the families of retired members who die and for the families of such members as may be killed or who die in the service being eligible for pension at the time of his or her death. All such pensions, as are allowed to those who are retired by reason of disability or of service or age, shall be in conformity with the uniform scale, together with service increments as hereinafter provided. Benefits allowed from the aforesaid pension fund to families of such City Firemen as are killed or who die in service, shall take into consideration the member's widow and his or her minor children under eighteen years of age, if any survive. (Ord. 12-1987 §1. Passed 9-29-87.)

147.03 FUND MEMBERSHIP VOLUNTARY.

(a) This article shall apply to all regular salaried paid City firemen who are so employed at the time of the adoption of this section or who may become so employed after the adoption of this section subject to the provisions set forth hereinafter.

(b) Upon the adoption of this section, it shall be optional with any paid fireman who became a City employee on January 1, 1972, as to whether or not he desires to become subject to the provisions of this article. Such paid firemen shall make their decision within such period of time as is established by the City of Chester Aggregated Pension Fund Board. If any of such paid City firemen desire to become subject to the provisions of this article, he shall signify his decision upon written forms as directed by the City of Chester Aggregated Pension Fund Board.

(c) Upon the adoption of this section, all paid firemen who became City employees on or after January 2, 1972, or after the adoption of this section, shall be subject to the provisions of this article.

(d) The service of a paid fireman subject to the provisions of this article shall begin as follows:

- (1) The service of a paid fireman who became an employee of the City on January 1, 1972, shall begin as of the date on which he signifies his decision to become subject to the provisions of this article in writing as directed by the City of Chester Aggregated Pension Fund Board. If any of the paid firemen desires to have his service begin as of January 1, 1972, he shall signify his decision in writing at the same time that he signifies his decision in writing, to become subject to the provisions of this article, and he shall make such additional contributions to the City of Chester Aggregated Pension Fund as directed by the City of Chester Aggregated Pension Fund Board.

- (2) The service of a paid fireman who became an employee of the City on or after January 2, 1972, but prior to the adoption of this section, shall begin as of the date of the adoption of this section. If any of such paid firemen desires to have his service begin as of the date on which he became a City employee as a paid fireman, he shall signify his decision in writing as directed by the City of Chester Aggregated Pension Fund Board, and he shall make such additional contributions to the City of Chester Aggregated Pension Fund as directed by the City of Chester Aggregated Pension Fund Board.
- (3) The service of a paid fireman who becomes a City employee after the adoption of this section shall begin as of the employment date.

(e) The names of all paid firemen subject to the provisions of this article shall be entered upon the Paid Firemen's Pension roll, which shall be kept by the City of Chester Aggregated Pension Fund Board Secretary. Such roll shall show conclusively the date upon which any member became subject to the provisions of this article, as well as the date upon which such member became a regular salaried paid City fireman.

(f) In no case shall the service of any paid City fireman subject to the provisions of this article begin prior to January 1, 1972.

(g) It shall be the duty of the City Fire Administrator to give prompt notice of the passage of this article to all paid firemen presently employed and to all new paid firemen who become employed in the future.
(Ord. 79-1972 §3. Passed 12-26-72; Ord. 12-1987 §4. Passed 9-29-87.)

(h) All members of the paid firemen's pension fund who are contributors and who served in the armed forces of the United States subsequent to September 1, 1940, and who were not members of the paid firemen's pension fund prior to such military service, shall be entitled to have full credit for each year or fraction thereof, not to exceed five years of such service upon their payment to the paid firemen's pension fund of an amount equal to that which they would have paid had they been members during the period for which they desire credit, and their payment to such fund of an additional amount as the equivalent of the contributions of the City plus any interest the City would have been required to pay on the contributions on account of such military service. Any journeyman firefighter who wishes to exercise the foregoing option must do so by payment of the aforesaid amounts in full within such time as established by the City of Chester Aggregated Pension Fund Board.
(Ord. 8-1985 §1. Passed 3-20-85.)

(i) With the written approval of the Commonwealth of Pennsylvania, particularly by the Office of the Auditor General, each and every member of the firemen's pension fund who was an apprentice fire fighter for a full three year period shall be entitled to have full credit for each year or fraction thereof, not to exceed three years of such service upon their payment to the firemen's pension fund of an amount equal to that which they would have paid had they been members during the period for which they desire credit, and their payment to such fund of an additional amount as the equivalent of the contributions of the city plus any interest the City would have been required to pay on account of such apprentice service. The City shall send a written request to the Commonwealth of Pennsylvania and particularly the office of the Auditor General seeking its written permission of the foregoing, and the union shall cooperate in all respects to obtain such permission. If approval is obtained from the Commonwealth of Pennsylvania, any journeyman fire fighter who wishes to exercise the foregoing option shall do so by payment of the aforesaid amounts in full within such time period as established by the Firemen's Pension Board.
(Ord. 15-1987 §1. Passed 10-21-87.)

147.04 CONTRIBUTIONS BY PAID FIREMEN; WAGE DEDUCTIONS.

(a) Monthly the City Treasurer shall deduct from the salary or compensation of each paid fireman subject to the provisions of this article, an amount equal to four percent (4%) of his total salary or compensation, which shall be applied to the purposes of this article. The City Treasurer is hereby authorized and directed to make deductions and pay the same to himself as Treasurer of the City of Chester Aggregated Pension Fund Board.

(b) In addition to such deduction, monthly the City Treasurer shall deduct from the salary or compensation of each paid fireman subject to the provisions of this article, an additional amount equal to one percent (1%) of his total salary or compensation, which shall be applied to provide sufficient funds for payment to the families of members retired on pension who die, or to the families of members who are killed or who die in service being eligible for a pension at the time of his death. The City Treasurer is hereby authorized to make deductions and to pay the same to himself as the City of Chester Aggregated Pension Fund Board Treasurer. (Ord. 79-1972 §4. Passed 12-26-72; Ord. 12-1987 §4. Passed 9-29-87.)

147.05 CONTRIBUTIONS BY CITY.

Council shall annually set aside, apportion and appropriate to the Pension Fund, a sum of money not less one-half of one percent (.5%) nor more than three percent (3%) of all City taxes levied by the City, other than taxes levied to pay interest on or to extinguish the City debt or any part thereof. Council may exceed the limitations imposed by this section if an additional amount is deemed necessary to provide sufficient funds for payments to the families of members retired on pension who die or to the families of members who are killed or who die in the service being eligible for a pension at the time of his death. However, the City shall annually pay into the City of Chester Aggregated Pension Fund not less than one-half of one percent (.5%) of all City taxes levied by the City, other than taxes levied to pay interest on or to extinguish the City debt or any part thereof. (Ord. 79-1972 §5. Passed 12-26-72; Ord. 12-1987 §4. Passed 9-29-87.)

147.06 RETIREMENT AND FINAL DISCHARGE.

(a) Every paid fireman subject to the provisions of this article, who has served for a continuous period of twenty years and has reached the age of at least fifty years, may be retired by Council or may elect to retire on pension from active duty. All paid firemen who became City employees on or after January 2, 1972, shall retire at the age of sixty-five years. However, any paid fireman who became a City employee on January 1, 1972, may continue his employment after attaining the age of sixty-five years subject to the following provisions:

- (1) Upon attaining the age of sixty-five years and thereafter, such paid firemen shall submit to any and all medical examinations required by Council to ascertain his physical or mental ability to perform the duties of a paid fireman.
- (2) Upon attaining the age of sixty-five years and thereafter, if it is ascertained by Council that any of such paid firemen is unable to perform his duties as a paid fireman because of physical or mental disability, his employment shall be terminated by Council. (Ord. 79-1972 §6. Passed 12-26-72.)
- (3) Any paid fireman who has not served for a continuous period of twenty years and who is retired pursuant to the provisions of subsection (a)(2) hereof, shall receive a pension, which shall be two and one-half percent (2-1/2%) of his yearly base salary at the time of retirement multiplied by the number of years of service beginning January 1, 1972, less any unemployment offset required by law. However, such person shall not exceed fifty percent (50%) of his base yearly salary. Such pension payment shall be made on a monthly basis. (Ord. 35-1979 §1, 2. Passed 12-26-79.)

(a-1) Every paid firemen first hired by the City on or after January 1, 1988, subject to the provisions of this article, who has served for a continuous period of twenty-five years and has reached the age of at least fifty-five years, may be retired by Council, or may elect to retire on pension from active duty. All such paid firemen shall retire at the age of sixty-five years. (Ord. 12-1987 §2. Passed 9-29-87.)

(b) Every paid fireman, who is retired as set forth hereinabove, shall receive the pension compensation fixed by the provisions of this article as set forth hereinafter for the remainder of his life, except as may be limited by subsection (a)(3) hereof. (Ord. 35-1979 §1, 2. Passed 12-26-79.)

(c) Every paid fireman who is retired, as set forth hereinabove, shall be subject to service, from time to time, as a firemen's reserve in cases of emergency until unfitted for such service when they may be finally discharged by reason of age or disability. (Ord. 79-1972 §6. Passed 12-26-72.)

147.07 RETIREMENT FOR PHYSICAL DISABILITY.

(a) A paid fireman who becomes physically or mentally incapacitated through disease or ailment and by reason thereof is unable to perform his duties as a paid fireman shall be entitled upon application to the City of Chester Aggregated Pension Fund Board by such fireman or by Council to retire and to receive a pension until death or reinstatement, which shall be two and one-half percent (2.5%) of his yearly salary multiplied by the number of years of service. However, such pension shall not exceed fifty percent (50%) of his yearly salary.

(b) A paid fireman who becomes physically or mentally incapacitated through injury received while in the actual performance of his duty, and who by reason thereof is unable to perform his duty as a paid fireman, shall be entitled upon application to the City of Chester Aggregated Pension Fund Board by such fireman or by Council to receive a pension until death or reinstatement. Such pension shall not be paid during the time such fireman receives compensation allowed him by the law relative to worker's compensation. Such pension shall be seventy percent (70%) of his yearly salary. (Ord. 7-1991 §1, 2. Passed 7-17-91.)

(c) To be entitled to retire and to receive a pension as set forth in this section, such paid fireman shall submit to a medical examination by a medical commission composed of three physicians to be selected by the City of Chester Aggregated Pension Fund Board. A majority of the medical commission shall certify that such paid fireman is physically or mentally incapacitated and by reason thereof is unable to perform his duties as a paid fireman.

(d) At the discretion of the Mayor, the City of Chester Aggregated Pension Fund Board, or upon his own application, a pensioner receiving a pension under the provisions of this section may be examined from time to time by a medical commission composed of three physicians as provided herein. Should a majority of the physicians certify that the pensioner is physically or mentally fit for active service as a paid fireman, the City of Chester Aggregated Pension Fund Board shall certify his fitness for duty to the Mayor. The pension for such paid fireman shall cease to be paid when he is ordered to report to duty by the Mayor.

(e) The costs of any medical examination required under this section shall be paid out of the City of Chester Aggregated Pension Fund.
(Ord. 37-1981 §1. Passed 12-16-81; Ord. 12-1987 §4. Passed 9-29-87.)

147.08 PENSIONS AND SERVICE INCREMENTS.

(a) Payments of pensions will not be a charge on any fund in the City Treasury or under its control except the City of Chester Aggregated Pension Fund herein provided for. The basis of the pension of a member shall be determined by the monthly salary of the member at the date of retirement, or the highest average annual salary which he received during any five years of service preceding retirement, whichever is the higher, whether for disability, or by reason of age or service, and except as to service increments provided for hereinafter, shall be one-half the annual salary of such member at the time of retirement computed at such monthly or average annual rate, whichever is the higher. In the case of the payment of pensions to members for permanent injury incurred in service, as set forth hereinbefore, the amount and commencement of the payment of pension shall be fixed by regulations of the City of Chester Aggregated Pension Fund Board. Such regulations shall not take into consideration the amount and duration of Workmen's Compensation benefits allowed by law.

(Ord. 79-1972 §8. Passed 12-26-72; Ord. 12-1987 §4. Passed 9-29-87.)

(a-1) Payments of pensions shall not be a charge on any fund in the City Treasury or under its control except the City of Chester Aggregated Pension Fund herein provided for. The basis of the pension of a member first hired by the City on or after January 1, 1988, shall be determined by the average annual salary which such member received during the last five years of service immediately preceding retirement, whether for disability, or by reason of age or service, and except as to service increments provided hereinafter, shall be one-half of such average annual salary computed as aforesaid. In the case of the payment of pensions to members for permanent injury incurred in service, as set forth hereinbefore, the amount and commencement of the payment of such pension shall be fixed by regulations of the City of Chester Aggregated Pension Fund Board. Such regulations may take into consideration the amount and duration of Workmen's Compensation benefits allowed by law.
(Ord. 12-1987 §3. Passed 2-29-87.)

(b) In addition to the pension which is authorized to be paid from the City of Chester Aggregated Pension Fund and notwithstanding the limitations therein placed upon such pensions and upon contributions, every paid fireman who becomes entitled to the pension shall also be entitled to the payment of a service increment as hereinafter provided:

- (1) Service increment shall be the sum obtained by computing the number of whole years after having served the minimum required by this article during which a contributor has been employed by the City and paid out of the City treasury and multiplying such number of years so computed by an amount equal to one-fortieth of the retirement allowance which has become payable to such contributor in accordance with the provisions of this article. In computing the service increment, no employment after the contributor has reached the age of sixty-five years shall be included, and no service increment shall be paid in excess of one hundred dollars (\$100.00) per month.
- (2) Each contributor, from and after the commencement of his contributions as provided in this article, shall pay into the City of Chester Aggregated Pension Fund a monthly sum in addition to his pension contributions, which sum shall be one dollar (\$1.00) per month. The City Treasurer is hereby authorized and directed to make such deductions and pay the same to himself as City of Chester Aggregated Pension Fund Board Treasurer. Such service increment contributions shall not be paid after the contributor has reached the age of sixty-five years.
- (3) Service increment contributions shall be paid at the same time and in the same manner as pensions and may be withdrawn in full, without interest, by paid firemen who leave the employment of the City, subject to the same conditions by which retirement contributions may be withdrawn, or by persons who retire before becoming entitled to any service increment.

(c) Council may, at any time, at its discretion, upon the recommendation of the person having custody and management of the City of Chester Aggregated Pension Fund, increase the pension allowances of persons receiving pension allowances of any kind from the City of Chester Aggregated Pension Fund by reason of and after the termination of the services of any member of the City of Chester Aggregated Pension Fund. Such increases shall be in conformity with a uniform scale which may be based on the cost of living, but the total of any such pension allowances shall not at any time exceed one-half of the current salary being paid to paid firemen of the highest pay grade.

(Ord. 79-1972 §8. Passed 12-26-72; Ord. 12-1987 §4. Passed 9-29-87.)

(d) A one-time postretirement adjustment be provided to the eligible retired members of the Paid Firemen's Pension Plan, the eligibility and amount of such adjustment to be as provided in Act 64 of 2002, and that such adjustment be retroactive to the first monthly pension benefit paid after June 30, 2002. (Ord 6-2003. Passed 2-26-03.)

147.09 WIDOWS AND CHILDREN OF MEMBERS.

(a) The widow of any paid fireman who has retired on pension or who is killed or dies in the service being eligible for a pension at the time of his death, shall, during her life-time or so long as she does not remarry, receive a pension payment of the amount payable to the paid fireman or which would have been payable had he been retired at the time of his death.

(b) In the event that the aforesaid paid fireman is not survived by a widow, or is survived by a widow who subsequently dies or remarries, and such paid fireman is survived by a child or children under the age of eighteen years, such widow's pension shall be paid equally to such children until they reach their eighteenth birthday. In order to be entitled to such pension payments, such children shall have been dependent upon the paid fireman and shall have resided in the same household of the paid fireman at the time of his death or been supported by such paid fireman in a public or private hospital or nursing home at the time of his death. (Ord. 79-1972 §9. Passed 12-26-72.)

147.10 FORFEITURE OF RIGHTS IN FUND.

Whenever any paid fireman becomes entitled to receive a pension from the City of Chester Aggregated Pension Fund, and has been admitted to participate therein, he shall not thereafter be deprived of his right of participation therein upon the basis upon which he first became entitled thereto, except one or more of the following causes: Conviction of a felony or misdemeanor; becoming a habitual drunkard; or failing to comply with some general regulation relating to the management of the City of Chester Aggregated Pension Fund which may be made by the City of Chester Aggregated Pension Fund Board, and which may provide that a failure to comply therewith shall terminate the right to participate in the City of Chester Aggregated Pension Fund. Any termination of a pension shall be only after such due notice and hearing as shall be prescribed by the City of Chester Aggregated Pension Fund Board regulation. (Ord. 79-1972 §10. Passed 12-26-72; Ord. 12-1987 §4. Passed 9-29-87.)

147.11 REPAYMENT BEFORE RETIREMENT.

(a) If for any cause, any paid fireman contributing to the City of Chester Aggregated Pension Fund ceases to be a paid City fireman before he becomes entitled to a pension, the total amount of the contributions paid onto the City of Chester Aggregated Pension Fund by such paid fireman shall be refunded in full, without interest. If any such paid fireman has returned to him the amount contributed, and shall afterward again become a paid City fireman, he shall not be entitled to the pension designated until twenty years after his re-employment unless he returns to the City of Chester Aggregated Pension Fund the amount withdrawn, in which event, the period of twenty years shall be computed from the time that the paid fireman first became a paid City fireman, excluding therefrom any period of time during which such paid fireman was not employed by the City in such capacity.

(b) In the event of the death of a paid fireman before the paid fireman becomes entitled to a pension, as aforesaid, the total amount of the contributions paid into the City of Chester Aggregated Pension Fund by such paid fireman shall be paid to his widow, without interest; and if no widow survives such paid fireman, such payment shall be made to the surviving children of the paid fireman. If such paid fireman is not survived by a widow or family entitled to payments as hereinbefore provided, the total amount of contributions paid into the City of Chester Aggregated Pension Fund by the paid fireman shall be paid over to his estate, without interest. (Ord. 79-1972 §11. Passed 12-26-72; Ord. 12-1987 §4. Passed 9-29-87.)

147.12 EXEMPTION FROM ATTACHMENT OR EXECUTION; NONASSIGNABILITY.

All pensions and service increments granted under this article or any portion thereof shall be exempt from attachment or garnishment processes and shall not be seized, taken or subject to detainer or levied upon by virtue of an execution of any processes or proceedings whatsoever, issued out of or by any court in this Commonwealth for the payment and satisfaction in whole or in part of any claim, damage or judgement against any such pensioner. No pensioner shall have the right to transfer or assign his pension or any part thereof, either by way of mortgage or otherwise. (Ord. 79-1972 §12. Passed 12-26-72.)

147.13 EFFECTIVE DATE.

This article shall be effective beginning January 1, 1972.
(Ord. 79-1972 §14. Passed 12-26-72.)

147.14 DEFERRED RETIREMENT OPTION PLAN (DROP).

(a) The following definitions apply to this Section, unless the context requires otherwise, in addition to those definitions or defined terms set forth or used elsewhere in this Section 147:

- (1) Board. The City of Chester Aggregated Pension Fund Board.
- (2) DROP. The deferred retirement option plan established under Section 147.14 of this Article. The DROP is not a separate pension plan from the Pension Fund described in Section 147.01 (a) of this Article above, but rather operates as a separate account within the Pension Fund.
- (3) DROP Account. The total amount credited to an individual DROP Participant due to participation due in the DROP.
- (4) DROP Benefit. A member's total DROP Account balance as of the date the member separates from active service with the City as a paid fireman.
- (5) DROP Entry Date. The effective date of the member's participation in the DROP.
- (6) DROP Participant. A member who is participating in the DROP.
- (7) DROP Period. The duration of a member's participation in the DROP, commencing on the DROP Entry Date and ending on the date the member separates from active service with City as a paid fireman.

(b) Eligible members of the Pension Fund who elect to participate in the DROP shall make an irrevocable commitment to separate from City service as a paid fireman and retire upon ceasing participation in the DROP, which they must do no later than five (5) years after entering the DROP. Such members remain employees of the City for all other purposes (except that deductions for member Pension Fund contributions cease and the employee no longer accrues additional service credit for Pension Fund purposes) and are not treated as separated from the City during their participation in the DROP. (With respect to a member who make an election to participate in the DROP for 2002 Or 2003, any member Pension Fund contributions made prior to such member's DROP Entry Date shall be refunded to the member by the Board as soon as administratively practicable following the member's DROP Entry Date.) However, the determination of the retirement benefit annuity amount under the Pension Fund is made and in-service payment is begun upon entry into the DROP, as if the member had retired with an annuity in pay status then commencing, except payments of that annuity are credited to the member's DROP Account under the Pension Fund subject to certain conditions during the DROP Period, rather than paid to the member directly.

(c) In order to be eligible to participate in the DROP, a member must be an active employee of the City, and must have attained the normal retirement requirements under the Pension Fund as set forth at Section 147.06 of this Article above the "Normal Retirement Requirements", on or before the member's DROP Entry Date. In lieu of separating from employment with the City and commencing receipt of a service retirement benefit annuity under the Pension Fund, any such member may enter into the DROP on or after the DROP on or after the date the member satisfies the Normal Retirement Requirements; provided, however, that the member's participation in the DROP shall commence as of the DROP Entry Date determined in accordance with Subsection (d) below. For participation in the DROP to be effective, the member's application must first be approved by the Board.

(d) Except as otherwise provided by this Section, an election to participate in the DROP is irrevocable. A member's DROP Entry Date shall be the date provided on the member's application, provided that such date may only be the first day of a month and shall not be earlier than ninety (90) days after the date the DROP application is filed with the Board nor earlier than the date of satisfaction of the member's Normal Retirement Requirements, except regarding elections made with respect to calendar year 2002 or 2003, the timing requirements of this sentence shall be waived and members may enroll in the DROP pursuant to uniform rules and regulations promulgated by the Board.

- (e) Credits to a DROP Participant's DROP Account consist of the sum of:
- (1) A monthly amount equal to the member's normal accrued monthly service retirement benefit annuity under the Pension Fund determined as of the member's DROP Entry Date; plus
 - (2) Interest on the member's DROP Account balance computed at a rate determined by the Board. The initial annual interest rate shall be 0.0% upon the effective date of this Ordinance and shall be reviewed not less frequently than annually by the Board at the beginning of each year. The Board may adjust the interest rate prospectively following such review, provided that: (a) the rate selected shall not exceed 12% and shall not be below 0.0%; and (b) the rate selected shall not be more than 3 percentage points lower than the actual rate of return of Fund assets during the previous year.

(f) Credits to a member's DROP Account shall begin on the participant's DROP Entry Date and shall continue until the DROP Participant separates from active service with the City as a paid fireman, provided that such separation must be no later than five (5) years after the DROP Entry Date. Amounts are creditable for partial crediting periods of not less than one (1) month each. Credits may not be made to a member's DROP Account for any period of time that occurs after the member separates from active service with the City as a paid fireman.

(g) The DROP Accounts shall not be segregated from other assets of the Pension Fund.

(h) Upon a member's entry into the DROP, member contributions made to the Pension Fund under Section 147.04 of this Article above on behalf of that member shall cease for duration of the DROP Period.

(i) A DROP Participant who separates from active service with the City as a paid fireman is entitled to receive the member's DROP Benefit in a single sum. In addition, upon the effective date of such separation from service, the member shall be deemed retired, and become eligible to receive a service retirement benefit annuity under the Pension Fund, in the monthly amount calculated pursuant to Section 147.06 of this Article above.

(j) Once entering the DROP, the member continues to be a DROP Participant until separation from City service as a paid fireman, at which point the member is deemed retired. A retiree may be rehired by the City as a paid Participant who is re-hired by the City as a paid fireman may be eligible to again participate in the DROP.

(k) Upon the death of a DROP Participant while enrolled in the DROP, the member's total DROP Account balance at the date of death shall be added to any benefit payable under Section 147.09 of this Article above and be payable to the beneficiary or beneficiaries as determined under that Section.

(l) DROP Participants are not eligible for an ordinary disability retirement under Section 147.07(a) of this Article above. If a DROP Participant becomes disabled and does not meet the requirements for a service-connected disability retirement benefit, that DROP Participant shall be terminated from the DROP and separated from service with the City to commence a service retirement benefit annuity under the Pension Fund and to receive the DROP Benefit, as provided in Section 147.14(i) of this Article.

(m) If a DROP Participant applies for, and the Board grants, a service connected disability retirement benefit under Section 147.07(b) of this Article above, the member shall be terminated from the DROP and separated from service with the City to begin a service connected disability retirement benefit annuity and to receive the DROP Benefit, as provided in Section 147.14(i) of this Article, with the service-connected disability retirement benefit being based on the compensation and service levels as determined at the DROP Entry Date.

(n) Upon entry into the DROP, a member's service level is frozen for purposes of the Pension Fund. Therefore, a DROP Participant is not eligible to purchase any past service credit under the Pension Fund; provided, however, that a DROP Participant may complete any installment or other method of purchase within the parameters of Section 147.03(h) and (i) of this Article above.

(o) The DROP shall operate as a cost-neutral benefit. The Board shall conduct an actuarial study of the financial impact of the DROP on the Pension Fund as of the fourth anniversary of the effective date of this Ordinance.

(p) The Board may, by regulation, provide for additional details of implementation and interpretation of this Section.

(q) The provisions of this Ordinance shall become effective as of January, 1, 2002.
(Ord. 12-2003. Passed 7-23-03.)