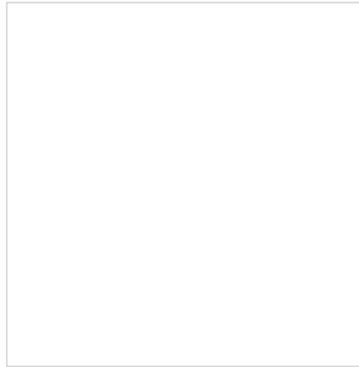


PHILADELPHIA HOME RULE CHARTER

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ANNOTATED

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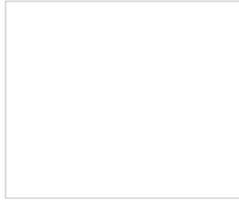
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PREFACE TO 1952 CHARTER

This annotated edition of the Philadelphia Home Rule Charter, adopted by the electors of the City of Philadelphia on April 17, 1951, has been prepared and published primarily as an aid to the officials and employees of the City who are charged with carrying out its provisions. It is also intended as a guide to a better understanding of the Charter for the residents of the City and others who will be concerned with and interested in it.

Following each section of the Charter are statements of "Sources" and "Purposes". "Sources" is generally used in the very broad sense of statutory provisions, ordinances, model provisions, and provisions from Charters of other cities which suggested the idea from which the section of the Charter was derived. At times "Sources" indicates that the language closely parallels language from a source provision. Under "Purposes" it is sought to state the intention of the section, its effect, and its relationship to other Charter provisions.

The publication of this annotated edition was authorized by a resolution of the Charter Commission. It was prepared by the Legislative Draftsman of the Charter Commission under the direction of the Commission's Drafting Committee. The index was prepared by the Bureau of Municipal Research, as a public service.

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LAW DEPARTMENT PREFACE (November 30, 2011)

This update of the Philadelphia Home Rule Charter includes the following amendments made since the Charter was adopted in 1951:

Public Education Supplement:

Article XII, titled "Public Education", which contains provisions pertaining to the administration, financing and management of the City's public school system. Article XII was drafted by the Educational Home Rule Charter Commission convened pursuant to the Act of August 9, 1963, P.L. 643, by which the General Assembly eliminated a previous statutory restriction forbidding a Home Rule Charter from containing provisions regulating public schools. The Act of August 9, 1963 also permitted any city of the first class to add to an existing Home Rule Charter sections pertaining to the operation of public schools. The "Proposed Supplement to the Home Rule

Charter" drafted by the Educational Home Rule Charter Commission was approved by the electors on May 18, 1965, thereby creating a Home Rule School District for the City of Philadelphia. On May 16, 1967, the electors approved an amendment to Section 12-306 of the Home Rule Charter Educational Supplement, relating to indebtedness, which raised the ceiling on the aggregate indebtedness permitted to be incurred from the original rate of 2% to a new limit of 5% of the assessed value of the taxable property within the District. The Amendment also prohibited the aggregate indebtedness of the District from exceeding 15% of the last valuation of property taxable for school purposes in the District, up from the original figure of 5%. On November 2, 1999, the electors approved amendments to Sections 12-201, 12-202, 12-203, 12-204, 12-206, 12-207, 12-209 and 12-503, relating to the Board of Education and the Educational Nominating Panel.

Approved November 1991:

Competitive Bid Minimum (\$2,000 to \$10,000) (§ 8-200(2)).

Approved November 2002:

Philadelphia Tax Reform Commission (§§ 3-100, 3-805, 4-900).

Approved November 2003:

Audits of Agencies (§ 6-400);
Board of Pensions, non-voting member (§ 3-803);
Local Preference (§ 8-200);
Competitive Bid minimum (\$10,000 to \$25,000) (§§ 8-200, 8-201);
Universal Health Care Plan (§ 5-300(f));
Insurance Public Advocate (§§ 3-100(a), 3-209, 3-405, 3-600, 4-1000, 8-400);
Cooperative Purchasing Agreements (§ 8-200).

Approved May 2005:

Referendum on Gun Legislation (§ 8-500).

Approved November 2005:

Contract Reform (§§ 2-309, 8-200, 8-201).

Approved May 2006:

Board of Ethics (§§ 2-202, 2-300(4), 3-100(e), 3-806, 4-1100);
Referendum on Video Surveillance (§ 8-501).

Approved November 2006:

Report Regarding Goals For Disadvantaged Business Enterprises (§ 6-109);
Civil Service Preference (§ 7-401(d)).

Approved May 2007:

Youth Commission (§§ 3-807, 4-1200);
Timing of Approval of Planning Commission for Certain Bills (§§ 2-307, A-200);
City Planning Commission, Composition (§§ 3-800, A-200);
Zoning Code Commission (§§ 3-100(e), 3-808, 4-1300);
Referendum on Redeployment of U.S. Troops from Iraq (§ 8-502);
Referendum on Full Valuation Initiative of Board of Revision of Taxes (§ 8-503).

Approved November 2007:

Residency requirement for District Councilmembers (§ 2-103);
Public School Family and Child Advocate (§§ 3-100, 3-210, 3-600, 4-1400, 8-400);
Handicapped and Disabled Advocate (§§ 3-100, 3-211, 3-600, 4-1500, 8-400).

Approved April 2008:

City Representative and Commerce Department (§§ 3-100, 3-102, 3-204, 3-600, 3-702, 3-800, 4-200, 4-201, 4-202, 4-500);
Increasing the Number of Deputies Exempt from Civil Service in City Departments (§ 7-301).

Approved November 2008:

Department of Parks and Recreation (§§ 3-100, 3-101, 3-206, 3-802, 3-905, 3-906, 3-908, 3-910, 3-916, 5-102, 5-600, 5-601, 5-602, 5-603, 5-604, 5-605, 5-1001, A-200);

Civil Service Preference for Bona Fide Residents of Philadelphia (§ 7-401).

Approved May 2009:

Publication and Advertisement of Notices (§§ 2-201, 8-200, 8-407);

Civil Service Posthumous Promotions (§ 7-401).

Approved May 2010:

Leases and Contracts (§ 2-309);

Zoning Board of Adjustment (§ 3-911).

Approved November 2010:

Leases and Contracts (§ 2-309);

Contracts (§ 8-200(2), (4));

Contracts (§ 8-200(2)).

Approved May 2011:

Jobs Commission (§§ 3-100, 3-809, 4-1600).

Approved November 2011:

Budget Stabilization Reserve (§§ 2-300, 6-110, A-200).

Approved November 2012:

Budget-Related Information (§§ 2-310, 6-105);

Water Rates and Charges (§ 5-801);

Civil Service Regulations (§ 7-401).

In addition, users of the Charter are advised that a footnote has been added to § 1-100 noting that the General Assembly increased the limit on fines, forfeitures, and penalties, effective November 2004. (Other footnotes have been, and will be, added from time to time noting litigation that affects the application of Charter provisions.)

Finally, readers should note that, for their historical value, the Annotations to the Charter have been left unchanged from the original 1952 publication, even where significant amendments have been adopted. Editorial notes have been added where appropriate.

LAW DEPARTMENT

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PREAMBLE

Grateful to God for the freedoms we enjoy, and desirous of establishing a form of improved municipal self- government in which all qualified citizens may participate equally without any distinction based on race, color, religion or national origin, we, the electors of Philadelphia, hereby adopt this "Philadelphia Home Rule Charter," prepared by the Philadelphia Charter Commission under authority of the Act of the General Assembly of the Commonwealth of Pennsylvania, approved April 21, 1949, P.L. 665.

ARTICLE I POWERS OF THE CITY

§ 1-100. The City's Powers Defined. 1

Pursuant to Section 1 of Article XV of the Constitution and the Act of the General Assembly, approved April 21, 1949, P.L. 665, of the Commonwealth of Pennsylvania, the City of Philadelphia (hereafter in this charter called "the City") shall have and may exercise all powers and authority of local self-government and shall have complete powers of legislation and administration in relation to its municipal functions, including any additional powers and authority which may hereafter be granted to it. The City shall have the power to enact ordinances and to make rules and regulations necessary and proper for carrying into execution its powers; and such ordinances, rules and regulations may be made enforceable by the imposition of fines, forfeitures and penalties not exceeding three hundred dollars and by imprisonment for a period not exceeding ninety days or by such greater fines, forfeitures and penalties and periods of imprisonment as the General Assembly of the Commonwealth of Pennsylvania may from time to time authorize.

ANNOTATION

Sources: First Class City Home Rule Act, April 21, 1949, P.L. 665, Section 17.

Purposes: 1. The powers of the City are stated in the broadest and most comprehensive terms to assure the City the fullest possible benefits of home rule. Specification of powers is avoided because any list of powers, despite its detail, would inevitably omit some.

Under Dillon's rule a municipal corporation does not have any powers other than those granted in express words and those necessarily or fairly implied in or incident to the powers and purposes of the corporation, not simply convenient but indispensable. Dillon, *Municipal Corporations* (Fifth Ed. 1911) § 237. Following Dillon's rule, Pennsylvania decisions have denied the existence of a specific power where there has been a failure to provide for it while other powers have been enumerated. *LESLEY v. KITE*, 192 Pa. 268 (1899); *AMERICAN ANILINE PRODUCTS, INC. v. LOCK HAVEN*, 288 Pa. 420 (1927); *PITTSBURGH RAILWAYS CO. v. P.S.C.*, 115 Pa. Super. Ct. 58 (1934).

However, the Constitution in authorizing home rule provides that any "Cities, or cities of any particular class, may be given the right and power to frame and adopt their own charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations, and regulations, as may be imposed by the Legislature." (Article XV, Section 1.) The enabling Act provides that any city taking advantage of its provisions "shall have and may exercise all powers and authority of local self-government and shall have complete powers of legislation and administration in relation to its municipal functions." (Section 17). Section 1-100 uses substantially the same language. Under these circumstances, the City has and may exercise any power pertaining to local self-government and to its municipal functions. Thus, it will have zoning powers, even though they are not specified in Section 1-100. Dillon's rule does not operate by way of limitation.

2. Provision is made that the City's powers shall be enlarged if at any time in the future restrictions on the grant of powers appearing in the enabling legislation are removed or the City's powers are increased by constitutional amendment. No further legislation under Section 1-100 would be necessary to grant the City such additional powers for the section is intended to be self-executing.

3. The General Assembly, having granted to the City powers of home rule pursuant to the Constitution, is now foreclosed from legislating on matters coming within the scope of the powers granted. Legislation in the home rule area is now within the exclusive province of the City Council. Nor may any of the powers granted be withdrawn by the General Assembly; they may, of course, be enlarged by the General Assembly.

4. The limitations as to fines, forfeitures and penalties in Section 1-100 are those imposed by the enabling Act. Section 17.

§ 1-101. Legislative Power.

The legislative power of the City, including any such power which may hereafter be conferred on the City by amendment of the Constitution or by the laws of the Commonwealth of Pennsylvania, shall be exclusively vested in and exercised by a Council, subject only to the provisions of this charter. The Council shall be elected, shall organize and shall function as provided in this charter.

ANNOTATION

Sources: No specific source.

Purposes: The Council, the traditional legislative body, is vested with power to legislate.

§ 1-102. Executive and Administrative Power.

(1) The executive and administrative power of the City, as it now exists, shall be exclusively vested in and exercised by a Mayor and such other officers, departments, boards and commissions as are designated and authorized in this charter. The Mayor and other executive or administrative officers shall be elected or appointed as provided in this charter.

(2) Any additional executive and administrative power which may be conferred on the City by amendment of the Constitution or by the laws of the Commonwealth of Pennsylvania shall be vested in and exercised by the Mayor and, as far as practicable, by the officers, departments, boards and commissions designated in this charter. The Council shall by ordinance distribute among such officers, departments, boards and commissions such new powers and duties, but to the extent that this is not practicable, it may create additional offices, boards and commissions for the exercise of such powers and the performance of such duties and provide for the appointment of new officers or members of new boards or commissions. Any such additional offices, boards and commissions shall in all respects be subject to this charter. In the case of new officers whose primary duties are to assist the courts, the appointive power may be vested in the judges thereof; and if the primary duties of any new board or commission relate to the functions of any department, such board or commission shall be constituted a departmental board or commission within such department.

ANNOTATION

Sources: No specific source.

Purposes: 1. This section vests the executive and administrative powers in the executive and administrative branch of the government.

2. Subsection (2) looks forward to City-County consolidation. Any additional executive and administrative powers acquired by such a constitutional amendment are to be exercised by officers and agencies designated in the Charter, as the Council may determine. If such a division of new powers proves to be impracticable, new offices, boards and commissions, but not new departments, may be created to take over such powers but such new agencies would be subject to all the other provisions of the Charter, including, for example, civil service requirements. Wherever possible each new board and commission is to be attached to a City department.



Notes

- 1 The \$300 limit on fines, forfeitures and penalties has been increased by the General Assembly effective November 30, 2004. Act 193 of 2004.

**ARTICLE II
LEGISLATIVE BRANCH
The Council - Its Election, Organization, Powers and Duties**

**CHAPTER 1
THE COUNCIL**

§ 2-100. Number, Terms and Salaries of Councilmen.

The Council shall consist of seventeen members, of whom ten shall be elected from districts and seven from the City at large. The terms of councilmen shall be four years from the first Monday of January following the year in which they were elected except that a councilman elected to fill a vacancy shall serve only for the balance of the unexpired term. Each councilman shall receive a salary at the rate of \$9,000 per annum, or such other sum as the Council shall from time to time ordain, and the President of Council shall receive in addition a salary at the rate of \$1,000 per annum, or such other sum as the Council shall from time to time ordain.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI, Sections 2 and 4, as amended.

Purposes: 1. Provision is made for a Council consisting of Councilmen-at-large and of district Councilmen in order to assure a more representative legislative body. It is expected that Councilmen-at-large will not be bound by sectional considerations in acting upon legislation. Yet sectional representation is preserved through the provision for district Councilmen.

2. A Councilman elected to fill a vacancy is to serve only for the balance of the term of the Councilman whose office he fills.

§ 2-101. The Election of Councilmen.

At the municipal election held in 1951, and in every fourth year thereafter, one councilman shall be elected from each councilmanic district and seven from the City at large. Each elector shall have the right to vote for one district councilman and for five councilmen-at-large. To this end not more than five candidates for councilmen-at-large shall be nominated pursuant to law by any party or other political body. Should a vacancy occur in the office of any councilman, the President of the Council shall issue a writ of election to the board of elections having jurisdiction over elections in the City for a special election to fill the vacancy for the balance of the unexpired term, which election shall be held on a date specified in the writ, but not less than thirty days after its issuance. The President of Council may fix as the date of the special election, the date of the next primary, municipal or general election.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI, Section 2, as amended.

Purposes: This section provides for the manner of electing Councilmen. Each of the districts specified in Section 2-102 elects one Councilman. Councilmen-at-large are elected by all the voters of the City. Minority representation is assured by the requirement that no more than five candidates may be elected for Councilmen-at-large by any one party or political body. Should a vacancy occur in the office of a minority representative, it is not required that the vacancy must be filled from the minority party as such a requirement would prove to be impracticable.

§ 2-102. Councilmanic Districts.

There shall be ten councilmanic districts. The original districts shall be:

District No. 1 - 26th, 36th, 39th and 48th Wards

District No. 2 - 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th and 30th Wards

District No. 3 - 27th, 40th, 46th and 51st Wards

District No. 4 - 24th, 34th, 44th and 52nd Wards

District No. 5 - 20th, 28th, 29th, 32nd and 47th Wards

District No. 6 - 16th, 17th, 18th, 19th, 23rd, 25th, 31st and 45th Wards

District No. 7 - 33rd, 37th, 38th and 43rd Wards

District No. 8 - 21st and 22nd Wards

District No. 9 - 42nd, 49th and 50th Wards

District No. 10 - 35th and 41st Wards.

It shall be the mandatory duty of the Council to redistrict the City within six months after the publication by the United States Census Bureau of the population of the City at each decennial census. Each district shall consist of a ward or contiguous wards containing as nearly as possible the population factor obtained by dividing the City's population at the preceding decennial census by ten. At the expiration of the six months period, if the Council shall have failed to redistrict the City as herein required, the councilmen shall not receive any further salaries until the Council shall have passed and the Mayor shall have approved a redistricting ordinance as herein required or until such ordinance shall have become law without the Mayor's approval.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI, Section 2, as amended.

Purposes: This section specifies the ten councilmanic districts and requires redistricting following the Federal census every ten

years to assure equal district representation on a population basis. The provision as to the withholding of councilmanic salaries, should Council fail to redistrict as required by the Charter, was inserted in lieu of an earlier provision providing for a mandamus procedure since it appeared to be a more effective means of accomplishing the results sought.

§ 2-103. Qualifications of Councilmen.

A councilman shall be a citizen of the United States, shall have been a resident of the City for at least one year prior to his election, and shall be at least twenty-five years of age when elected to office. For at least one year prior to their election, district councilmen shall be, and during their terms of office shall remain, residents of the districts from which they were elected. The Council shall be the sole judge of the qualifications of its members. 2

ANNOTATION

Sources: No specific source.

Purposes: This section specifies qualifications of Councilmen. A Councilman must have reached the required age at the time of his election to office rather than when he takes office. The last sentence follows similar provisions in the Federal and State Constitutions.

§ 2-104. Organization of the Council; Officers; Rules; Employees.

The Council shall meet for organization at 10 o'clock a.m., on the first Monday of January following its election, at which time it shall elect a president from among its members and a chief clerk who shall not be a member. The chief clerk shall be the secretary of the Council. In the event of the President's absence or disability, the Council shall elect from among its members a president pro tempore. The Council shall adopt rules providing for a finance committee and other committees, defining the duties of its President and of its chief clerk and employees, and otherwise providing for its own organization. It shall employ and fix the salaries of such persons as may be necessary for the proper discharge of its business.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI, Section 5.

Purposes: This section provides for the administrative organization and operation of the Council. It gives official status to the chief clerk. Employees of the Council need not be civil service employees, and the Council determines their compensation. A Finance Committee is specified because it is provided in Section 3-500 that in case of a vacancy in the office of Mayor, the President of Council resigning or being unable to act as Mayor, the Chairman of the Finance Committee of Council shall so act.

§ 2-105. Employment of Counsel.

In the event the Law Department declines to advise or render legal services to the Council in any matter and whenever the Council is conducting an investigation relating to the executive and administrative branch of the City government, the Council may employ and fix the compensation of counsel of its own selection to handle such matter or to assist in conducting such investigation. In all other cases it shall obtain legal advice and services exclusively from the Law Department.

ANNOTATION

Sources: No specific source.

Purposes: The Law Department is designated as counsel for the Council as well as for the executive branch of the government. However, provision is made for Council obtaining its own counsel in the event the Law Department declines to act or whenever Council is making an investigation of the executive branch of the government. Under such circumstances Council is assured independence from the executive branch in order to enable it to function properly.

§ 2-106. Certain Provisions Relating to the Executive and Administrative Branch to Apply Also to the Council.

The provisions of this charter on procurement of personal property, printing, engraving and publications, contracting for public utility services, maintenance of automobiles, disposing of personal property, distribution of printed matter, and the creation, maintenance, retention and disposition of records, shall apply to the Council, but the Council alone shall determine which of its records are not needful or useful in the transaction of its current or anticipated work.

ANNOTATION

Sources: See the Administrative Code, Act of April 9, 1929, P.L. 177, Article XXIV, Section 2406, as amended.

Purposes: The Charter seeks to centralize procurement and maintenance of City property and records in the interests of greater economy and efficiency. This section makes clear that Council is subject to such provisions of the Charter. The right of Council to decide which of its records are to be disposed of remains a councilmanic decision.

Notes

2 Amended by approval of the voters at the election held on November 6, 2007, and certified on November 26, 2007. See Bill No. 060433-A (approved May 24, 2007); Resolution No. 060448 (adopted May 3, 2007).

CHAPTER 2 COUNCILMANIC PROCEDURE

§ 2-200. Legislation to be by Ordinance.

Except as hereinafter otherwise provided, every legislative act of the Council shall be by ordinance and shall begin with the words: "The Council of the City of Philadelphia hereby ordains:".

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI, Section 6.

Purposes: All legislation enacted by the Council is required to be in the form of ordinances. Councilmanic inquiries and investigations may be authorized and personnel engaged for such purposes by resolution. Sections 2-400 and 2-403. Otherwise the present confusing practice of having some kinds of legislation enacted by ordinance and others by resolution is abandoned.

§ 2-201. Manner of Introduction, Consideration and Passage of Ordinances.

(1) Every proposed ordinance shall be introduced by bill. Every ordinance, except annual budget ordinances and general codifications and revisions of City ordinances, shall contain not more than one subject which shall be clearly and adequately expressed in its title.

(2) Before a bill shall be considered by the Council it shall be referred to a committee, considered at a public hearing, reported by the committee, printed as reported, and distributed to the members of the Council and made available to the public.

(3) No bill shall be so altered or amended during its passage as to change its original purpose. Bills amended shall be printed as amended for the use of the members of the Council and for the information of the public.

(4) After its printing, either as reported or as amended, and its distribution, every bill shall lie over for at least five days before the final vote is taken.

(5) Notice of public hearings on bills and notice of bills reported from committee shall be given by advertising in the three daily newspapers of the City having the largest paid circulation, the title of the bill, and in the case of a public hearing, the time and place of the hearing, not less than five days before the public hearing or before the bill comes up for final consideration, as the case may be. In addition, such other notice may be given as will bring public hearings or reported bills to the attention of interested citizens. There need be no advertisement of ordinances after their passage. Council may by ordinance adopted by a vote of two-thirds of all of its members specify different or additional requirements for providing notice of public hearings on bills and notice of bills reported from committee, in accordance with applicable law. Any such ordinance may include a requirement that notice be posted on the City's website. 3

(6) When any bill is on final passage, votes shall be taken by ayes and nays and the names of the councilmen voting for and against the bill shall be entered on the journal of proceedings.

(7) No bill shall become an ordinance unless a majority of all the members of the Council be recorded as voting in its favor.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI, Section 6; Constitution of the Commonwealth of Pennsylvania, Article III, Section 3.

Purposes: 1. One of the main purposes sought to be accomplished is to prevent the hasty consideration and enactment of ordinances before citizens and the members of Council themselves have had an opportunity to be heard on the subject matter and to consider the wisdom of the proposed legislation.

Thus, upon its introduction, a bill must be referred to a committee, considered at a public hearing, at which citizens may testify, reported out by the committee, printed as reported, distributed to the members of the Council and made available to the public. At least five days must elapse following the reporting out or amending of a bill before a final vote is taken. Notice by newspaper advertising must be given of public hearings on bills and of bills reported from committee. Ordinances need not be advertised after their passage.

2. The one-subject limitation follows the comparable provision in the Pennsylvania Constitution. Article III, Section 3.

3. No bill can be finally passed without recording the names of each Councilman who voted for and against it.

4. Advertising is required only of the titles of bills on which hearings are to be held and which are reported out from committee. This will give adequate notice of pending legislation since the subject matter of every proposed ordinance must be clearly and adequately specified in its title. The Act of 1874 (May 23, P.L. 230, Section 5), requiring the advertising of the full text of all ordinances enacted, is superseded. This does not prevent the Council from continuing the practice should the Council deem it still to be necessary.

§ 2-202. Submission of Ordinances to the Mayor. 4

Every ordinance shall, before it takes effect, be certified to the Mayor for his approval. The Mayor shall sign the ordinance if he approves it, whereupon it shall become law. If he disapproves it, he shall return it to the Council with the reasons for his disapproval at the first meeting thereof held not less than ten days after he receives it. If the Council shall pass the bill by a vote of two-thirds of all of its members within seven days after the bill has been returned with the Mayor's disapproval, it shall become law without his approval. If the Mayor does not return the ordinance within the time required, it shall become law without his approval. The Mayor may disapprove or reduce any item or items of any ordinance making appropriations, except the items in the annual operating budget ordinance making appropriations (a) to the Auditing Department for the compensation of auditors regularly employed by it, (b) for the work of the Personnel Director and the Civil Service Commission, and (c) for the work of the Board of Ethics, which shall become law if any part of the ordinance is approved. Subject only to the foregoing exceptions, the approved part or parts of any ordinance making an appropriation shall become law, and the part or parts disapproved shall not become law unless passed by the Council over the Mayor's veto as provided herein..

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI, Section 6.

Purposes: 1. The approval or inaction of the Mayor is required before any ordinance enacted by the Council may become law. The Council may override a veto by the Mayor, as at present, but a vote of two-thirds of its members is required. Unless the Mayor returns an ordinance with his veto, the ordinance becomes law without his approval.

2. The Mayor is given the power to veto items in appropriation ordinances so that he will not be forced to accept appropriation items, which he deems unwise, because they are tied in with other necessary appropriation items. He may not veto item appropriations to the Auditing Department for its auditors or to the Personnel Director in accordance with the requirement elsewhere in the Charter (Section 2-300) for assuring funds for their work.

§ 2-203. Mayor and Other Administrative Officers May Appear Before Council.

Any administrative officer of the City in matters relating to the functions of his office and the Mayor at any time shall have the right to appear before the Council or any of its committees for the purpose of expressing his views on matters pending before it.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI, Section 1.

Purposes: Any question as to the right of any administrative officer or of the Mayor to appear before Council or any of its committees is removed. The Mayor may appear to express his views on any matter before the Council, as at present, but administrative officers of the City may appear upon their own initiative only for the purpose of testifying on matters relating to the functions of their offices, a limitation that is necessary for effective harmony in the executive branch.

§ 2-204. Council Meetings to be Public.

The meetings of the Council shall at all times be open and accessible to the public.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI, Section 7.

Purposes: Legislative deliberations are made public to apprise citizens of pending legislation and the views thereon of their Councilmen.



Notes

- 3 Amended by approval of the voters at the election held on May 19, 2009, and certified on June 3, 2009. See Bill No. 090171 (approved April 1, 2009); Resolution No. 090179 (adopted March 26, 2009).
- 4 Amended by approval of the voters at the election held on May 16, 2006, and certified on June 5, 2006. See Bill No. 040769 (approved December 15, 2005); Resolution No. 040817 (adopted December 1, 2005).

**CHAPTER 3
LEGISLATION**

§ 2-300. The Annual Operating Budget Ordinance.

(1) It shall be the duty of the Council, at least thirty days before the end of the fiscal year, to adopt the annual operating budget ordinance for the next fiscal year. The consideration of the operating budget ordinance shall begin forthwith upon the receipt from the Mayor of his annual operating budget message and the proposed annual operating budget ordinance, both of which shall be submitted in printed form. The proposed budget ordinance shall be regarded as having been introduced immediately upon its receipt.

(2) The annual operating budget ordinance shall provide for discharging any deficit and shall make appropriations to the Council, the Mayor, and all officers, departments, boards and commissions which form a part of the executive or administrative branch of the City government, and for all other items which are to be met out of the revenue of the City. All appropriations shall be made in lump sum amounts and according to the following classes of expenditures for each office, department, board or commission:

- (a) Personal services;
- (b) Materials, supplies and equipment;
- (c) Debt service;
- (d) Such additional classes as the Mayor shall recommend in his proposed annual operating budget ordinance.

Expenditures for the repair of any property, for the regrading, repaving or repairing of streets, and for the acquisition of any property or for any work or project which does not have a probable useful life to the City of at least five years following the time the expenditure is made for it shall be deemed to be ordinary expenses to be provided for in the annual operating budget ordinance. Appropriations for the use of any departmental board or commission shall be made to the department with which it is connected.

(3) The Mayor's estimates of receipts for the ensuing fiscal year and of surplus or deficit, if any, for the current fiscal year may not be altered by the Council.

(4) In every annual operating budget ordinance:

(a) An amount at least equal to one-half of one per cent of the aggregate of all appropriations for compensation to City employees in the civil service shall be appropriated for the work of the Personnel Director and the Civil Service Commission;

(b) The amount appropriated to the Auditing Department shall be adequate to enable the City Controller to perform the duties of his office and of the Auditing Department. Should the Council fail to make an adequate appropriation to the Auditing Department, the City Controller may petition any Court of Common Pleas of Philadelphia County for a mandamus to the Council to perform its duty under this section;

(c) Provision shall be made for the payment of compensation to certified public accounting firms for consulting services which may be rendered to the Auditing Department with regard to the manner in which the affairs of the various offices, departments, boards, commissions and other agencies receiving appropriations from the City are audited by the Auditing Department;

(d) Provision shall be made for the payment of compensation to a firm of certified public accountants to make an audit of the expenditures of the Auditing Department. The Council shall, by separate ordinance, name the firm of certified public accountants to be engaged for this purpose;

(e) For the first two fiscal years immediately following the effective date of this subsection, at least \$1,000,000; and for all subsequent fiscal years, an amount adequate to enable the Board to perform the functions assigned to it by this charter, shall be appropriated for the work of the Board of Ethics. Should the Council fail to make an adequate appropriation to the Board of Ethics, the Board may petition any court of Common Pleas of Philadelphia County for a mandamus to the Council to perform its duty under this section. 5

(5) At least once in three years provision shall be made for the payment of compensation to a firm of certified public accountants to make an examination of the manner in which the Auditing Department performs its auditing duties. The Council shall, by separate ordinance, name the firm of certified public accountants to be engaged for this purpose.

(6) The annual operating budget ordinance may be amended after its passage to authorize the transfer of items but the aggregate of the appropriations made by it may not be increased and transfers of budget items may not be made during the last four months of any fiscal year, except upon the recommendation of the Mayor.

(7) Budget Stabilization Reserve. 5.1

(a) The annual operating budget ordinance shall provide for appropriations to a Budget Stabilization Reserve, to be created and maintained by the Director of Finance as a separate fund which shall not be commingled with any other funds of the City. Appropriations to the Budget Stabilization Reserve shall, each year, be made in the following amounts, provided that total appropriations to the Budget Stabilization Reserve shall not exceed five percent of General Fund Appropriations:

(1) Such amounts as remain unencumbered in the Budget Stabilization Reserve from the prior fiscal year, including any investment earnings certified by the Director of Finance; plus

(2) When the Projected General Fund Balance for the end of the fiscal year to which the operating budget relates (the "upcoming fiscal year"), without taking into account any deposits to the Budget Stabilization Reserve required by this subsection (2), equals or exceeds three percent (3%) of General Fund appropriations for the upcoming fiscal year, an amount equal to three-quarters of one percent (.75%) of Unrestricted Local General Fund Revenues for the upcoming fiscal year; plus

(3) Such additional amounts as the Council shall authorize by ordinance, no later than at the time of passage of the annual operating budget ordinance and only upon recommendation of the Mayor.

(b) For purposes of this Section and Section 6-110 ("Budget Stabilization Reserve"),

(1) "General Fund" shall mean the General Fund established by the Director of Finance and so denominated in the annual operating budget ordinance.

(2) "General Fund Revenues" shall mean that portion of the estimated receipts of the City to be allocated to the General Fund, as estimated by the Mayor pursuant to Section 2-300(3).

(3) "Unrestricted Local General Fund Revenues" shall mean that portion of General Fund Revenues that is anticipated by the Mayor to derive from local taxes and fees, whether authorized by the Council or otherwise, so long as the expenditure of such

revenues is unrestricted by law, other than local law. "Unrestricted Local General Fund Revenues" shall not include any revenues anticipated to derive from taxes authorized by Chapter 6 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (Act of June 5, 1991, P.L. 9, No. 6).

(4) "Projected General Fund Balance" shall mean the projected general fund balance as set forth in the City's Five Year Financial Plan for the five year period beginning with the upcoming fiscal year, submitted to an agency of the Commonwealth with responsibility for ensuring the fiscal stability of the City, as such Plan exists at the time Council adopts the operating budget ordinance; or, if no such Plan is submitted, as certified by the Director of Finance.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVII, Sections 1 and 2.

Purposes: 1. This section requires the annual submission by the Mayor of a consolidated budget of all the operating expenditures of the City and its enactment by the Council at least thirty days before the end of the fiscal year. This will fix by one legislative act the expenditures for each ensuing fiscal year. To expedite the budget process, it is required that the Mayor, who is responsible for preparing the annual operating budget ordinance in the first instance, shall submit it in printed form and that the budget ordinance shall be regarded as having been introduced upon its receipt. The Mayor is to submit together with the budget ordinance his budget message which will justify in general terms his proposed budget. He may also submit with these two documents a detailed breakdown of the appropriations requested.

2. This section, by prohibiting the line type of budget ordinance heretofore customary, is intended to prevent the Council from assuming through its appropriating power the administrative functions of City government. All appropriations are to be made in lump sum amounts according to certain fixed broad categories and such additional categories as the Mayor may indicate. Appropriations are to be made by such categories to offices, department, boards and commissions which will, subject to the direction and control of the Mayor and the Director of Finance (Section 8-102), decide how money within any category is to be spent for the purposes designated by that category. How many persons are to be employed, how many automobiles are to be purchased, and similar questions of administrative policy will be determined within overall appropriation limits by the executive branch and not the Council.

3. Certain types of so-called capital expenditures are of a recurring nature and have in the past come out of capital funds. This has resulted in unnecessarily increasing the debt of the City. The Charter requires that such expenditures shall be met, as they should be, out of annual operating appropriations and thus out of current revenues.

4. Appropriations are guaranteed for certain important purposes. In view of the inadequate appropriations heretofore made for civil service purposes, a minimum amount is required to be appropriated annually to the civil service so that this work may be properly planned and staffed. For comparable reasons, the Auditing Department is guaranteed such funds as are to be adequate for its work; it was not deemed practicable to state an amount in terms of a percentage of the annual budget as in the case of the civil service. However, should Council fail to provide an adequate sum, the Controller is authorized to mandamus Council to give it to him.

The Auditing Department is given the right in the Charter to engage certified public accountants to advise it. Section 6-403. The requirement is imposed that provision shall be made to provide compensation for such services to make certain that the Department shall be able to exercise this right.

The budget must also provide funds for the auditing by independent accountants of the expenditures of the Auditing Department. The auditors for this purpose are to be appointed by the Council by separate ordinance.

5. At least once in three years Council is to provide funds and to name by separate ordinance a firm of certified public accountants to examine the manner in which the Auditing Department performs its duties. It was deemed too expensive and unnecessary to require that private certified public accountants must annually audit all the agencies of the City. Yet experience has shown that some amount of independent auditing procedure is necessary. A triennial audit of the way the Auditing Department is performing its functions, was deemed minimal to meet the need. In the course of such an audit, if the independent certified public accountants find it necessary to see the books of any particular agency, authorization is found for such examination. See Section 6-404.

6. Subsection (6) is intended to serve as a check on the present practice of transferring items of the budget at the end of the fiscal year. Some agencies, finding at the end of the fiscal year that they have surplus funds left under certain items, have from time to time requested and received authorization from the Council for spending those surpluses for other purposes. This sub-section prohibits such transfers during the last four months of any fiscal year except upon the recommendation of the Mayor.

7. Subsection (3) is intended as an aid to balancing the budget. It prevents a situation whereby the Council and the Mayor differ on receipts for an ensuing fiscal year, and surpluses and deficits for a current fiscal year. Under this sub-section, the Mayor's estimate would be binding upon the Council. With these estimates fixed and with appropriations determined, Council will know what amount

must be raised to balance the budget.

§ 2-301. Other Appropriations.

The Council may not make any operating appropriations in addition to those included in the annual operating budget ordinance except:

- (a) To meet emergencies which could not be anticipated when the operating budget ordinance was passed;
- (b) To pay the expenses of holding recall and special elections and elections on proposals to amend this charter;
- (c) To pay such salary as the Civil Service Commission, pursuant to the provisions of this charter, may have awarded to a Managing Director whose dismissal by the Mayor the Commission found to be unwarranted;
- (d) To pay the costs of councilmanic investigations and inquiries and the compensation of attorneys retained by the Council as authorized by this charter.

Unless paid for out of current revenues, all amounts appropriated under this section must be included as liabilities of the City in the next succeeding annual operating budget ordinance and except to meet emergencies, operating expenses shall neither be appropriated nor paid out of loan funds.

ANNOTATION

Sources: No specific source.

Purposes: 1. Limitations are placed upon appropriations in addition to those contained in the annual operating budget in order to prevent the incurring of deficits. The exceptions listed are emergencies and other situations which may not have been foreseen at the time of the enactment of the annual operating budget. It is required that such appropriations be made up out of current revenues or taken care of by the next operating budget.

2. The limitation that operating expenses shall not be appropriated nor paid for out of loan funds ties in with the scheme of treating certain recurring capital expenditures as operating expenditures and preventing the use of capital funds for such purposes. Section 2-300(4).

§ 2-302. Balancing the Budget.

Not later than the passage of the annual operating budget ordinance, the Council shall ordain such revenue measures as will, in the opinion of the Mayor, yield sufficient revenue to balance the budget. For this purpose new sources of revenue or increased rates from existing sources of revenue not proposed by the Mayor shall be deemed to yield in the ensuing fiscal year such amounts as the Mayor shall determine. The annual operating budget ordinance shall not become effective and the City Controller shall not approve any order for any expenditure thereunder until the Council has balanced the budget.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVII, Sections 3 and 4.

Purposes: To assure a balanced budget Council must when it passes the annual operating budget pass such revenue measures as will, in the opinion of the Mayor, balance the budget. The revenue measures which Council may enact are not limited to the real estate tax or to any other particular tax but lie solely within the judgment of the Council. To prevent over-optimistic estimates by the body which must impose taxes as to the amount of revenue that will be yielded, the Mayor's estimate of revenue yield is made binding upon the Council. Until the budget is balanced, no money may be spent under the annual operating budget.

§ 2-303. The Capital Program and Capital Budget.

- (1) Prior to the passage of the annual operating budget ordinance, the Council shall adopt a capital program and a capital budget.
- (2) The capital program shall embrace all physical public improvements and any preliminary studies and surveys relative thereto, the acquisition of property of a permanent nature, and the purchase of equipment for any public improvement when first erected or acquired that are to be financed in whole or in part from funds subject to control or appropriation by the Council. It shall show the capital expenditures which are planned for each of the six ensuing fiscal years. For each separate purpose, project, facility, or other property there shall be shown the amount, if any, and the source of the money that has been spent, encumbered, or is intended to be spent or encumbered prior to the beginning of the ensuing fiscal year and also the amounts and the sources of the money that are

intended to be spent during each of the ensuing six years.

The Council may delete projects from the capital program as submitted to it, but it shall not otherwise amend the capital program until it has requested through the Mayor the recommendations of the City Planning Commission. The Council shall not be bound by such recommendations and may act without them if they are not received within thirty days from the date they were requested.

(3) The capital budget ordinance shall show in detail the capital expenditures intended to be made or incurred in the ensuing fiscal year that are to be financed from funds subject to control or appropriation by the Council, and shall be in full conformity with the part of the capital program applicable to the year which it covers. Amounts specified as intended to be spent out of new appropriations shall, upon enactment of the capital budget ordinance, constitute appropriations of such amounts.

The Council may amend the capital budget ordinance but no amendment shall be valid which does not conform to the capital program.

ANNOTATION

Sources: No specific source.

Purposes: 1. For the first time a definite budget procedure is established for the orderly planning and making of capital improvements. Two types of legislation are contemplated in the field of capital finances to make possible long range planning and current authorizations in accordance with such planning. The capital program is a blueprint of capital expenditures for the ensuing six years. The capital budget shows in detail the capital expenditures to be made or to be incurred during the next ensuing fiscal year.

2. The capital program will be prepared initially by the City Planning Commission whose special function is capital planning. The Mayor will submit it with his recommendations to the Council. Since the Mayor is ultimately responsible for the financial condition of the City, he is free to say he approves or disapproves of the program, in part or in whole; but he must forward to Council the Commission's initial recommendations.

3. The capital budget ordinance will also be prepared initially by the City Planning Commission and submitted with the Mayor's recommendation to the Council. The capital budget and amendments to it must conform with the capital program applicable to the year in question so that long range planning will not be upset. The capital budget encompasses funds appropriated by the Council as well as funds which the Council may control such as grants from the State and Federal governments.

§ 2-304. Code of Ordinances.

As promptly as possible after the submission to it by the Law Department, as required in this charter, of a proposed codification and revision of the effective general ordinances of the City, the Council shall consider and act upon such a code and revision and after the code has been adopted all measures of general application shall be ordained as amendments of or additions to it. The Council shall cause the code to be published by and distributed through the Procurement Department as other publications of the City are published and distributed. Periodically thereafter the Council shall cause new and up-to-date editions of the code to be similarly published and distributed.

ANNOTATION

Sources: No specific source.

Purposes: At present City ordinances are compiled in the order in which they are enacted and annually a volume of the ordinances is published. From time to time an index of City ordinances by annual volumes has been prepared and published by non-City agencies. Under these conditions it is a very difficult task to find ordinances and amendments thereto dealing with a particular subject matter. Yet such ordinances are the basic laws of the City.

To remedy this condition provision is made for a codification and revision of the effective general ordinances of the City. The Law Department must under Section 4-400(e) prepare within two years after the effective date of the Charter such a comprehensive revision and codification of all the general ordinances still in effect. Council is required to consider and to act upon such a codification and revision. Thereafter all ordinances of general application are to be enacted as amendments to the code. This section follows the better practice prevailing in many municipalities.

§ 2-305. Legislation Affecting Powers and Duties of the Executive and Administrative Branch.

The Council may by ordinance add new powers and new duties, not inconsistent with the scheme of this charter, to the powers and duties of the offices, departments, boards and commissions which are herein designated as the agencies of the executive and

administrative branch of the City government, but it shall not, except as herein provided, increase the number of such agencies nor shall it abolish any agency unless the agency no longer has any functions to perform.

ANNOTATION

Sources: No specific source.

Purposes: The enlargement of powers and duties of the agencies designated by the Charter in the executive branch of the government is provided for to take care of new duties and powers which might have to be exercised and performed in the future by the executive branch of the government. Thus, although new departments may not be created (Section 1-102), room is left for existing agencies to exercise additional powers and duties. The only limitation imposed is that new powers and duties shall be added in a manner consistent with the scheme of this Charter. Thus powers and duties to be added to any department, board or commission are to bear some relationship to the powers and duties already vested in such an agency. It should be noted that under Section 1-102 new boards and commissions may be created. This section would permit the distribution of new powers and duties upon City-County consolidation to existing departments, boards and commissions and, if necessary, to new boards and commissions.

§ 2-306. Additional Rate Commissions.

If any utility now operated by the City shall be operated by or leased to another operator pursuant to an agreement with the City, the Council may establish a commission which shall from time to time fix the rates to be charged by the operator in accordance with standards contained in the agreement.

ANNOTATION

Sources: No specific source.

Purposes: The creation by the Council of rate commissions, similar to the Gas Commission, is authorized should any utilities presently operated by the City be operated by or leased to private operators by agreement with the City and should the creation of any such agencies be deemed desirable at the particular time.

§ 2-307. Legislation Affecting Zoning, Physical Development Plan, Land Subdivision, or Authorizing the Purchase or Sale of Real Estate. 6

The Council shall not enact any bill which shall in any manner affect any zoning ordinance, the Physical Development Plan of the City, plans of streets and revisions of such plans, and land subdivision plans or any bill which would authorize the acquisition or sale of City real estate without first receiving the recommendation thereon through the Mayor of the City Planning Commission. The approval of the Commission shall be presumed unless its recommendations are received within forty-five days from the introduction of any bill affecting plans of streets and revisions of such plans, and land subdivision plans, and within thirty days from the introduction of any other bill subject to this section, except that with respect to any particular bill, the Commission may at any time during such forty-five day or thirty day period, as the case may be, vote to extend its review period for up to an additional forty-five days, in which case the approval of the Commission shall be presumed unless its recommendation is received within such extended review period. It shall be the duty of the chief clerk of the Council to submit any such bill to the City Planning Commission immediately upon its introduction.

ANNOTATION

Sources: No specific source.

Purposes: 1. This section is one of a number in the Charter which seeks an orderly method and plan of City development. Legislation on matters affecting City development, such as zoning, street plans, land subdivision, and the acquisition or sale of City real estate, may be enacted only after the Council has received the recommendations thereon of the City Planning Commission unless the Commission fails to submit recommendations within the required time. The Council may then act as it pleases on such legislation. This will tend to prevent hasty and ill advised legislation adversely affecting City development. It will assure that the Council will receive the expert advice of the Commission whose special function is the planning of City development.

2. The chief clerk of Council is required to send to the City Planning Commission any bill introduced dealing with the enumerated subject matters so that the Commission will have immediate notice that a matter is pending before the Council on which its recommendations are required.

§ 2-308. Pension and Retirement System.

When the Board of Pensions and Retirement shall have submitted to the Council its proposal for a comprehensive, fair and

actuarially sound pension and retirement system covering all officers and employees of the City, the Council shall promptly consider it and act upon the setting up of such a system. However, any system enacted shall not impair or diminish rights of officers and employees under any pension and retirement systems in force at the time of the adoption of this charter and as long as payments by the Commonwealth of Pennsylvania of funds from taxes paid upon premiums by foreign casualty and fire insurance companies render it desirable, separate systems shall be maintained for City policemen and for City firemen.

ANNOTATION

Sources: No specific source.

Purposes: Present municipal pensions funds have been subjected to the criticism of not being comprehensive and of not being actuarially sound. The Charter (Sections 6-600 and 6-601) requires a Board of Pensions and Retirement, created by it (Section 3-100), to prepare a fair and actuarially sound pension and retirement system covering all City employees. This section requires Council promptly to consider and act upon such a system when it is submitted to it by the Board. Existing pension and retirement rights are expressly preserved and special provision is made to protect and maintain police and firemen's pension funds as long as the Commonwealth's contributions to them render it desirable.

§ 2-309. Leases and Contracts. 7

(1) The Council may by ordinance authorize the leasing of real estate for more than one year and the contracting for personal property to be supplied or for services to be rendered over a period of more than one year without making appropriations therefor beyond the current year. Such leases and contracts shall be valid and binding upon the City although no appropriations have been made for the ensuing years during which the leases and contracts are to be operative; but it shall be the duty of the Council to make subsequent appropriations from year to year to pay amounts coming due under such leases and contracts. The obligation of the City under such leases and contracts shall not be considered to be a part of the indebtedness of the City. For purposes of this Section and Sections 8-200 and 8-201, the following contracts and leases shall be deemed to be for the supply of property or the rendering of services over a period of more than one year or to have a term of more than one year, and therefore require authorization by ordinance to be effective and binding on the City:

(a) Any contract or lease that contains a stated term in excess of one year;

(b) Any contract or lease that grants any party or parties thereto, other than the City, the option to extend the term of said contract or lease beyond one year;

(c) Any contract or lease that grants any party or parties thereto, other than the City, the option to renew said contract or lease for an additional term or terms such that the total of the original and any potential renewal terms exceeds one year; or

(d) Any contract or lease that provides that unless one or more parties to the contract, including the City, give notice of non-extension or non-renewal, the term of the contract or lease will:

(.1) automatically be extended beyond one year; or

(.2) automatically be renewed for an additional term or terms such that the total of the original and any potential renewal terms exceeds one year.

(2) No option to renew or extend the term of a contract or lease shall be exercised by the City if the total of the original and any renewal or extension terms exceeds one year, unless the head of the contracting department or agency files with the Mayor, the President of Council, the Chief Clerk of Council, and the Department of Records a written certification that such renewal or extension is in the best interest of the City. The Department of Records shall make such certifications available for public inspection, and shall arrange for publication of such certifications on the City's official website in a searchable format. No renewal or extension of a contract or lease effected without compliance with this subsection shall be binding upon the City.

(3) Council shall have power by ordinance to address public confidence in the integrity of the City's contracting process by requiring certain disclosures by persons seeking City leases, contracts, concessions, or other agreements of any kind, and persons who have entered into such agreements, including, but not limited to, disclosure of campaign contributions and disclosure of relatives who are City employees, and by providing by ordinance as to whether persons who have made, have solicited or have been otherwise involved in raising certain campaign contributions may be eligible or ineligible for City leases, contracts, concessions, or other agreements of any kind, or for a grant, loan, tax incentive, or other form of financial assistance from the City.

(4) For purposes of this subsection, "EOP Ordinance" means an ordinance that requires certain or all City contracts and awards of financial assistance to include provisions requiring a contractor or recipient of City financial assistance to submit an economic

opportunity plan that addresses the participation of disadvantaged business enterprises and workforce diversity, and to demonstrate best and good faith efforts to comply with such plan. Council's power to enact EOP Ordinances is hereby confirmed, as is Council's power to ordain that a contractor or recipient of City financial assistance may, after notice and hearing, be debarred from doing business with the City or receiving City financial assistance for a specified period of time for failure to exercise best and good faith efforts to comply with an economic opportunity plan. An ordinance providing for such debarment may specify procedures for such debarments by conferring powers and duties on existing City agencies, including Council, or by creating new agencies for such purposes. 8

(5) For purposes of this subsection, "Minimum Wage and Benefits Ordinance" means an ordinance that requires the City, those who contract with the City, and/or recipients of City financial assistance to provide their employees with a minimum level of pay and benefits, and/or that provides that certain or all City contracts include provisions mandating compliance with such a requirement. Council's power to enact Minimum Wage and Benefits Ordinances is hereby confirmed, as is Council's power to ordain that a contractor or recipient of City financial assistance may, after notice and hearing, be debarred from doing business with the City or receiving City financial assistance for a specified period of time for failure to comply with such requirement. Council may not ordain differing minimum levels of pay and benefits for different categories of covered City employees. An ordinance providing for such debarment may specify procedures for such debarments by conferring powers and duties on existing City agencies, including Council, or by creating new agencies for such purposes. 9

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVII, Section 7.

Purposes: This section continues comparable provisions of the Charter of 1919. It permits the City to enter into long-range contracts which may be of advantage to it. See Section 8-200(3).

§ 2-310. Additional Budget-Related Information. 9.1

Notwithstanding anything to the contrary in Sections 2-300 or 2-303, Council may, from time to time, ordain requirements for additional information to be submitted by the Director of Finance to the Council with the proposed annual operating budget, annual capital budget, and capital program, including, but not limited to, information about the cost of performing specific functions, the effectiveness of such functions, and the costs versus benefits of proposed expenditures.

Notes

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- 5 Added by approval of the voters at the election held on May 16, 2006, and certified on June 5, 2006. See Bill No. 040769 (approved December 15, 2005); Resolution No. 040817 (adopted December 1, 2005).
- 5.1 Added by approval of the voters at the election held on November 9, 2011, and certified on November 28, 2011. See Bill No. 100303 (approved April 27, 2011); Resolution No. 100314-A (adopted April 14, 2011).
- 6 Amended by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060684 (approved January 23, 2007); Resolution No. 060704 (adopted December 14, 2006).
- 7 Amended, and new subsections (2) and (3) added, by approval of the voters at the election held on November 8, 2005 and certified on December 1, 2005. See Resolution No. 050428 (adopted May 26, 2005).
- 8 Added by approval of the voters at the election held on May 18, 2010, and certified on

June 7, 2010. See Bill No. 090519 (approved March 17, 2010); Resolution No. 090529 (adopted March 11, 2010).

9 Added by approval of the voters at the election held on November 2, 2010, and certified on November 22, 2010. See Bill No. 090580-AA (approved June 16, 2010); Resolution No. 090610 (adopted May 13, 2010). Enacting legislation added this as subsection (4); renumbered by Code editor.

9.1 Added by approval of the voters at the election held on November 6, 2012, and certified on December 3, 2012. See Bill No. 120108 (approved September 11, 2012); Resolution No. 120119 (adopted June 28, 2012).

CHAPTER 4 COUNCILMANIC INQUIRIES AND INVESTIGATIONS

§ 2-400. Inquiries and Investigations.

The Council shall have power by resolution to authorize inquiries and investigations to be conducted by the entire body or by any of its committees in aid of its legislative powers and functions.

ANNOTATION

Sources: No specific source.

Purposes: This section and the succeeding sections in Chapter 4 make explicit the power of Council either as a body or by committee to conduct investigations and inquiries in aid of its legislative powers and functions. It enables Council to obtain information which it may need in order to legislate.

§ 2-401. Power to Obtain Attendance of Witnesses and Production of Documents.

The Council shall have power to compel the attendance of witnesses and the production of documents and other evidence at any meeting of the body or of any of its committees under the procedure set forth in Article XVI, Section 8, of the Act of June 25, 1919, P.L. 581.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI. Section 8.

Purposes: This section retains with full force and effect the above section of the Charter of 1919 for the purpose of preserving the power of the Council to subpoena witnesses, documents, and other evidence. A new provision on the subject was not written into the Charter because the enabling Act did not vest in the Charter Commission the power to impose upon the courts the duty of enforcing subpoenas issued by the Council.

§ 2-402. Oaths of Witnesses.

The presiding officer of the Council or of any of its committees shall have power to administer oaths to witnesses.

ANNOTATION

Sources: United States Code, Title 2, Section 191.

Purposes: The administration of oaths to witnesses appearing before the Council or its committees is necessary to assure truthful testimony or else the risk of prosecution for perjury.

§ 2-403. Employment of Personnel, Expenses and Cooperation of City Departments and Agencies.

For the purpose of conducting inquiries and investigations the Council by resolution may employ, or authorize the employment by its committees, and fix the compensation of counsel, experts and employees and authorize such other expenditures as it deems necessary, but a limit of the total cost shall be stated which shall not be exceeded except by vote of the Council authorizing additional amounts. However, the Council or any of its committees may, with the consent of the head of any department, board or commission of the City, utilize the services, information, facilities and personnel of such department, board or commission.

ANNOTATION

Sources: United States Code, Title 2, Section 196; Title 29, Section 194.

Purposes: The employment of personnel by the Council for any of its committees conducting inquiries and investigations is authorized for the regular staff of Council will frequently be inadequate for this special work. Thus the Council will be able to engage lawyers, accountants, scientists, and additional clerical help to meet the needs of any particular investigation or inquiry. To prevent the incurring of unlimited costs, Council is required to set a limit of the total expenditures to be made for any investigation or inquiry. This limit may be increased from time to time by the Council. Personnel and facilities of administrative agencies may be utilized, but only with the consent of the head of the agency.

§ 2-404. Investigations to be Public.

All inquiries and investigations conducted by the Council or any of its committees shall be open to the public, except when in the opinion of the investigating body executive sessions are required.

ANNOTATION

Sources: No specific source.

Purposes: The right of the public to attend councilmanic inquiries and investigations is fixed by this section. It could not be made an absolute right because some councilmanic sessions must necessarily be executive.

§ 2-405. Rights of Witnesses and Others.

Any witness appearing before the Council or any of its committees may be represented by counsel. Any person whose character shall have been impugned in the course of an inquiry or investigation by the Council or by any of its committees shall be given the opportunity to appear with or without counsel, to present evidence, to cross-examine any person who may have impugned his character, and to call witnesses of his own, and the Council shall, upon application being made, exercise its subpoena power to compel the attendance of such persons and witnesses.

ANNOTATION

Sources: No specific source.

Purposes: This section protects the rights of witnesses appearing at councilmanic inquiries and investigations. It also affords an opportunity to be heard to persons whose characters may have been impugned in the course of such inquiries and investigations. It thus seeks to avoid some of the injustices which have in recent years resulted from legislative inquiries and investigations elsewhere.

§ 2-406. Conduct of Proceedings.

The conduct of proceedings at councilmanic inquiries and investigations shall be subject to such rules as the Council may prescribe.

ANNOTATION

Sources: No specific source.

Purposes: Council is empowered to prescribe rules of procedure to assure the orderly and fair conduct of councilmanic inquiries and investigations.

ARTICLE III EXECUTIVE AND ADMINISTRATIVE BRANCH - ORGANIZATION

CHAPTER 1
OFFICERS, DEPARTMENTS, BOARDS, COMMISSIONS AND OTHER AGENCIES

§ 3-100. Executive and Administrative Officers, Departments, Boards, Commissions and Agencies Designated.

The executive and administrative work of the City shall be performed by:

(a) The following elected or appointed officers:

Mayor;

Managing Director;

Director of Finance;

City Representative; 10

City Controller;

City Treasurer;

Personnel Director;

Insurance Public Advocate; 11

Public School Family and Child Advocate; 12

Handicapped and Disabled Advocate. 13

(b) The Mayor's Cabinet and a committee thereof to be known as the Administrative Board.

(c) Other heads of departments as hereinafter in this chapter specified.

(d) The following departments which are hereby created:

Law Department;

Department of Commerce;

Police Department;

Department of Public Health;

Fire Department;

Department of Streets;

Department of Parks and Recreation; 14

Department of Public Welfare;

Water Department;

Department of Public Property;

Department of Licenses and Inspections;

Department of Records;

Department of Collections;

Auditing Department;

Procurement Department.

(e) The following independent boards and commissions, which, except for the Board of Trustees of the Free Library of Philadelphia, are hereby created:

City Planning Commission;

Commission on Human Relations;

Board of Trustees of the Free Library of Philadelphia;

Board of Pensions and Retirement;

Civil Service Commission;

Philadelphia Tax Reform Commission and its Advisory Committee;

Board of Ethics; 15

Youth Commission; 16

Zoning Code Commission; 17 and

Jobs Commission. 17.1

(f) The following departmental boards and commissions, which are either created or placed, as the case may be, in the respective departments, as follows:

In the Department of Commerce:

Board of Trade and Conventions.

In the Department of Public Health:

Board of Health;

Air Pollution Control Board;

Board of Trustees of Philadelphia General Hospital;

Board of Trustees of Philadelphia Hospital for Contagious Diseases.

In the Department of Streets:

Board of Surveyors.

In the Department of Parks and Recreation: 18

Commission on Parks and Recreation;

Board of Trustees of American Flag House and Betsy Ross Memorial;

Board of Trustees of Atwater Kent Museum.

In the Department of Public Welfare:

Board of Trustees of House of Correction;

Board of Trustees of Home for the Indigent.

In the Department of Public Property:

Gas Commission;

Art Commission.

In the Department of Licenses and Inspections:

Zoning Board of Adjustment;

Board of Building Standards;

Board of License and Inspection Review.

In the Department of Collections:

Tax Review Board;

Sinking Fund Commission.

(g) Such additional advisory boards as the Mayor may appoint. 19

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Article II, as amended.

Purposes: 1. The framework of the executive and administrative branch of the City government is detailed in this section. It lists all the principal elected or appointed officers, and all departments, board and commissions. It makes provisions for a Cabinet, a committee thereof known as the Administrative Board, and department heads.

2. The elected City administrative officers are: a Mayor, of the strong-mayor type, who is undoubtedly the City's most important officer; a City Controller, traditionally an elected official in Pennsylvania, to audit expenditures of the City government; and a City Treasurer, because of constitutional compulsion, whose office is to become an appointive one when the Constitution and laws of the Commonwealth permit (Section 3-202).

3. The principal appointed officers include the Mayor's chief assistants: the Managing Director, who will supervise the service departments; the Director of Finance who will be the chief financial and budget officer; and the City Representative who will be the Mayor's ceremonial representative and the City's publicity chief. The Personnel Director, to be appointed by the Civil Service Commission, will be the city's personnel officer.

4. Departments are established on the basis of functions to be performed. Considerations prompting the departmentalization of functions are that functions grouped together be related to each other; that neither too few nor too many functions be placed in any one department; that the departments created embrace all fundamental municipal activities; and that problems of particular concern such as water, recreation, records and revenue collection, receive special attention through the creation of departments to deal specifically with them.

5. All but five boards and commissions have been connected, for the purposes of fiscal administration, with those departments to which their functions are most closely related. Such boards and commissions are denominated, departmental boards and commissions. The five that constitute exceptions, denominated independent boards and commissions, are boards whose activities are not closely related to any particular department or are of such importance as to merit independent status.

See Annotations to the following sections for the special relationships of the following departments, boards and commissions:

Department of Public Health and Boards of Trustees of City Hospitals - Sections 5-300 - 5-303;

Department of Recreation and Fairmount Park Commission - Sections 5-600 - 5-602;

Board of Trustees of Camp Happy - Section 5-605;

Department of Public Welfare and Board of Trustees of Welfare Institutions - Sections 5-700, 5-701.

See also Annotation to Section 8-403.

Law Department Note (2009): Department of Recreation and Fairmount Park Commission were reconstituted, and the Board of Trustees of Camp Happy was abolished, by amendment approved November 4, 2008. See Footnote to Section 3-905.

6. Only one advisory board, for the Department of Recreation, is expressly created, but provision is made for additional such boards as the Mayor may appoint.

§ 3-101. Department Heads.

Each department shall have as its head an officer who either personally or by deputy or by a duly authorized agent or employee of the department, and subject at all times to the provisions of this charter, shall exercise the powers and perform the duties vested in and imposed upon the department.

The following officers shall be the heads of the departments following their respective titles:

City Solicitor, of the Law Department;

Director of Commerce, of the Department of Commerce;

Police Commissioner, of the Police Department;

Health Commissioner, of the Department of Public Health;

Fire Commissioner, of the Fire Department;

Street Commissioner, of the Department of Streets;

Parks and Recreation Commissioner, of the Department of Parks and Recreation; 20

Welfare Commissioner, of the Department of Public Welfare;

Water Commissioner, of the Water Department;

Commissioner of Public Property, of the Department of Public Property;

Commissioner of Licenses and Inspections, of the Department of Licenses and Inspections;

Commissioner of Records, of the Department of Records;

Revenue Commissioner, of the Department of Collections;

City Controller, of the Auditing Department;

Procurement Commissioner, of the Procurement Department.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 206, as amended.

Purposes: 1. Each department is to have a head, and this section lists the heads of the various departments.

2. The exercise of the powers and the performance of the duties of each department are made the responsibility of the department head.

§ 3-102. The Mayor's Cabinet. 21

The Mayor's Cabinet shall consist of the Mayor, the Managing Director, the Director of Finance, the City Solicitor, the Director of Commerce and the City Representative.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 6(b).

Purposes: The Mayor's Cabinet is small and compact in the interest of its effective operation. All service departments are represented by the Managing Director, all finance departments, except the City Treasurer and the Auditing Department, are represented by the Director of Finance. The Mayor's legal advisor and the City Representative are included since their aid will be necessary in shaping policy.

§ 3-103. Administrative Board.

The Administrative Board shall consist of the Mayor, who shall be chairman thereof, the Managing Director, and the Director of Finance.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 204.

Purposes: The Administrative Board will determine the policy to govern administrative details of the City government. Therefore, the chief administrative officers of the Mayor who will be concerned with the effective, overall application of such policy, the Managing Director and the Director of Finance, are made members of the Board.

§ 3-104. Officers of Boards and Commissions.

Except as expressly otherwise provided in this charter, each board and commission shall have a chairman and may have a vice chairman. It shall also have a secretary and may have a treasurer who need not be members and may be the same person.

ANNOTATION

Sources: No specific source.

Purposes: The effective functioning of boards and commissions requires that each have a presiding officer and a secretary, and where he will serve a purpose as treasurer, but the secretary and treasurer may be the same person.



Notes

- 10 Amended by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080006 (approved March 6, 2008); Resolution No. 080041 (adopted March 6, 2008).
- 11 Added by approval of the voters at the election held on November 4, 2003, and certified on December 1, 2003. See Bill No. 030220 (approved May 15, 2003); Resolution No. 030231 (adopted May 1, 2003).
- 12 Added by approval of the voters at the election held on November 6, 2007, and certified on November 26, 2007. See Bill No. 070340 (approved September 20, 2007); Resolution No. 070360 (adopted June 14, 2007).
- 13 Added by approval of the voters at the election held on November 6, 2007, and certified on November 26, 2007. See Bill No. 070395 (approved September 20, 2007); Resolution No. 070411 (adopted June 14, 2007).
- 14 Amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 15 Added by approval of the voters at the election held on May 16, 2006, and certified on June 5, 2006. See Bill No. 040769 (approved December 15, 2005); Resolution No. 040817 (adopted December 1, 2005).
- 16 Added by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060581 (approved January 23, 2007); Resolution No. 060596 (adopted December 14, 2006).
- 17 Added by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060699 (approved February 21, 2007); Resolution No. 060716-AA (adopted February 8, 2007).
- 17.1 Added by approval of the voters at the election held on May 17, 2011, and certified on June 6, 2011. See Bill No. 110060 (approved March 23, 2011); Resolution No. 110063 (adopted March 10, 2011).

18 Amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).

19 Former paragraph (g) deleted and former paragraph (h) renumbered by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).

20 Amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).

21 Amended by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080006 (approved March 6, 2008); Resolution No. 080041 (adopted March 6, 2008).

CHAPTER 2 ELECTION OR APPOINTMENT

§ 3-200. Mayor.

At the municipal election in the year 1951 and in every fourth year thereafter, a Mayor shall be elected.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 2(a), as amended.

Purposes: This section fixes the time of the Mayor's election.

§ 3-201. City Controller.

The City Controller shall be elected in the manner and at the times now or hereafter provided by law.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XII, Section 1.

Purposes: The City Controller is retained as a special officer to make him independent of the officials whose expenditures he will audit.

§ 3-202. City Treasurer.

The City Treasurer shall be elected in the manner and at the times provided by law but if and when the Constitution and laws of the Commonwealth of Pennsylvania permit, he shall be appointed by the Director of Finance.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XI, Section 1.

Purposes: The City Treasurer is retained as an elected officer for the present. If the Constitution is amended and the laws of the Commonwealth permit, the City Treasurer is to be appointed by the Director of Finance because the Treasurer's functions are primarily ministerial under the Charter. They are necessarily a part of the broader functions and operations of the office of the Director of Finance and the City Treasurer should serve as a part of the Director's organization.

§ 3-203. City Solicitor.

The Mayor, with the advice and consent of a majority of all the members of the Council, shall appoint the City Solicitor.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XIII, Section 1.

Purposes: The advice and consent of the Council to the appointment by the Mayor of the City Solicitor are required because under the Charter the City Solicitor is to serve as legal advisor to the Council as well as to the Mayor.

§ 3-204. Managing Director, Director of Finance, Director of Commerce and City Representative. 22

The Mayor shall appoint the Managing Director, the Director of Finance, the Director of Commerce and the City Representative. The Director of Finance shall be appointed from among three persons whose names are submitted to the Mayor by the Finance Panel.

ANNOTATION

Sources: No specific source.

Purposes: Consistent with the theory of the strong-mayor form of government, the Mayor is given the power to appoint his principal assistants without the advice and consent of the Council. The Finance Director is to be appointed by the Mayor from persons recommended by a Finance Panel because the major powers and duties vested in the Director of Finance and the extreme importance of his office requires that the office be filled by a person of marked competence and experience. The Finance Panel device is intended to help assure especially qualified appointments to this office.

§ 3-205. Personnel Director.

The Civil Service Commission shall appoint the Personnel Director.

ANNOTATION

Sources: No specific source.

Purposes: The Civil Service Commission, rather than the Mayor, has been designated the appointing power of the Personnel Director as a step towards assuring the complete independence of the Personnel Director and the separation of the administration of the civil service system from partisan political considerations and influences, direct or indirect. This is an indispensable requirement of any true merit system of City employment.

§ 3-206. Other Department Heads.

With the approval of the Mayor:

(a) The Managing Director shall appoint the Police Commissioner, the Health Commissioner, the Fire Commissioner, the Street Commissioner, the Parks and Recreation Commissioner, the Welfare Commissioner, the Water Commissioner, the Commissioner of Public Property, the Commissioner of Licenses and Inspections, and the Commissioner of Records; 23

(b) The Director of Finance shall appoint the Revenue Commissioner and the Procurement Commissioner.

ANNOTATION

Sources: No specific source.

Purposes: Since the Managing Director and the Director of Finance are to be responsible for the supervision and operation of the departments placed under them, they are given the power to appoint, with the approval of the Mayor, the individuals who are to head those departments. The Mayor has a voice in the appointment process because the ultimate responsibility of City administration is his.

§ 3-207. Members of Boards and Commissions.

Except as expressly otherwise provided and subject to the limitations contained in this charter, the Mayor shall appoint the members of all boards and commissions.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 207, as amended.

Purposes: Consistent with the strong-mayor form of government plan, the Mayor will, as a rule, appoint the members of all boards and commissions. Council's former participation in the administrative process of government through its power to appoint members of boards and commissions has been removed.

§ 3-208. Officers of Boards and Commissions.

Except as expressly otherwise provided in this charter, the members of boards and commissions shall elect their officers.

ANNOTATION

Sources: No specific source.

Purposes: As a general rule and except for financial administrative purposes, boards and commissions are to be integral agencies and hence are to elect their own officers.

§ 3-209. Insurance Public Advocate. 24

The Mayor, with the advice and consent of a majority of all the members of the Council, shall appoint the Insurance Public Advocate.

§ 3-210. Public School Family and Child Advocate. 25

The Mayor, with the advice and consent of a majority of all the members of the Council, shall appoint the Public School Family and Child Advocate.

§ 3-211. Handicapped and Disabled Advocate. 26

The Mayor, with the advice and consent of the majority of all the members of the Council, shall appoint the Handicapped and Disabled Advocate.

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Notes

- 22 Caption and Section amended by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080006 (approved March 6, 2008); Resolution No. 080041 (adopted March 6, 2008).
- 23 Amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 24 Added by approval of the voters at the election held on November 4, 2003 and certified on December 1, 2003. See Bill No. 030220 (approved May 15, 2003); Resolution No. 030231 (adopted May 1, 2003).
- 25 Added by approval of the voters at the election held on November 6, 2007, and certified on November 26, 2007. See Bill No. 070340 (approved September 20, 2007); Resolution No. 070360 (adopted June 14, 2007).

26 Added by approval of the voters at the election held on November 6, 2007, and certified on November 26, 2007. See Bill No. 070395 (approved September 20, 2007); Resolution No. 070411 (adopted June 14, 2007).

CHAPTER 3 QUALIFICATIONS

§ 3-300. Mayor.

The Mayor shall have been a resident of the City for at least three years preceding his election and shall be at least twenty-five years of age at the time of his election.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article IV, Section 5.

Purposes: 1. A minimum residence of three years is required so that the Mayor will have some intimate knowledge and understanding of the City's problems and needs.

2. The qualifying age must be met as of the time of the election rather than the time of nominating or taking of office.

§ 3-301. Managing Director.

The Managing Director shall have had such experience for at least five years as an executive either in public service or private industry as shall qualify him for the duties of his office.

ANNOTATION

Sources: No specific source.

Purposes: These qualifications are prescribed because the Managing Director is to supervise the service departments.

§ 3-302. Director of Finance.

The Director of Finance shall have had such experience for at least five years as an executive or the controller of a business, or as an expert in public finance as shall qualify him for the duties of his office.

ANNOTATION

Sources: No specific source.

Purposes: The qualifications for the office of Director of Finance shall be a person fully competent to fulfill the duties of the office. A controller or an executive of a business, an expert on public finance such as a university professor teaching that subject or a governmental budget and finance officer, would qualify for the office provided his experience is adequate. It should be noted that two things are required by this and the preceding section: activity in a specified field; such experience by virtue of that activity as to qualify the individual for the office.

§ 3-303. City Representative.

The City Representative shall have had at least five years' experience in public relations work, and shall be an experienced public speaker.

ANNOTATION

Sources: No specific source.

Purposes: Since the City Representative is to perform the dual function of promoting the City and representing the Mayor at public affairs, it is required that he have experience in both public relations work and as a public speaker. It is to be noted that since he is also to serve as the head of the Department of Commerce, Section 3-305 applies, and he is required to be qualified in addition by

experience and training for that office.

§ 3-304. City Solicitor.

The City Solicitor shall be a lawyer admitted to practice before the Supreme Court of Pennsylvania and shall have had at least five years' experience in active practice of the law.

ANNOTATION

Sources: No specific source.

Purposes: To qualify for the office of City Solicitor, a person must be a member of the Bar of the Supreme Court of Pennsylvania and must have had five years' experience in the active practice of law which includes private practice, practice as a government attorney, or a combination of both. This is the minimum experience believed to be necessary for the proper performance of the duties of the office.

§ 3-305. Other Officers and Employees.

All other department heads and all deputies, superintendents and bureau or division chiefs and all other employees not in the civil service shall be persons especially qualified for their positions by training and experience.

ANNOTATION

Sources: No specific source.

Purposes: Sections 3-301 - 3-304 specify qualifications for the principal appointive officers of the executive branch of the City government. It was not deemed feasible to specify particular qualifications for other appointive, noncivil services officers beyond requiring that they meet a general standard of being especially qualified for their positions by their training and experience.

§ 3-306. Citizenship and Residence.

All officers and employees of the City shall be citizens of the United States. It shall not be necessary for the Managing Director, the Director of Finance, the Personnel Director, any appointed department head or any other employee not in the civil service to be a resident of the City at the time of his appointment but residence in the City must be acquired within six months thereafter. Appointed members of boards and commissions shall be residents of the City or of a county of the Commonwealth of Pennsylvania adjacent to the City.

ANNOTATION

Sources: No specific source.

Purposes: 1. All officers and employees must be citizens of the United States.

2. It is not required that appointees to non-civil service positions be residents of the City at the time of their appointment in order to permit the appointment of the best qualified and most experienced persons that can be obtained. On the other hand, a appointee, once he takes office, is required to become a resident of the City within six months of his appointment.

3. All that is required in the case of members of boards and commissions is that they be residents of the City or of a Pennsylvania county adjacent to the City. At the present time, many members of boards and commissions performing important City functions are not residents of the City. Nevertheless, they serve without compensation, give of their time, and even of their money in helping to make the City a better place in which to live. Examples may be found in the Fairmount Park Commission and the Board of Trustees of the Free Library of Philadelphia. City libraries and City museums have benefitted from funds, books and objects of art donated to them by Philadelphia suburbanites. Such benefits might well be lost to the City if membership on boards and commissions were restricted to residents, and therefore, that restriction was not imposed.

Law Department Note (2009): Fairmount Park Commission was reconstituted by amendment approved November 4, 2008. See Footnote to Section 3-905.

4. Residence qualifications of civil service employees are not covered by this section but by the provisions of the civil service chapter. Section 7-401(u).

CHAPTER 4
TERMS OF OFFICE

§ 3-400. Mayor.

The Mayor shall serve for a term of four years beginning on the first Monday of January following his election. He shall not be eligible for election for more than two successive terms; and he shall not during his term of office be a candidate for any other elective office whatsoever. Should he announce his candidacy for any other office, he shall be automatically disqualified to continue to serve as Mayor, and the office shall be deemed vacant.

ANNOTATION

Sources: As to term of office, Act of June 25, 1919, P.L. 581, Article II, Section 2, as amended.

Purposes: While the Mayor is given the present four year term of office, two limitations are imposed:

1. His successive terms are limited to two terms. He may be elected to serve for a total of two terms of four years each when one follows the other. He may not be elected for the next term following although if he is out of office thereafter for a term or more he may again be elected as Mayor and re-elected for a successive term. Should he fill a vacancy other than by election, he may still serve in addition thereto, two successive terms of four years each by election.

2. The other limitation, of his office being vacated by his becoming a candidate for another elective office, will prevent a Mayor from neglecting the duties of his office as Mayor while he seeks election to another office. It will also tend to avoid official decisions of a Mayor from being influenced by conflicting interests which might arise if he were, while Mayor, a candidate for another public office. The nomination for an office at a primary election or the Mayor's announcement at any time that he is a candidate for another office will serve to vacate his office.

§ 3-401. City Controller.

The term of the City Controller shall be that provided by law.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XII, Section 1.

Purposes: The term of the City Controller continues to be as at present. See Annotation to Section 3-201.

§ 3-402. City Treasurer.

As long as he is an elective officer, the term of the City Treasurer shall be that provided by law.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XI, Section 1.

Purposes: Until the office of City Treasurer becomes an appointive one, his term continues to be as at present. See Annotation to Section 3-202. When his office becomes an appointive one, he will serve at the pleasure of the appointing power. See Section 3-404.

§ 3-403. Managing Director.

The term of office of the Managing Director shall be four years and shall coincide with the term for which a Mayor is elected every four years as provided for in this charter.

ANNOTATION

Sources: No specific source.

Purposes: Two considerations were sought to be balanced in fixing a term of office for a Managing Director: the importance of his position to the people of the City as the supervisor of the service departments; the importance of his relationship to the Mayor as the Mayor's personal assistant. The first consideration prompted the fixing of a definite term of four years for the Managing Director. This will help to obtain an official of high calibre and extensive experience because a measure of security of tenure of office is offered. The other consideration prompted the requirement that the Managing Director's term of office coincide with that of the Mayor who

appoints him. Thus, in most instances, a Mayor will have serving as a Managing Director one whom he appointed to office. However, should a Mayor elected for a four year term not complete his term, his successor would have a Managing Director who had been appointed by his predecessor. This was necessary to assure to a Managing Director a minimum term of four years unless he is sooner removed from office under conditions specified in Section 9-201.

§ 3-404. All Other Officers.

Except as expressly otherwise provided in this charter, all appointed officers and all members and all officers of boards and commissions shall serve at the pleasure of the appointing power and until their successors are qualified.

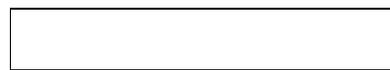
ANNOTATION

Sources: Constitution of the Commonwealth of Pennsylvania, Article VI, Section 4.

Purposes: With certain exceptions (see Article IX, Chapter 2), every appointive officer of the City serves at the pleasure of his appointing power and until his successor is qualified. For, apart from Constitutional compulsion, the interests of good and harmonious government generally require that an appointing power be able to remove an appointee when an consideration arises requiring removal, provided the appointing power bears the responsibility and remains accountable for his action.

§ 3-405. Insurance Public Advocate. 27

The Insurance Public Advocate shall serve for a term of five (5) years, and may be removed by the Mayor prior to the expiration of a term only for cause. Before the Insurance Public Advocate is removed, the Insurance Public Advocate must be provided with a written statement of the reasons for removal, and shall be given the opportunity for a hearing before the Mayor.



Notes

27 Added by approval of the voters at the election held on November 4, 2003 and certified on December 1, 2003. See Bill No. 030220 (approved May 15, 2003); Resolution No. 030231 (adopted May 1, 2003).

**CHAPTER 5
VACANCIES**

§ 3-500. Mayor.

An election to fill a vacancy for an unexpired term in the office of Mayor shall be held at the next municipal or general election occurring more than thirty days after the vacancy occurs, unless the vacancy occurs in the last year of the term, in which event a Mayor shall be chosen by the Council by a majority vote of all its members. Until the vacancy is filled, or in case of the Mayor's temporary disability, the President of the Council shall act as Mayor; and if the President of the Council should resign or be unable to act, then the Chairman of the Finance Committee of the Council shall act as Mayor.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 4, as amended.

Purposes: Present law is continued for two reasons: it presents no problem of any urgency that needs correction; and should the method for filling a vacancy have been changed, it would have been necessary for the voters to have passed separately upon the proposed change at the time of the adoption of the Charter.

§ 3-501. City Controller and City Treasurer.

Vacancies in the office of City Controller, or the City Treasurer until his office becomes an appointive one, shall be filled in the

manner provided by law.

ANNOTATION

Sources: No specific source but see Act of June 25, 1919, P.L. 581, Article IV, Section 2.

Purposes: This section continues existing law. See Annotation to Section 3-500.

§ 3-502. Appointive Offices.

A vacancy in an appointive office for a term shall be filled by appointment for the balance of the unexpired term. Such an appointment shall be made in the same manner as an original appointment.

ANNOTATION

Sources: No specific source.

Purposes: Vacancies in appointive offices for a term are filled by appointment for the balance of unexpired terms so as to preserve the system of staggered appointments where they are required, and otherwise so as not to impose on a succeeding appointing power hold-over appointees. Vacancies in appointive offices are to be filled in the same manner as original appointments.

CHAPTER 6 COMPENSATION

§ 3-600. The Mayor and Other Officers.

Until the Council shall otherwise ordain, annual salaries shall be payable in equal semi-monthly installments as follows:

Mayor, \$25,000;

Managing Director, \$20,000;

Director of Finance, \$15,000;

City Representative, \$12,000;

City Controller, \$15,000;

City Treasurer, \$12,000;

City Solicitor, \$15,000;

Personnel Director, \$12,000;

Police Commissioner, \$13,000;

Health Commissioner, \$12,000;

Fire Commissioner, \$12,000;

Street Commissioner, \$12,000;

Recreation Commissioner, \$12,000;

Welfare Commissioner, \$12,000;

Water Commissioner, \$15,000;

Commissioner of Public Property, \$12,000;

Commissioner of Licenses and Inspections, \$12,000;

Commissioner of Records, \$12,000;

Revenue Commissioner, \$12,000;

Procurement Commissioner, \$12,000;

Insurance Public Advocate, \$100,000; 28

Public School Family and Child Advocate, \$100,000; 29

Handicapped and Disabled Advocate, \$100,000; 30

Director of Commerce, \$150,000. 31

The compensation fixed by this charter for any officer shall be reduced by an amount equal to any compensation which he receives in addition thereto for any services, rendered by virtue of his office, to the City or to any other governmental agency.

ANNOTATION

Sources: See the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 209, as amended.

Purposes: 1. It was necessary to fix initially in the Charter the salaries of the principal officers of the City government so that the budget adopted prior to the effective date of the Charter could make provision for the compensation of officers who would have to begin service before the Council under the new Charter had had an opportunity to fix salaries and to make appropriations. It should be noted that the new Council is empowered to vary the salaries fixed and the payroll periods, should it deem a change desirable.

2. Since some City officers, notably the City Controller and the City Treasurer, receive compensation for their services, by virtue of their offices, from other agencies, and since the Charter salary scale increases, such additional compensation is credited against salaries received from the City.

§ 3-601. Members of Boards and Commissions.

Except as otherwise expressly provided in this charter, or as may later be provided by ordinance, the members of all boards and commissions shall serve without compensation.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 210(c), as amended.

Purposes: The present policy of members of boards and commissions generally serving without compensation is continued with an exception being made in the case of Civil Service Commissioners. See Section 3-804. However, Council may ordain compensation as it sees fit in the light of experience.

Notes

- 28 Added by approval of the voters at the election held on November 4, 2003 and certified on December 1, 2003. See Bill No. 030220 (approved May 15, 2003); Resolution No. 030231 (adopted May 1, 2003).
- 29 Added by approval of the voters at the election held on November 6, 2007, and certified on November 26, 2007. See Bill No. 070340 (approved September 20, 2007); Resolution No. 070360 (adopted June 14, 2007).
- 30 Added by approval of the voters at the election held on November 6, 2007, and certified on November 26, 2007. See Bill No. 070395 (approved September 20, 2007); Resolution No. 070411 (adopted June 14, 2007).

31 Amended by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080006 (approved March 6, 2008); Resolution No. 080041 (adopted March 6, 2008).

CHAPTER 7 BUREAUS AND DIVISIONS; DEPUTIES; OTHER EMPLOYEES

§ 3-700. Bureaus and Divisions.

The heads of the several departments and the several boards and commissions may from time to time, subject to the approval of the Administrative Board, establish such bureaus or divisions in their respective departments, boards and commissions as may be required for the proper conduct of their work.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 212, as amended.

Purposes: The creation of bureaus and divisions in departments, boards, and commissions is left to the department heads and boards and commissions concerned, rather than being fixed in the Charter, in order to permit flexibility and adaptation to changing circumstances and conditions. The approval of the Administrative Board is required so that over-all governmental considerations may enter into the picture and so that some measure of control may be exercised over the number of bureaus and divisions to be established. The creation of bureaus and divisions is thus made a function of the administrative branch of the City government rather than of the Council.

§ 3-701. Deputies.

The head of any department, the Managing Director, the Director of Finance, the City Treasurer, and the Personnel Director shall have the power with the approval of his appointing officer or commission, or if he is an elective officer, on his own responsibility, to appoint and fix the compensation of a deputy or such number of deputies as the Administrative Board shall approve. The deputies may be called assistants if the Administrative Board so determines. Deputies, in the absence of the heads of their respective departments, or of the officers for whom they are deputies, shall have the right to exercise all the powers and perform all the duties vested in and imposed upon such department heads or officers, except the power to appoint officers or employees, and may at any time exercise such of the powers and perform such of the duties of the head of the department or officer as may be prescribed by such head or officer.

Whenever there shall be a vacancy in the office of the head of any department or any other office to which this section applies, such deputy as shall be designated in writing by the appointing power or in the case of an elective department head or officer, by the Mayor, shall exercise the powers and perform the duties of the department head or officer until the vacancy is filled. With the approval of the Mayor in writing, the Managing Director, the City Controller, the City Treasurer, the City Solicitor, the Director of Finance, the Director of Commerce or the Personnel Director, and with the approval of the Managing Director in writing, any other department head may authorize any deputy to serve in his stead on any board or commission.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 213, as amended.

Purposes: 1. The designation of deputies and the determination of their compensation are made an administrative rather than a legislative function because the problem is one peculiarly within the concern, competence and experience of the administrative branch of the government. The number of deputies appointed is made subject to the approval of the Administrative Board so that the number will remain within reason and within need. The compensation of deputies, while an administrative decision, will be limited by the amount of money appropriated by the Council to a department for salaries and other non-civil service officers and employees. All such appropriations must be lump sum appropriations.

2. Deputies are empowered to act in place of superior officers under appropriate circumstances. Thus, whenever there is a vacancy in the office of a head of a department, a deputy authorized to do so, may exercise the powers of that office, pending the appointment of a new department head. This makes possible the uninterrupted continuity of the work of the department, adequate supervision and direction. Deputies are authorized to serve on boards and commissions for their superior officers so that such officers

will be free to attend to their many other duties.

§ 3-702. Employment and Compensation of Bureau Chiefs and Other Employees.

(1) The Mayor, the Managing Director, the Director of Finance, the City Treasurer and the Personnel Director, and the heads of the several departments and the several boards and commissions shall appoint and fix the compensation of such secretaries, consultants, experts, bureau or division chiefs, superintendents, assistant superintendents, assistant chiefs, and other assistants and employees as may be required for the proper conduct of the work of their respective offices, departments, boards or commissions. Unless otherwise specifically provided in this charter, employees of a board or commission shall be nominated by its chairman or president or by such other officer as may be designated by the board or commission.

(2) The number and compensation of all employees in the Law and Commerce Departments, and in the offices of the Managing Director, the Director of Finance and the City Representative, shall be subject to the approval of the Mayor; the number and compensation of all employees in the office of the Personnel Director shall be subject to the approval of the Civil Service Commission; the number and the compensation of all employees in all departments under the supervision of the Managing Director and in their departmental boards and commissions shall be subject to the approval of the Managing Director; and the number and compensation of all employees in the Department of Collections, and its departmental board and commission, and the Procurement Department shall be subject to the approval of the Director of Finance. 32

(3) Notwithstanding any other provisions of this chapter, the compensation of persons presently employed by the City shall be according to the presently existing classification and pay scale until civil service regulations are adopted as provided in this charter after which all persons subject to the civil service regulations shall be employed and compensated in accordance with such regulations.

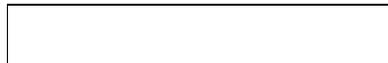
(4) The Mayor shall furnish to the Cabinet and to the Administrative Board such clerical and other assistance as may be necessary for the conduct of their work and the keeping of their minutes.

ANNOTATION

Sources: The Administrative Code of 1929. Act of April 9, 1929, P.L. 177, Section 214, as amended.

Purposes: 1. The number of employees to be appointed and their compensation are made a matter of decision for the administrative and executive branch, rather than the legislative branch, of the government. Appropriations will be made in lump sums to the various departments, boards and commissions for personnel services. Each agency will decide how many employees are to be appointed and what their salaries shall be within the lump sum appropriation to it. The Council retains legislative control to the extent of its power to appropriate the lump sums requested. At budget hearings Council may and should require justification of the amounts requested.

2. The compensation of employees in the civil service is to be fixed by the various officers and department heads in accordance with civil service pay scale and job classification regulations. The pay scale and job classification of employees of the City subject to civil service at the time the Charter takes effect are maintained pending the adoption of new civil service regulations.



Notes

32 Amended by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080006 (approved March 6, 2008); Resolution No. 080041 (adopted March 6, 2008).

**CHAPTER 8
INDEPENDENT BOARDS AND COMMISSIONS**

§ 3-800. City Planning Commission. 33

The City Planning Commission shall be composed of six appointed members and the Managing Director, the Director of Finance and

the Director of Commerce. Of the appointed members, at least five shall be persons who hold no other public office, position or employment of profit, one shall be an architect, one shall be an urban planner, one shall be a traffic engineer, one shall be an attorney experienced in land use issues, and two shall be representatives of Philadelphia community groups that participate in land use issues.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, December 21, 1942.

Purposes: The composition of the City Planning Commission includes the Managing Director because he is in charge of the service departments of the City concerned with City capital improvements; the Director of Finance because the City Planning Commission is responsible for preparing initially the capital program and capital budget; and the City Representative because, as the City's promotional officer and Director of Commerce, he is concerned with the growth and development of the City. Five private citizens are included to assure adequate civic representation through persons who are neither preoccupied nor connected with City functions as public officials.

§ 3-801. Commission on Human Relations.

The Commission on Human Relations shall be composed of nine members.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, March 12, 1948.

Purposes: The membership of the Commission on Human Relations is fixed at nine as against five on its predecessor, the Fair Employment Practices Commission, because of the additional duties and powers vested in the new Commission.

§ 3-802. Board of Trustees of the Free Library of Philadelphia.

The Board of Trustees of the Free Library of Philadelphia shall be composed of twenty-two voting members and the Parks and Recreation Commissioner. Eighteen members shall be life members of the Board, vacancies among them being filled alternately by election by the Board and appointment by the Mayor. 34

ANNOTATION

Sources: Ordinance of the City of Philadelphia, December 31, 1894.

Purposes: The number and method of appointment of the members of the Board of Trustees of the Free Library of Philadelphia are retained substantially as at present. The Recreation Commissioner is a new member because the activities of the Free Library will be concerned in part with phases of recreation.

§ 3-803. Board of Pensions and Retirement.

The Board of Pensions and Retirement shall consist of the Director of Finance, who shall be its chairman, the Managing Director, the City Controller, the City Solicitor, the Personnel Director and four other persons who shall be elected to serve on the Board by the employees in the civil service in such manner as shall be determined by the Board, and one non-voting member of the Board, appointed by the President of Council, who other than the power to vote shall have all rights, powers and duties of other members of the Board, including, but not limited to, the right to attend any executive session of the Board. 35

Until the elected members shall have been chosen, a majority of the Board at the time being shall constitute a quorum. Thereafter five members shall be a quorum.

ANNOTATION

Sources: No specific source.

Purposes: The composition of the Board of Pensions and Retirement consists of the Director of Finance because the creation and management of pension and retirement funds will present important financial problems; the Managing Director because, next to the Mayor, he will supervise the greatest number of City employees who will be affected by any pension and retirement system; the City Controller because he is the City's auditor; the City Solicitor because of the intricate legal questions which will arise in connection with pensions and retirement benefits; and the Personnel Director because of his concern with personnel welfare. Four other members are to be elected by City employees who will thus have a voice in the administration of the pension and retirement system. A majority of the permanent members is constituted a quorum upon the creation of the Board to permit it to begin to function as soon as possible

pending the election of employee representatives.

§ 3-804. Civil Service Commission.

The Civil Service Commission shall be composed of three members appointed from among persons whose names are submitted to the Mayor by the Civil Service Panel. Civil Service Commissioners shall be in sympathy with the application of merit principles to public employment. No member of the Commission shall be a member of any local, state or national committee of a political party, or an officer or member of a committee or organization primarily devoted to partisan political purposes, or shall hold or be a candidate for any elective office.

Of the members first appointed, one shall be appointed for a term of two years, one for a term of four years, and one for a term of six years. Thereafter, all appointments shall be for terms of six years.

Unless and until the Council shall provide a higher rate of compensation, each member of the Commission shall receive a fee of one hundred dollars for each meeting of the Commission which he attends, but the total compensation payable to any member in any one year shall not be more than \$6,000.

The Commission shall meet at least once each month. All meetings shall be open to the public unless the Commission shall otherwise direct.

ANNOTATION

Sources: A Model State Civil Service Law, Section 4.

Purposes: 1. Civil Service Commissioners are to be appointed from names suggested to the Mayor by a Civil Service Panel in order to make certain that Commissioners meet the qualifications specified in the Charter. These include the requirements that they be in sympathy with the application of merit principles to public employment and that in the exercise of their powers and fulfillment of their duties they be independent of partisan politics.

2. This is one of the few instances where staggered terms are fixed because it is not a function of the Civil Service Commission to effectuate the policies of any particular Mayor's administration.

3. Substantial remuneration is provided for Civil Service Commissioners because they will be required to devote considerable time to their duties even though they are part-time City officers. Council may increase the compensation fixed by the Charter but may not decrease it. This is another measure to safeguard the civil service system.

4. The Commission is permitted to have executive sessions because the quasi-judicial nature of its work will from time to time require that it be performed in private. However, Section 7-201 gives employees the unqualified right to request public hearings of their cases.

§ 3-805. Philadelphia Tax Reform Commission and Advisory Committee. 36

The Philadelphia Tax Reform Commission shall be composed of fifteen members, appointed as follows:

(a) Four members shall be appointed by the Mayor;

(b) Four members shall be appointed by the Council President;

(c) One member shall be appointed by the City Controller;

(d) One member shall be appointed by each of the following: the President of the African-American Chamber of Commerce, the President of the Greater Philadelphia Chamber of Commerce, the Chief Executive Officer of Greater Philadelphia First, the President of the Greater Northeast Chamber of Commerce, the President of the Hispanic Chamber of Commerce, and the Executive Director of the North Philadelphia Chamber of Commerce.

(e) The Commission's Advisory Committee shall consist of twenty-three members. One member of the Advisory Committee shall be appointed by each of the following: the Director of Action Alliance of Senior Citizens of Greater Philadelphia, the Director of Asian-Americans United, the Director of Community Legal Services, the President of the Board of the Consumer Education & Protective Association, the Director of the Keystone Research Center, the President of the National Congress of Puerto Rican Rights, the Director of the Parents' Union, the Director of Philadelphia NOW (National Organization for Women), the Director of the Philadelphia Unemployment Project, the Director of the Tenant Action Group, the President of the Federal Reserve Bank of Philadelphia, the Dean of the Fox School of Business and Management of Temple University, the President of the Greater Philadelphia

Association of Realtors, the President of the Institute for the Study of Civic Values, the President of the NAACP Philadelphia Chapter, the Executive Director of the Pennsylvania Economy League Eastern Division, the President of the Pennsylvania Institute of Certified Public Accountants Greater Philadelphia Chapter, the President of the Philadelphia Bar Association, the Business Manager of the Philadelphia Building and Construction Trades Council, the President of the Philadelphia Council AFL-CIO, the President of the Urban League of Philadelphia, the Executive Director of the West Philadelphia Partnership, and the Dean of the Wharton School of the University of Pennsylvania. If any of those organizations ceases to exist or refuses to make an appointment, the members of the Commission shall by a majority vote designate an organization of a similar nature to make an appointment.

(f) All appointments to the Commission and its Advisory Committee shall be made within thirty days after the Commission is first created.

(g) No member of the Commission, while serving as a member, shall seek or hold a position as an elected public official within the Commonwealth, or as an officer of a political party.

(h) Vacancies on the Commission and its Advisory Committee shall be filled by the appointing authority who originally appointed the member whose seat has become vacant.

§ 3-806. Board of Ethics. 37

(a) **Composition.** There shall be a Board of Ethics consisting of five members appointed by the Mayor with the advice and consent of a majority of the members of City Council. Members shall be chosen for their independence, integrity, civic commitment and high ethical standards; they shall be residents of, or have their primary place of business in, the City of Philadelphia and registered to vote. The members of the Board shall elect a chair and such other officers as deemed necessary.

(b) **Initial Appointments, Term of Service, and Successors.** All appointments to the Board shall be made within ninety days after the Board is first created. The terms of the initial appointments to the Board shall be as follows: one member shall serve for a term of one year; one member shall serve for a term of two years; one member shall serve for a term of three years; one member shall serve for a term of four years; and, one member shall serve for a term of five years. Thereafter, all members shall serve for a term of five years. Members shall serve until their successors have been appointed and confirmed. If the Mayor has not submitted to the Council a nomination for appointment of a successor at least thirty days prior to the expiration of the term of the member whose term is expiring, the term of the member in office shall be extended for an additional year and the term of the successor shall be shortened by an equal amount of time. If the City Council fails to act within ninety days of receipt of a nomination for a successor from the Mayor, the nomination shall be deemed confirmed.

(c) **Vacancies.** Any vacancy occurring other than by expiration of a term shall be filled by nomination by the Mayor made to the City Council within thirty days of the creation of the vacancy for the unexpired portion of the term of the member succeeded. If the City Council fails to act within sixty days of receipt of such nomination from the Mayor, the nomination shall be deemed confirmed.

(d) **Term Limits.** No member of the Board shall serve for more than two consecutive five-year terms.

(e) **Prohibited Activities.** No person while serving as a member of the Board of Ethics shall: seek or hold a position as an elected or appointed public official or employee within the Commonwealth (other than as a member of an advisory body that has no authority to expend public funds other than reimbursement for personal expenses or to otherwise exercise the power of the State or any political subdivision thereof), or as an officer of a political party; or, make financial contributions to any candidate for any City office or to any incumbent City official. Members of the Board of Ethics shall be subject to all of the political activities restrictions set forth in Section 10- 107 that apply to appointed City officers and employees.

(f) **Removal for Cause.** Members may only be removed for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this Section, or of ordinances or laws relating to ethical matters after written notice and opportunity for reply. The Mayor shall provide a written notice to the member stating the reasons for removal and file a copy of said notice at the same time with the President of City Council and the Chief Clerk of City Council. An opportunity for the member to reply will be provided at a public hearing of the City Council Committee of the Whole at which the Mayor, or the Managing Director if directed by the Mayor, will also present and explain the reasons for removal. A vote of two-thirds of all the members of Council at a meeting of Council shall be required before such member can be removed.

(g) **Executive Director, Counsel and Staff.** The Board, subject to the availability of appropriations, shall appoint and fix the compensation of an executive director and such other staff and consultants as may be required to exercise its powers and fulfill its obligations. The appointment of an executive director shall require a vote of three of the members of the Board. The Board shall also appoint, by a vote of three members, a counsel to serve at its pleasure subject to the availability of appropriations. The authority of the executive director, counsel and other staff shall be defined in writing by the Board. The Board shall use the services of the Law

Department whenever it needs legal advice or is engaged in litigation, except that the Board need not use the services of the Law Department and may rely solely upon the Board's counsel and staff when the Board is investigating suspected ethical violations or is engaged in enforcement activities, and the Board shall not be bound by any opinion of the Law Department in interpreting ordinances relating to ethical matters.

(h) Post Service and Employment Restrictions. No member of the Board, its executive director or counsel shall seek any elective City office until two years after the expiration of a term of service or termination of employment.

(i) Meetings. The Board shall meet at least quarterly and at such other times as the chair may deem necessary. Three members of the Board shall constitute a quorum. The Board shall convene its first meeting within thirty (30) days after all initial appointments are made and confirmed.

(j) Compensation. Members of the Board shall receive compensation in such amount as ordained by Council.

(k) Annual Fiscal Report. Not later than three months after the end of each fiscal year, the Board shall submit to the Mayor, the President of City Council, the Chief Clerk of City Council and the Department of Records a detailed accounting of all of its expenditures during the previous fiscal year.

§ 3-807. Youth Commission. 38

The Youth Commission is hereby established.

(a) Composition. The Commission shall be composed of twenty-one (21) members, each of whom shall be between the ages of twelve (12) and twenty-three (23) years of age, at the time of appointment. The Commission shall consist of individuals who have an understanding of the needs of young people in the City, or experience with children, youth programs, youth organizations or involvement with school or youth related community activities. The members shall represent the racial, gender, ethnic and cultural diversity of the City and shall be residents of the City.

(b) Appointments and Terms of Service. Each member of the Council and the Mayor shall appoint one (1) member to the Commission. The Mayor shall also appoint three (3) additional members from communities underrepresented by the other appointments made, to ensure that the Commission represents the diversity of the City. Commission members shall serve at the pleasure of their appointing authorities. Initial appointments shall be made promptly after the organization of the Council on the first Monday of January, 2008. The first term for all Commission members shall end on March 1, 2009 and thereafter shall be for one (1) year.

(c) Removal of Members. Any member whom the Commission certifies to have missed three (3) regularly scheduled meetings of the Commission in any six (6) month period, without prior authorization of the Commission, shall be deemed to have resigned from the Commission effective on the date of the written certification from the Commission.

(d) Compensation. Members of the Commission shall not be compensated.

(e) Meetings. The Commission shall conduct regular meetings at least once a month at a designated time and place, shall prepare and maintain permanent minutes of the actions taken during its meetings, and shall file copies of such minutes with the chief clerk of the Council.

§ 3-808. Zoning Code Commission. 39

The Zoning Code Commission shall be composed of thirty-one members, selected as follows:

(a) Executive Director City Planning Commission, who shall Chair the Commission;

(b) Commissioner of Licenses and Inspections;

(c) Chairman of the Zoning Board of Adjustment;

(d) Three Councilmembers appointed by the Council President, not all whom shall be from the same political party;

(e) A representative (each with an alternate designated for the duration of the initiative) from each of: Greater Philadelphia, Greater Northeast, Philadelphia African-American, Philadelphia Asian-American, and Philadelphia Hispanic Chambers of Commerce;

(f) Five members appointed by the Mayor, one of whom shall be an attorney with zoning experience, one of whom shall be a leader in a registered building trade association, one of whom shall be an urban planner, one of whom shall be an architect and one of whom

shall be a real estate developer;

(g) Five members appointed by the Council President, one of whom shall be an attorney with zoning experience, one of whom shall be a leader in a registered building trade association, one of whom shall be an urban planner, one of whom shall be an architect and one of whom shall be a real estate developer;

(h) One member appointed by each individual district council person from among recognized leaders in the community;

(i) All appointments to the Commission shall be made within sixty days after the Commission is first created.

(j) Vacancies on the Commission shall be filled within 30 days by the appointing authority who originally appointed the member whose seat has become vacant.

§ 3-809. Jobs Commission. 39.1

(a) Composition. The Jobs Commission shall be composed of seventeen members, nine of whom shall be appointed by the Mayor and eight of whom shall be appointed by the Council President, provided that Council may from time to time provide by ordinance for a different composition or method of appointment.

(b) Initial appointments. All appointments to the Commission shall be made within thirty days after the Commission is first created.

(c) Vacancies. Vacancies on the Commission shall be filled within thirty days by the appointing authority who originally appointed the member whose seat has become vacant.

(d) Compensation. Members of the Commission shall not be compensated.

Notes

- 33 Amended by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060682 (approved January 23, 2007); Resolution No. 060706 (adopted December 14, 2006). Amended by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080006 (approved March 6, 2008); Resolution No. 080041 (adopted March 6, 2008).
- 34 Amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 35 Amended by approval of the voters at the election held on November 4, 2003 and certified on December 1, 2003. See Bill No. 030016-A (became law May 29, 2003); Resolution No. 030034 (adopted May 1, 2003).
- 36 Added November 5, 2002, by approval of the voters. See Bill No. 020255 (approved June 12, 2002); Resolution No. 020264 (adopted May 16, 2002).
- 37 Added by approval of the voters at the election held on May 16, 2006, and certified on June 5, 2006. See Bill No. 040769 (approved December 15, 2005); Resolution No. 040817 (adopted December 1, 2005).
- 38 Added by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060581 (approved January 23, 2007); Resolution No. 060596

(adopted December 14, 2006).

39 Added by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060699 (approved February 21, 2007); Resolution No. 060716-AA (adopted February 8, 2007). Enrolled Resolution numbered this as § 3-807; renumbered by Code editor.

39.1 Added by approval of the voters at the election held on May 17, 2011, and certified on June 6, 2011. See Bill No. 110060 (approved March 23, 2011); Resolution No. 110063 (adopted March 10, 2011).

CHAPTER 9 DEPARTMENTAL BOARDS AND COMMISSIONS

§ 3-900. Board of Trade and Conventions.

The Board of Trade and Conventions shall be composed of seven appointed members and the Director of Commerce, the Superintendent of Schools of the School District of Philadelphia, and the Secretary of Commerce and the Superintendent of Public Instruction of the Commonwealth of Pennsylvania.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, December 22, 1932.

Purposes: City and State Department of Commerce heads have been included on the Board of Trade and Conventions because the work of the Board will be vitally concerned with commerce. The Board will also have important functions to perform in the realm of public instruction and school representatives are included for this purpose.

§ 3-901. Board of Health.

The Board of Health shall be composed of the Health Commissioner, who shall be president thereof, and seven appointed members. Three members shall be physicians, one of them having a degree of Doctor or Master of Public Health and one member shall be a dentist having a degree of Doctor or Master of Public Health.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article VII, Section 4.

Purposes: The development in recent years of a field of study in public health and the academic degrees awarded to those pursuing such study prompted the requirement that at least one of the physician members of the Board and the dentist member have such degrees. A dentist has been included on the Board because of the importance to public health of adequate dental facilities and care. Three members are required to be physicians because public health involves the constant application of learning in the medical sciences. Four members of the Board may be lay persons and persons whose skills and training are important in the public health field, such as sanitary engineers, nurses, and osteopaths. The Health Commissioner is made the Chairman of the Board because the Board is attached to the Department of Public Health and the regulations promulgated by the Board will be the regulations of the Department.

§ 3-902. Air Pollution Control Board.

The Air Pollution Control Board shall be composed of seven appointed members and the Health Commissioner. Of the appointed members, one shall be an experienced business executive, and two shall be resident householders not connected with the activities hereafter enumerated. The other four shall include one from each of the following fields of activity where he shall have had at least five years' active experience: the operation of plants containing high pressure boilers; the management or operation of the business of mining or manufacturing of solid, liquid or gaseous fuels, involving the theory and practice of fuel technology; the management or operation of transportation facilities; and the practice of designing or installing power and industrial equipment.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, June 25, 1948.

Purposes: The composition of the Air Pollution Control Board is such as to assure members competent to deal with the subject of air pollution control. The Health Commissioner is a member because the Board is attached to the Department of Health.

§ 3-903. Boards of Trustees of City Institutions.

The board of trustees of each of the City institutions listed in this section shall be composed of six members appointed on a non-political basis, and the head of the Department with which it is connected.

This section shall apply to:

Board of Trustees of Philadelphia General Hospital

Board of Trustees of Philadelphia Hospital for Contagious Diseases

Board of Trustees of House of Correction

Board of Trustees of Home for the Indigent

Boards of Trustees of any additional institutions hereafter established, acquired or operated by the City.

Of the members first appointed to any such board, three shall be appointed for terms of two years and three for terms of four years. Thereafter all appointments shall be for terms of four years.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 401 as amended.

Purposes: 1. No particular qualifications are required of appointees to boards of trustees of City institutions but all appointments must be made on a non-political basis. It is anticipated that citizens with a demonstrated interest in institutional welfare and administration will be chosen and that they will be competent to fulfill their trust.

2. This section is drawn to cover not only the institutions named, but any new institutions which may be hereafter operated by the City.

3. Staggered terms have been provided because sound institutional management should be independent of changes in political administrations.

§ 3-904. Board of Surveyors.

The Board of Surveyors shall be composed of a Chief Engineer and Surveyor, who shall be the president thereof, an Assistant Chief Engineer and Surveyor, and the Surveyors and Regulators of the several survey districts of the City, all of them to be appointed by the Commissioner of Streets. The Chief Engineer and Surveyor shall be at the time of his appointment a civil engineer of at least five years' experience, and the Assistant Chief Engineer and Surveyor and the district Surveyors and Regulators each shall have had at the time of their appointment at least five years' experience in surveying and regulating.

ANNOTATION

Sources: Ordinances of the City of Philadelphia, March 17, 1884 and December 31, 1919.

Purposes: The Board of Surveyors is continued substantially as at present, except that the various members are to appointed by the Commissioner of Streets with whose Department the Board is connected.

§ 3-905. Commission on Parks and Recreation. 40

(a) Composition. The Commission on Parks and Recreation shall consist of fifteen members, nine of whom shall be appointed by the Mayor from a list of nominations submitted to the Mayor by resolution of the Council; and six of whom shall serve ex officio, as follows: the President of City Council and the Executive Director of the City Planning Commission, or their designees, and the Water Commissioner, the Street Commissioner, the Public Property Commissioner and the Parks and Recreation Commissioner. The Mayor shall designate one member who does not serve ex officio to serve as chair.

(b) Appointment process. At the commencement of every Mayoral term and by no later than February 1 of such year, the Council President shall, by public notice, solicit applicants to serve on the Commission. The application period shall be open for no less than thirty days, after which the Council shall hold a public hearing on the proposed nominations. No later than ninety days after the close of applications, the Council, by resolution, shall forward to the Mayor no fewer than 18 and no more than 25 nominations. Whenever a vacancy shall occur on the Commission, the Mayor may fill the vacancy from any nominations previously submitted by the Council during such Mayoral term, provided that, for any vacancy occurring more than one year after the commencement of a term, the Mayor may ask for additional nominations, and Council, pursuant to the foregoing process, shall forward to the Mayor nominations numbering no less than two and no more than three times the number of vacancies.

(c) Qualifications. The members shall have demonstrated experience or skills relevant to the powers and duties of the Commission including, but not limited to: sports, recreation and athletic programming; natural lands management, watershed management, and environmental protection; tourism, marketing and public relations; business and finance; neighborhood revitalization; community leadership; historical and architectural preservation; landscaping and horticulture; and fundraising. The Commission shall also be reflective of the geographic, racial, ethnic, and gender diversity within the City.

ANNOTATION

Law Department Note (2009): Department of Recreation and Fairmount Park Commission were reconstituted, and the Board of Trustees of Camp Happy was abolished, by amendment approved November 4, 2008. See Footnote to this Section.

Sources: Act of March 26, 1867, P.L. 547, as amended.

Purposes: The membership of the Fairmount Park Commission is continued as at present except that the Recreation Commissioner is added as a member ex officio because the Commission is connected with his Department and is concerned with recreational facilities and activities.

§ 3-906. Board of Trustees of American Flag House and Betsy Ross Memorial.

The Board of Trustees of the American Flag House and Betsy Ross Memorial shall be composed of seven appointed members and the Parks and Recreation Commissioner. 41

ANNOTATION

Sources: Ordinance of the City of Philadelphia, May 26, 1941.

Purposes: The Recreation Commissioner is made a member of the Board of Trustees of the American Flag House and Betsy Ross Memorial because the Board is connected with his Department.

§ 3-907. Board of Trustees of Atwater Kent Museum.

The Board of Trustees of the Atwater Kent Museum shall be constituted and its members shall be appointed in accordance with the agreement under which the City accepted the Museum by the ordinance of July 28, 1938.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, July 28, 1938.

Purposes: The Board of Trustees of the Atwater Kent Museum is continued as at present so as not to vary the terms of the agreement under which the City accepted the Museum for under the terms of the agreement, any variation might result in the loss by the City of the Museum.

§ 3-908. Reserved. 42

ANNOTATION

Law Department Note (2009): Department of Recreation and Fairmount Park Commission were reconstituted, and the Board of Trustees of Camp Happy was abolished, by amendment approved November 4, 2008. See Footnote to this Section.

Sources: The Administrative Code of 1929. Act of April 9, 1929, P.L. 177, Section 401, as amended.

Purposes: The Recreation Commissioner is made a member of the Board of Trustees of Camp Happy because it is connected with his Department.

§ 3-909. Gas Commission.

The Gas Commission shall be constituted and appointed in accordance with the provisions of such contract as may from time to time be in effect between the City and the operator of the City gas works, or, in the absence of a contract, in such manner as may be provided by ordinance.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, December 30, 1937.

Purposes: The composition of the Gas Commission is not specified because it is determined by the provisions of the contract in force from time to time between the City and the operators of the City Gas Works. Should there not be such an agreement in force at any time, Council is empowered to determine the composition of the Commission.

§ 3-910. Art Commission.

The Art Commission shall be composed of eight appointed members and the Commissioner of Public Property. Of the appointed members, one each shall be a painter, a sculptor, an architect, a landscape architect, a member of the Commission on Parks and Recreation, and an experienced business executive, and two shall be members of a faculty or governing body of a school of art or architecture. In all matters within the jurisdiction of the Commission pertaining to work under the special charge of any department of the City, the head of such department shall also for the time being act as a member but shall have no vote. 43

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 11.

Purposes: The Art Commission, formerly the Art Jury, is continued substantially as heretofore, with the addition of a landscape architect. The Commissioner of Public Property is made a member because the Commission is connected with his Department. Since the Commission from time to time passes on projects within the realm of other departments, the department head concerned is made a member at the time his project is being considered.

§ 3-911. Zoning Board of Adjustment.

The Zoning Board of Adjustment shall be composed of five appointed members. The Commissioner of Licenses and Inspections shall be an alternate member who may replace any absent or disqualified appointed member. 44

ANNOTATION

Sources: Ordinance of the City of Philadelphia, August 10, 1933.

Purposes: The Commissioner of Licenses and Inspections has been added to the Zoning Board because the Board is attached to his Department.

§ 3-912. Board of Building Standards.

The Board of Building Standards shall be composed of four appointed members and the Commissioner of Licenses and Inspections. The appointed members shall be men of recognized standing and experience in design and construction, and shall include at least one architect and one professional engineer, each registered under the laws of the Commonwealth of Pennsylvania.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, May 9, 1949.

Purposes: Persons experienced in the design and construction of buildings are required to be members of the Board of Building Standards. The Commissioner of Licenses and Inspections is made a member because the Board is connected with his Department.

§ 3-913. Board of License and Inspection Review.

The Board of License and Inspection Review shall be composed of not less than three members, and not more than six.

ANNOTATION

Sources: No specific source.

Purposes: The number of members constituting the Board of License and Inspection Review is left flexible so that the membership may be increased as the volume of the Board's cases grows.

§ 3-914. Tax Review Board.

Until the Council shall by ordinance otherwise provide, the Tax Review Board shall consist of the Director of Finance, the City Solicitor and the City Treasurer. If and when the Council shall so ordain, the Board shall consist of not more than five members who shall receive such compensation as the ordinance shall fix. One member shall be an accountant and one a lawyer.

ANNOTATION

Sources: No specific source.

Purposes: The Tax Review Board will consist originally of the Director of Finance, the City Solicitor and the City Treasurer because it is anticipated that the Board will not have a great volume of cases to review until Council defines the scope of matters that may be appealed to it. When its volume of business increases, the Board will consist of up to five members as the Council shall ordain. At that time an accountant and a lawyer will be required to be members of the Board because the Board will be concerned with review of tax cases and any one of the three members originally constituting the Board may be replaced.

§ 3-915. Sinking Fund Commission.

The Sinking Fund Commission shall consist of the Director of Finance, the City Controller and an experienced banker or investment banker.

ANNOTATION

Sources: Ordinances of the City of Philadelphia, June 19, 1857; and May 9, 1857; Act of June 25, 1919, P.L. 581, Article XIV, Section 1.

Purposes: The Director of Finance, the City Controller and an experienced banker or investment banker constitute the Sinking Fund Commission because its functions include the investment of moneys and the redemption or purchases of City Bonds. Section 6-208.

§ 3-916. Reserved. 45

ANNOTATION

Law Department Note (2009): Department of Recreation and Fairmount Park Commission were reconstituted, and the Board of Trustees of Camp Happy was abolished, by amendment approved November 4, 2008. See Footnote to this Section.

Sources: No specific source.

Purposes: One of the major problems which will confront the new Department of Recreation will be that of coordinating recreational activities conducted by the City, the Fairmount Park Commission and the Board of Public Education. Section 5-601. Representatives of the Fairmount Park Commission and the Board of Public Education are included to achieve the desired cooperation.

§ 3-917. Additional Advisory Boards.

The Mayor may upon the request of the head of any department or of his own volition appoint a board of seven citizens to act in an advisory capacity to such department regarding the department's work or any specified phase of it.

ANNOTATION

Sources: No specific source.

Purposes: Except for the Recreation Coordination Board, no advisory boards are created by the Charter. However, since it may be advisable in time to have such advisory boards, provision is made for their appointment.

- 40 Caption and Section amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 41 Amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 42 Section 3-908, Board of Trustees of Camp Happy, deleted by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 43 Amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 44 Amended by approval of the voters at the election held on May 18, 2010, and certified on June 7, 2010. See Bill No. 090591 (approved March 5, 2010); Resolution No. 090626 (adopted Feb. 25, 2010).
- 45 Section 3-916, Recreation Coordination Board, deleted by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).

CHAPTER 10 NOMINATING PANELS

§ 3-1000. Finance Panel.

The Finance Panel shall consist of the President of the Philadelphia Clearing House Association, the Chairman of the Philadelphia Chapter of the Pennsylvania Institute of Certified Public Accountants, and the Dean of the Wharton School of Finance and Commerce of the University of Pennsylvania who shall be chairman thereof.

ANNOTATION

Sources: No specific source.

Purposes: The Finance Panel, which is to recommend to the Mayor individuals from among whom one is to be appointed as Director of Finance, is composed of representatives of organizations concerned with and experienced and interested in the operation to be supervised and conducted by the Director of Finance.

§ 3-1001. Civil Service Panel.

The Civil Service Panel shall consist of the President of the University of Pennsylvania who shall be chairman thereof, the President of Temple University, the President of the Philadelphia Fellowship Commission, the Chairman of the Board of Trustees of the Bureau of Municipal Research, the President of the Philadelphia Chamber of Commerce, the Business Manager of the Central Labor Union of Philadelphia affiliated with the American Federation of Labor, and the President of the Philadelphia Industrial Union Council affiliated

with the Congress of Industrial Organizations.

ANNOTATION

Sources: No specific source.

Purposes: The Civil Service Panel, which is to recommend to the Mayor individuals from among whom three are to be appointed as Civil Service Commissioners, is composed of representatives of organizations interested in and concerned with good government and personnel and labor practices, and the attainment of a true merit system of City employment.

§ 3-1002. Substitution of Members.

If any of the organizations whose head is designated as a member of a nominating panel ceases to exist or if its head refuses to serve, the remaining members of the panel shall by a majority vote replace the organization with another of a similar nature, and its head shall become a member of the panel. In the event of the illness, absence from the City or other disability of any member at a time when nominations must be made, the vice president or other officer next in rank, of the organization which the member represents, shall serve in his stead.

ANNOTATION

Sources: No specific source.

Purposes: Nominating panels are made self-perpetuating bodies to assure their independence from domination and control of any particular City administration. Mere temporary inability of a representative to serve is covered by the provision that the official of his organization who is next in rank shall serve in his stead.

§ 3-1003. Procedure.

When any position is to be filled, for which a panel is required to submit nominations to the Mayor, the chairman of the panel shall convene it as soon as possible. The panel shall then submit to the Mayor in writing the names of three qualified persons for each position to be filled. The Mayor may return to the panel any list submitted to him and request additional lists until he fills the position.

ANNOTATION

Sources: No specific source.

Purposes: 1. The chairman of each panel, who is named in the Charter, is to convene it so that it may proceed to carry out the duty with which it is charged. Recommendations must be submitted in writing so that they shall be a matter of record.

2. In order to achieve the objectives for which panels are created and at the same time not to restrict the Mayor to the appointment of an individual who may be undesirable to him, the Mayor is empowered to reject lists submitted to him by a panel and to request as many additional lists as may be necessary until he is able to fill the position. This will permit the Mayor to appoint someone with whom he believes he will be able to work and at the same time assure that the person whom he appoints is qualified for the job. Of course, the Mayor is responsible to the voters if he rejects names submitted by a panel without a justifying reason.

ARTICLE IV

EXECUTIVE AND ADMINISTRATIVE BRANCH - POWERS AND DUTIES

The Mayor, The City Representative and Departments, Boards and Commissions under the Mayor

CHAPTER 1 THE MAYOR

§ 4-100. Chief Executive Officer.

The Mayor shall be the chief executive officer of the City. He shall be responsible for the conduct of the executive and administrative work of the City and for law enforcement within its boundaries.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article 11, Sections 1 and 6.

Purposes: The cornerstone of the strong-mayor form of government is the vesting of ultimate responsibility for the conduct of the executive and administrative work and law enforcement in the Mayor.

§ 4-101. Finances.

The Mayor shall:

- (a) Communicate to the Council at least once a year a statement of the finances and general conditions of the affairs of the City and also such information on financial matters as the Council may from time to time request;
- (b) Submit to the Council not later than ninety days before the end of the fiscal year his operating budget message and a proposed annual operating budget ordinance for the ensuing fiscal year. In the operating budget message the Mayor shall furnish to the Council the estimated surplus, or deficit, if any, of the current fiscal year and the estimated actual receipts of the City from all sources for the ensuing fiscal year which shall be available for meeting ordinary expenses and all other information pertinent to an operating budget, shall state the known liabilities of every kind which must be met during the year, and shall recommend appropriations included in the proposed annual operating budget ordinance;
- (c) In connection with his submission of the operating budget, recommend to the Council measures which he believes necessary to balance the budget;
- (d) At the same time that he submits to the Council the proposed operating budget for the ensuing fiscal year, also submit to the Council the recommended capital program and the recommended capital budget as received from the City Planning Commission to the extent approved by the Mayor;
- (e) See to it that the City does not, except in case of unforeseeable emergency, incur a deficit in any fiscal year.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 6, Article XVII, Section 1.

Purposes: 1. The Mayor, as the chief executive officer of the City, has the responsibility of shaping and of controlling fiscal policies, subject to powers conferred upon the Council. In discharging this responsibility, the Mayor must submit annually to the Council a financial report of the City and an operating budget message together with an operating budget ordinance. The content of the operating budget message is intended to give a complete picture of the City's financial position, retrospectively and prospectively. In connection with his operating budget, the Mayor is required to take the initiative as to recommendations for balancing the budget.

2. The Mayor is also required, as part of his fiscal duties, to submit annually a capital program and capital budget. These will be prepared in the first instance by the City Planning Commission, and will be submitted to the Mayor for submission to Council. However, in submitting the capital program and capital budget as recommended by the Commission, the Mayor is free to indicate the extent to which they are approved by him. Thus final recommendations as to capital fiscal policies are also made the Mayor's responsibility.

3. The Mayor has the general duty of preventing, except in cases of unforeseeable emergencies, the incurring of deficits in any fiscal year. Periodic reports to him through the Director of Finance will help him keep abreast of City financial developments. Should he see that a deficit is being incurred, he is empowered to require the various agencies of the government to reduce their expenditures to the extent deemed necessary. See Section 8-102.

§ 4-102. Recommendations and Information.

The Mayor shall recommend by message in writing to the Council all such measures connected with the affairs of the City, the protection and the improvement of its government and finances, and the promotion of the welfare of its people as he shall deem desirable. He shall cause to be published through the Procurement Department from time to time for the information of the public, bulletins on the work of the City government.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 6; the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 701, as amended.

Purposes: 1. The Mayor is empowered to initiate the consideration of legislation by the Council through the submission to the Council of messages recommending legislative measures in all fields of concern to the City government. This is an essential attribute of a chief executive under a strong-mayor form of government.

2. The Mayor is required to keep the public advised on the operation of the City government so that its citizens will be currently informed of the manner in which the chief executive is discharging his duties.

§ 4-103. Legislative Functions.

The Mayor shall have the power to call special meetings of the Council when required by public necessity, and to approve or disapprove ordinances in whole or in part as provided in the article on the Council.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 6.

Purposes: 1. The Mayor is empowered to require Council to meet in special sessions to act upon legislation required by public necessity so that any adjournment or recess of Council cannot serve as an excuse for a failure of legislative action.

2. The Mayor's veto power over legislation is a traditional attribute of the chief executive.

§ 4-104. Cabinet Meetings.

The Mayor shall call his Cabinet together periodically for the purpose of receiving reports on the condition of the City and making plans for the better administration of its government and for the progress of the City.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 6.

Purposes: The Mayor is empowered to convene his Cabinet for the review and planning of governmental measures and operations. No particular time for cabinet meetings is fixed because meetings at fixed periods might be unnecessary and burdensome.

§ 4-105. Promotion of the City.

It shall be the duty of the Mayor to exercise the powers of his office and to encourage among all the executive officers in the City the use of their official powers, to promote and improve the government of the City, to encourage the commercial and industrial growth of the City and of the Port of Philadelphia, and to promote and develop the prosperity and social well-being of its people.

ANNOTATION

Sources: No specific source.

Purposes: The Mayor is charged specifically with the duty of directing the efforts of the City government towards making the City a better place for its inhabitants. This envisages measures for commercial, industrial, economic and social well-being and development.

§ 4-106. Information and Complaints.

The Mayor shall establish an agency in his office for receiving and answering all requests for information about the City or its government. Such agency shall also receive and investigate complaints concerning the operation of the City government.

ANNOTATION

Sources: New York City Charter, 1938, Chapter 34.

Purposes: 1. Information about the City and its government should be readily available to citizens. To accomplish this, the Mayor is required to establish a public information center in his office.

2. The information agency is also to serve as the investigating arm of the executive branch. Its function is limited to investigations of the operation of the City government. However, the scope of such inquiries may encompass such matters as poor municipal services, corruption of City officials, and misapplication of City funds or property.

CHAPTER 2
CITY REPRESENTATIVE

§ 4-200. Ceremonial Representative. 46

Subject to the direction of the Mayor, the City Representative shall be the ceremonial representative of the City and especially of the Mayor for ceremonies and public appearances. The City representative shall manage the preparation and presentation of proclamations and citations on the Mayor's behalf and the presentation of official gifts of the City.

ANNOTATION

Sources: No specific source.

Purposes: The office of ceremonial representative is created to relieve a busy Mayor from the necessity of attending those public civic and social functions to which a Mayor is customarily invited. It will thus enable the Mayor to devote his time primarily to the operations of the City government. However, the Mayor will decide the extent to which the City Representative shall be his alter ego at public functions.

§ 4-201. Marketing and Publicity. 47

The City Representative shall use his or her best efforts to give wide publicity to any items of interest reflecting the activities of the City and its inhabitants and shall be responsible for the preparation of any bulletins to be issued for the information of the public on behalf of the Mayor. The City Representative shall be responsible for the marketing and promotion of the image of the City and shall be responsible for the design integrity of City-produced media content associated with the City's image or identity, including event photographs, broadly distributed departmental publications, use of the City seal and logo, and web-based material.

ANNOTATION

Sources: No specific source.

Purposes: The City Representative is required to publicize the City in order to attract commerce, industry, conventions, visitors and new residents to the City. This coincides with his duties as Director of Commerce. Section 4-500. Since his activities are in the realm of public information, the City Representative will prepare public information bulletins for the Mayor.

§ 4-202. Public Events and Other Duties. 48

The City Representative shall be responsible for the (1) City's production of ceremonial and special events; (2) review of and participation by the City in privately organized events located on public property; and (3) such other related duties as may be assigned by the Mayor.

Notes

46 Amended by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080006 (approved March 6, 2008); Resolution No. 080041 (adopted March 6, 2008).

47 Caption and Section amended by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080006 (approved March 6, 2008); Resolution No. 080041 (adopted March 6, 2008).

48 Added by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080006 (approved March 6, 2008); Resolution No. 080041 (adopted March 6, 2008).

CHAPTER 3 ADMINISTRATIVE BOARD

§ 4-300. Powers and Duties.

- (1) The Administrative Board shall approve or disapprove:
 - (a) All rules prescribed by departments, boards and commissions for their internal government;
 - (b) Those parts of the civil service regulations which deal with the position classification plan, pay plan, hours of work, holidays, and vacation and sick leave;
 - (c) The establishment of bureaus and divisions by departments, boards and commissions and the number of deputies in the several offices and departments;
 - (d) The payment of extra compensation for extra services to employees of departments, boards and commissions not in the civil service, all approvals to be certified to the City Controller prior to the rendering of such services;
 - (e) The transfer of inspection duties from any department, board or commission to the Department of Licenses and Inspections;
 - (f) Requests for the disposal of City records which are not needed for the current or anticipated future operations of any department, board or commission, and which date back a period of more than four years.
- (2) The Administrative Board shall determine from time to time:
 - (a) The hours when offices of the City government shall open and close;
 - (b) By what officers of the City in addition to those of whom fidelity bonds are required by this charter, and by what members of boards and commissions, and by what employees of the City fidelity bonds shall be given and in what amounts;
 - (c) Whether and within or above what limits the Procurement Department shall procure insurance covering liability of the City and its officers and employees;
 - (d) The number and type of automobiles and other vehicles to be purchased by the Procurement Department, acting either on its own behalf or as purchasing agent for any other department, board or commission;
 - (e) Above what limit proposals for the purchase of equipment, material or supplies must be submitted by the Procurement Department to the Director of Finance for approval.
- (3) The Administrative Board shall make and promulgate rules governing:
 - (a) The expenses for which officers and employees may be reimbursed;
 - (b) The use of City automobiles by officers and employees.
- (4) The Administrative Board shall from time to time investigate duplication of work of the several departments, boards and commissions, the efficiency of the organization and administration thereof, and the better coordination of the activities of such departments, boards and commissions.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 709, as amended.

Purposes: 1. The Administrative Board is generally responsible for the determination of uniform policies to govern the myriad of administrative details of government. Its purpose is to promote efficiency and economy at this level of government.

2. Rules for the internal government of the various agencies are passed upon by the Administrative Board so that they will be

uniform and in conformity with general administrative policy.

3. The Board is to pass upon phases of the civil service regulations which involve the expenditure of moneys so that the regulations will be financially realistic and in conformity with City fiscal policies.

4. The Board approves or disapproves the internal organization of departments, boards and commissions so that there will not be more bureaus, divisions and deputies than are necessary, and so that such as are authorized will fit into the established scheme of City government.

5. The approval or disapproval of the payment of extra compensation for extra services of employees not subject to civil service is required to make certain that the work for which extra compensation is to be paid is necessary and will be accomplished. A further check here is the requirement that all approvals shall be certified to the City Controller before extra services are rendered.

6. The Board is to approve the transfer of inspection duties to the Department of Licenses and Inspections so that this transfer will take place in an orderly manner and only after the Department of Licenses and Inspections is adequately staffed to handle them.

7. The Board is required to pass upon requests for the disposal of City records because it will be in a position to know which records are no longer needed from the point of view of over-all City operations.

8. The Board will determine when City offices are to be opened and closed so that policy in this respect will be as far as is possible uniform and related to the needs of the public and the City.

9. The Board will determine when fidelity bonds are required other than in the instances specified in the Charter and in what amounts they shall be so that policy in this respect may be uniform and determined on the basis of an over-all view of the need of protecting the City.

10. The Board will decide when liability insurance shall be procured so that it shall not be procured unnecessarily or in too large amounts.

11. The Board will determine how many and what kind of vehicles are to be procured for the City and will make rules governing the use of City automobiles so that economies may be achieved both in their acquisition and operation.

12. The Board is given discretion to determine above what limit proposals for purchases shall require the approval of the Director of Finance so that policy in this respect may remain flexible and be determined by the status of City finances and by general economic conditions.

13. The Board is to determine by rule the kind of expenditures for which officers and employees shall be reimbursed so that policy in this respect may be uniform and sound from the point of view of the expenditure of City funds.

14. The Board is charged with the general duty of preventing the duplication of work of the various agencies of the City government and of promoting of efficiency in such work and the improved coordination of the activities of the City agencies. The faithful performance of this duty should effect important economies.

15. Thus, while the shaping and development of broad City governmental policies remain a function of the Mayor and his Cabinet, the responsibility for controlling and regulating the many administrative details of City government is vested in a small compact Board which by virtue of its membership will be particularly qualified to discharge that responsibility.

CHAPTER 4 LAW DEPARTMENT

§ 4-400. Functions.

The Law Department shall have the power and its duty shall be to perform the following functions:

(a) Legal Advice. It shall furnish legal advice to the Mayor, to the Council and to all officers, departments, boards and commissions concerning any matter or thing arising in connection with the exercise of their official powers or performance of their official duties and except as otherwise expressly provided, shall supervise, direct and control all of the law work of the City.

(b) Litigation. The Department shall collect by suit or otherwise all debts, taxes and accounts due the City which shall be placed with it for collection by any officer, department, board or commission, and it shall represent the City and every officer, department,

board or commission in all litigation. It shall keep a proper docket, or dockets, duly indexed, in which it shall make and preserve memoranda of all such claims, showing whether they are in litigation and their nature and status.

(c) **Contracts and Bonds.** The Department shall prepare or approve all contracts, bonds and other instruments in writing in which the City is concerned, and shall approve all surety bonds required to be given for the protection of the City. It shall keep a proper registry of all such contracts, bonds and instruments.

(d) **Investigation and Law Enforcement.** With the approval of the Mayor, the Department shall investigate any violation or alleged violation within the City of the statutes of the Commonwealth of Pennsylvania or the ordinances of the City which may come to its notice, and shall take such steps and adopt such means as may be reasonably necessary to enforce within the City such statutes and ordinances.

(e) **Drafting and Codification of Ordinances.** Upon request of the Council or of any councilman, or of the Mayor, the Department shall prepare or assist in preparing any ordinance for introduction into the Council, and within two years after the effective date of this charter, it shall prepare and submit to the Council for its consideration, a comprehensive revision and codification of all the general ordinances of the City which are still in effect.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XIII, Sections 3 and 4; the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Article IX, as amended.

Purposes: 1. The Law Department is to be the legal advisor of the Mayor, the Council and all the agencies of the City government. Its work will be primarily concerned with civil rather than criminal aspects of law enforcement. It will thus handle all City litigation. It will prepare and approve for legal sufficiency all City contracts and bonds. It will assist the Council, the Mayor and City agencies in the preparation of ordinances for introduction into Council.

2. To the extent that the Mayor approves, the Law Department is empowered to investigate violations within the City of State laws or City ordinances and to take reasonably necessary steps to bring about the enforcement of such statutes or ordinances. This section is not intended to transfer to the Law Department the traditional prosecuting powers of the office of the District Attorney, but it does empower the Law Department, short of exercising such powers, to act in the law enforcement field.

3. The Law Department is charged with the specific duty of preparing for submission to the Council a comprehensive revision and codification of all the general ordinances of the City which are still in effect. See Annotation to Section 2-304.

§ 4-401. Access to Records.

The City Solicitor shall have the right of access at all times to the records of any officer, department, board or commission of the City.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 908.

Purposes: This section is necessary to enable the City Solicitor to perform the duties of his office.

CHAPTER 5 DEPARTMENT OF COMMERCE AND ITS DEPARTMENTAL BOARD

§ 4-500. Functions.

The Department of Commerce shall have the power and its duty shall be to perform the following functions:

(a) **Promotion of economic development activity within the City of Philadelphia.** It shall promote and develop opportunities for business growth in the City and the City's commerce and industry, and shall encourage the increased use of the Port and airports of Philadelphia and Philadelphia's workforce. 49

(b) **Wharf, Dock and Harbor Facilities.** The Department shall itself, or by contract, maintain, improve, repair and operate City wharf, dock and harbor facilities; when authorized by the Council, acquire, design and construct additional such facilities; and conduct

necessary harbor cleaning, deepening, dredging and ice-breaking operations and maintain and operate equipment for such purposes. The Department may grant leases and licenses for the use of City wharf, dock and harbor facilities.

(c) Airport Facilities. The Department shall itself, or by contract, maintain, improve, repair, and operate City airport facilities and equipment and when authorized by the Council acquire, design and construct additional such facilities. The Department may grant leases and licenses for use of City airport facilities.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article VI, Section 3, as amended, Article IX.

Purposes: 1. A new Department of Commerce is established to foster and promote the commercial and industrial growth of the City and of the Port of Philadelphia.

2. City wharf, dock, harbor and airport facilities are to be managed by the Department of Commerce because of their relationship to the flow of commerce from and to the City. The utilities were formerly managed by the Department of Wharves, Docks and Ferries and the Department of Public Works.

3. The general powers and duties of the Department of Commerce relating to wharf, dock and harbor and airport facilities include the maintenance, improvement, repair and operation of such facilities. The Department may itself perform these functions or enter into contracts for their performance. The Department is specifically authorized to grant leases and licenses for the use or operation of commerce facilities. Thus the Department will be able to provide food at City airports by restaurant concession contracts; grant licenses for loading or unloading at City docks; and license the use by commercial airlines of City airport facilities. Expansion of facilities may be undertaken only upon the authorization of Council since it would involve, as a rule, substantial expenditures.

§ 4-501. Rates and Charges.

The Department of Commerce shall fix rates and charges for the use of City wharf, dock and harbor, and airport facilities as authorized by ordinance. The accounts for each such facility shall contain proportionate charges for all services performed for it by officers, departments, boards or commissions as well as proportionate credits for all services rendered.

ANNOTATION

Sources: No specific source.

Purposes: The Department of Commerce may fix rates and charges for use of its facilities in accordance with whatever general policy Council establishes by ordinance. Recoupment of costs is not required because inter-city competition in attracting commerce may necessitate the furnishing of services and facilities at an operating loss. Cf. Section 5-801. The keeping of separate rate accounts is required so that it will be possible to know whether or not facilities are operating at a loss or a profit, a factor which will influence policy determining rates and charges.

§ 4-502. Board of Trade and Conventions.

The Board of Trade and Conventions shall manage the Commercial Museum, Exhibition and Convention Halls and grounds. It may lease for a charge or grant the use without charge of the Exhibition Hall of the Commercial Museum and the Convention Hall for holding exhibitions, conventions and for other suitable purposes, upon such terms and conditions as it shall see fit. Permission may be granted to such individuals or organizations to charge an admission fee and also to charge exhibitors for the use of space therein but all parts of the buildings or grounds of the Commercial Museum shall be otherwise open to the free access of the public.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, December 22, 1932.

Purposes: The Board of Trade and Conventions replaces the Board of Trustees of the Commercial Museum, Exhibition and Convention Halls. The Board was renamed to indicate more clearly its primary functions which are continued without any substantial change. The Board has been connected with the Department of Commerce because it is concerned primarily with the promotion of activities relating to industry and commerce.



49 Amended by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080006 (approved March 6, 2008); Resolution No. 080041 (adopted March 6, 2008).

CHAPTER 6 CITY PLANNING COMMISSION

§ 4-600. Physical Development Plan of the City.

The City Planning Commission shall prepare and adopt, from time to time modify, and have custody of a comprehensive plan of the City showing its present and planned physical development. The comprehensive plan shall be known as the Physical Development Plan of the City and shall show the general location, character and extent of streets, parks, recreation facilities, sites for public buildings and structures, pierhead and bulkhead lines, City and privately owned utility facilities, waterways, water conduits and such other features as will provide for the improvement of the City and its future growth and development and afford adequate facilities for the housing, transportation, distribution, health and welfare of its population. The Physical Development Plan may be prepared as a whole or in successive parts corresponding to major geographical sections of the City or to functional subdivisions of the subject matter of the plan, as the Commission shall determine. The Commission shall transmit the Physical Development Plan or any part and any modification thereof to the Mayor and to the Council.

ANNOTATION

Sources: New York City Charter, 1938, Section 197; Model City Charter (1941) Sections 130 and 131.

Purposes: 1. The orderly physical development of a city requires current and long-term planning. A master development plan is an important aid to such planning and the Physical Development Plan will furnish the City with such a plan. The Plan is required to show structures and physical and natural conditions subject to regulation, control or modification by the City and important to the physical development of the City. Development of the City is used in the broad sense to include structures and conditions affecting the housing, distribution, health and welfare of its population.

2. Since the preparation of the over-all Physical Development Plan is a task of major proportions, provision is made for its preparation in successive parts, according to geographical subdivisions of the City, or by functional subdivisions, such as transportation, housing, water supply, and the like.

3. It is a duty of the Commission to prepare the Plan and then to submit it and modifications of it to the Mayor and City Council so that both the executive and legislative branches of the government will be apprised of its content when considering any action which may impinge upon it.

4. While there is no express provision for the Commission to hold hearings on its proposals concerning the Physical Development Plan, such hearings are not precluded and, as a matter of sound procedure and good public relations, should be held.

5. For the effect of the Physical Development Plan see Sections 2-307, 4-604 and 8-206.

§ 4-601. Proposed Zoning Ordinances, Maps and Amendments.

The City Planning Commission shall prepare proposed zoning ordinances, which may embody regulations and maps, and amendments thereto, and submit such proposed zoning ordinances and amendments thereto to the Mayor for transmission to the Council.

ANNOTATION

Sources: New York City Charter, 1938, Section 200; Model City Charter (1941) Section 127.

Purposes: 1. The zoning laws of a city should be related to its physical development planning. This relationship is to be achieved by having the City Planning Commission prepare proposed zoning ordinances, which as a matter of practice may embody regulations and maps. However, the enactment of proposed zoning ordinances into law is a function of the Council.

2. For the relationship of zoning legislation and recommendations of the City Planning Commission, see Sections 2-307 and 4-604.

§ 4-602. Capital Program and Budget.

At least one hundred and twenty days before the end of the fiscal year, the City Planning Commission shall prepare and submit to the Mayor a recommended capital program for the six fiscal years next ensuing and a recommended capital budget for the ensuing fiscal year.

ANNOTATION

Sources: New York City Charter, 1938, Section 218; Model City Charter (1941) Section 127.

Purposes: 1. The capital program and capital budget are vital steps in planned city development. For that reason their initial preparation is a function of the City Planning Commission.

2. For the relationship between capital program and budget legislation and the recommendations of the City Planning Commission see Sections 2-303 and 4-604.

§ 4-603. Streets and Land Subdivision.

The City Planning Commission shall prepare regulations governing the subdivision of land and submit them to the Mayor for transmission to Council. The Commission shall approve or disapprove plans of streets and revisions of such plans, and land subdivision plans, except that if it fails to act within forty-five days, its approval may be presumed.

ANNOTATION

Sources: No specific source.

Purposes: 1. The laying out of city streets and the subdivision of city land are integral parts of planned city development. For this reason, regulations governing the subdivision of land, as well as the approval or disapproval of plans of streets and revision of such plans and land subdivision plans, fall within the province of the City Planning commission. The Commission has forty-five days instead of thirty to approve such matters because of their technical nature.

2. For the relationship between legislation affecting the subject matter of this section and the recommendations of the commission, see Sections 2-307 and 4-604.

§ 4-604. Recommendations to Council.

The City Planning Commission shall make recommendations, to be transmitted to the Council through the Mayor, on all bills originating in the Council which shall in any manner affect any zoning ordinance, the Physical Development Plan of the City, or the capital program, or which would authorize the acquisition or sale of City real estate. Unless such recommendations are received by the Council within thirty days from the date any such bill shall have been introduced, the approval of the Commission shall be presumed.

ANNOTATION

Sources: No specific source.

Purposes: 1. The recommendations of the City Planning Commission are required on all legislation originating in the Council which affects in any manner any subject matter within the jurisdiction of the Commission so that Council will have an opportunity to be advised of the effect of such proposed legislation on City development. The Commission with its expert knowledge and its facilities for appraising all such legislation is thus required to render technical assistance to the Council to enable the Council to act in a completely informed manner in this area. To assure the Council of necessary freedom on action, the Commission is required to furnish its report to the Council within specified time limits.

2. Council, after it has received the recommendations of the Commission, or if the Commission fails to act within the required time, remains free to take such action with respect to the proposed legislation as it deems fit. See Section 2-307. It is not required that the Commission's action shall be binding on the Council or that more than a majority vote of the Council shall be necessary to override the Commission's recommendation because experience in other cities indicates that such restrictions are not in the best interests of well-planned city development.

3. While the Charter does not require public hearings before the Commission on matters upon which the Commission is empowered to act, such hearings are required to be held whenever any matter within the jurisdiction of the Commission reaches the

legislative stage. See Section 2-201. The Physical Development Plan is not to be adopted legislatively, but good Commission procedure and public relations will result in the Commission scheduling hearings on important aspects of the Plan. The Commission is not precluded from holding public hearings on other matters within its jurisdiction and here too sound procedure and good public relations should result in hearings being held on important questions.

CHAPTER 7

COMMISSION ON HUMAN RELATIONS

§ 4-700. Powers and Duties.

The Commission on Human Relations shall administer and enforce all statutes and ordinances prohibiting discrimination against persons because of race, color, religion or national origin, and shall also exercise the powers and perform the duties heretofore exercised and performed by the Philadelphia Fair Employment Practice Commission. The Commission shall institute and conduct educational programs to promote the equal rights and opportunities of all persons, regardless of their race, color, religion or national origin. Such programs shall include the promotion of understanding among persons and groups of different races, colors, religions and national origins. In the performance of its duties the Commission may cooperate with interested citizens and with public and private agencies.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, March 12, 1948.

Purposes: 1. The powers and duties of the commission on Human Relations are broader in scope than those of the Philadelphia Fair Employment Practices Commission because the essential problem present in the area of prohibiting discrimination because of race, color, creed, or national origin in the employment field is present in many other areas of human relations. The Commission on Human Relations takes over the specific powers and duties of the Philadelphia Fair Employment Practices Commission. But for the reason stated, it is given the larger jurisdiction of administering and enforcing all statutes and ordinances prohibiting discrimination where such jurisdiction is not vested specifically in any other agency. For example, while the Civil Service Commission will hear appeals of civil service employees whose dismissal, demotion or suspension is alleged to have been due to discrimination because of race, color, religion or national origin (See Section 7-201), the Commission on Human Relations will deal with problems of such discrimination arising in the hiring of City employees. For a person discriminated against in the hiring process has no appeal under the Charter to the Civil Service Commission. See Section 7-201.

2. Because the combating of discriminatory practices is not solely a problem of legally enforceable prohibitions against discrimination, but involves to a very great extent education, the Commission is charged with the duty of instituting and conducting educational programs which will promote equality of right and opportunity where at present such equality is lacking because of discriminatory practices based on race, color, religion or national origin. The promotion of understanding among different peoples is one of the educational functions of the Commission.

§ 4-701. Investigation.

The Commission on Human Relations shall receive and may investigate complaints of, and may initiate its own investigations of, practices of discrimination against any person because of race, color, religion or national origin. It may hold public hearings for such purposes and make public its findings.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, March 12, 1948.

Purposes: As a part of its law enforcement and educational program, the Commission is empowered to investigate complaints of or on its own initiative to undertake investigations of discriminatory practices. The exercise of this power is not limited to legally prohibited discriminations. Public hearings and public findings are authorized in the belief that they will promote education, inhibit discriminatory practices, and yield factual data for any necessary action, executive or legislative.

§ 4-800. Powers and Duties in General.

Subject to the provisions of this charter, the Board of Trustees of the Free Library of Philadelphia shall exercise the powers and perform the duties vested in and imposed upon it by statute or ordinance.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, December 31, 1894.

Purposes: The powers and duties of the Board of Trustees of the Free Library of Philadelphia have been continued substantially as at present, subject to other provisions of the Charter of general application, such as those pertaining to civil service and procurement, because no urgent reasons for their modification were presented and because of a desire not to affect otherwise any contractual arrangements whereby the Free Library received funds from private sources for establishing public libraries.

**CHAPTER 9
PHILADELPHIA TAX REFORM COMMISSION 50**

§ 4-900. Powers and Duties.

(a) Within sixty days after its creation, the Philadelphia Tax Reform Commission shall convene its first meeting in the City Council chambers and thereafter the Commission shall meet at least monthly at such times and at such places as determined by the Commission. Members of the Advisory Committee shall be provided notice of all meetings of the Commission in the same manner as notice is provided to members of the Commission, and shall be permitted to attend all such meetings. The purpose of the Commission is to conduct a comprehensive analysis of and make recommendations regarding reforms to the tax structure and all taxes imposed in Philadelphia and the tax structure of the Commonwealth of Pennsylvania which affects Philadelphia and all counties in Pennsylvania, including but not limited to the wage tax, the business privilege tax, the net profits tax, the gross receipts tax, the amusement tax, the use and occupancy tax, the real property tax, the school income tax, the real estate transfer tax, the liquor-by-the-drink tax, the parking tax, the Philadelphia sales tax, the hotel bed tax and any other taxes imposed by the City and by the School District, as well as real estate tax abatements, tax increment finance districts, Empowerment Zones, Keystone Opportunity Zones, and any other programs that use tax abatements or exemptions as economic development tools. The Commission shall also examine all laws of the Commonwealth of Pennsylvania that authorize or limit the ability of the City to impose taxes. The Commission shall analyze each tax to determine why it is imposed, how much revenue the tax generates, the impact of the tax on businesses or residents and the Philadelphia economy, whether it may be eliminated or consolidated with another tax or otherwise simplified, and whether and to what extent the rate of the tax may be decreased in a fiscally and socially responsible manner. The Commission shall also compare and contrast the tax structure in Philadelphia to the tax structures in jurisdictions that have experienced growth in residents and businesses, using accepted models of economic analysis. The Commission's work shall be guided by the principle that Philadelphia's tax structure should enhance and improve Philadelphia's ability to compete with other jurisdictions in the region and throughout the nation in attracting new residents, businesses and jobs and retaining current residents, businesses and jobs. The Commission's work shall also be guided by the principle of tax fairness and tax equity in apportioning tax burdens. The Commission shall, subject to the availability of appropriations, appoint and fix the compensation of an executive director and such other staff as may be required for the proper conduct of its work (provided that the appointment of an executive director shall require a vote of two-thirds of all the members of the Commission), and it shall invite the participation of any staff or Board members of each of the organizations that appoint members to either the Commission or the Advisory Committee as set forth in subsections 3-805(d) and (e), as well as utilize any available resources, studies or reports of any such organization. The Commission may also, subject to the availability of appropriations, retain as consultants any other organization or individual with regionally or nationally recognized expertise in local tax policy or municipal finance. The Commission's Advisory Committee shall provide technical, economic and public policy advice to the Commission. All departments, boards, commissions and other City agencies shall cooperate fully with the Commission in the performance of its duties and responsibilities and shall provide any and all documents, data, analyses or other information related to revenues, taxes, or tax policy requested by the Commission, except documents the nondisclosure of which is legally privileged or which have been prepared for or by the Law Department for use in actions or proceedings to which the City is or may be a party, and provided that the Commission shall maintain the confidentiality of any documents, data, analyses or other related information upon the written request by any City agency that the material being provided to the Commission be treated as confidential. The Commission shall hold at least two public hearings in the Council chambers to receive testimony from the public concerning tax reform.

(b) On November 15, 2003, the Commission shall by a vote of two-thirds of all members of the Commission adopt a written report containing specific recommendations solely related to proposed changes to the Philadelphia tax structure in order to decrease the overall tax burden of Philadelphia residents, individuals who work in Philadelphia, and Philadelphia businesses. The Commission shall also consider recommendations made by the Advisory Committee in the development of its report. The Commission shall also make recommendations related to state-wide tax reform, including public education funding, that will enhance and improve the overall tax structures in Philadelphia and all other counties in the Commonwealth of Pennsylvania. The Commission shall not make any recommendations related to any expenditure reductions, municipal government cost savings, or municipal government service reductions to offset any potential revenue reductions which may result from the implementation of any recommendations set forth in the Commission's report. The Commission shall provide copies of its report to the Mayor, each member of Council and the Clerk of Council, to each of the Commission's appointing authorities, and to each member of the Advisory Committee, and the Commission shall see to it that copies are provided to all public libraries in the City and that a copy is posted on the City's official Internet site. The Commission shall also provide copies of its report to the Governor, the President Pro Tempore of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, the Majority Leader of the House of Representatives, and the Minority Leader of the House of Representatives. For each recommendation that requires action by the Council or the General Assembly, the report shall include a proposed ordinance or bill implementing the recommendation with a fiscal impact statement and an econometric analysis of the projected revenue change, if any, resulting from such recommendation. The Commission shall also publish and distribute with its report any minority report adopted by three or more members of the Commission.

(c) After issuing its report, the Commission shall thereafter be reconvened only as directed by a resolution of the Council adopted by a two-thirds vote of all the members of the Council, provided that the Commission shall not be reconvened until at least five years have elapsed since the date the Commission adopted its last report. Within sixty days after adoption of such a resolution, new members of the Commission and its Advisory Committee shall be appointed in accordance with the appointment process set forth in Section 3-805, provided that any former member of the Commission or the Advisory Committee may be reappointed as a member of the Commission or Advisory Committee.

(d) Nothing in this Section shall be construed to prevent any member of Council or the Mayor from proposing, enacting, or approving at any time any bill relating to taxes or tax reform.

Notes

50 Added November 5, 2002, by approval of the voters. See Bill No. 020255 (approved June 12, 2002); Resolution No. 020264 (adopted May 16, 2002).

CHAPTER 10 INSURANCE PUBLIC ADVOCATE 51

§ 4-1000. Powers and Duties. 52

The Insurance Public Advocate shall have the power and its duty shall be to perform the following functions:

- (a) Represent the interests of Philadelphia insurance consumers.
- (b) Investigate insurance rate disparities affecting Philadelphia insurance consumers, investigate any unlawful practices in the Philadelphia insurance market, and pursue all legal, political and economic remedies as appropriate.
- (c) Appear as a party representing Philadelphia insurance consumers in administrative and judicial proceedings, including either intervening in or initiating litigation on behalf of Philadelphia insurance consumers through administrative rate challenges and/or private litigation. Notwithstanding any other provision of this Charter to the contrary, the Insurance Public Advocate may, at his or her discretion, and subject to the availability of appropriations, use the services of the Law Department or the services of attorneys who are appointed to the office of the Insurance Public Advocate pursuant to subsection 4-1000(g), or retain the services of private counsel, to represent the Insurance Public Advocate in such matters.
- (d) Initiate consumer education programs and rate-shopping guidelines tailored to Philadelphia insurance consumers.

(e) Take or recommend action to stimulate insurance market competition in Philadelphia, with the goal of lowering premiums for Philadelphia insurance consumers.

(f) Lobby for an insurance consumer Bill of Rights, and lobby for other legislative and administrative reform on behalf of Philadelphia insurance consumers.

(g) Appoint and fix the compensation of such employees as may be required for the proper conduct of the work of the office of the Insurance Public Advocate. The number and compensation of such employees shall not be subject to the approval of any other officer.

Notes

51 Chapter 10 added by approval of the voters at the election held on November 4, 2003, and certified on December 1, 2003. See Bill No. 030220 (approved May 15, 2003); Resolution No. 030231 (adopted May 1, 2003). Enrolled Resolution read "Chapter 9". Renumbered to Chapter 10.

52 Enrolled Resolution read "§ 4-900". Renumbered as § 4-1000.

**CHAPTER 11
BOARD OF ETHICS 53**

§ 4-1100. Powers and Duties. 54

The Board of Ethics shall administer and enforce all provisions of this Charter and ordinances pertaining to ethical matters, which for purposes of this Chapter shall include conflicts of interest, financial disclosure, standards of governmental conduct, campaign finance matters, prohibited political activities, and such additional related matters as the Council may from time to time assign to the Board. The Board shall handle all inquiries and complaints surrounding ethical matters and, notwithstanding the provisions of Section 4-400(a) and Section 8-410 of this charter, the Board shall render advisory opinions; provided that, with respect to opinions regarding State law, the Law Department, at the option of an employee requesting advice, shall have concurrent authority to render advisory opinions. The Board shall have the power to conduct investigations and convene hearings. The Board shall conduct its enforcement activities either by bringing enforcement actions in the Court of Common Pleas or, if authorized by Council by ordinance, administratively adjudicating alleged violations and imposing civil penalties and other remedies for violations. The Board shall prepare and disseminate a Code of Ethics Manual for use by all City officers and employees and conduct educational and training programs for all City officers and employees.

In addition, and subject to the provisions of this charter, the Board of Ethics shall exercise such other powers and duties vested in and imposed upon it by ordinance.

Notes

53 Chapter 11 added by approval of the voters at the election held on May 16, 2006, and certified on June 5, 2006. See Bill No. 040769 (approved December 15, 2005); Resolution No. 040817 (adopted December 1, 2005). Enrolled Resolution read "Chapter 10". Renumbered as Chapter 11.

54 Enrolled Resolution read "§ 4-1000". Renumbered as § 4-1100.

**CHAPTER 12
YOUTH COMMISSION 55**

§ 4-1200. Powers and Duties.

(a) The Youth Commission shall advise and comment to the Council, the Mayor, agencies and departments of the City on proposed ordinances, other legislative matters and policies which are of concern to the children and youth of the City and shall exercise such other powers and duties that Council may, from time to time, vest in it by ordinance.

(b) The Commission shall prepare an annual report on its activities, goals, and accomplishments and shall file this report with the chief clerk of the Council before March 31 of each year.

Notes

55 Chapter 12 added by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060581 (approved January 23, 2007); Resolution No. 060596 (adopted December 14, 2006).

**CHAPTER 13
ZONING CODE COMMISSION 56**

§ 4-1300. Powers and Duties. 57

(a) Within sixty days after its creation, the Zoning Code Commission shall convene its first meeting. Thereafter the Commission shall meet at least monthly, or no less than 10 times per year, at such times and at such places as determined by the Commission. All meetings shall be open to the public and such meetings shall be publicized through a notice that will specify whether there will be an opportunity for the public to comment.

(1) The Commission shall conduct a comprehensive analysis of and make recommendations regarding reforms to the Philadelphia Zoning Code. The Commission shall analyze the Zoning Code to determine each section's intent, its impact on residential, commercial and industrial development, the costs associated with the Zoning Board of Adjustment including its current caseload and whether the Code may be consolidated or simplified to make it more consistent and easy to understand and to reduce the number of appeals to the Zoning Board of Adjustment while still maintaining community input and neighborhood controls. The Commission shall also compare the Zoning Code to the zoning code in jurisdictions that have experienced growth in residents and businesses, using accepted models of analysis. The Commission's work shall be guided by the principles that Philadelphia's Zoning Code should be consistent and easy to understand, should help shape future construction and development, and should enhance and improve Philadelphia's development approval process while encouraging positive development and protecting the character of Philadelphia's neighborhoods.

(2) The Commission shall, subject to the availability of appropriations, appoint and fix the compensation of an executive director and such other staff as may be required for the proper conduct of its work (provided that the appointment of an executive director shall require a vote of two-thirds of all the members of the Commission), and it shall invite the participation of any staff of the Mayor or the Council and any member or staff of the City Planning Commission, as well as utilize any available resources, studies or reports of any such office. The Commission may also, subject to the availability of appropriations, retain as consultants any organization or individual with regionally or nationally recognized expertise in city planning or zoning.

(3) All departments, boards, commissions and other City agencies shall cooperate fully with the Commission in the performance of its duties and responsibilities and shall provide any and all documents, data, analyses or other information related to construction, development and zoning requested by the Commission, except documents the nondisclosure of which is legally privileged or which have been prepared for or by the Law Department for use in actions or proceedings to which the City is or may be a party, and provided that the Commission shall maintain the confidentiality of any documents, data, analyses or other related information upon the

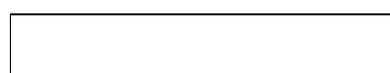
written request by any City agency that the material being provided to the Commission be treated as confidential. The Commission shall hold at least two public hearings in the Council chambers to receive testimony from the public concerning zoning code reform. These hearings shall be in addition to those hearings required for the consideration of any legislation the Commission submits to Council.

(b) On or before June 30, 2008, unless Council by a resolution adopted by a two-thirds vote of all the members of the Council approves an extension, the Commission shall by a vote of two-thirds of all members of the Commission adopt a written preliminary report containing specific recommendations solely related to proposed changes to the Philadelphia Zoning Code, ("Zoning Code Proposals"), including drafts of all legislation required to implement the Zoning Code Proposals; and recommendations, including a timetable and specific milestones, on how to proceed with a comprehensive revision of the City's zoning maps ("Zoning Map Revision Plan"). The Commission shall provide copies of its report to each of the Commission's appointing authorities and to each member of Council and to the Clerk of Council, and the Commission shall see to it that copies are provided to all public libraries in the City and that a copy is posted on the City's official Internet site. The Commission shall also publish and distribute with its preliminary report any minority report adopted by more than six members of the Commission.

(c) After issuing its report, the Commission shall thereafter be reconvened only as directed by a resolution of the Council adopted by a two-thirds vote of all the members of the Council, provided that no such resolution reconvening the Commission shall be adopted until at least five years have elapsed since the date the Commission adopted its last report. Within sixty days after adoption of such a resolution, new members of the Commission shall be selected in accordance with the selection process set forth in Section 3-808, 58 provided that any former member of the Commission may be reappointed as a member of the Commission.

(d) Within forty-five (45) days after the Commission issues its report, Council shall convene public hearings in Council Chambers to review the Commission's Zoning Code Proposals. Within thirty (30) days of the close of said hearings, Council may enact a resolution setting forth recommendations to the Commission concerning the Zoning Code Proposals, which the Chief Clerk of Council shall transmit to the Commission. The Commission shall review and may incorporate such recommendations into a final report. The Commission shall issue its final report within thirty (30) days of receiving Council's recommendations, or, if Council does not enact a resolution setting forth its recommendations within thirty (30) days after the close of the required public hearings, the Commission shall issue its final report no later than sixty (60) days after the close of such hearings. Council shall either enact into law, reject or table the Commission's Zoning Code Proposals contained within the final report in their entirety by the later of (i) sixty (60) days after the Commission issues its final report or (ii) the fifth Council meeting after the Commission issues its final report.

(e) Within one hundred eighty days after the Commission issues its report, the City Planning Commission shall adopt or reject the Commission's Zoning Map Revision Plan in its entirety. If the City Planning Commission rejects the Commission's Zoning Map Revision Plan, the City Planning Commission shall simultaneously adopt an Alternate Zoning Map Revision Plan, including a timetable and specific milestones. The City Planning Commission shall thereafter proceed pursuant to said adopted plan or alternate plan, provided that the City Planning Commission may from time to time adopt amendments to said plan, as appropriate.



Notes

56 Chapter 13 added by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060699 (approved February 21, 2007); Resolution No. 060716-AA (adopted February 8, 2007). Enrolled Resolution read "Chapter 12". Renumbered as Chapter 13.

57 Enrolled Resolution read "§ 4-1200". Renumbered as § 4-1300.

58 Enrolled Resolution read "Section 3-807". Renumbered as Section 3-808.

§ 4-1400. Powers and Duties.

The Public School Family and Child Advocate shall have the power and its duty shall be to perform the following functions:

(a) Act as an advocate for children in the public schools and their families with respect to all educational and related matters.

(b) Advise and inform families as to their rights under federal, state and local law with respect to educational and related matters, including, but not limited to, rights under the federal "No Child Left Behind Act" and rights accruing to children identified as special needs or at risk children, and act as an advocate for children and their families in securing such rights.

(c) Appoint and fix the compensation of such employees as may be required for the proper conduct of the work of the office of the Public School Family and Child Advocate, including, but not limited to, assistant advocates. The number and compensation of such employees shall not be subject to the approval of any other officer.

Notes

59 Added by approval of the voters at the election held on November 6, 2007, and certified on November 26, 2007. See Bill No. 070340 (approved September 20, 2007); Resolution No. 070360 (adopted June 14, 2007).

**CHAPTER 15
HANDICAPPED AND DISABLED ADVOCATE 60**

§ 4-1500. Powers and Duties.

The Handicapped and Disabled Advocate shall have the power and its duty shall be to perform the following functions:

(a) Act as an advocate for all handicapped and disabled persons with respect to all matters relating to their handicaps or disabilities.

(b) Advise and inform handicapped and disabled persons as to their rights under federal, state and local law with respect to handicapped and disability issues, including but not limited to rights under the federal "Americans With Disabilities Act" and act as an advocate for all persons with a handicap or disability in securing such rights.

(c) Appoint and fix the compensation of such employees as may be required for the proper conduct of the work of the office of the Handicapped and Disabled Advocate, including, but not limited to, assistant advocates. The number and compensation of such employees shall not be subject to the approval of any other officer.

Notes

60 Added by approval of the voters at the election held on November 6, 2007, and certified on November 26, 2007. See Bill No. 070395 (approved September 20, 2007); Resolution No. 070411 (adopted June 14, 2007).

**CHAPTER 16
JOBS COMMISSION 60.1**

§ 4-1600. Powers and Duties.

(a) Within sixty days after its creation, the Jobs Commission shall convene its first meeting. Thereafter the Commission shall meet at least monthly, at such times and at such places as determined by the Commission, provided that the Commission shall hold at least two public meetings in the Council chambers to receive testimony from the public. All meetings shall be open to the public and such meetings shall be publicized through a notice that will specify whether there will be an opportunity for the public to comment.

(b) The purpose of the Commission is to determine how City government and other public, quasi-public and non-profit agencies can best marshal their resources in a consistent, comprehensive, and coordinated manner to create and preserve private sector jobs for Philadelphians. To that end, the Commission shall identify all entities that play a significant role, either directly or indirectly, in influencing the growth of the local private sector economy; evaluate the effectiveness of those entities, including, but not limited to, the extent to which their respective initiatives are coordinated with each other; articulate the key factors that contribute to or impede the growth and retention of private sector jobs for Philadelphians; identify successful job creation policies and initiatives used in other jurisdictions; develop a set of principles to guide future decision-making with respect to job creation initiatives; and, through the application of those principles, develop specific recommendations for reform. The analysis undertaken by the Commission shall encompass, but not be limited to, the following areas of concern: job training; workforce development; economic development, including land acquisition and disposition; education; licensing, zoning, and other regulatory processes; and tax policies.

(c) The Commission shall, subject to the availability of appropriations, appoint and fix the compensation of an executive director and such other staff or consultants as may be required for the proper conduct of its work (provided that the appointment of an executive director shall require a vote of two-thirds of all the members of the Commission).

(d) All departments, boards, commissions and other City agencies shall cooperate fully with the Commission in the performance of its duties and responsibilities and shall provide any and all documents, data, analyses or other information related to the creation and preservation of private sector jobs requested by the Commission, except documents the nondisclosure of which is legally privileged or which have been prepared for or by the Law Department for use in actions or proceedings to which the City is or may be a party, and provided that the Commission shall maintain the confidentiality of any documents, data, analyses or other related information upon the written request by any City agency that the material being provided to the Commission be treated as confidential.

(e) On or before January 31, 2012, unless Council by resolution approves an extension, the Commission shall by a vote of two-thirds of all members of the Commission adopt a written report containing its findings, and providing specific recommendations aimed at accelerating the creation and preservation of private sector jobs for Philadelphians, including a description of proposed legislation that may be required. The Commission shall provide copies of its report to each of the Commission's appointing authorities and to each member of Council and to the Clerk of Council, and the Commission shall see to it that copies are provided to all public libraries in the City and that a copy is posted on the City's official website.

(f) After issuing its report, the Commission shall thereafter be reconvened only as directed by a resolution of the Council. Within thirty days after adoption of such a resolution, new members of the Commission shall be selected in accordance with the selection process set forth in Section 3-809 unless Council provides by ordinance for a different selection process, provided that any former member of the Commission may be reappointed as a member of the Commission.

(g) The Jobs Commission shall exercise such other powers and duties not inconsistent with this section that Council may from time to time vest in it by ordinance.



Notes

60.1 Added by approval of the voters at the election held on May 17, 2011, and certified on June 6, 2011. See Bill No. 110060 (approved March 23, 2011); Resolution No. 110063 (adopted March 10, 2011).

ARTICLE V
EXECUTIVE AND ADMINISTRATIVE BRANCH - POWERS AND DUTIES
Managing Director and Departments, Boards and Commissions under his Supervision

**CHAPTER 1
MANAGING DIRECTOR**

§ 5-100. Supervisory Powers.

The Managing Director shall exercise supervision over all activities of those departments whose heads he appoints and the boards and commissions connected with such departments and shall be the contact officer between the Mayor and such departments, boards and commissions.

ANNOTATION

Sources: No specific source.

Purposes: 1. The duties of the Mayor of a city the size of Philadelphia are so extensive and make such demands upon his time that it is almost a physically impossible task for the Mayor to supervise closely all the operations conducted by the various departments and other agencies of the executive branch of the City government. Should the Mayor be required to exercise personal supervision the result may well be a failure of adequate supervision and a failure of the departments to perform the duties with which they are charged. The Charter attacks this problem by creating the office of Managing Director.

2. The Managing Director, appointed by the Mayor, is the Mayor's personal assistant and has under his charge the departments of the City rendering municipal services to the people of the City. The Managing Director has the duty of supervising these departments and the boards and commissions connected with them. He appoints, with the approval of the Mayor, the heads of all such departments. The department heads are responsible to the Managing Director who in turn is responsible to the Mayor. To vest authority commensurate with the responsibility given to him, the Managing Director is made the contact officer between the Mayor and the departments, boards and commissions under his supervision; service department heads will thus report to their superior, the Managing Director, and not to the Mayor.

§ 5-101. Reports.

The Managing Director shall make periodic reports with such recommendations as he deems appropriate to the Mayor concerning the affairs of the City government and particularly of those departments under his especial jurisdiction and the boards and commissions connected with such departments.

ANNOTATION

Sources: No specific source.

Purposes: The Managing Director is required to report periodically to the Mayor concerning the affairs of the service departments and the boards and commissions connected with them so that the Mayor may be kept currently informed of their activities. The operations of the service departments will affect and will be affected by those of other agencies of the City government. Accordingly the Managing Director is authorized to make recommendations on matters generally concerning the affairs of the City government.

§ 5-102. Meetings with Certain Department Heads.

The Managing Director shall call together periodically the Police Commissioner, the Health Commissioner, the Fire Commissioner, the Street Commissioner, the Parks and Recreation Commissioner, the Welfare Commissioner, the Water Commissioner, the Commissioner of Public Property, the Commissioner of Licenses and Inspections and the Commissioner of Records. He may invite to these meetings any other officers of the City government. 61

ANNOTATION

Sources: No specific source.

Purposes: The Managing Director is authorized to call together the heads of the various service departments for "cabinet" meetings because their activities are inter-related and will frequently require joint action. See Annotation to Section 4-104. Since the activities of the various service departments are related to and may affect or be affected by those of other agencies of the City government, the Managing Director is authorized to invite to such cabinet meetings other officers of the City government.



- 61 Amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).

CHAPTER 2 POLICE DEPARTMENT

§ 5-200. Functions.

The Police Department shall have the power and its duty shall be to perform the following functions:

- (a) Law Enforcement. It shall preserve the public peace, prevent and detect crime, police the streets and highways and enforce traffic statutes, ordinances and regulations relating thereto. The Department shall at all times aid in the administration and enforcement within the City of the statutes of the Commonwealth of Pennsylvania and the ordinances of the City.
- (b) Maintenance of the Philadelphia Police. The Department shall train, equip, maintain, supervise and discipline the Philadelphia Police.
- (c) Police Signal System. The Department shall operate a police signal system either as a separate system or in conjunction with the fire alarm system of the Fire Department.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article V, Sections 3 and 5, as amended.

Purposes: 1. The number of personnel engaged in police work, the importance to the general welfare and safety of an adequate and competent police force, and the absence of any vital relationship between police functions and fire functions, indicate the necessity for separate departments of police and fire. See Section 5-400. For similar reasons, functions of the former Department of Public Safety not directly related to police or fire work have been transferred to other departments. See Sections 5-500, 5-900 and 5-1002. These include operations of the electrical bureau and functions of building safety inspection and enforcement.

2. The primary function of the Police Department is law enforcement and this includes the enforcement of City ordinances and the enforcement of State laws operative within the City.

3. The training, equipment, maintenance, supervision and discipline of the Philadelphia Police is expressly provided for because each of these is a necessary prerequisite of an adequate and competent police force.

4. The Police Department is authorized to maintain either a separate police signal system or one in conjunction with fire alarm system of the Fire Department so that one or the other of such systems may be employed, depending on which will be the more efficient for police purposes under varying conditions. See Sections 5-400(e) and 5-900(a)(2).

§ 5-201. Powers of Policemen.

The members of the Philadelphia Police shall have all the powers conferred by statute and ordinance upon members of the police force of cities of the first class and upon constables of the Commonwealth of Pennsylvania. They shall have the power to make lawful searches, seizures and arrests for violations of any statutes or ordinances in force in the City, to serve subpoenas when ordered so to do by their superior officers, and to do such other acts as may be required of them by statute or ordinance.

ANNOTATION

Sources: No specific source.

Purposes: Specification in detail of the powers of policemen is avoided in favor of a general statement of powers so that no particular power will be excluded because of a failure to refer to it. See Annotation to Section 1-100. Searches, seizures and arrests may be made if they are lawful, a constitutional caution necessary for the police to bear in mind in the exercise of such powers. Police are empowered to make lawful searches, seizures and arrests for the violation of any statutes, State or Federal, in force in the City,

and of City ordinances. The powers of the police include all the common law powers of police officers.

§ 5-202. Additional Patrolmen Upon Private Request.

The Police Commissioner may appoint, and cause to be sworn in, any number of additional patrolmen to do duty at any place in the City designated by, and at the charge and expense of, the person who may ask for such appointment, but no such appointment shall be made for service at any place where there exists a labor dispute or strike. Such patrolmen shall be subject to and obey the orders and rules of the Police Department and conform to its general discipline.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article V, Section 6.

Purposes: Most of this section continues existing law. The new language prohibiting appointment for service at any place where there exists a labor dispute or strike reflects past practices.

CHAPTER 3 DEPARTMENT OF PUBLIC HEALTH AND ITS DEPARTMENTAL BOARDS

§ 5-300. Functions.

The Department of Public Health shall have the power and its duty shall be to perform the following functions:

- (a) Protection of Public Health. It shall administer and enforce statutes, ordinances and regulations relating to public health including those dealing with air, water, food and drugs, health hazards, the pursuit of occupations affecting the public health, and pests, including animal, insect and plant-life.
- (b) Health Programs. The Department shall institute and conduct programs of public health and medical research and programs to promote public education in all matters concerning public health.
- (c) Health Facilities. The Department shall establish, maintain and operate health centers, stations and clinics, laboratories and other health facilities.
- (d) Vital Statistics. The Department shall be the agency of the City for compiling, analyzing, maintaining, and reporting statistics and data concerning births, still-births and deaths.
- (e) City Hospitals. The Department shall have general supervision over all City hospitals now or hereafter owned or operated by the City. It shall determine the capacity of City hospitals and determine and designate the type of persons and the proportion of each to be received therein. The Department shall recommend and bring to the attention of the officers and boards of trustees of City hospitals standards and methods helpful in the government and administration of such hospitals and for the betterment of the condition of their patients.
- (f) Health Care Plan. Because health care is an essential safeguard of human life and dignity, the Department of Public Health shall be directed to prepare a plan on or before one year from the date the voters approve addition of this section to the Charter for universal health care coverage that permits everyone in the City of Philadelphia to obtain decent health care on a regular basis. 62

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article VII, Section 3; the Administrative Code of 1929, P.L. 177, Section 2315.

Purposes: 1. The importance of the public health of the people of the City requires a separate Department of Public Health, empowered to deal with all public health problems. However, the licensing of occupations and activities subject to regulation by the City pursuant to statute or ordinance is made a function of the Department of Licenses and Inspections even though they are regulated for public health reasons. See Article V, Chapter 10. For the present, inspection functions in the public health area remain with the Department of Public Health except that if they involve also building safety or sanitation, they come within the jurisdiction of the Department of Licenses and Inspection. See Article V, Chapter 10.

2. The Charter vests the management of City hospitals in boards of trustees. Section 5-303. Such boards, however, are attached to the Department of Public Health which is responsible for the general supervision of City hospitals. This does not include the

management of day to day operations and the determination of the immediate hospital policy for such matters are within the province of the boards of trustees. But to the extent an overall City policy is required to be established and followed, its formulation is a matter for the Department of Public Health. Participation by boards of trustees in determining such policy is not precluded, for sound general supervision will take advantage of consultation with and the advice of those in day to day control of hospitals. Part of a City-wide hospital policy is the determination of how many patients a hospital shall accommodate and the kinds and number of each case it shall treat. Therefore, these are made matters for decision at the departmental level.

§ 5-301. Board of Health.

The Board of Health shall:

- (a) Within one year after the effective date of this charter, prepare, with the aid of the Law Department, and submit to the Council for its consideration a comprehensive Health Code which shall embrace all matters to which the powers and duties of the Department of Public Health shall extend and which shall have as its purpose the preservation and promotion of the health of the people of the City;
- (b) Make reasonable regulations, not contrary to any statute or ordinance, for the preservation and promotion of the health of the people of the City. Such regulations shall be the regulations of the Department of Public Health.

ANNOTATION

Sources: No specific source.

Purposes: 1. The function of promulgating health regulations which are to be the regulations of the Department of Public Health, is vested in a Board of Health. These regulations will also concern and affect many of the residents of the City. A Board representative of persons professionally concerned with health matters and interested lay persons will bring to the content of health regulations a sounder and better rounded subject matter.

2. The Board of Health is given the particular duty of preparing for submission to the Council a comprehensive health code. Codification of ordinances pertaining to health conforms with better public health administration and practice. Codification will make possible more effective control of health hazards.

3. The power of the Board to make regulations is, under existing case law, an administrative function. The Board cannot, therefore, legislate. That remains a function of the Council.

§ 5-302. Air Pollution Control Board.

The Air Pollution Control Board shall advise the Department of Public Health and the Board of Health on all matters pertaining to the control of air pollution and shall make reasonable regulations, not contrary to any statute or ordinance or to the regulations of the Board of Health, controlling air pollution.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, June 25, 1948.

Purposes: The function of the Air Pollution Control Board is limited to the promulgation of administrative regulations since provision is made elsewhere in the Charter for uniform licensing practices and ultimately, enforcement procedures. See Article V, Chapter 10. Air pollution control regulation is made a function of a board of experts because of the technical nature of the subject. The regulations of the Board must not conflict with any statute or ordinance or the general regulations of the Board of Health.

§ 5-303. Boards of Trustees of City Hospitals.

The board of trustees of each City hospital shall have direction and control of its management. Each board shall select a hospital director or superintendent who shall, subject to the authority of the board, administer the hospital in all its departments. On nomination by the director or superintendent, each such board shall from time to time appoint such assistants and employees as may be necessary.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 2318, as amended.

Purposes: Private hospital management through boards of trustees has shown a pattern of successful and efficient hospital operation and administration expected to be achieved in City hospitals by vesting their direct management in boards of trustees. General municipal control and the effectuation of over-all City policies are assured by attaching such boards to the Department of

Public Health and by the vesting of general supervisory powers in the Department. See Section 5-300. Boards of trustees will be responsible for the day to day operation of City hospitals. Satisfactory hospital conditions, adequate facilities, proper care of patients, proper staffing of hospitals, and like matters are made the direct responsibility of the boards of trustees. The boards will determine such immediate policy questions and administrators selected by the boards will be responsible for executing policy determinations.

Notes

62 Paragraph (f) added by approval of the voters at the election held on November 4, 2003 and certified on December 1, 2003. See Bill No. 030178 (approved May 15, 2003); Resolution No. 030189 (adopted May 1, 2003).

CHAPTER 4 FIRE DEPARTMENT

§ 5-400. Functions.

The Fire Department shall have the power and its duty shall be to perform the following functions:

- (a) Fires. It shall extinguish fires at any place within the limits of the City and, upon the request of appropriate authorities and with the authorization of the Fire Commissioner, outside the limits of the City.
- (b) Fire Hazards and Safety. The Department shall administer and enforce statutes, ordinances and regulations relating to fire and explosion hazards including those dealing with the manufacture, storage, sale, transportation or use of any substance or article which is or may be combustible, inflammable or explosive, the installation of any containers for such substances or articles, the installation and use of any equipment which presents a hazard of fire or explosion, and fire escapes, emergency exits, occupancies, fire alarm systems and fire extinguishing equipment in any vessel, vehicle, premises, grounds, structure, building or underground passage.
- (c) Fire Prevention Programs. The Department shall institute and conduct programs of public education in fire prevention and safety.
- (d) Maintenance of Firemen. The Department shall train, equip, maintain, supervise and discipline an adequate number of firemen.
- (e) Fire Alarm System. The Department shall operate a fire alarm system either as a separate system or in conjunction with the police signal system of the Police Department.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article V, Section 3, as amended.

Purposes: 1. Fire functions have been vested in a separate department for the reason, stated in the Annotation to Section 5-200.

2. The functions of the Fire Department are the functions normally vested in a fire department. Authorization is given for the Department to extinguish fires outside the City because at times conflagrations require the cooperation of fire fighting forces from adjoining municipalities.

3. The Fire Department has complete jurisdiction in administering and enforcing laws and regulations concerned with fire safety and prevention except that licensing functions are within the jurisdiction of the Department of Licenses and Inspections. See Article V, Chapter 10 and the Annotation to Section 5-300. Powers and duties of the Fire Marshal under prior law are transferred to the Fire Department. See Section A-101.

4. Fire prevention is stressed by authorizing the Department to conduct appropriate educational programs.

5. As to subsections (d) and (e), see the Annotation to Section 5-200.

§ 5-401. Fire Code.

Within one year after the effective date of this charter, the Fire Department shall prepare, with the aid of the Law Department, and submit to the Council for its consideration a comprehensive Fire Code which shall embrace all matters to which the powers and duties of the Fire Department extend and which shall have as its purpose the prevention of fires and explosions and the protection of the people of the City and their property from the danger thereof.

ANNOTATION

Sources: No specific source.

Purposes: City ordinances dealing with matters within the jurisdiction of the Fire Department have been enacted on many separate occasions over a period of many years. Such ordinances are not integrated and do not always reflect modern needs and practices. Codification is required by the Charter to remedy this condition and as an aid to a more effective fire control and prevention program.

CHAPTER 5 DEPARTMENT OF STREETS AND ITS DEPARTMENTAL BOARD

§ 5-500. Functions.

The Department of Streets shall have the power and its duty shall be to perform the following functions:

(a) City Streets. It shall itself, or by contract, design construct, repair and maintain:

(1) City streets, which shall include highways, roads, streets, alleys, footways, bridges, tunnels, overpasses and underpasses, including approaches and viaducts, owned, controlled or operated by the City or designated in accordance with law as streets of the City;

(2) The roads and drives in Fairmount Park.

(b) Lighting. The Department shall itself, or by contract, locate, design, install, repair, maintain and operate equipment for lighting City streets and for that purpose supply electric current and gas to such equipment.

(c) Sanitation. The Department shall itself, or when specifically authorized by the Council, by contract, clean and sand City streets, remove and dispose of ashes, garbage and refuse, remove and dispose of ice and snow from City streets, design, construct, repair, maintain and operate incinerators or other plants or equipment for the disposition of ashes, garbage and refuse, and administer and enforce statutes, ordinances and regulations for maintaining the cleanliness of City streets.

(d) Traffic Engineering. The Department shall make such regulations governing traffic and parking on City streets and on the roads and drives in Fairmount Park as shall be authorized by statute or ordinance, establish and determine the type and location of any and all signs, signals, markings and devices for regulating and controlling vehicular and pedestrian traffic as shall be authorized by and not inconsistent with statute or ordinance, install, repair, maintain and operate them, collect and compile traffic data, prepare engineering studies and surveys in regard to vehicular and pedestrian traffic, prepare analyses of traffic accidents for determining their causes and means for their prevention, and institute and conduct an educational and public information program for the purpose of promoting the safety and unimpeded movement of vehicular and pedestrian traffic.

(e) Surveys, Lines and Grades, Maps and Plans. The Department shall perform all surveying functions of the City. It shall furnish lines and grades of all kinds, prepare all maps, plans and other land records, and prepare and furnish descriptions of real property, based on surveys which it makes.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article VI, Section 3, as amended; Ordinance of the City of Philadelphia, June 2, 1948.

Purposes: 1. A separate department is established with responsibility for all functions relating to City streets because of the importance of good and clean streets and the complexity of traffic problems in a large modern city. The construction and maintenance of City streets, in itself a tremendous operation, overburdened the Department of Public Works where this function was previously vested. The scope of this work alone and the number of employees engaged in it require a separate department to deal with it.

2. The Department will have complete jurisdiction over the construction and maintenance of City streets which are broadly

defined to include any public City thoroughfare handling traffic. This jurisdiction extends to the roads and drives in Fairmount Park to promote economy, efficiency and uniformity.

3. Lighting of City streets is made a function of the Department because it is so intimately related to the control of traffic and the construction, design, and maintenance of City streets.

4. The above comment as to lighting applies also to the problem of street sanitation. The Department has the additional function in this respect of administering and enforcing laws and regulations dealing with the cleanliness of City streets, but any licensing function in this regard would be handled by the Department of Licenses and Inspections. Article V, Chapter 10.

5. Tied in with the entire problem of City streets is the over-all problem of traffic engineering and this function is therefore vested in the Department of Streets. In the interest of uniformity, the traffic engineering jurisdiction of the Department is extended to the roads and drives in Fairmount Park. Traffic engineering is defined to include all germane problems such as the installation, maintenance and operation of signs and signals regulating traffic. Public education in traffic safety is also made a function of the Department. The Department thus absorbs the functions of the former Highway Traffic Board.

6. Surveying functions are placed in the Department of Streets because they are intimately connected with the construction and maintenance of City streets.

7. The Department of Streets is authorized to perform its street construction, design, repair and lighting functions either itself or by contracting with private contractors to do the work. However, in the case of street cleaning, and the removal of garbage and other refuse, it may contract for this work only when it has been authorized by Council to do so. This limitation is carried forward from the 1919 Charter.

§ 5-501. Street Openings and Excavations.

The Department of Streets shall determine the location, time, method and manner of making any opening or excavation in any City street, of installing any underground street structure, and of any repaving required because of such openings, excavations, or installations.

ANNOTATION

Sources: Ordinances of the City of Philadelphia, March 17, 1884.

Purposes: The Department of Streets absorbs the functions of the Board of Highways Supervisors. Street openings and excavations should not be made haphazardly and without the planned interruption of the use of City streets.

§ 5-502. Board of Surveyors.

Subject to the provisions of this charter the Board of Surveyors shall exercise the powers and perform the duties vested in and imposed upon it by statute or ordinance.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article VI, Section 4; Ordinances of the City of Philadelphia, March 17, 1884, and December 31, 1919.

Purposes: The historical and technical functions of the Board of Surveyors are continued substantially as at present subject to provisions of the Charter of general application and the powers and duties vested in the City Planning Commission. See Section 4-600 and 4-603.

CHAPTER 6

DEPARTMENT OF PARKS AND RECREATION AND ITS DEPARTMENTAL BOARDS AND COMMISSION 63

§ 5-600. Functions. 64

The Department of Parks and Recreation shall have the power and its duty shall be to perform the following functions:

(a) Coordinated Recreational Program. It shall from time to time formulate a comprehensive and coordinated program of cultural

and physical recreational activities to be instituted and conducted in all City recreational facilities.

(b) Conduct of Recreational Program. Except as otherwise provided in this chapter, the Department shall institute and conduct all recreational activities in accordance with its recreational program.

(c) Park and Recreational Facilities. Except as otherwise provided in this chapter, the Department shall manage and operate all City recreational facilities and all parks and public squares, and itself, or by contract, construct, maintain, improve and repair such facilities, parks and squares. The Department shall determine the location of new park and recreational facilities. This paragraph shall not apply to City facilities managed and operated by private corporations or privately owned facilities supported in whole or in part by funds appropriated from the City Treasury but all requests for appropriations from the City Treasury for such City or private facilities shall be made through the Department.

(d) Historical Shrines. The Department shall preserve, manage and operate City historical shrines not under the management and operation of any board or commission and make plans for the acquisition by the City of buildings and grounds of historical significance to the City.

(e) Fairmount Park System and Other Parks. The Department shall, subject to the provisions of this charter, exercise all the powers and perform all the duties that, at the time this subsection was added to this charter, were vested in and imposed upon the Fairmount Park Commission by statute or ordinance, except that the Department of Streets shall itself, or by contract, build, rebuild and maintain the roads and drives in Fairmount Park and make such regulations governing traffic thereon as shall be authorized by statute or ordinance, but the Department of Parks and Recreation shall determine the location and type of all such roads and drives, and may exclude certain types of vehicles from the use of any or all such roads or drives.

(f) Deputy Commissioners. The Parks and Recreation Commissioner shall appoint two deputies exempt from civil service who shall serve, respectively, as Deputy Commissioner for Recreation and Deputy Commissioner for Parks and who, subject to the direction of the Commissioner, shall have principal responsibility for carrying out the Department's duties relating to the management and operation of, respectively, the City's recreation programs; and the City's parks, including the Fairmount Park System.

(g) Sale, Conveyance and Acquisition of Park and Recreation Land or Facilities. Immediately upon introduction into Council of any ordinance authorizing the City to acquire, convey or lease to a third party any interest in real estate that includes park or recreation land or facilities, the Chief Clerk of Council shall submit it to the Commission on Parks and Recreation for its recommendation to the Mayor and the Council.

ANNOTATION

Law Department Note (2009): Department of Recreation was reconstituted by amendment approved November 4, 2008. See Footnote to this Section.

Sources: Act of June 25, 1919, P.L. 581, Article VIII, Section 3.

Purposes: 1. Recreation was a function of the Department of Public Welfare under the 1919 Charter. It is made a function of a separate department under this Charter because of its importance to the welfare of the people of the City, the unsatisfactory experience under the 1919 Charter, and the absence of any relationship between recreational and institutional and public assistance functions.

2. Recreation in the City is a function of the Board of Public Education, the Fairmount Park Commission and the City department vested with that function. An integrated City-wide recreational program would require the complete coordination of the recreational activities of the three agencies. The Charter Commission did not have any power to deal with the Board of Education. It did have such power in the case of the Fairmount Park Commission. Therefore, the Department of Recreation is empowered to formulate a comprehensive and coordinated recreational program to control recreational activities conducted in all City recreational facilities including those in Fairmount Park.

3. Conduct of the recreational program is the responsibility of the Department of Recreation except that the Fairmount Park Commission will conduct that part of the program which involves recreational facilities managed and operated by it. This exception is made because the main objective to be achieved is that of a coordinated program and that goal will be attained by the requirement that the Department shall establish a program and that it shall be binding upon the Fairmount Park Commission. It was not deemed practicable, in view of the extensive jurisdiction of the Fairmount Park Commission over park facilities, to vest the conduct of the program in park facilities in the Department.

4. The Department of Recreation is vested with the management and operation of all City recreational facilities other than those in Fairmount Park and other City parks managed and operated by the Fairmount Park Commission. Such park recreational facilities are to be managed and operated by the Commission. However, the location of new recreational facilities in parks under the jurisdiction

of the Commission is to be jointly determined by the Commission and the Department. This will insure the implementation of the recreational program determined by the Department and the meeting of the recreational needs of the people of the City. Parks and public squares not managed and operated by the Fairmount Park Commission are to be operated and managed by the Department of Recreation because such parks and squares are important recreational facilities. Recreational facilities managed and operated by private corporations or privately owned are to continue under private management and operation or ownership even though they are supported in whole or in part by City funds. They are adequately managed and operated and those privately owned, the Charter Commission could not authorize the City to take over under its powers. However, a measure of control is retained by the City to the extent that appropriations are received from the City, for all requests for such appropriations must be channeled through the Department of Recreation.

5. The Department is vested with a new function of managing and operating City historical shrines and of historical shrine planning. The City of Independence has many shrines of historical significance which are being neglected. Vesting this function in the Department should assure appropriate attention being paid to the acquisition of shrines not now owned by the City and to the more adequate care of such shrines as are owned by the City. Excepted from these provisions are shrines which are managed and operated by a specific board or commission, such as the American Flag House and Betsy Ross Memorial.

§ 5-601. Commission on Parks and Recreation. 65

(a) The Commission, after receiving public comment, shall from time to time adopt standards and guidelines relating to City park and recreation land and facilities, including standards and guidelines relating to land use; preservation of green space; watershed management; sustainability; and the conveyance and acquisition of park and recreation land or facilities, including criteria for the assessment and evaluation of proposed conveyances or acquisitions. The Parks and Recreation Commissioner and all other City officials shall give substantial weight to the standards and guidelines adopted by the Commission when taking or considering any official action relating to the City's park or recreation land or facilities.

(b) The Commission shall assist and advise the Parks and Recreation Commissioner and such private organizations as the Commission may choose, to promote, support and enhance the image of the Fairmount Park System, other City parks, and City recreation facilities; and to expand and diversify the funding and resources for operation and capital expenditures in and for park and recreation facilities.

(c) The Commission shall convene public meetings at least quarterly, and shall provide, at each public meeting, opportunity for public comment concerning any matter within the jurisdiction of the Commission.

ANNOTATION

Law Department Note (2009): Department of Recreation and Fairmount Park Commission were reconstituted by amendment approved November 4, 2008. See Footnote to this Section.

Annotation for former Section 5-601, Recreation Coordination Board:

Sources: No specific source.

Purposes: At the hearings of the Charter Commission many civic groups expressed concern and interest in the municipal function of recreation. A number believed that the coordination of recreational activities in the city (see Annotation to Section 5-600) could be materially enhanced if representatives of the various agencies involved and the public could be brought together in the form of a board to serve in an advisory capacity to the Department of Recreation on matters involving the coordination of recreational activities and of the use of recreational facilities.

Annotation for current Section 5-601 (formerly Section 5-602, Fairmount Park Commission):

Sources: Act of March 26, 1867, P.L. 547, as amended.

Purposes: 1. The Commissioners of Fairmount Park are to continue to exercise the powers and perform the duties presently vested in them subject to the areas excepted by this section and by other provisions of the Charter of general application, such as those dealing with civil service and procurement. The offices of the Commissioners were established before the Constitution prohibited the delegation to special commissions of power to make, supervise or interfere with any municipal improvement, money, property or effects or to levy taxes or perform municipal functions. Constitution of Pennsylvania, Article III, Section 20. If the Commissioners were abolished, it would not have been possible to recreate a commission in this Charter with the same powers and duties. Nor were any urgent reasons present for abolishing the offices. However, because of the pressing need of a few peculiar problems, certain exceptions to the continuation of presently existing powers and duties had to be carved out.

2. The building and maintenance of roads and drives in Fairmount Park and the promulgation of regulations governing traffic there are made functions of the Department of Streets in the interests of efficiency, economy and uniformity. See Section 5-500. The Commission, however, retains control over the location of roads and drives, decides of what type they shall be, and determines the kinds of vehicles which shall be excluded from such roads and drives so that the character of Fairmount Park may be preserved.

3. Another exception is the determination of the program of recreational activities to be conducted in parks managed and operated by the Fairmount Park Commission. See Annotation to Section 5-600.

4. The duty of the head of the Park police to cooperate with the Police Commissioner is emphasized in the interests of public safety.

§ 5-602. Board of Trustees of the American Flag House and Betsy Ross Memorial. 66

Subject to the provisions of this charter, the Board of Trustees of the American Flag House and Betsy Ross Memorial shall manage the American Flag House and Betsy Ross Memorial. It may sell or make arrangements for the sale of souvenirs therein.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, May 26, 1941.

Purposes: The powers of the Board of Trustees of the American Flag House and Betsy Ross Memorial are retained as at present but the Board is connected with the Department of Recreation because its functions fall within the sphere of recreation.

§ 5-603. Board of Trustees of the Atwater Kent Museum. 67

Subject to the provisions of this charter, the Board of Trustees of the Atwater Kent Museum shall have the custody, care and management of the Atwater Kent Museum under the Ordinance of July 28, 1938, which authorized the acceptance of the Museum.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, July 28, 1938.

Purposes: The powers of the Board of Trustees of the Atwater Kent Museum are retained as at present because of the terms of the contract under which the City received the Museum. The Board is connected with the Department of Recreation because its function falls within the sphere of recreation.

§ 5-604. Reserved. 68

§ 5-605. Reserved. 69

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 2318, as amended.

Purposes: The Board of Trustees of Camp Happy is established to manage and operate Camp Happy for substantially the reasons which prompted the creation of boards of trustees for City hospitals. See Annotation to Section 5-303. The Board is attached to the Department of Recreation because the functions of the Board are so closely connected with City recreational activities.



Notes

63 Caption amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).

64 Amended by approval of the voters at the election held on November 4, 2008, and

certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).

- 65 Former Section 5-601, Recreation Coordination Board, deleted and former Section 5-602, Fairmount Park Commission, amended and renumbered as current Section 5-601 by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 66 Renumbered from former Section 5-603 by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 67 Renumbered from former Section 5-604 by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 68 Renumbered to Section 5-603 by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 69 Section 5-605, Board of Trustees of Camp Happy, deleted by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).

CHAPTER 7

DEPARTMENT OF PUBLIC WELFARE AND ITS DEPARTMENTAL BOARDS

§ 5-700. Functions.

The Department of Public Welfare shall have the power and its duty shall be to perform the following functions:

(a) Assistance. It shall receive, care for and place dependent, mentally defective, neglected, incorrigible and delinquent children and mentally defective, aged, infirm and destitute adults whose support is paid for out of the City Treasury or out of other funds which are administered by the City. In cases where the Department has placed such children or adults, it shall from time to time investigate the manner in which they are being cared for. The Department shall also locate, care for and return to their places of residence transients, resident and non-resident, who because of age, lack of means, or other appropriate reasons require such assistance.

(b) Assistance Payments and Collections. The Department shall approve or disapprove all bills rendered to the City by the Commonwealth of Pennsylvania for the maintenance of City residents in State institutions for the insane and feebleminded and by private persons for the care of children and adults placed with them and no order shall be issued or paid without such approval. It shall transmit to the Department of Collections for collection all accounts due to the City for the care and placement of children and adults and the care and return of transients.

(c) City Welfare Institutions. The Department shall have general supervision over all City penal, reformatory and correctional institutions, homes for the indigent and other welfare institutions now or hereafter owned or operated by the City. It shall determine the capacity of City institutions and determine and designate the type of persons and the proportion of each type to be received therein. The Department shall recommend and bring to the attention of the officers and boards of trustees of City institutions standards and methods helpful in the government and administration of such institutions and for the betterment of the condition of their inhabitants.

(d) Inmate Labor. The Department shall:

(1) Establish and arrange for the maintenance of industries and where feasible farms in or in connection with City penal, reformatory or correctional institutions for the compensable employment of all physically capable persons sentenced to such institutions;

(2) Arrange for the compensable employment of inmates of City penal, reformatory or correctional institutions at such work or labor within or upon the grounds of any City institution as may be necessary for its maintenance;

(3) Transfer to the City or other public agencies, by sale or otherwise, articles manufactured or produced in any City penal, reformatory or correctional institution which cannot be used therein;

(4) Require each City penal, reformatory or correctional institution to keep proper records of the labor performed by its inmates, of the compensation paid to them, of the articles manufactured or produced therein, and of their disposition.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article VIII, Section 3; the Administrative Code of 1929, P.L. 177, Section 2303, 2312 and 2315, as amended.

Purposes: 1. Welfare functions formerly vested in the Department of Public Welfare under the Charter of 1919 are of such importance and bear such scant relationship to the recreational functions formerly vested in the same Department that a separate department is needed to discharge them. Thus, the Department of Public Welfare established by this Charter has the sole duty of carrying out public welfare functions.

2. As in the case of City hospitals, City welfare institutions are placed under the care and management of individual boards of trustees. See Section 5-701. The reasons motivating this decision and the relationship of the Department of Public Welfare to the boards of trustees are the same as those in the cases of the Department of Public Health and the boards of trustees of City hospitals. See Annotations to Section 5-300 and 5-303.

3. Special emphasis is placed by the Charter on the establishment and fulfillment of a program of inmate labor so that inmates of penal, reformatory and correctional institutions will have an opportunity for compensable self improvement and the use of their time through the rendition of services which will also benefit the City. Such programs are limited by feasibility and the abilities of the persons who are to engage in them. Accounting requirements are imposed to make certain that the City and inmates will receive the full benefit from such programs as are instituted.

§ 5-701. Boards of Trustees of Welfare Institutions.

The board of trustees of each City institution within the Department of Public Welfare shall have direction and control of the management of such institution. Each board shall select a superintendent or warden of the institution, who shall, subject to the authority of the board, administer the institution in all its departments. On nomination by the superintendent or warden, each such board shall from time to time, appoint such assistants and employees as may be necessary.

The foregoing powers shall be exercised by the respective boards of trustees in the management of the following institutions:

House of Correction

Home for the Indigent

The foregoing powers shall also be exercised by the respective boards of trustees of additional welfare institutions hereafter established, acquired or operated by the City.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 2318, as amended.

Purposes: See Annotation to Section 5-300 and 5-303.

CHAPTER 8 WATER DEPARTMENT

§ 5-800. Functions.

The Water Department shall have the power and its duty shall be to perform the following functions:

(a) Water. It shall operate the City's water supply system, and shall either itself, or by contract, construct, maintain, repair and improve City water supply facilities, including fire and drinking hydrants and water meters. It shall make investigations and prepare plans and estimates looking towards the acquisition by the City of new and better sources of water supply, and shall, with the approval of the Managing Director, make its recommendations to the Mayor for transmission to the Council. It shall also investigate and adopt methods for improving the quality of the water supply.

(b) Sewage and Sewage Disposal. The Department shall operate, and itself, or by contract, maintain, repair and improve the City's sewage system and sewage disposal plants. When authorized by the Council, it shall acquire, design and construct additional sewage disposal plants and sewage facilities.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article VI, Section 3, as amended.

Purposes: 1. Under the Charter of 1919 the functions vested in the Water Department were performed chiefly by the Department of Public Works. These were but some of the many functions which overburdened that Department. A separate department to deal with the water problem is established by this Charter because of its urgency and because a separate department might facilitate a more immediate and adequate solution.

2. The principal function of the Water Department is to furnish the City with an adequate water supply of improved quality.

3. Because City sewage systems and sewage disposal facilities are closely related functionally to the water system of the City, their operation and maintenance are also vested in the Water Department.

4. The acquisition, design and construction of sewage disposal plants and sewage facilities are major capital improvements and for this reason authorization by the Council is required before they can be undertaken.

§ 5-801. Rates and Charges. 69.1

In accordance with such standards as the Council may from time to time ordain, the Water Department shall fix and regulate rates and charges for supplying water, including charges to be made in connection with water meters, and for supplying sewage disposal services; provided however, that City Council may by ordinance, establish an independent rate-making body to be responsible for fixing and regulating rates and charges for water and sewer services; and provided further that City Council may by ordinance, establish open and transparent processes and procedures for fixing and regulating said rates and charges. The standards pursuant to which rates and charges shall be fixed shall be such as to yield to the City at least an amount equal to operating expenses and interest and sinking fund charges on any debt incurred or about to be incurred for water supply, sewage and sewage disposal purposes. In computing operating expenses, there shall be included proportionate charges for all services performed for the Department by all officers, departments, boards or commissions of the City.

ANNOTATION

Sources: No specific source.

Purposes: The Water Department is to fix and regulate rates and charges for supplying water and sewage disposal services so that this function will not be subject to the political pressures that have been brought to bear upon Council when it has undertaken to perform this task. Rate-making for utility services has long been regarded as being primarily an administrative function subject to legislative standards and this section follows this practice. Council is to ordain the standards pursuant to which rates are to be fixed, a proper function of the legislative branch, and the Department is to fix rates within such standards, an appropriate function of the administrative branch. However, it is required that the standards fixed by the Council shall at least be sufficient to recoup current operating expenses and interest and sinking fund charges on debt incurred or about to be incurred for water and sewage purposes, standards which usually must be met by any utility. This requirement does not go as far as rate standards do in the case of privately operated utilities; for example, it is not required that the standards make allowance for depreciation. To require the same formula as is permitted in the case of private utilities might result in the cost of water being prohibitive because of the financial history of this utility in the City. Moreover, a City utility is not necessarily operated on the assumption that the cost of the service which it furnishes must be recouped. Separate accounting is required for operating expenses in order that it might be possible to show the cost of furnishing the utility services, a factor important in determining rates and charges.

§ 5-802. Users Outside the City.

When authorized by the Council, the Water Department may enter into contracts for supplying the services of City water and sewer and sewage disposal facilities to users outside the limits of the City.

ANNOTATION

Sources: No specific source.

Purposes: Small municipalities on the fringe of the city limits might not at times be in a position to furnish their residents with water and sewage disposal services. Thus, the Water Department is authorized pursuant to Councilmanic ordinance, to furnish such services to users outside the City.

§ 5-803. Authority or Private Operator.

This chapter shall not be construed to prevent the City from creating an authority under any applicable statute or from contracting with a private operator to perform any or all of the operations and to render any or all of the services provided for herein and from contracting with any such authority or private operator to supply such services to the City. Notwithstanding any of the provisions of this charter, the Council may, by ordinance, abolish the Water Department if all of its functions shall be turned over to an authority or to a private operator. If some but not all of its functions are so turned over, the Council may, by ordinance, assign the functions which remain to another department and abolish the Water Department, if the Council shall determine that the continuation of a separate Water Department is not warranted.

ANNOTATION

Sources: No specific source.

Purposes: While a Water Department is created by the Charter to deal with the water problem, it is not intended to preclude the City from creating, pursuant to an appropriate statute, an authority to take over any or all of the services of the Department or from contracting with a private operator to do so, if either course of action would be of advantage to the City and beneficial to its citizens.

Notes

69.1 Amended by approval of the voters at the election held on November 6, 2012, and certified on December 3, 2012. See Bill No. 120177 (approved May 23, 2012); Resolution No. 120188 (adopted May 10, 2012).

CHAPTER 9 DEPARTMENT OF PUBLIC PROPERTY AND ITS DEPARTMENTAL COMMISSIONS

§ 5-900. Functions.

The Department of Public Property shall have the power and its duty shall be to perform the following functions:

(a) Buildings and Other Real Estate.

(1) It shall keep clean and presentable, maintain and repair, or supervise the cleaning, maintenance and repair of, the corridors, court rooms, meeting rooms and other facilities in City Hall, City Hall Annex and all other City buildings and grounds, except that with the approval of the Managing Director any department, board or commission may perform such services itself as to any buildings and grounds which it occupies exclusively. The Department shall operate the elevators in City Hall and City Hall Annex and in all other City buildings in such a manner as to provide adequate and prompt service to the public. Except for such space as shall in the judgment of the President of the Council and the Mayor be required for the accommodation of the Council and its members, which shall be assigned as provided in the rules of the Council, the Department shall assign to the several courts and the judges thereof, court rooms, offices and other rooms and quarters for a law library and for the Philadelphia Bar Association, and meeting rooms for members of the bar, and to officers, commissions and other governmental agencies supported out of the City Treasury, and to the Mayor and other

officers of the City, and all departments, boards and commissions thereof, suitable quarters in City Hall, City Hall Annex or other suitable buildings owned or leased by the City; but in the assignment of quarters, the Department shall arrange that the offices of the Director of Finance, Auditing Department, Department of Collections, and City Treasurer, shall be adjacent to each other.

(2) The Department shall itself, or by contract, provide telephone service through a City telephone exchange or otherwise for all offices and agencies occupying City Hall, City Hall Annex and all other buildings operated by the City for the accommodation of the public, but the Police Department and the Fire Department may, jointly or separately, have separate telephone or other communication systems.

(3) Whenever the City shall have been authorized by ordinance or otherwise to erect a new building or to remodel or alter an existing building, the Department shall when necessary employ a suitable architect, and also when necessary an engineer, to design the same. When the plans have been approved by the Mayor, the Managing Director and the Art Commission, the Department shall cause appropriate specifications to be prepared which shall be submitted to the Mayor and Managing Director for approval. In the preparation of plans and specifications, the Department shall consult with the department, board or commission of the City or other governmental agency for whose use the building is being remodeled, altered or constructed. After a contract has been awarded, the Department shall supervise through its own engineers or otherwise, the remodeling, alteration or erection of the building under the contract.

(4) The Department shall, whenever authorized by ordinance, purchase, condemn in the manner provided by law, lease or otherwise acquire such grounds, buildings and building accommodations, structures and facilities as may be required by the City; and whenever any City real estate is not being used in connection with the work of any department, board or commission of the City or any other governmental agency, the Department may rent, or when authorized by the Council, sell the same upon the best terms obtainable after appropriate public advertising and the receipt of competitive bids.

(b) Maintenance and Assignment of Automobiles and Other Vehicles. The Department shall maintain and repair or supervise the maintenance and repair of all automobiles and other vehicles owned by the City and assign, upon proper requisition, to any officer, department, board, or commission of the City the use of such automobiles and other vehicles as may be required by him or it.

(c) Transit Facilities. The Department shall supervise the operation of leases of City transit facilities. It shall operate and itself, or by contract, maintain, repair and improve such facilities not under lease to others and when authorized by the Council, acquire, design and construct additional transit facilities.

(d) Gas, Electricity and Steam. The Department shall supervise the operation of leases of City facilities for the production and transmission of gas, electricity and steam. It shall operate and itself, or by contract, maintain, repair and improve City gas, electric and steam facilities not under lease to others and when authorized by the Council, acquire, design and construct additional such facilities. The Department shall from time to time inspect and test the quality of gas, electricity and steam furnished to the City and its inhabitants, and the facilities for their transmission and metering.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article V, Section 3, as amended, Article VI, Section 3, as amended, Article X, Section 3, Article XXV, Section 3, as amended; the Administrative Code of 1929, P.L. 177, Section 2402, 2407, 2408 and 2411, as amended.

Purposes: 1. A Department of Public Property is established so that the manifold functions relating principally to the care, maintenance and acquisition of City real property will be concentrated in one City agency. Many functions of this kind were performed by the Department of Public Works under the Charter of 1919 and added to its overburdening. On the other hand, the Departments of City Architecture and Transit had limited functions to perform and comparatively small staffs for agencies with departmental status. The Electrical Bureau was a part of the Department of Public Safety and yet was responsible for functions connected with the maintenance and operation of City buildings. All such public property functions are now transferred to the Department of Public Property. Centralization in one department of the care of public buildings and facilities in public buildings should remedy undesirable conditions existing in such buildings at the time of the adoption of this Charter.

2. The Department of Public Property has the function of assigning space in City buildings to the executive and administrative agencies of the City and to agencies presently using facilities in City Hall. The requirement is imposed that the financial departments shall be assigned space adjacent to each other in the interests of efficient operation and convenience to the public. While not mentioned, it is the intention that the Procurement Department shall also be situated adjacent to the other financial departments.

3. The furnishing of municipal telephone services is made the responsibility of the Department of Public Property in order to effect needed improvements in the service rendered both to the City and to the public. Special provision is made in the case of communication system for the police and firemen for the reasons stated in the Annotation in Section 5-200.

4. Responsibility for the design and construction of new City buildings is vested in the Department of Public property because its

functions relate to all City real property and to promote efficiency and economy. Most of the work involved, such as architectural and engineering services and actual construction, will be performed on a contract basis but will be subject to general supervision by the Department. In the preparation of plans and specifications, the agency which will ultimately use the structure, is to be consulted to assure that the structure will meet its needs. The Department may have on its staff engineers and architects to the extent it does not contract for such services. The Department itself will not award contracts for this is a function of the Procurement Department Section 6-500.

5. The Department is responsible for the acquisition and disposition of City owned or leased real estate. Centralization of this function should effect important economies.

6. Responsibility for the maintenance and repair, or the supervision of the maintenance and repair, of all City automobiles and the assigning of the use of such automobiles is centralized in order to effect economies in these respects.

7. City owned transit facilities are operated by private operators pursuant to leases and contracts with the City. The supervising of such leases and contracts does not require a separate department and the management of this property interest is placed in the Department of Public Property which will manage other property interests of the City, not of such magnitude or urgency as to require separate treatment. However, the possibility exists that the City may under certain circumstances be required to operate its transit facilities itself, and the Department is authorized to do so, should that prove necessary. Because the acquisition of additional transit facilities is a major capital improvement, authorization by the Council is required.

8. Consideration similar to those applicable to transit facilities govern gas, electrical, and steam facilities. The factor of public safety and City use of services furnished by gas, electrical and steam utilities makes desirable the requirement that the Department inspect and test the quality of gas, electricity and steam furnished to the City and its inhabitants and the facilities for their transmission and metering.

§ 5-901. Rates and Charges.

In accordance with such standards as the Council may from time to time ordain, the Department of Public Property shall fix and regulate rates and charges for the use of City transit facilities and for furnishing gas, electricity and steam from City facilities when any such facilities are not under lease to others. The standards pursuant to which rates and charges shall be fixed by the Department shall be such as to yield to the City at least an amount equal to operating expenses and interest and sinking fund charges on any debt incurred or about to be incurred for the purposes of the facility for which rates and charges are being fixed. In computing operating expenses, there shall be included proportionate charges for all services performed for the Department by all officers, departments, boards or commissions of the City.

ANNOTATION

Sources: No specific source.

Purposes: See Annotation to Section 5-803.

§ 5-902. Gas Commission.

The Gas Commission shall exercise such powers and perform such duties as may from time to time be provided in contracts between the City and the operator of the City gas works or in the absence of a contract, by ordinances.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, December 30, 1937, as amended.

Purposes: The functions of the Gas Commission will be determined by the contract in effect from time to time between the City and the operator of the City gas works. In the absence of a contract, Council will define the Commission's powers and duties by ordinance.

§ 5-903. Art Commission.

(1) The Art Commission shall:

- (a) Approve any work of art to be acquired by the City, whether by purchase, gift or otherwise and its proposed location;
- (b) Require to be submitted to it, whenever it deems it proper, a complete model or design of any work of art to be acquired by

the City;

(c) Approve the design and proposed location of any building, bridge and its approaches, arch, gate, fence, or other structure or fixture to be paid for, either wholly or in part, from the City Treasury or for which the City or any other public authority is to furnish a site but any such action taken by the Commission shall conform to the Physical Development Plan;

(d) Approve any structure or fixture to be erected by any person upon or to extend over any highway, stream, lake, square, park or other public place within the City;

(e) Approve the removal, relocation or alteration of any existing work of art in the possession of the City;

(f) Examine every two years all City monuments and works of art and make a report to the Commissioner of Public Property on their condition with recommendations for their care and maintenance.

(2) "Work of art" shall include all paintings, mural decorations, inscriptions, stained glass, statues, reliefs, or other sculptures, monuments, fountains, arches or other structures intended for ornament or commemoration.

(3) If the Art Commission fails to act upon any matter submitted to it within sixty days after such submission, its approval of the matter submitted shall be presumed.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 11.

Purposes: The functions of the Art Commission are essentially those of the Art Jury under the Charter of 1919. The functions of the Art Commission will affect at times City planning and for that reason its decisions must conform with the requirements of the Physical Development Plan of the City. The examination of the condition of City monuments and works of art is a new function and is included so that these important and expensive properties of the City shall not suffer from neglect.

CHAPTER 10

DEPARTMENT OF LICENSES AND INSPECTIONS AND ITS DEPARTMENTAL BOARDS

§ 5-1000. Powers and Duties in General.

Except as otherwise specifically provided in this charter, the Department of Licenses and Inspections shall exercise the powers and perform the duties relating to licensing and inspection formerly exercised and performed by all officers, departments, boards and commissions of the City and such other powers and duties as are imposed or conferred upon it by this charter or by ordinance.

ANNOTATION

Sources: No specific source.

Purposes: The issuance of licenses and the performance of inspection functions by various agencies of the City government have resulted in inconvenience to the public, loss of revenue, lack of uniformity in procedures, and the absence of any effective over-all supervision and control. To remedy such conditions, one Department of Licenses and Inspections is created which is to issue all licenses required to be obtained from the City and ultimately to conduct all City inspection functions.

§ 5-1001. Definitions.

In this chapter:

(a) "License" shall mean any license or permit required by statute, ordinance or regulation to be obtained from any officer, department, board or commission as a prerequisite to engaging in any activity or having possession of or using any property but shall not include the right to admission to any facility in any park or under the jurisdiction of the Department of Parks and Recreation. 70

(b) "Inspection" shall mean any inspection, test or examination to which any person is subject as an applicant for or a holder of a license or to which any property is subject under any statute, ordinance or regulation which it is the duty of the Mayor or of any other officer or of any department, board or commission to enforce.

ANNOTATION

Sources: No specific source.

Purposes: "License" is defined in the broadest sense of a grant of permission required from the City by private persons engaging in activities or using property subject to regulations by statute or ordinance. It is not intended to include what is normally regarded as a ticket of admission to any facility.

"Inspection" is defined in the broadest possible sense of the examination or testing of property or the conduct of activities subject to regulation by statute or ordinance or to licensing. Thus, it is intended to include the inspection of means used for the storage of gasoline, the construction and operation of slaughter houses, or the operation of restaurants. It is intended to cover any examination which the operator of a motion picture projector might have to take to show that he is qualified to operate such a machine safely. On the other hand, "inspection" is not intended to cover the testing of materials or supplies purchased by the City to determine if they conform with specifications, nor does it include civil service examinations.

§ 5-1002. Functions.

The Department of Licenses and Inspections shall have the power and its duty shall be to perform the following functions:

(a) Building Safety and Sanitation, Signs and Zoning. It shall, except as otherwise specifically provided in this charter, administer and enforce all statutes, ordinances and regulations for the protection of persons and property from hazards, in the use, condition, erection, alteration, maintenance, repair, sanitation (including the maintenance and condition of plumbing and drainage facilities and the maintenance of sanitary conditions in housing accommodations), removal and demolition of buildings and structures or any parts thereof and the grounds appurtenant thereto, in the operation of equipment therein, and of outdoor signs. Subject to the powers and duties of the Zoning Board of Adjustment, the Department shall enforce compliance with zoning ordinances.

(b) Issuance of Licenses. The Department shall:

(1) Issue all forms for applications and receive all applications for any license;

(2) Determine whether the applicant is properly entitled to the license which he seeks;

(3) If the application is granted and the proper fee has been paid to the Department of Collections through its employees in the Department of Licenses and Inspections, issue the license to the applicant, either for itself or as agent for the officer, department, board or commission under whose jurisdiction the subject matter thereof falls;

(4) If the application is refused, notify the applicant in writing of the refusal and the reasons therefor.

The procedure shall be the same for original applications and for applications for transfer or renewal.

The requirements and standards to be met by applicants for licenses shall be established by the Department in all cases in which the Department is responsible for the functions involved. In all other cases, the requirements and standards shall be certified to the Department by the officers, departments, boards or commissions for which the Department is acting. The Department, when in doubt concerning the interpretation to be placed on the certified requirements or standards, may consult the certifying officer, department, board or commission, but the Department shall make the decision whether the license should be granted.

(c) Inspections. The Department shall make all inspections except as otherwise specifically provided in this charter.

The standards to be met upon inspections shall be established by the Department in all cases in which it is responsible for the function involved. In all other cases, except where the inspection is provided in this charter to be made by any officer, department, board or commission other than the Department of Licenses and Inspections, the standards shall be certified to the Department of Licenses and Inspections by the respective officers, departments, boards or commissions for which the Department is acting.

The Department shall train and maintain a competent force of inspectors, who, to the extent practicable, shall make single inspections within the scope of the functions of the Department to determine compliance with statutes, ordinances and regulations.

(d) Enforcement. The Department shall determine as the result of its inspections whether any person or the owner of any property is violating the conditions of any license, or whether or not any property owner is violating any statute, ordinance or regulation which it is the duty of the Department to enforce.

If the Department shall find a violation to exist, it shall forthwith make such order or take such other lawful action as may be necessary to correct the dangerous or unlawful condition, and if necessary it shall invoke the assistance of the Law Department or the Philadelphia Police or both.

(e) Revocation, Suspension or Cancellation of Licenses. Whenever the Department finds that the holder of any license is violating

the conditions thereof, and whenever the officer, department, board or commission as whose agent the Department granted the license directs the Department to do so, it shall revoke, suspend or cancel the license. Any revocation, suspension or cancellation shall be in writing and shall state in detail the reasons therefor.

(f) Special Inspections on Request. The Department, on request of any officer, department, board or commission, shall make a special inspection of any property upon which unlawful conditions are believed to exist or of the manner in which the holder of any license is operating under it.

ANNOTATION

Sources: No specific source.

Purposes: 1. Municipal regulations to assure building safety, the maintenance of sanitary housing conditions, the safe use of outdoor signs and compliance with zoning ordinances are all functionally inter-related and involve essentially similar enforcement activities of licensing and inspection. For this reason and because enforcement has not been adequate or satisfactory, responsibility in these areas is centralized in the Department of Licenses and Inspections.

2. The Department of Licenses and Inspections will issue City licenses. See Annotation to Section 5-1000. However, license fees will be collected by a representative of Department of Collections stationed for the convenience of the public in the Department of Licenses and Inspections. See Section 6-200(d). The Department will issue licenses as the agent of any other City agency concerned in order to preserve the substantive power granted by statute or ordinance to such other agency. Due process motivates the requirement that upon the refusal of a license, the applicant shall be advised that it has been refused and the reasons why it has been refused.

3. The department primarily charged with the administration of any law being enforced through a license is the department which is to establish the standards to be met by an applicant for such a license because that department has an appreciation and a comprehension of the reasons why a license is required to a degree not possible to be had by the Department of Licenses and Inspections. The latter Department is to apply those standards in issuing a license so that issuance will not be delayed by administrative routing and red tape. Thus, licenses involving problems of health will be issued according to standards determined by the Department of Public Health; licenses involving fire prevention and safety measures will be issued according to standards set by the Fire Department; etc. The Department of Licenses and Inspections is required when it is in doubt as to the application of standards, and should generally as a matter of good practice, consult with the various departments concerned, in discharging its licensing functions. In the case of building safety and sanitation, signs and zoning, standards will be set by the Department of Licenses and Inspections because it is charged with the substantive administrative functions in these categories.

4. While the centralization of all inspection functions in the Department of Licenses and Inspections is the ultimate goal sought, if feasible, testimony presented at public hearings on the proposed Charter indicated that as a practical matter this could not be accomplished at once. Accordingly, the Charter envisages the gradual transfer of all inspections, if feasible, to the Department. Pending such transfer, each department vested with enforcement powers, such as the Departments of Public Health and Fire, are to continue to perform inspection functions. These are to be transferred to the Department of Licenses and Inspections in the course of time upon the order of the Mayor with the approval of the Administrative Board. Section 8-412.

5. Standards to be met upon inspections are to be determined by the departments primarily responsible for the functions involved because they will be peculiarly competent to appraise and determine what shall constitute conformance with laws and regulations within the sphere of their functions. Thus, the Fire Department will determine what standards must be met by persons engaged in occupations involving the storage of combustible materials. The Department of Public Health will set the standards to be met upon inspection of barber shops because the problem involved is one of public health.

6. The good to be achieved by the ultimate centralization of all inspection functions would be limited if the present practice of multiple inspections of the same property and the activities conducted therein were continued. For this reason, the requirement is imposed of single inspections through appropriately trained inspectors to the extent practicable.

7. Since inspection is required primarily for law enforcement purposes, the Department of Licenses and Inspections is required to note violations of laws and regulations which it has the duty to enforce and to take appropriate action to correct any unlawful conditions. It may call upon the Law Department or the Philadelphia Police or both to aid in the enforcement process.

8. As part of its licensing functions, the Department is required to revoke, suspend or cancel licenses when conditions upon which such licenses were granted are being violated. Discovery of violations may be made by the Department itself in fulfillment of its other law enforcement functions, or may come about by discovery or act of other departments in the performance of their functions. For this reason, an order from any other department to cancel a license is to be given full effect. Due process requires notification of such action and the reasons therefor.

9. Since the Department of Licenses and Inspections will ultimately conduct most, if not all, inspections, specific provision is made that the Department shall fulfill the request of any department for a special inspection.

§ 5-1003. Copies and Reports.

The Department of Licenses and Inspections shall:

(a) Transmit to the officer, department, board or commission primarily concerned with the subject of any particular category of licenses, a copy of every application for such a license or its transfer or renewal, of every such license issued, renewed or transferred, and of every notice of a refusal, suspension, revocation or cancellation of such a license;

(b) Transmit to the officer, department, board or commission primarily concerned with the subject of any particular category of inspections, a report of every such inspection made by it and the results thereof, a copy of every notice or order issued and a report of any other action taken as a result of such an inspection;

(c) Transmit to the City Solicitor a report of every violation of any statute, ordinance or regulation concerning any license, or discovered upon any inspection.

ANNOTATION

Sources: No specific source.

Purposes: 1. Full information concerning all phases of the issuance and termination of any license as the result of any inspection is required to be forwarded to the department primarily concerned with the subject matter of any license or inspection so that such department can properly fulfill its function of promulgating regulations and law enforcement in its sphere. Such information will keep the department primarily concerned fully apprised of the end result of its primary function and will enable it to be in a position to make recommendation with respect to any necessary legislation and to conform its activities to current practices and needs.

2. Notices of violations are required to be submitted to the City Solicitor because of his responsibility for law enforcement.

§ 5-1004. Right of Entry.

Subject to the limitations of the Constitutions of the United States and of the Commonwealth of Pennsylvania, any officer or employee of the Department of Licenses and Inspections, in the performance of his duties, may at any reasonable hour, without hindrance, enter, examine and inspect all vessels, vehicles, premises, grounds, structures, buildings, and underground passages of every sort, including their contents and occupancies, and may likewise examine, inspect and test any substance, article, equipment or other property.

ANNOTATION

Sources: New York City Charter, 1938, Section 492.

Purposes: In order to fulfill its inspection functions, the Department of Licenses and Inspections must have a right of entry, qualified only by constitutional limitations.

§ 5-1005. Board of License and Inspection Review.

The Board of License and Inspection Review shall provide an appeal procedure whereby any person aggrieved by the issuance, transfer, renewal, refusal, suspension, revocation or cancellation of any City license or by any notice, order or other action as a result of any City inspection, affecting him directly, shall upon request be furnished with a written statement of the reasons for the action taken and afforded a hearing thereon by the Board of License and Inspection Review. Upon such hearing the Board shall hear any evidence which the aggrieved party or the City may desire to offer, shall make findings and render a decision in writing. The Board may affirm, modify, reverse, vacate or revoke the action from which the appeal was taken to it.

ANNOTATION

Sources: No specific source.

Purposes: The Board of License and Inspection Review is a new agency created for the purpose of affording citizens, adversely affected by the exercise of licensing and inspection powers vested in City agencies, an orderly procedure, in conformity with due process, for the review of action taken against them. Decisions of the Board are to be binding upon the administrative agency of the City involved, subject, of course, to such further right of appeal to the courts as may exist.

§ 5-1006. Zoning Board of Adjustment.

(1) In accordance with any statute or ordinance as now or hereafter in force, the Zoning Board of Adjustment shall:

- (a) Hear and decide appeals in zoning matters where error is alleged in any order, requirement, decision or determination made by an administrative official in the enforcement of zoning ordinances, regulations and maps;
- (b) Hear and decide special exceptions to any zoning ordinance upon which the Board is required to pass;
- (c) Authorize, upon appeal, in specific cases, such variance from the terms of any zoning ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(2) In the exercise of its powers, the Zoning Board of Adjustment may reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as ought to be made, and, to that end, it shall have all the powers of the officer from whom the appeal is taken.

ANNOTATION

Sources: Act of May 6, 1929, P.L. 1551, Section 8.

Purposes: The powers of the Zoning Board of Adjustment are continued substantially as at present.

§ 5-1007. Board of Building Standards.

The Board of Building Standards shall:

- (a) Advise the Commissioner of Licenses and Inspections, upon his request, on the interpretation of the Building Code and of any regulations relating to building safety and sanitation;
- (b) Suggest regulations applying standards of good practice in the enforcement of statutes and ordinances dealing with building safety and sanitation;
- (c) Upon request of the Commissioner of Licenses and Inspections pass upon the worth of new and substitute materials proposed to be used in building construction and also upon new methods of construction;
- (d) Consider any suggested changes in standards and regulations, new and substitute materials, or new methods of construction, either with or without holding public hearings; but before the Board shall recommend any change or modification of such standards and regulations, it shall hold a public hearing at which all interested parties may present their views. After such public hearing the Board shall submit its findings and recommendations to the Commissioner of Licenses and Inspections for his approval. Upon approval by the Commissioner they shall become a part of the standards and regulations.

ANNOTATION

Sources: Ordinance of the City of Philadelphia, May 9, 1949.

Purposes: The Board of Building Standards is the successor to the Board of Standards and Appeals. It is connected with the Department of Licenses and Inspections because it is primarily concerned with matters affecting building safety. Its functions are largely those of the former Board of Standards and Appeals. The Board of Appeals established by the Ordinance of the City of Philadelphia, May 9, 1949, has been abolished because of the creation of the Board of Building Standards.



Notes

70 Amended by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).

CHAPTER 11
DEPARTMENT OF RECORDS

§ 5-1100. Powers and Duties in General.

Within the scope of its functions under this charter, the Department of Records shall exercise the powers and perform the duties pertaining to the creation, maintenance for public use, retention and disposition of City records, formerly exercised and performed by all officers, departments, boards or commissions or other governmental agencies of the City and such other duties as are conferred or imposed upon it by this charter or by ordinance. "City records" shall include all books, papers, maps, photographs, reproductions, or other documentary materials regardless of physical form or characteristics owned by the City and made or received by any officer, department, board or commission or other governmental agency of the City in pursuance of any statute or ordinance or in connection with the transaction of public business and preserved or appropriate for preservation as evidence of the organization, functions, policies, duties, procedures, operations, or other activities of the City or because of the informational value of data contained therein. "City records" shall not include library and museum material made or acquired and preserved solely for reference or exhibition purposes.

ANNOTATION

Sources: See the National Archives Act, United States Code, Title 44, Sections 300, 300(c) et seq.; Federal Records Disposal Act, United States Code, Title 44, Chapter 10; the Administrative Code of 1929, April 9, 1929, P.L. 177, Section 2801-A, as amended.

Purposes: Prior to this Charter, no agency of the City had been charged with the responsibility for the orderly and efficient maintenance of City records. As a result, many City records which could be disposed of occupy valuable storage space; many City records of historical significance and importance either have deteriorated or else are scattered widely throughout the City and under such conditions as will result in their ultimate deterioration; there is no uniform method for the creation and keeping of records so that certain economics could be effected and more useful records had. To overcome these undesirable conditions, a Department of Records is created and this section vests all record functions in that Department. City records are defined in broad and comprehensive terms to make clear the scope of the powers vested in the Department.

§ 5-1101. Functions.

The Department of Records shall have the power and its duty shall be to perform the following functions:

(a) Standards. It shall make rules embodying standards for all departments, boards, commissions or other governmental agencies of the City to govern:

- (1) The types of paper, ink and other materials to be used in the creation of City records;
- (2) The methods and the kinds of equipment to be used for the filing of City records and the places where files shall be kept;
- (3) The care and custody of City records necessary to secure their safety and preservation at all times at such places or in such depositories as shall be designated by the Department;
- (4) The occasions, the methods, and the kinds of equipment to be used for the reproduction and duplication of City records;
- (5) Procedures, subject to the provisions of this charter, for the disposition and archival preservation of City records.

(b) Records for Public Inspection and Use. The Department shall collect, maintain and make available for public inspection the originals or duplicates of all City records maintained for that purpose. Where such records are necessary for the current exercise of the powers and the current performance of the duties of any office, department, board or commission or other agency, the original or a duplicate thereof may also be retained by such department, board or commission. The Department shall furnish to persons applying therefor certificates relating to City records or copies of City records upon the payment of such charges as shall fairly reimburse the City for the cost of such service and for this purpose it shall prepare and from time to time revise a schedule of fees.

(c) Forms. The Department shall approve or disapprove and from time to time review the necessity for forms used by any office, department, board or commission in the exercise of its powers and the performance of its duties.

(d) Archives. The Department shall:

- (1) Preserve all City records not in current use and of historical, administrative, legal, research, cultural or other important value in the archives of the City which shall be under the care and supervision of an archivist;

- (2) Receive such records from any department, board or commission, or other governmental agency of the City;
 - (3) Collect, classify, preserve and make acceptable for reference all records which may come into its possession;
 - (4) Periodically examine into the condition of City records of any office, department, board or commission or other governmental agency of the City.
- (e) Central Depository. The Department shall receive and keep the originals of rules and of regulations promulgated by any office, department, board or commission, and all bonds required to be filed by any officer or employee of the City, and receive, make a record of, and forward to the officer, department, board or commission concerned all documents required to be filed with the City by any person for public recordation.

ANNOTATION

Sources: See Annotation to Section 5-1100.

Purposes: 1. The Department of Records is to prescribe standards for the creation, keeping, care and custody, reproduction and duplication, and ultimately disposition and archival preservation of City records which are to be followed by all administrative and legislative agencies of the City. The benefits sought to be achieved through such rules include: A uniform method of creating City records, which, because proper materials are used to create them, will survive the passage of time. A uniform and adequate filing system that will yield records when they are needed without too much loss of time. The maintenance of records under conditions safe from hazards such as fire, water and dust, and if necessary, from destruction as a result of warfare. The saving of storage space through the disposition of records which are not necessary for current business and through the use of modern mechanical means of reproduction. The archival preservation of records. The disposition of City records is subject to Section 8-211, and the microfilming or other reproduction of records is subject to Section 8-212.

2. The public has many occasions to use various City records for personal and business reasons. At present, such records are scattered through many agencies and parts of the City and this results in great inconvenience to public users. To remedy this condition, the Department of Records is made the agency where all records either in the original form or duplicate form are to be kept and are to be available for public inspection. To permit the continuance of current work by the originating agency of any record, provision is made that it either retain a duplicate and submit the original record to the Department of Records or retain the original and submit a duplicate. The Department of Records will be the one agency of the City where copies of records may be obtained by the public, but to reimburse the City for the cost of this service, the Department is authorized to charge a fee representing such cost.

3. To control the tendency of agencies to issue unlimited governmental forms and to make certain that such forms as are issued are up to date and necessary, the Department of Records is vested with the power to approve or disapprove and review all forms used by any administrative agency of the City.

4. Prior to the present Charter, there was no provision for any City archives for the keeping and exhibiting of records reflecting the history of the City. The Charter creates such a City archives within the Department of Records.

5. The Department of Records is designated as a central depository for al originals of all rules and regulations so that there may be one place in the City where these documents may be kept, since they are so important to law enforcement and administration, and where they may be readily available for public inspection. Bonds required to be filed by any officer or employee of the City are also to be kept on file in the Department of Records.

6. The Department of Records is intended to take over ultimately all public record keeping functions of the City government. This will include the recordation functions of the officers of the Recorder of Deeds and the Register of Wills upon City-County consolidation. It will make possible in time the filing with the Department of Records of any document which must be lodged with the City by any person for public recordation purposes, and also a central agency and place in the city where all such documents will be kept for the convenience of all those who must use them.

§ 5-1102. Examination of Records.

Any authorized officer or employee of the Department of Records shall have the right to examine the records of any office, department, board or commission to determine the manner in which they are maintained.

ANNOTATION

Sources: See Annotation to Section 5-1100.

Purposes: In order to enable the Department of Records properly to fulfill its functions, authorized officers and employees of the

Department are given the right to examine the records of any administrative agency for the purpose of determining the manner in which they are being maintained. This right does not extend to records of the Council because a proper respect for the separation of the legislative and administrative functions of government requires that the administrative branch shall not have the unlimited right to deal with the records of the legislative branch.

§ 5-1103. Intragovernmental Rules.

The Department of Records may make rules binding on all officers, departments, boards or commissions and necessary to carry out the powers and duties vested in it by this charter but such rules shall not become effective until first approved by the Administrative Board.

ANNOTATION

Sources: See Annotation to Section 5-1100.

Purposes: The Department of Records is vested with the power to make rules binding on other administrative agencies so that it may effectively carry out its powers and duties. Approval of the Administrative Board is required as a check on this broad power.

§ 5-1104. Public Right to Inspection.

City records, the disclosure of which would invade a person's right to privacy, hinder law enforcement, endanger the public safety, or breach a legally recognized duty of confidence, or the nondisclosure of which is legally privileged, or which have been prepared for or by the Law Department for use in actions or proceedings to which the City is or may be a party, shall not be available for public inspection. Except as herein provided, all other City records shall be open for public inspection but the officer, department, board or commission or other governmental agency of the City having the care and custody of such records may make reasonable regulations governing the time, place and manner of their inspection and for the purposes of archival preservation, copies of City records may be substituted in lieu of original records.

ANNOTATION

Sources: New York City Charter, 1938, Section 894.

Purposes: Records of the City relate to the government of the City and for that reason those governed should have a right to inspect them. However, this right has to qualified by reasonableness as to the time, place and manner of inspection, by assuring adequate care for the records being examined, and by considerations for protecting the individual right to privacy, law enforcement, public safety, legally recognized duties of confidence legally recognized privileges and the interest of the City in any lawsuit in which it may be involved.

ARTICLE VI

EXECUTIVE AND ADMINISTRATIVE BRANCH - POWERS AND DUTIES

Director of Finance, Financial Departments, Boards and Commissions, City Treasurer, Procurement Department, and Board of Pensions and Retirement

CHAPTER 1 DIRECTOR OF FINANCE

§ 6-100. In General.

The Director of Finance shall be the chief financial, accounting and budget officer of the City.

ANNOTATION

Sources: No specific source.

Purposes: The office of Director of Finance is created to give the Mayor and the City government a principal officer responsible for the financial, accounting, and budgeting functions of the executive branch. The Director of Finance is thus the chief financial officer of the City and all powers and duties concerning finances, accounting, and budgeting in the executive branch are directly or

indirectly his with the following exceptions:

The custody of City funds and their actual payment out of the City treasury remain with the City Treasurer who is independent of the Director of Finance until City-County consolidation. When the Constitution and laws of the Commonwealth permit, the City Treasurer is to be appointed by the Director of Finance (Section 3-202) and at that time the Director of Finance will supervise these functions as well as the others for which he has responsibility.

The functions of the City Controller are not under the supervision of the Director of Finance. The customary independence of an auditor would not be maintained if the City Controller were made subject to the supervision of the Director of Finance.

§ 6-101. Accounts.

The Director of Finance shall establish a general accounting system for the City government. He shall:

- (a) Keep separate accounts of each item of appropriation made to any officer, department, board or commission of the City, to any other governmental officer or agency and to any other person, association or corporation. Each such account shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it, and the unencumbered balance;
- (b) Have complete supervision over the keeping of detailed accounting records by officers, departments, boards, commissions, agencies or others receiving appropriations from the City. After consultation with the City Controller, he shall devise, and from time to time improve, a uniform system of accounting for all officers, departments, boards and commissions of the City and other governmental agencies receiving appropriations, and shall require such system to be installed and maintained by all such officers, departments, boards, commissions and agencies. Such system shall avoid duplication of records and of bookkeeping to the greatest extent possible consistent with the provisions of this charter and the safeguarding of the City's finances;
- (c) Supervise the accounting for all moneys received and receivable by the City from any source whatever. He shall require the accounting in the Department of Collections to be done by modern and economical methods, including the use of mechanical equipment, and with adequate safeguards to prevent irregularity or laxity in the recording both of moneys received and of moneys due;
- (d) Reflect in the accounts in his office the amounts collected by the Department of Collections, as shown by the daily reports of the Department of Collections;
- (e) Issue within one hundred and twenty days after the close of each fiscal year a statement as of the end of that year showing the balances in all funds of the City, the amounts of the City's known liabilities, and such other information as is necessary to furnish a true picture of the City's financial condition.

ANNOTATION

Sources: See Act of June 25, 1919, P.L. 581, Article XII, Section 3, as amended; the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 701, as amended.

Purposes: 1. A primary function of the Director of Finance is to establish, maintain and supervise an adequate and modern accounting system for the City. Under the 1919 Charter this was a function of the City Controller shared by various agencies of the executive branch. Experience under that Charter demonstrated the inadequacy of the system which it provided. To remedy this condition, the Director of Finance is placed in over-all charge of City accounting. He is to establish a general accounting system for the City. He is to maintain primary accounts showing the appropriation made to each officer and agency, how much of it has been spent, how much of it has been obligated but unpaid, and any unencumbered balance remaining. This will afford each officer and agency a day to day picture of the state of appropriations and City expenditures.

2. Detailed accounting records are to be maintained by the various officers and agencies receiving City appropriations, but the accounting system is to be devised by the Director of Finance for the purpose of assuring a uniform, accurate and efficient system for the entire City. Consultation in the establishment of such a system with the City Controller is required because the City Controller will have to audit the records maintained and they should reflect those items which the City Controller will have to look for. While there is a caution that the detailed accounting records shall in so far as possible avoid duplication with those maintained by the Director of Finance, the extent to which duplication is required will avoid any system whereby essential accounting records are maintained by only one agency.

3. The Director of Finance is charged with the duty of supervising the accounting for all moneys received and receivable by the City and this function is emphasized because the accounting for City receipts in the past has left much to be desired. Efficiency and accuracy of such accounting may be aided by the use of modern mechanical equipment and the Charter requires the use of such equipment. In addition, the Director of Finance is required to keep a day to day balance in his office based on reports of the

Department of Collections. This will show the flow of receipts and, together with the Director's records of the flow of expenditures, will readily furnish information about the over-all financial position of the City.

4. The Director of Finance is required to prepare an annual financial statement which will, by showing balances in City funds, City liabilities, and other pertinent information, afford a true picture each year of the City's financial position.

§ 6-102. Inventory Accounting.

The Director of Finance shall:

(a) Be responsible for the maintenance of a perpetual inventory in the Procurement Department and in every department, board or commission of the City or other governmental agency having possession of unissued stores of City property. He shall devise, install and supervise the operation of systems under which withdrawals from and replacements in stores will be currently recorded and reported to his office. He shall have supervision over the periodic (at least twice annually) counting, weighing or measuring of inventory quantities;

(b) Supervise the making of inventory lists of furniture and equipment by every officer, department, board, commission or other agency having possession of City owned property. The inventory lists shall be signed by such officer or by the head of such department, board, commission or other agency. The Director shall devise a system under which additions to and withdrawals from such furniture or equipment shall be currently recorded, and shall have supervision over the periodic (at least annually) counting of such furniture and equipment, and the reconciliation of such counts with the City's perpetual inventory records.

ANNOTATION

Sources: No specific source.

Purposes: Adequate records accounting for the City's property will afford an opportunity for effecting economies in the acquisition of new property and will result in the strict accountability of any person or agency charged with City property. To achieve this goal, the Director of Finance is required to maintain a perpetual inventory of unissued stores of the City and to install an accounting system whereby the status of such inventories will be maintained currently and will be known to his office. This system of inventory accounting is to include a physical inventory at least twice a year to assure its accuracy. A similar inventory procedure is required of every officer and agency of the City having furniture and equipment in his or its possession.

§ 6-103. Clearance of Requisitions for Purchase of Equipment, Material and Supplies.

The Director of Finance shall from time to time determine whether equipment, material or supplies are presently available so as to render unnecessary contemplated purchases of additional equipment, material or supplies. To enable him to perform this function, the Procurement Department shall submit to him every proposal for the purchase of equipment, material or supplies except any purchases involving an expenditure of less than such an amount as may be fixed from time to time by order of the Administrative Board. It shall not be lawful to invite bids for any purchase exceeding the exempted amount without first obtaining prior approval from the Director of Finance.

ANNOTATION

Sources: No specific source.

Purposes: Economies in the expenditure of City funds are often achieved if inventory records show that property requisitioned for purchase is presently available and unused by some other officer or agency. The purpose of this section is to provide a procedure whereby purchases above a certain amount may be so screened. It would be too great a burden on the Director of Finance to require him to screen every purchase and, therefore, the Administrative Board is designated as the agency to determine the amount above which purchases are to be screened.

§ 6-104. Contracts.

Before any contract shall be effective, the Director of Finance shall approve it as to the availability of appropriated funds. He shall designate on every such contract, the appropriation under which it is made and shall give it a number in the order of its date. He shall, in the order in which each contract is numbered, charge the appropriation out of which expenditures thereunder will be made.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XII, Section 4.

Purposes: The Director of Finance is required to approve all contracts as to the availability of funds so that obligations will not be incurred in excess of available appropriations. While the expenditure of moneys under a contract may be deferred, prudent accounting requires funds in the appropriation to be set aside for the obligation incurred. See also Section 8-104.

§ 6-105. Annual Operating Budget, Capital Program and Capital Budget.

The Director of Finance shall:

(a) Obtain from all officers, departments, boards and commissions and other agencies receiving appropriations from the City such information as shall be necessary to enable him to compile for the Mayor the information necessary for the preparation and submission to the Council of the annual operating budget;

(b) Not later than six months prior to the end of each fiscal year, distribute to the Mayor, the Managing Director, the Personnel Director, each department, board and commission of the City, the chief clerk of the Council and all other officers of the City and other governmental or other agencies which desire City appropriations to be made to them, the proper blanks necessary for the preparation of operating budget estimates, with a request that such blanks be returned with the information desired not later than five months prior to the end of the fiscal year. Such blanks shall be in such form as shall be prescribed by the Director of Finance to procure any and all information pertaining to the revenues and expenditures for the preceding fiscal year and for the current fiscal year, including the appropriations made by the Council for the previous year, the expenditures therefrom, the encumbrances thereon, the amount unencumbered and unexpended, itemized estimates of the revenues and expenditures of the current fiscal year and for the succeeding fiscal year, and an estimate of the revenues and amounts needed for expenses of the Council, and for all offices, departments, boards and commissions of the City and other governmental or other agencies to which appropriations are likely to be made by the Council for the next fiscal year. Such blanks shall also request the person returning them to accompany them with a statement in writing, giving the facts and an explanation of and reasons for the estimates of receipts and expenditures for the succeeding fiscal year contained upon the blanks returned;

(c) Under the direction of the Mayor, make inquiries and investigations as to the financial needs, expenditures, estimates or revenues of any officer, department, board or commission of the City or other agency requesting appropriations from the City. The Mayor may, after giving to each such officer, department, board, commission or other agency an opportunity to be heard, approve, disapprove or alter the estimates. The Director of Finance shall submit to the Mayor, in writing, the above information and any additional information requested by the Mayor as a basis for the Mayor's estimates for appropriations for the next fiscal year;

(d) Obtain annually from all officers, departments, boards and commissions and other agencies requesting funds from the City for capital improvements, such information as the City Planning Commission shall require to enable it to prepare the capital program and capital budget;

(e) Prepare and supply to the Mayor such information as will enable the Mayor to keep currently acquainted with the financial conditions and prospective receipts and expenditures of the City during the current fiscal year in order to control expenditures in such a manner as to avoid deficits.

(f) By the time of the submission by the Mayor to City Council of the proposed operating budget ordinance, proposed capital budget ordinance, and proposed capital program, provide to City Council such additional information as Council may from time to time require pursuant to Section 2-310. 70.1

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 601.

Purposes: 1. The Director of Finance is to be in over-all charge of the preparation of the annual operating budget so that it may be prepared in an orderly and efficient manner and so that it will reflect all possible economies. Thus, he has the duty of gathering from all officers and agencies of the City all the information necessary for the preparation of the budget. He may request any officer or agency to justify the information furnished either as to expenditures requested or revenues estimated. It is to be noted that since the Director of Finance is the principal financial assistant of the Mayor, the Mayor is ultimately responsible for the budget, and for this reason the Director of Finance will act under the direction of the Mayor, to the extent that the Mayor deems it appropriate to give such direction. The Mayor is empowered to make the final decision as to the content of the operating budget to be submitted to the Council.

2. The Director of Finance is also to gather information required by the City Planning Commission in the preparation of the capital program and capital budget since, as the City's chief financial and budget officer, he will be in a position to obtain such information.

3. The Director of Finance is required to gather and compile information which will enable the Mayor to know at all times the

financial condition of the City. One of the purposes of this requirement is to enable the Mayor to be in a position to reduce expenditures in the event the flow of revenues indicates a deficit may be or is about to be incurred. Section 8-102.

§ 6-106. Requisitions for the Payment of Money.

The Director of Finance shall receive for transmittal to the Auditing Department every requisition for the payment of money out of the City Treasury. He shall examine the requisition to see whether there is an appropriation available for the requested expenditure and whether the requisition is in accordance with any administrative order of the Mayor relating to current expenditures. If the requisition is proper in these respects, the Director shall note his approval thereon and transmit it to the Auditing Department; otherwise he shall return it whence it came to him. However, if any officer, department, board, commission or agency has failed to comply with the Director's accounting requirements, the Director may decline to approve any requisition for the payment of money out of any appropriation to such officer, department, board, commission or agency until compliance. The Director shall keep among his records copies of all requisitions approved for payment.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XII, Section 3, as amended; see also the Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Section 1502.

Purposes: All requisitions for the payment of money are required to pass through the office of the Director of Finance in order to make certain that appropriations are available for proposed expenditures and so that they may be checked for conformity to current orders of the Mayor dealing with current expenditures. If these requirements are met, and if the officer or agency initiating a requisition is conforming with the Director of Finance's accounting requirements, the Director of Finance will approve the requisition. Disapproval is permitted where there is a failure to comply with the Director's accounting requirements since this is an effective means for assuring such compliance. Copies of all requisitions are to be retained by the Director of Finance to aid his general accounting system.

§ 6-107. Cost Analysis.

The Director of Finance shall from time to time make studies of the cost of performing the various functions which are committed to the several officers, departments, boards or commissions or other agencies. Such studies shall be made on such basis as the Director of Finance may deem useful or as the Mayor or the Managing Director may request. Reports showing the results of such studies shall be made to the Mayor and to the Managing Director.

ANNOTATION

Sources: No specific source.

Purposes: Cost analysis is required so that the cost of performing various City operations will be known. Such knowledge will make possible the effecting of economies where costs appear to be excessive and the reviewing of costs in those cases where charges are made for services rendered by the City. Cost analysis information is to be supplied to the Mayor, because he is the chief executive, and to the Managing Director, because he will be supervising the service departments and should know the cost of their various operations for effective supervision.

§ 6-108. Examination of Records and Property.

To enable the Director of Finance to perform his duties as provided in this chapter, he shall have access to the records of every officer, department, board or commission of the City or other governmental agency to which appropriations are made by the City, and shall have the right to examine at any time the equipment, material or supplies acquired with such appropriations and in the possession of any such officer, department, board, commission or agency.

ANNOTATION

Sources: No specific source.

Purposes: The Director of Finance is given the right to examine all records and property of any officer or agency to which appropriations are made so that he may properly discharge his duties.

§ 6-109. Disadvantaged Business Enterprises. 71

(1) At least thirty (30) days before the start of each fiscal year, the Finance Director shall file with the Mayor a written report that includes:

(a) An up-to-date study analyzing the participation of disadvantaged business enterprises ("DBE's") in City contracts for the purchase of goods and services, compared to the percentage of qualified DBE's available to participate in such contracts ("Annual Disparity Study"). The Annual Disparity Study shall be performed either by the Office of the Director of Finance itself, or by contract.

(b) City contract participation goals for DBE's for the upcoming fiscal year ("Annual Participation Goals"). In devising the Annual Participation Goals, the Finance Director shall consider:

- (i) the present availability of qualified DBE's;
- (ii) the participation of qualified DBE's on past contracts awarded by the City;
- (iii) a forecast of eligible contracts to be awarded within the fiscal year; and
- (iv) the latest Annual Disparity Study.

(c) Such other related matters as Council may from time to time ordain.

(2) At the same time that the report is filed with the Mayor, the Finance Director shall file a copy with the Department of Records and with the President and Chief Clerk of Council, and shall arrange for publication of the report on the City's official website.

(3) Council may by ordinance define and detail categories of DBE's and of City contracts that must be considered separately by the Finance Director in conducting the Annual Disparity Study and devising the Annual Participation Goals.

§ 6-110. Budget Stabilization Reserve. 71.1

(a) The Director of Finance shall create and maintain a Budget Stabilization Reserve as a separate fund which shall not be commingled with any other funds of the City. For each fiscal year, the Director of Finance shall make deposits to such Fund no later than three months after the start of such year in such amount as may be necessary to increase the balance in the Budget Stabilization Reserve to the amount appropriated by the Council to the Budget Stabilization Reserve pursuant to Section 2-300(7).

(b) The Director of Finance shall invest the moneys deposited in the Budget Stabilization Reserve in like manner to other moneys in the General Fund not needed for immediate expenditure by the City. Interest and other earnings on such money shall accrue to the Budget Stabilization Reserve.

(c) The Director of Finance shall allow withdrawals from the Budget Stabilization Reserve only upon (i) approval by ordinance of a transfer of appropriations from the Budget Stabilization Reserve, pursuant to Section 2-300(6), and only for the purposes set forth in such transfer ordinance; and (ii) either:

(1) A certification by the Director of Finance that General Fund Revenues actually received by the City during the prior fiscal year were at least one percent (1%) less than the General Fund Revenues set forth in the Mayor's estimate of receipts pursuant to Section 2-300(3); or

(2) A certification by the Director of Finance that such withdrawal is necessary to avoid either a material disruption in City services or to fund emergency programs necessary to protect the health, safety or welfare of City residents; and that it would be fiscally imprudent to seek emergency appropriations pursuant to Section 2-301(a). Such certification must be approved either by (i) a resolution adopted by two-thirds of all of the members of the Council, or (ii) an agency of the Commonwealth with responsibility for ensuring the fiscal stability of the City.

(d) Expenses incurred or to be incurred as a result of any interest arbitration award, to the extent such expenses exceed those anticipated by the Director of Finance in the most recent financial plans submitted to any State agency prior to the issuance of such award, or, if no such plans have been submitted within the immediately preceding twelve months, in the most recent financial plans certified to the Council by the Director of Finance, shall not be considered in determining the need for any withdrawal from the Budget Stabilization Reserve.

70.1 Added by approval of the voters at the election held on November 6, 2012, and certified on December 3, 2012. See Bill No. 120108 (approved September 11, 2012); Resolution No. 120119 (adopted June 28, 2012).

71 Added by approval of the voters at the election held on November 7, 2006, and certified on November 27, 2006. See Bill No. 060388 (approved June 13, 2006); Resolution No. 060408 (adopted June 1, 2006).

71.1 Added by approval of the voters at the election held on November 9, 2011, and certified on November 28, 2011. See Bill No. 100303 (approved April 27, 2011); Resolution No. 100314-A (adopted April 14, 2011).

CHAPTER 2 DEPARTMENT OF COLLECTIONS AND ITS DEPARTMENTAL BOARD AND COMMISSION

§ 6-200. Powers and Duties in General.

Except as otherwise provided in this charter the Department of Collections shall exercise the powers and perform the duties heretofore exercised and performed by the Receiver of Taxes, the Department of Receiver of Taxes, and all other officers, departments, boards and commissions of the City, in the receipt and collection of taxes, license fees and other moneys due the City and such other powers and duties as are imposed or conferred upon it by this charter or by ordinance.

ANNOTATION

Sources: See the Fiscal Code of 1929. Act of April 9, 1929, P.L. 343, Section 201.

Purposes: A Department of Collections replaces the former Department of Receiver of Taxes. In addition to the powers and duties thus acquired, the new Department is made responsible for the collecting of all moneys payable and due to the City. Centralization of revenue collecting functions will facilitate accountability for revenues to an extent not heretofore possible or experienced.

§ 6-201. Functions.

The Department of Collections shall have the power and its duty shall be to perform the following functions:

(a) Collection of Real Estate and Personal Property Taxes-Billing. It shall collect all real estate and personal property taxes, penalties and interest due the City. All bills for such taxes shall be prepared in accordance with the assessments certified to the Department by the Board of Revision of Taxes and shall be forwarded to the respective taxpayers as soon as possible after the receipt of the certified list.

(b) Collection of Income and Other Taxes. The Department shall collect the City income tax and any other taxes which now are or may hereafter be imposed by the Council in such manner as shall be prescribed by ordinance.

(c) Water and Sewer Rents. The Department shall collect all water and sewer rents due to the City. It shall cause all water meters to be read punctually by its employees. Bills for water and sewer rents shall be mailed to the owners of the properties against which they are charged.

(d) Collection of License Fees; Assignment of Employees to Department of Licenses and Inspections. The Department shall collect all fees or charges imposed by or pursuant to statute or ordinance for the issuance by the City of any licenses or permits. For this purpose, the Department shall assign an adequate number of its own employees to duty in the Department of Licenses and Inspections to receive such fees or charges.

ANNOTATION

Sources: The Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Sections 202 and 203, as amended, and 204, 205 and 206.

Purposes: 1. The Department of Collections is charged with the duty of collecting all taxes due to the City. See Annotation to

Section 6-200. It is to bill taxpayers for all real and personal property taxes in accordance with assessments of the Board of Revision of Taxes.

2. The Department is to collect all water and sewer rents and for this purpose is to read water meters and to do the billing. This function has been placed in the Department of Collections rather than the Department of Water since it is a revenue collecting function and should therefore be performed more efficiently by an agency charged with collecting revenues rather than one responsible for furnishing a service to citizens.

3. The Department is to collect all license fees due to the City and is to accomplish this by assigning its employees to the agency where licenses and permits are granted. The latter is required for the convenience of the public and for the strict accounting for City revenues. See Annotation to Section 6-200.

§ 6-202. Receipts; Copies of Bills and Receipts.

The Department of Collections shall issue official receipts for all moneys collected from whatever source. Except for bills and receipts for real estate and personal property taxes, copies of all bills and receipts issued by the Department shall be forthwith delivered to the Auditing Department.

ANNOTATION

Sources: The Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Section 208, as amended.

Purposes: In accordance with good accounting practice, the Department of Collections, as the revenue collecting agency of the City, is required to issue official receipts for all moneys collected. To facilitate auditing, copies of all bills and receipts issued by the Department are required currently to be delivered to the Auditing Department, but bills and receipts for real estate and personal property taxes are excepted because these are issued in such volume as to make impracticable this requirement. Moreover, the Auditing Department will be able to audit adequately such bills and receipts without receiving duplicates.

§ 6-203. Utility Accounts.

The Department of Collections shall keep the accounts of each City utility separate and distinct from all other accounts of the City.

ANNOTATION

Sources: No specific source.

Purposes: The Department of Collections is required to keep separate accounts of revenues from utility services in order to facilitate the determination of the cost of furnishing such services and so that such receipts to the extent that they exceed expenditures may be available, as Council shall determine, for meeting the cost of utility improvements and the operating costs of the utility from which they were derived. See Annotations to Sections 5-801 and 5-901.

§ 6-204. Assignment of Employees or Agents to Other Departments, Boards and Commissions.

The Department of Collections shall assign its own employees to any department, in addition to the Department of Licenses and Inspections, and to any board and commission which receives money due to the City with regularity and in such volume as to warrant the full-time assignment of such employees. In any case in which any such department or any board or commission shall receive City money irregularly and in volume not sufficient to warrant the assignment of employees of the Department to such other department, board or commission, the Department shall designate one or more of the employees of such other department, board or commission as the agents of the Department who may receive money on behalf of the City. Such agents shall be appropriately bonded, shall issue official receipts for any money received by them, and shall daily transmit to the Department all moneys received, together with copies in duplicate of the receipts issued by them. The Department shall retain one copy of all such receipts, and shall forthwith deliver to the Auditing Department the other copy.

ANNOTATION

Sources: The Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Section 210, as amended.

Purposes: Employees of the Department of Collections are, as a general rule, to collect any form of City revenues. See Annotation to Section 6-201. Where the amount of revenues to be collected by any agency warrants it, a full-time employee of the Department of Collections is to be assigned to such agency. Otherwise, the Department of Collections has the responsibility of designating an employee of the agency to act as agent of the Department for this purpose. Strict accounting requirements are imposed in such

instances and the employee must be appropriately bonded.

§ 6-205. Banks as Agents for Receiving Taxes and Other Moneys.

The Department of Collections may, with the approval of the Director of Finance, constitute any bank doing business within the City the agent of the Department for receiving any taxes collectible by it under the provisions of this charter. The method of the receipt of taxes or other moneys through any bank constituted as the City's agent under this section shall be approved by the City Controller. In all cases, any such banks shall be depositories of the City, shall be authorized to issue official receipts for the moneys received by them, shall forthwith credit the City's accounts with the moneys so collected, and shall make daily reports in duplicate to the Department, with which shall be included copies in duplicate of all receipts issued by them as agents of the City.

ANNOTATION

Sources: No specific source.

Purposes: For the convenience of taxpayers and because it will provide the City with a safe and economical means of collecting moneys, the Department of Collections may, with the approval of the Director of Finance, authorize any bank doing business in the City to be its agent for collecting moneys due to the City.

§ 6-206. Chargeability of Revenue Commissioner.

The Revenue Commissioner shall be charged with the full amount of all tax duplicates of the several wards and also with all other accounts placed in his hands by the proper officer for collection.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XV, Section 3.

Purposes: This provision continues existing law.

§ 6-207. Tax Review Board.

The Tax Review Board shall perform such duties as the Council shall from time to time impose upon it.

ANNOTATION

Sources: Cf. the Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Section 503, as amended.

Purposes: The Tax Review Board is to be the official agency of the City to which taxpayers may appeal decisions of the executive branch of the government affecting their tax liability. Disputed tax cases will frequently be settled quickly and with the least expense to the taxpayer and the City through resort to the Board. The scope of the functions of the Board is left to councilmanic determination so that it may meet needs in this area as they arise.

§ 6-208. Sinking Fund Commission.

The Sinking Fund Commission shall invest the moneys in the sinking fund, redeem or purchase bonds of the City, and perform such other duties as may now or hereafter be provided by statute or by ordinance.

ANNOTATION

Sources: See Act of June 25, 1919, P.L. 581, Article XIV.

Purposes: The functions of the Sinking Fund Commission are continued substantially as at present.

CHAPTER 3 CITY TREASURER

§ 6-300. Custodian of City Funds.

The City Treasurer shall receive from the Department of Collections daily all moneys received by that Department from any source and shall make daily deposits of such moneys in such banks or institutions as may be designated by the Council. He shall make specific reports daily to the Auditing Department and the Director of Finance of all receipts and deposits and of all moneys withdrawn from the City Treasury, and shall present and verify his cash account in such manner and as often as may be required.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XI, Sections 3, 5 and 6; see also the Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Sections 301, as amended, and 305.

Purposes: The City Treasurer is to be the official custodian of City funds for sound financial management requires a separation of this distinct function from that performed by other financial departments of the City government. Moneys collected by the Department of Collections are to be turned over to the City Treasurer and he is to deposit them with depositories designated by the Council. Daily reports are required to be made to the Auditing Department and the Director of Finance of receipts, deposits, and disbursements from the City Treasury for accounting purposes and so that the day to day flow of City revenues may be known.

§ 6-301. Payments Out of the Treasury.

The City Treasurer shall pay moneys out of the City Treasury only by check. Checks shall be issued only upon the order of the City Controller. All orders shall indicate the purpose for which the City Treasurer is required to draw checks and the particular funds or appropriations to which they are chargeable. All payroll checks shall be delivered to the officer, department, board or commission of the City or other governmental agency on whose requisition they were ordered drawn. Other checks shall be delivered or mailed to the payees, unless the Director of Finance shall prescribe another system.

ANNOTATION

Sources: Cf. the Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Section 307, as amended.

Purposes: 1. Strict accountability for City moneys requires that they be disbursed by check signed by the City Treasurer and that all such checks shall be drawn only upon the order of the City Controller. Section 6-400. Orders are to indicate the purposes of expenditures and the funds or appropriations to be charged so that the City Treasurer may know against what funds he is to draw checks.

2. Payroll checks are to be delivered to the officer or agency on whose requisition they were drawn to assure their delivery to the person who allegedly performed the services and that the services were in fact performed. The delivery of all other checks is made subject to the direction of the Director of Finance so that he can from time to time prescribe that method of delivery which will best protect the interests of the City and the rightful payee. Unless the Director of Finance prescribes otherwise, the Treasurer may deliver or mail checks to payees.

3. See Section 8-101.

§ 6-302. Other Duties.

The City Treasurer shall continue to perform such other duties not inconsistent with the provisions of this charter as are now imposed upon him by statute.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XI, Section 1.

Purposes: The City Treasurer is required by statute to perform duties for the County and other governmental agencies and he is authorized to do so, subject to the requirements of the Charter.

CHAPTER 4 AUDITING DEPARTMENT

§ 6-400. Functions.

The Auditing Department shall have the power and its duty shall be to perform the following functions:

(a) Approval of Disbursement Requisitions. It shall examine and approve or disapprove all requisitions submitted to it through the Director of Finance by any officer, department, board or commission of the City or other agency to which an appropriation has been made. The Department shall approve a requisition which it finds to be for a purpose comprehended by the appropriation against which it is drawn and in a proper amount. Otherwise the requisition shall be disapproved and returned to the Director of Finance.

(b) Orders for the Payment of Money Out of the Treasury. The Department shall issue its order to the City Treasurer authorizing him to issue checks for payments out of moneys in the City Treasury as called for by an approved requisition.

(c) Audits of the Financial Affairs of Officers, Departments, Boards, Commissions and Other Agencies. The Department shall audit at least annually the affairs of every officer, department, board, including the accounts of any board of directors of City trusts, and commission of the City and, as far as may be necessary, the accounts of any other agency receiving an appropriation from the City. No contract with an agency shall be valid unless it contains a provision granting the Department the discretion to audit the affairs of the agency as authorized in this section during the term of the contract. Audits shall include all collections made on behalf of the City by an officer, department, board, commission or other agency. The accounts of police and firemen's pension funds receiving appropriations from the Commonwealth of Pennsylvania shall be audited annually. An audit report shall be made on every audit.

Special audits of the affairs of any officer, department, board, commission or agency may be made whenever in the judgment of the City Controller they appear necessary, and shall be made whenever the Mayor shall call upon the City Controller to make them.

Copies of all audit reports made by the Auditing Department shall be promptly submitted to the Mayor and to the Council.

For purposes of this section, agency shall mean any entity which:

- (1) receives funds from the City, and either
- (2) is created by, or whose board of directors is in whole or part appointed by, one or more City officials or bodies; or
- (3) that is organized pursuant to legal authority granted to it by City ordinance. 72

(d) Recommendations. The Department shall from time to time make recommendations to the several officers, departments, boards, commissions or other agencies receiving appropriations from the City for the improved efficiency and economy of their operations involving the expenditure of City funds.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, as amended, Article XII, Section 3, as amended; the Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Article IV.

Purposes: 1. The Auditing Department's approval of disbursement requisitions is required to prevent the improper disbursement of City funds. In the absence of screening at this stage, funds might be improperly disbursed and their recovery at a later date might be difficult and might involve considerable expense to the City. A disbursement is improper if it is not made for a purpose comprehended by the appropriation against which it is drawn. If a requisition is approved, the Department issues its order on the City Treasurer authorizing him to make payment.

2. The Auditing Department is the official agency of the City for auditing annually every officer and agency, City or otherwise, receiving appropriations from the City. Collections as well as disbursements are to be audited. Special provision is made in the case of police and firemen's pension funds receiving appropriations from the Commonwealth because of statutory requirements. Act of June 25, 1919, P.L. 581, Article XII, Section 3, as amended. The final step of the auditing process is a report of every audit so that the result will be made known to the Council and to the executive branch.

3. The Controller is authorized to make special audits wherever he deems them necessary and whenever the Mayor requests him to do so for circumstances may from time to time indicate that an immediate audit is an urgent necessity.

4. As a result of its audits, the Auditing Department will obtain detailed information of the operations of every officer and agency of the City. Such information may enable it to suggest economies and improved methods of operation and the Department is authorized to make recommendation towards this end.

§ 6-401. Auditors.

The City Controller shall appoint a certified public accountant as his deputy in charge of auditing and the auditors regularly employed by the Auditing Department shall be either certified public accountants, or graduates of colleges or universities who majored in

accounting.

ANNOTATION

Sources: No specific source.

Purposes: To enable the City Controller properly to perform his auditing functions, his deputy is required to be a certified public accountant and his auditors certified public accountants or persons with appropriate academic training in accounting. This requirement puts Council on notice that appropriations to the Auditing Department must be adequate to compensate such personnel so that the Department may properly perform its functions. See Section 2-300(4).

§ 6-402. Justification for Requisitions for Disbursements.

Whenever a requisition for disbursement of funds from the City Treasury shall be presented to the Auditing Department, the Department may require evidence that the amount stated in the requisition is justly due, and for that purpose may summon to appear before it any officer of the City or any officer or employee of any department, board or commission of the City or of any other governmental agency receiving appropriations from the City or any other person and examine him upon oath or affirmation relative to such requisition.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XII, Section 3(g).

Purposes: The Department is empowered to investigate the propriety of any requisition so that it may be able to perform its auditing functions.

§ 6-403. Consultation with Outside Experts.

Whenever the City Controller deems it necessary, the Auditing Department shall consult with a firm or firms of certified public accountants in order to obtain expert advice as to the manner in which the auditing duties of the Department are being performed.

ANNOTATION

Sources: No specific source.

Purposes: The Auditing Department is authorized to consult private certified public accountants whenever the City Controller deems it necessary so that it may obtain expert advice to aid it in the performance of its duties. This provision puts Council on notice that it must provide the Auditing Department with funds to compensate accountants engaged for this purpose by the Department. See Section 2-300(4).

§ 6-404. Duty to Submit to Audits by Certified Public Accountants Appointed by the Council; Audit Reports.

The Auditing Department shall submit to any accountants appointed by the Council for the purpose of making an audit of its affairs or of the methods used by it in auditing the affairs of other departments and of officers, boards and commissions of the City and of other agencies receiving moneys out of the City Treasury, all records in its possession, shall cooperate fully with such accountants in making such an audit and, to the extent authorized by the Council, shall exercise all its powers to make available for such an audit the records of any officer, department, board or commission. Reports of all such audits shall be submitted to the Mayor and to the Council.

ANNOTATION

Sources: No specific source.

Purposes: 1. The Charter requires Council to make provision for at least a triennial examination by an independent firm of certified public accountants of the manner in which the Auditing Department is performing its duties. See Section 2-300(5). The Auditing Department is required to furnish to any accountants appointed by Council for this purpose all of its records and to cooperate with such accountants.

2. Whenever the examination of the records of the Auditing Department indicates that the independent accountants ought to inspect the records of other departments or agencies, the Auditing Department is required to exercise all of its powers to aid such inspection to the extent that the Council authorizes the Auditing Department to do so.

3. An independent triennial audit of every officer and agency of the City was not required by the Charter for two reasons. It

would involve great expense to the City and it would duplicate the work of the Auditing Department if that Department were properly performing its auditing functions. Independent accountants, when they examine the manner in which the Auditing Department is performing its duties, should be able to tell whether particular officers and agencies have been properly audited. If they have been so audited by the Auditing Department, the purpose of the independent examination has been met. If they have not been audited properly, the independent auditors will report that fact to the Mayor and the Council.

4. Reports of independent auditors are to be made to the Mayor and to the Council so that they will be informed of the results.

§ 6-405. Access to Records.

The City Controller shall have the right of access at all times to the financial records of every officer, department, board or commission of the City and any other governmental agency to which appropriations are made by the City.

ANNOTATION

Sources: No specific source.

Purposes: The City Controller is given the right of access to the records of every officer and agency receiving appropriations from the City so that he may properly fulfill the functions of his office.



Notes

72 Paragraph (c) amended by approval of the voters at the election held on November 4, 2003 and certified on December 1, 2003. See Bill No. 020810 (approved May 15, 2003); Resolution No. 020817 (adopted May 1, 2003). Enrolled Resolution designated new subparagraphs a), b) and c). Renumbered as (1), (2) and (3) by Code editor.

CHAPTER 5 PROCUREMENT DEPARTMENT

§ 6-500. Functions.

The Procurement Department shall have the power and its duty shall be to perform the following functions:

(a) Procurement.

(1) Except as otherwise provided in this charter, it shall purchase, and when feasible store and distribute all personal property to be procured with funds from the City Treasury. It shall establish and maintain City storehouses, develop and operate therein a uniform, modern system of stores control based upon perpetual inventory and maintain a sufficient stock of staple commodities on hand to supply the estimated current needs of all departments, boards and commissions of the City and other governmental agencies for whom such commodities are procured with funds appropriated from the City Treasury. All purchases, other than purchases for stock and all deliveries from such stock shall be made only upon proper requisition.

For the purpose of exercising its procurement functions more efficiently and economically, the Department shall classify all items of personal property subject to procurement by it; maintain a laboratory for testing and inspecting such property; adopt as standards the minimum number of qualities, sizes and types of such items consistent with efficient operation; and prepare, promulgate and enforce, written specifications for all such standard items.

(2) The Department shall procure at the cost of the City good and sufficient bonds, to be approved by the City Solicitor and filed with the Department of Records, to meet the requirements of law, in the case of all City officers and employees required to give surety bonds to the City, for the faithful performance of their official duties or to account for City funds or property in their possession. When authorized by the Administrative Board, it shall also procure liability insurance, covering liability of the City and its officers and employees. It shall also procure any other kind of insurance which it may be lawful for the City or any officer, department, board or

commission of the City to carry and for which an appropriation has been made to the Department.

(3) The Department shall let all contracts for utility services which are required by any department, board and commission of the City and other governmental agencies and which are to be paid for with funds from the City Treasury.

(4) The Department shall from time to time notify the chief clerk of the Council, the Mayor, the several officers, departments, boards and commissions of the City and other governmental agencies whose procurement requirements are to be purchased with funds appropriated from the City Treasury, respectively, to furnish, at such time as it may require, lists of all requirements that may be needed by each of such officers, departments, boards, commissions and agencies for such periods as the Department shall prescribe, excepting only perishable food stuffs for City institutions. Upon receipt of such lists, the Department shall, as far as practicable, consolidate and classify the requirements named therein, and shall prepare annual, semi-annual, or quarterly schedules thereof, as deemed for the best interest of the City. The Department shall have the power to make such changes in the schedules as may be deemed proper, and may standardize any or all requirements therein. The schedules as finally prepared, shall be used by the Department for procuring the requirements specified therein.

(5) In the performance of its procurement functions, the Department shall consult with and consider recommendations of the Council, the Mayor, the officer, department, board or commission of the City or other governmental agency, whose requirements it is procuring.

(6) Whenever the Department shall procure any item which is to be paid for, out of an appropriation made to another department, board or commission of the City or to any other government agency or from a special fund, the Department shall act as agent for such department, board, commission or agency.

(7) The Department may permit any officer, department, board or commission of the City or other agency to make a particular purchase or class of purchases directly, but in any such case the Department shall first approve in writing the specifications for such purchase.

(b) Printing and Publications.

(1) The Department shall furnish by contract or otherwise all printing and binding, engraving and publications required by the City.

(2) The Department shall distribute all printed matter of the City. It may sell, at prices to cover the cost of publication, any printed matter which it distributes. The Department shall compile, edit and publish annually a City Manual. It shall copyright, in the name of the City, all City publications which it regards desirable to have copyrighted.

(c) Contracts. After advertising and the receipt of competitive bids, the Department shall let all contracts to be paid for with funds appropriated from the City Treasury for which competitive bids are required, including contracts for concessions whether or not the specifications were prepared and the performance of the contract is to be supervised by another department, or by a board, commission or other governmental agency.

(d) Sales of Unserviceable Personal Property. The Department shall receive from departments, boards and commissions of the City and other governmental agencies, unserviceable personal property owned by the City or acquired with funds appropriated from the City Treasury and, if no other department, board or commission of the City or other governmental agency supported by funds appropriated from the City Treasury is able to make use of it presently, dispose of it by sale, either at public auction or private sale, or by transfer, exchange or otherwise after public advertisement or other appropriate public notice and receipt of bids.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Sections 2403-2406, 2409, as amended; Act of June 25, 1919, P.L. 581, Article XXIV, Section 3, as amended.

Purposes: 1. All procurement functions of the City are centralized in a Procurement Department to facilitate financial controls and to promote efficiency and economies. See Section 8-202.

2. The Procurement Department is to purchase and when necessary store and distribute all personal property to be procured with City funds. It is to run City storehouses, maintain an adequate inventory accounting system, and keep stores of staple commodities to supply current needs. Part of this procurement process is to include the standardization of purchases and the adequate testing and inspection of materials procured. For accounting purposes, all deliveries from City stores are to be made only on proper requisitions.

3. All bonds required to be furnished by City officers and employees are to be procured by the Procurement Department but the City is to pay for the cost of such bonds. The Department is also to purchase all insurance needed and authorized by the City for its employees.

4. The Department is to let all contracts for utility services required by the City and to be paid for with City funds.

5. To enable the Department to make purchases in quantity and to standardize purchases in the interest of economy and efficiency, a procedure is devised for the scheduling of requirements based upon regular information supplied to it by all the officers and agencies of the City. However, the Department is required in the performance of its procurement functions to consult with the various officers and agencies so that items procured although standardized as far as may be possible, will still meet particular needs.

6. As a general rule, appropriations for the procurement of personal property are to be made directly to the Procurement Department. However, even where such an appropriation may be made to any other officer or agency, the Department is to make the purchases although it acts as the agent for such officer or agency.

7. In order to enable an officer or agency to meet emergencies or to make a specialized type of purchase, the Department may, upon request, permit a direct purchase by any officer or agency. However, the Department's approval must be obtained in writing and the specifications for the purchase must be first approved so that such exceptions will remain subject at all times to control by the department responsible for procurement.

8. All printing, binding, and engraving and publications required by the City are to be furnished by the Procurement Department.

9. The Department is to distribute all printed matter of the City to the public and to City agencies. This requirement should serve the convenience of the public since there will be only one agency where City printed matter may be procured. It should also minimize the wasteful distribution of City printed matter.

10. A City Manual giving complete information about the various City officers and agencies and their functions and of the operations of the City government is to be compiled, edited, and published by the Procurement Department. Such a manual should serve the convenience of the public and of City officers and employees.

11. The Procurement Department is to let all contracts which are to be paid for from City funds for which competitive bids are required even though specifications may have been prepared and performance is to be supervised by another agency of the City. See Section 8-200 as to when competitive bidding is required. Included in this category are contracts awarding City concessions. See Section 8-201. These requirements are necessary to standardize contract procedures and for the convenience of bidders and the effecting of economies for the City.

12. The Department is to be the City agency for the disposal of unserviceable City property so that any property for which there is a use, will be used, and property for which there is no use, will be disposed of. See Section 8-203. Before disposing of any property, the Department must determine whether any other agency supported by funds from the City Treasury can use it. If use cannot be made of the property and it is unserviceable, the Department is authorized to dispose of it by sale or otherwise only after advertisement or public notice and receipt of bids. If the property is not resalable, the Department may destroy it.

§ 6-501. Property Records.

The Procurement Department shall compile and maintain current and comprehensive records, by officers, departments, boards and commissions of the City and other governmental agencies, of all real and personal property of the City. Such records shall show the cost, serial numbers, location, and such other information as the Director of Finance shall from time to time direct.

ANNOTATION

Sources: No specific source.

Purposes: The Department is to maintain complete property records so that there will be complete accountability for all property owned by the City.

CHAPTER 6 BOARD OF PENSIONS AND RETIREMENT

§ 6-600. Pension and Retirement System.

Within one year after the effective date of this charter, the Board of Pensions and Retirement shall prepare with the aid of the Law Department and submit to the Council for its consideration and enactment a comprehensive, fair and actuarially sound pension and retirement system covering all officers and employees of the City except that any system proposed and ordained shall not impair or

diminish rights of officers and employees under any pension and retirement systems in force at the time of the adoption of this charter and except that separate systems shall be maintained for City policemen and firemen as long as payments by the Commonwealth of Pennsylvania of funds from taxes paid upon premiums by foreign casualty and fire insurance companies render it desirable.

ANNOTATION

Sources: No specific source.

Purposes: A fair and actuarially sound pension and retirement system for all City officers and employees is a pressing City need. See Annotation to Section 2-308. The Board of Pensions and Retirement which is established to administer such a system is required to prepare legislation providing for such a system within one year after the effective date of this Charter and to submit it for Council's consideration and enactment. Since many City employees are presently covered by some form of pension or retirement system, any new system is not to impair or diminish their rights. City policemen and firemen belong to privately organized corporations which provide them with certain pension and retirement benefits. Such associations are supported by funds from the Commonwealth of Pennsylvania from taxes paid on premiums by foreign casualty and fire insurance companies. Any over-all system would have to take account of such private pension and retirement systems and separate systems for firemen and policemen are authorized as long as the State's contributions render it desirable.

§ 6-601. Administration of Pensions and Retirement Benefits.

The Board of Pensions and Retirement shall administer the pension and retirement systems of the City and shall examine and make recommendations as to the administration of any separate pension and retirement systems to which the City makes appropriations even though such systems are incorporated.

ANNOTATION

Sources: No specific source.

Purposes: The City pension and retirement system is to be administered by a separate agency, the Board of Pensions and Retirement, for it will be a vast and complex operation. The Board could not be given jurisdiction as a matter of law to administer private pension and retirement systems unless the City had some direct interest in such systems, such as through appropriations made to them. However, since there is no established City policy in this respect, and since City appropriations may constitute but a small part of the income of private pension and retirement systems, the only requirement imposed is that the Board shall examine such systems and make recommendations as to their administration. Such recommendations may be made mandatory by ordinance as a condition of receiving City appropriations.

ARTICLE VII

EXECUTIVE AND ADMINISTRATIVE BRANCH - POWERS AND DUTIES Personnel Director and Civil Service Commission and the Civil Service

CHAPTER 1

THE PERSONNEL DIRECTOR

§ 7-100. Civil Service.

The Personnel Director shall prepare, and after their adoption, administer the civil service program under the civil service regulations. He shall:

- (a) Establish and maintain a roster of all employees of the City, whether or not in the civil service, in which there shall be set forth, as to each employee, the class title of the position held, the salary or pay, any change in class title, pay or status, and other pertinent data;
- (b) In accordance with the position classification plan contained in the civil service regulations upon their taking effect, allocate the position of every employee in the civil service to one of the positions in the plan. He shall afford a reasonable opportunity to be heard to any employee affected by the allocation of a position to a class upon the written request of such employee for reconsideration thereof;

(c) Investigate from time to time the operation and effect of the civil service provisions of this charter and report his findings and recommendations to the Mayor and the Civil Service Commission.

ANNOTATION

Sources: A Model State Civil Service Law, Sections 6 and 8.

Purposes: 1. The civil service system created by this Charter vests responsibility for direct administration in a Personnel Director and responsibility for review in an independent Commission consisting of three members. Separation of the administrative and quasi-judicial functions is desirable because each is distinct, involving special problems which require special attention.

2. The Personnel Director is to be the administrator of the City's civil service system. That system will be governed largely by regulations which are prepared initially by him but which are to be reviewed for approval by the Civil Service Commission, and in part, by the Administrative Board. Section 7-400.

3. An adequate personnel system requires complete records of all employees of the City, civil service and non-civil service, which will reflect their current employment status. The Personnel Director is to establish and maintain such records. Provision is made in Section 8-104 for the periodic furnishing of information to the Personnel Director to enable him to discharge this duty.

4. The Personnel Director is empowered to allocate each employee of the City in the civil service to one of the positions provided for in the classification plan. See Section 7-401(a). Since classification affects the status of an employee, employees who believe themselves aggrieved by a classification are afforded an opportunity to be heard by the Personnel Director.

5. Adequate administration requires investigation from time to time of operations. The Personnel Director is required to make such investigations and to keep the Mayor and the Civil Service Commission informed of the results and to submit to them his recommendations for improvements.

§ 7-101. Improved Personnel Administration.

The Personnel Director shall foster and develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness, including training, safety, health and welfare, and encourage and exercise leadership in the development of effective personnel administration within the several offices, departments, boards and commissions of the City and within any governmental agencies whose employees are paid from the City Treasury.

ANNOTATION

Sources: A Model State Civil Service Law, Section 6.

Purposes: A program for employee improvement training, safety, health and welfare sponsored by the City will benefit the City since its employees should as a result thereof be better equipped to perform their jobs. More effective personnel administration will also benefit the City financially and the Personnel Director is authorized to promote such administration in each agency of the City and in all other agencies whose employees are paid from the City Treasury.

§ 7-102. Designation of Examination Personnel.

The Personnel Director shall designate appropriate persons to assist in the preparation and rating of tests.

ANNOTATION

Sources: A Model State Civil Service Law, Section 6(c).

Purposes: The Personnel director is empowered to designate persons to assist him in the preparation and rating of tests since this task is of such proportions as to require the services of numerous persons.

§ 7-103. Services to County and Other Agencies.

Subject to the approval of the Mayor, the Personnel Director may enter into arrangements with any court, or any commission, office or agency of the County of Philadelphia, to furnish the services and facilities of his office to such court, commission, office or agency in the administration of its personnel system on merit principles.

ANNOTATION

Sources: A Model State Civil Service Law, Section 15.

Purposes: County employees are not subject to the over-all civil service provisions of this Charter under its terms at the time of its adoption. Pending City-County consolidation or legislation which would bring them under the City civil service system prior to consolidation, the Personnel Director, with the approval of the Mayor, may make available the services of his office to County agencies so that their personnel systems may be administered on merit principles.

CHAPTER 2 CIVIL SERVICE COMMISSION

§ 7-200. Advisory and Supervisory Functions.

The Civil Service Commission shall advise the Mayor and the Personnel Director on problems concerning personnel administration in the City service. It shall make any investigation which it considers desirable and submit recommendations to the Mayor and Personnel Director. It shall approve, modify or disapprove proposed civil service regulations and amendments thereto. It shall promote the improvement of City personnel administration and foster the interest of institutions of learning and of civic, professional and employee organizations in the improvement of personnel standards.

ANNOTATION

Sources: A Model State Civil Service Law, Sections 5 and 8.

Purposes: 1. While the Civil Service Commission is not to administer the civil service system, it is empowered to serve in an advisory capacity to the Mayor and to the Personnel Director on personnel problems and in a supervisory capacity to the Personnel Director through its power to approve, modify or disapprove civil service regulations. Both of these functions require that the Commission have the power to investigate all phases of personnel administration and to make appropriate recommendations to the Mayor and to the Personnel Director.

2. The Commission's power in the area of civil service regulations is necessary because the regulations will affect the daily lives of City employees and their content should not be subject to the absolute discretion of a single individual. (Cf. Sections 8-406 and 8-407.)

§ 7-201. Appeals.

The Civil Service Commission shall hear and dispose of appeals as provided in this section. Any employee who is dismissed or demoted after completing his probationary period of service, or who is suspended for more than ten days in any one year, may, within thirty days after such dismissal, demotion or suspension, appeal to the Commission for review thereof. Every appeal shall be heard promptly. Upon such review, both the appealing employee and the appointing authority involved shall have the right to be heard publicly and to present evidence; but technical rules of evidence shall not apply. The findings and decisions of the Commission shall be in writing and shall be certified to the Personnel Director.

If the Commission sustains the appeal on the ground that the action complained of was taken by the appointing authority for any political, religious or racial reason, or labor union activity lawful for municipal employees, it shall order the employee to be reinstated to his former position without loss of pay for the period of his suspension. In all other cases where the Commission sustains the appeal of the employee it shall order the reinstatement of the employee in his former position with or without loss of pay for the period of his suspension or direct that he be appointed to a position of equal status in the same office, department, board or commission with or without loss of pay for the period of his suspension. If the Commission overrules the appeal of the employee, it shall confirm the action of the appointing authority which shall be final as of the date it was taken.

Findings and decisions of the Commission and any action taken in conformance therewith as a result thereof shall be final and there shall be no further appeal on the merits, but there may be an appeal to the courts on jurisdictional or procedural grounds.

ANNOTATION

Sources: A Model State Civil Service Law, Section 13.

Purposes: 1. The major function of the Civil Service Commission is to serve as an appellate tribunal in cases involving employees against whom disciplinary action by dismissal, demotion or suspension has been taken. The day-to-day administration of the civil

service system is the responsibility of the Personnel Director. See Annotation to Section 7-100.

2. The right to City employment is not an absolute one. On the other hand, employees lack many of the advantages and opportunities of employees engaged in private industry. The City is entitled to obtain the services for which it pays, but some measure of protection has to be afforded to an employee against whom disciplinary action is taken to assure that it is not arbitrary. This section approaches the problem on a basis which seeks to protect the interests of the City, the employee and the taxpayer.

3. An employee is given the right to appeal from action taken against him to the Civil Service Commission. He has this right in the case of any suspension for more than ten days, a limitation imposed to prevent the overburdening of appeal dockets. Upon an appeal, the employee is entitled to be heard publicly and to present evidence in his behalf but he may request a private hearing if he deems that desirable and the appointing authority accedes to his request. The latter qualification is necessary because the interests of the City may sometimes be served by a public hearing. Technical rules of evidence are not applicable because the proceeding is an administrative one and fairness to the employee and to the City requires that all facts pertaining to the case be presented regardless of any legal; exclusionary rules of evidence. Further protection is afforded to the City and to the employee by the requirement that the findings and decisions of the Commission must be in writing. They are to be certified to the Personnel Director so that he may know what action, if any, must be taken.

4. An employee has an absolute right to reinstatement to his former position without loss of pay if his appeal is sustained on the grounds that the action taken against him was for any political, religious or racial reason, or labor union activity lawful for municipal employees. Merit principles of employment preclude action taken against an employee because of his political beliefs and tenets. Of course, where the reason is that the employee engaged in political action prohibited by the Charter, the rule stated does not apply. American traditions, the principles of this Charter, and a merit basis of employment preclude action against an employee because of his religious beliefs or his race. To the extent labor union activity by City employees is lawful, it cannot afford a basis for dismissal, demotion or suspension.

5. Whenever dismissal, demotion or suspension is for reasons other than those noted in the preceding paragraph, it is the Commission's duty to decide whether the action appealed from was justified. If the Commission has jurisdiction and the procedure upon appeal meets the requirements of due process and of the Charter, the Commission's action whatever it may be, provided it conforms to the Charter, is determinative of the case, and is final. There may be no further appeal in any event on the merits of the case. The Charter precludes an independent review of the evidence by any court. The sole grounds to sustain a further appeal to the courts are lack of jurisdiction of the Commission, a failure of procedural due process, and a failure to conform with Charter requirements.

6. If the Commission overrules an appeal, the action of the appointing authority is to be confirmed and is to be final as of the date it was taken. If the Commission sustains an appeal, the problem is more difficult. Complete fairness to the injured employee would require that he be reinstated in his former position. However, this may be disadvantageous to the City for the reasons leading to the disciplinary action taken, although not justifying such action, may be cause for disrupting routines and efficiency. The solution arrived at seeks to balance all interests involved. An employee dismissed, demoted or suspended for political, religious or racial reasons, or labor union activity lawful for municipal employees, is to be reinstated to his former position without loss of pay for the interest to be protected here is an absolute and fundamental one. In other cases, the Commission has the alternative of requiring reinstatement in the former position without loss of pay for the interest to be protected here is an absolute and fundamental one. In other cases, the Commission has the alternative of requiring reinstatement in the former position or in an equivalent position in the same unit of government, depending on the circumstances of the case, with or without loss of pay. If reinstatement in the same position will tend to disrupt effective working conditions, the latter course will be indicated and the employee will still be protected against being assigned to a position the duties of which are unfamiliar to him, or to a position where there is no vacancy or which involves a reduction in rank or salary.

CHAPTER 3

CIVIL SERVICE: GENERAL PROVISIONS AND EXEMPTIONS

§ 7-300. Purpose.

The purpose of the civil service provisions of this charter is to establish for the City a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, demotion, transfer, lay-off, removal and discipline of its employees, and other incidents of City employment. All appointments and promotions to positions in the civil service shall be made in accordance with the civil service regulations.

ANNOTATION

Sources: A Model State Civil Service Law, Section 1.

Purposes: The statement of purposes is intended to serve as a guide in the administration and interpretation of the civil service provisions of the Charter.

§ 7-301. Exemptions.

All officers and employees of the City, including all officers and employees of all departments, all independent boards and commissions and all departmental boards and commissions, shall be under civil service except:

- (a) All officers elected by the people and their deputies, and employees appointed by the members of the Council;
- (b) The Managing Director, the Director of Finance and the Personnel Director and their deputies, the heads of departments and their deputies, and members of boards and commissions but the number of exempt deputies in any department other than the Law Department, shall not exceed two or, for any particular department, such higher number as the Administrative Board may authorize, provided that for any particular department, other than the Law Department, the total number of exempt deputies shall not exceed ten and no more than four shall reside outside the City at the time of appointment; 73
- (c) Such secretaries and clerks as the Mayor may require and one secretary or clerk for each head of a department, the Director of Finance, the Managing Director, the Personnel Director, the City Representative and the City Treasurer, and one principal assistant or executive director for each board or commission;
- (d) Persons employed by contract to perform special services for the City, where such contract is certified by the Civil Service Commission to be for employment which cannot be performed by persons in the civil service;
- (e) Persons temporarily appointed or designated to make or conduct a special inquiry, investigation, or examination, or to perform a special service, where such appointment or designation is certified by the Civil Service Commission to be for employment which because of its expert or unique character could not or should not be performed by persons in the civil service;
- (f) Persons who in times of public emergency may be appointed special employees for service not to exceed one month in duration.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XIX, Section 3; A Model State Civil Service Law, Section 7.

Purposes: 1. No officer or employee of the City is exempt from the civil service provisions of the Charter unless this section specifically exempts him. Thus, for example, employees of the Department of Collections, of the Free Library of Philadelphia, and of the Fairmount Park Commission are now under civil service although exempt under the Charter of 1919.

Law Department Note (2009): Fairmount Park Commission was reconstituted by amendment approved November 4, 2008. See Footnote to Section 3-905.

2. The exemptions allowed take cognizance of political necessities of municipal government [e.g. subsections (a) and (b)]; supervisory offices necessary for effective municipal administration [e.g. subsection (b)]; the fostering and protecting of necessary personal and confidential relationships [e.g. subsection (c)]; the need for special or expert services by contract or on a temporary basis or employment in cases of public emergencies [e.g. subsections (d), (e) and (f)].

3. Exempted employment is carefully limited so that it shall not serve as an avenue for evading the civil service requirements of the Charter. Thus, there can only be two exempt deputies in each department but this limitation does not apply to the Law Department because of the nature of the professional services involved. Contract services and temporary appointments for special services can be availed of only after certification by the Civil Service Commission as to necessity in light of availability of civil service personnel. Emergency appointments may not exceed one month.

§ 7-302. Duties of City Officers and Employees.

(1) All officers and employees of the City shall comply with and aid in all proper ways in carrying out the civil service regulations. All officers shall report currently to the Personnel Director all disciplinary actions taken by them. All officers and employees shall furnish any records or information which the Personnel Director or the Civil Service Commission may request. Upon request of the Personnel Director, the City Solicitor shall institute and maintain any action or proceeding at law or in equity that the Personnel Director considers necessary or appropriate to secure compliance with the civil service provisions of this charter and civil service

regulations.

(2) No officer or employee of the Auditing Department shall make or approve or take any part in making or approving any payment for personal services to any person holding a position in the civil service if the Personnel Director has given notice to the City Controller that such person was not appointed and employed in accordance with the civil service regulations.

ANNOTATION

Sources: A Model State Civil Service Law, Sections 10 and 12.

Purposes: 1. A civil service system to be effective, requires the cooperation of all officers and employees and their complying with the civil service regulations. This section imposes mandatory general and specific duties of such cooperation and such compliance upon all officers and employees.

2. Non-payment of salaries to employees subject to civil service but not appointed and not employed in accordance with civil service regulations is one of the most effective means for enforcing the civil service provisions of this Charter and the civil service regulations. Officers and employees of the Auditing Department are therefore enjoined from approving payment of salaries to such persons upon notice from the Personnel Director.

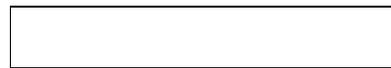
§ 7-303. Dismissal, Demotion and Suspension.

Any dismissal or demotion after the completion of the required probationary period of service, or suspension of any employee in the civil service shall be for just cause only.

ANNOTATION

Sources: See Act of June 25, 1919, P.L. 581, Article XIX, Section 18.

Purposes: This section establishes a standard for the dismissal or demotion of any employee after the completion of a probationary period or the suspension of an employee in the Civil Service. The standard established is that of just cause. The standard is to be applied by the employee's superior and is subject to review only by the Civil Service Commission. See Annotation to Section 7-201.



Notes

73 Amended by approval of the voters at the election held on April 22, 2008, and certified on May 19, 2008. See Bill No. 080008 (approved March 6, 2008); Resolution No. 080040 (adopted March 6, 2008).

**CHAPTER 4
CIVIL SERVICE: REGULATIONS**

§ 7-400. Preparation and Adoption.

The civil service regulations shall be prepared by the Personnel Director. Regulations pertaining to the position classification plan, pay plan, hours of work, holidays and annual vacation and sick leave shall be submitted by the Personnel Director for approval to the Civil Service Commission and Administrative Board. All other civil service regulations shall be submitted by the Personnel Director for approval to the Civil Service Commission only. After the requisite approvals shall have been obtained, the regulations shall be filed by the Personnel Director with the Department of Records, where they shall be available for public inspection for thirty days, and public notice of such filing shall be given as in the case of other regulations.

If any person affected by the proposed regulations or any citizen shall present to the Department of Records a written request therefore, he shall be afforded a public hearing before the Commission. The Commission may after a hearing re-affirm its approval or direct that the regulations be changed but any modification of a regulation which required initially the approval of the Administrative Board shall be submitted to it for approval. The subsequent procedure shall be the same as in the case of other regulations.

ANNOTATION

Sources: A Model State Civil Service Law, Section 8.

Purposes: 1. See Annotation to Sections 7-100 and 7-200.

2. The approval of the Administrative Board is required of civil service regulations pertaining to the position classification plan, pay plan, hours of work, holidays, and annual vacation and sick leave because these regulations will affect the operating budget, the expenditure of City moneys, and the availability of personnel. They should therefore be subject to the approval of the Mayor, the Director of Finance, and the Managing Director who are primarily concerned with these important phases of municipal administration.

3. The position classification plan and pay plan will determine the compensation to be received by civil service employees. The Charter makes these matters of administrative rather than legislative decision. Council will decide subject to certain exceptions [Section 2-300(4)], how much money is to be appropriated for personnel services. See Section 2-300. But the administrative branch will determine how many employees shall be paid out of such lump sum appropriations and what salaries they shall receive. See Article 3, Chapter 7.

4. Employees and citizens have a vital and direct concern in civil service regulations being fair and effectuating civil service objectives. They are therefore afforded notice of proposed civil service regulations and an opportunity to be heard publicly thereon before the Commission.

§ 7-401. Contents.

The regulations shall provide for:

(a) The preparation, maintenance and revision of a position classification plan for all positions in the civil service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class;

(b) A pay plan for all employees in the civil service. Each employee shall be paid at one of the rates set forth in the pay plan for the class of position in which he is employed;

(c) Open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations need not be held until after the regulations have been adopted, the service classified and a pay plan established, but must be held not later than one year after this charter takes effect. Such examinations shall be announced publicly at least fifteen days in advance and shall be appropriately advertised;

(d) The granting, as may from time to time be required by statute or ordinance, of preference in entrance examinations to qualified persons who have been members of the armed forces of the United States, and to the children and grandchildren of Philadelphia firefighters or police officers who were killed or who died in the line of duty; 74

(e) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, seniority and conduct. Vacancies shall be filled by promotion whenever possible, and promotion shall be on a competitive basis except where the Personnel Director with the approval of the Civil Service Commission finds that competition is impracticable. Philadelphia police officers, firefighters and paramedics who are killed or who die in the line of duty shall be posthumously promoted to the rank that immediately follows the police officer's, firefighter's or paramedic's rank at his or her time of death; 75

(f) The establishment of eligible lists for appointment and promotion, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations, provided that any candidate who shall have maintained a bona fide residence in the City for at least one year prior to the date of the examination shall prevail over any other candidate with the identical score. Such lists shall continue in force for at least one year from the date of their establishment and thereafter until exhausted or replaced by more recently prepared lists but in no case longer than two years. All such lists shall be available for public inspection; 76

(g) The rejection of candidates or eligibles who fail to comply with reasonable requirements in regard to such factors as age, physical condition, training and experience, or who have attempted any deception or fraud in connection with an examination;

(h) For the certification of the two persons standing highest on the appropriate eligible list to fill a vacancy. After an eligible has been rejected twice by an appointing authority in favor of others on the same eligible list, such name shall not again be certified to that appointing authority, except upon written request from the appointing authority but the passing over of a non-veteran eligible in order to appoint a veteran shall not constitute a rejection;

- (i) The institution of accepted permanent identification methods for all employees in the civil service;
- (j) A period of probation not to exceed six months before appointment or promotion may be made complete, and during which period a probationer may, with the consent of the Personnel Director, be discharged or reduced in class or rank, or replaced on the eligible list;
- (k) Provisional and emergency appointment without examination and temporary appointments. Provisional appointments may be made only with the concurrence of the Personnel Director and in the absence of an appropriate eligible list and shall continue only until an appropriate eligible list can be established and certification made therefrom, but in no event for more than ninety days in any twelve month period, except during the first year after the effective date of this charter in order to avoid stoppage of the orderly conduct of the business of the City. Emergency appointments may be made only in case of an unforeseen emergency to prevent serious impairment of the public business and shall continue only during the period of the emergency and in no event longer than thirty days. Temporary appointments may be made with or without examination to positions that will not continue longer than six months. No person may serve as a temporary appointee for longer than six months in any twelve month period;
- (l) The appointment of unskilled laborers after such qualifying tests of fitness as the Personnel Director may prescribe;
- (m) Transfer from one position to a similar position in the same class and level of responsibility, and for reinstatement within one year of persons who resign in good standing or who are laid off from their positions without fault or delinquency on their part;
- (n) The establishment of a system for determining and reviewing, and the keeping of records of, annual efficiency ratings of performance of all employees in the civil service, which efficiency ratings shall be considered in determining salary increases and decreases provided in the pay plan, as a factor in promotion tests, as a factor in determining the order of lay-offs because of lack of funds or work and for reinstatement, and as a factor in demotions, discharges and transfers;
- (o) Lay-offs by reason of lack of funds or work, or abolition of a position, or material change in duties or organization, and for reinstatement of employees laid off, or who resigned or were granted leaves of absence;
- (p) Suspensions from the service for not longer than thirty days;
- (q) Discharge or reduction in rank or grade after appointment or promotion is completed only after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction, specifically stated, and has been allowed a reasonable time to reply thereto in writing. The reasons and the reply shall be filed with the Personnel Director;
- (r) Hours of work, holidays, attendance regulations, and special leaves of absence in the various classes of positions in the civil service;
- (s) A system permitting employees appropriate annual vacation and sick leave;
- (t) The development and operation of programs to improve the work effectiveness and morale of employees of the City, including safety, health, welfare, recreation, training and education and labor relations, including grievances and hearings thereon;
- (u) Such residence qualifications for employees in the civil service as the Council may from time to time require but the Civil Service Commission may, upon the request of the Personnel Director, waive any such requirements whenever, in its discretion, the circumstances warrant such waiver;
- (v) Such other matters as may be proper and necessary.

ANNOTATION

Sources: A Model State Civil Service Law, Section 8.

Purposes: The civil service regulations constitute the framework of the entire civil service system. Their content is outlined in detail because of their importance.

Subsection (a). "To handle any personnel problem intelligently in a large organization it is obviously necessary to have a written record of the duties performed by each person in the service and of the responsibilities-administrative, research, or other-which he exercises. The taxpayers, the executive officers, the budget authorities, the chief executive, the legislative body, and the employs have a right to expect of the personnel agency that positions be grouped into classes and currently maintained, to portray conditions in the service at any time. This is essential to provide a basis for an intelligent approach to the personnel problem. The classification plan is an essential tool of administrative management." (A Model State Civil Service Law, pp. 11, 12).

Subsection (b). See Annotation to Section 7-400.

Subsection (c). "Effective recruiting demands more than the passive approach involved in announcing vacancies in the public service in obscure places and examining those who present themselves as a result of such stereotyped announcements. Adequate public announcement procedure requires that the personnel agency actively use all practical means available for attracting the best type of person to the public service. The work to be performed in the public service challenges the best ability possessed in the country. This ability must be sought out and persuaded to seek to serve the public.

"Tests prepared by the personnel agency should be designed to eliminate those who are not qualified for entrance into or promotion within the classified service and to discover the relative fitness of those who are qualified. The Director should be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character or physical fitness which in his judgment serves this end.

"Public confidence in the testing process is best maintained by promptness in announcing the results, and by affording to each applicant the opportunity to see how his performance was graded." (A Model state Civil Service Law, p. 12).

Subsection (d). State law grants preferences to veterans and ordinances may grant such preferences also.

Subsection (e). Promotion upon merit and other recognized bases is an important incentive for achievement and continued municipal service and employment.

Subsection (f). Fairness to persons taking civil service examinations requires that they shall know their positions on eligibility lists. The one year minimum is imposed so that examinees will have a reasonable opportunity for employment. A two year maximum is necessary so that lists shall be replenished periodically with the names of the most competent candidates available for employment.

Subsection (g). "If proper attention is to be given to a truly selective ranking of competitors on the basis of their abilities, some means must be had for reducing the examination load by culling out applicants who obviously fail to meet the essential requirements for the class of positions to which they seek appointment. Through this process, the efforts of the technical staff are conserved for and concentrated on the problem of rating those who show reasonable promise for successful performance in the position to which they seek appointment." (A Model State Civil Service Law, p. 13).

Subsection (h). An appointing authority is given a choice of the two highest persons on an eligible list so that he may consider factors such as personality, appearance and the like, in addition to an examination grade, in making an appointment. If an appointing authority has rejected twice the same candidate, he would not have any choice should the rejected candidate be again certified to him. Since veterans are entitled to preferences, a non-veteran may be passed over by a veteran with a lower qualifying grade and for that reason such a passing over does not constitute a rejection.

Subsection (i). Permanent personnel identification records, such as fingerprints files, are recognized as necessary aids in effective personnel administration.

Subsection (j). "The working test period, or probationary period, as it is sometimes called, should be considered as an opportunity for the appointing authority to participate in the selective process. No formal test however well devised, and however well conducted will prove infallible. The final test is actual performance. For this reason, the new appointee should be carefully supervised and critical observation should be made of his work during the working test period." (A Model State Civil Service Law, p. 14).

Subsection (k). Provisional appointments are authorized so that City work may be performed pending the availability of an appropriate eligibility list from which candidates for employment can be certified. Since it should ordinarily be possible to prepare such lists and certify candidates for a position within a ninety day period, a provisional appointment may last only ninety days. However, the first year this Charter is effective, provisional appointments may last a year since during that period the City government, including the office of the Personnel Director and the civil service system, will be in the organization and reorganization process.

Provision must be made to meet employment in unforeseen emergencies but here too there is a limitation, thirty days, to prevent abuse of the exception.

While provisional and emergency appointments may be made without examination, temporary appointments may be made with or without examination. A temporary appointment is one to a temporary position, of not longer than six months in duration in any year.

Subsection (l). Unskilled laborers need not take written examinations.

Subsection (m). "Transfers provide the means whereby employees may be adjusted to the service to provide the maximum of job satisfaction to the employee and to provide for their maximum utilization in work which they can do best. Transfers should be used for these purposes. Temporary transfers of groups of employees should also be encouraged to meet peak loads as they occur in the various departments to provide for the maximum utilization of present personnel without incurring the expense of adding untrained employees to the working force." (A Model State Civil Service Law, p. 14).

Subsection (n). Periodic efficiency ratings of performance, to serve as a factor in determining employment status, should be an incentive to employee efficiency and achievement, for good performance will be rewarded while performance not meeting job standards will serve as a basis for demotion, discharge, lay-offs, and reduction of salaries. Fairness to employees prompts the requirement for a review procedure of ratings assigned and employee representatives should be members of such reviewing panels.

Subsection (o). "When forces must be reduced because of lack of work or funds, or because of organizational changes, it is reasonable to demand that the personnel agency and appointing authorities cooperate in weeding out the least efficient employees and in retaining the most competent. Regardless of the deficiencies inherent in any system of service ratings to date, the problem of employee efficiency cannot be put aside by refusing to acknowledge that the problem exists or by failing to attempt to overcome these deficiencies. In one way or another, employees are being rated and must be rated from time to time in the ordinary conduct of business. A rating system requiring periodic reports on employees' services, regardless of its deficiencies, is superior to a rating based on the memory, current impressions, and 'last looks' of departmental supervisors and should be used as one of the factors for determining the order of lay-offs. Seniority should also be given some consideration in determining lay-offs." (A Model State Civil Service Law, p. 15).

Subsection (p). "Suspensions are temporary separations most commonly used by appointing authorities as a means of effecting proper disciplinary control over subordinate employees, who have violated some departmental rule or who have let down in their performance and need jacking up. It is used as a disciplinary act intermediate between a verbal reprimand and an outright dismissal. The time limitation on summary suspensions is intended to confine it to this use. Where a suspension is to extend for more than a short period, the appointing authority should be required to resort to the procedure provided for in case of a dismissal." (A Model State Civil Service Law, p. 15).

Subsection (q). Employees discharged or demoted have a right of appeal to the Civil Service Commission. See Annotation to Section 7-201. This subsection is necessary so that they may know the reasons for the action taken and on that basis decide upon the question of appealing.

Subsection (r). Employees are entitled to know when they are required to work, their holidays, and other attendance regulations. These should be uniform and specified as far as is practicable.

Subsection (s). Annual vacation and sick leave should be uniform for all employees. Whether they should be cumulative from year to year, the number of days of each that should be allowed, and similar questions are matters for administrative regulation.

Subsection (t). See Annotation to Section 7-201. Enlightened personnel practices should provide a means for hearing employee grievances.

Subsection (u). Under the Charter of 1919, Council from time to time specified residence requirements for City employees and the continuation of this practice is permitted. Should Council fail to specify residence qualifications, employees would not have to be residents of any particular place. The Civil Service Commission may waive any residence qualification specified by Council when ever circumstances may warrant it, as for example, the unavailability of specialized personnel who meet residence requirements; the availability of better qualified personnel who do not meet residence requirements; emergencies. See Annotation to Section 3-306.



Notes

74 Paragraph (d) amended by approval of the voters at the election held on November 7, 2006, and certified on November 27, 2006. See Bill No. 060507 (approved September 21, 2006); Resolution No. 060518 (adopted September 14, 2006). Amended by approval of the voters at the election held on November 6, 2012, and certified on December 3, 2012. See Bill No. 120531 (approved September 11, 2012); Resolution No. 120540 (adopted June 28, 2012).

75 Paragraph (e) amended by approval of the voters at the election held on May 19, 2009, and certified on June 3, 2009. See Bill No. 080748 (approved April 3, 2009); Resolution No. 080765 (adopted April 2, 2009).

76 Paragraph (f) amended by approval of the voters at the election held on November 4,

2008, and certified on November 28, 2008. See Bill No. 080320 (approved May 14, 2008); Resolution No. 080336 (adopted May 1, 2008).

**ARTICLE VIII
PROVISIONS OF GENERAL APPLICATION**

**CHAPTER 1
FISCAL AND BUDGETARY MATTERS**

§ 8-100. Fiscal Year.

For the present, the City's fiscal year shall be the calendar year but the Council may by ordinance adopt a different fiscal year.

ANNOTATION

Sources: No specific source.

Purposes: It is considered better budgetary practice for the fiscal year to commence on or about July 1. This was not practicable for the City because real estate tax assessment and payment requirements, specified by statute, produce most of the City's revenue in the months of March, April and May. However, Council is empowered to change the fiscal year when modification of statutory provisions permits it and the problem of changing the taxing period has been thoroughly studied.

§ 8-101. Payment of Moneys Out of the City Treasury.

- (1) All payments out of the City Treasury shall be by the check of the City Treasurer issued upon order of the Auditing Department.
- (2) All checks shall be prepared in the office of the City Treasurer, unless the Director of Finance shall by rule otherwise prescribe.
- (3) The Auditing Department shall issue orders for payments out of the City Treasury only upon requisition of the officer or of the department, board, commission or other agency to which the appropriation was made against which payment is requested.
- (4) All requisitions shall be prepared in triplicate. One copy shall be retained by the requisitioning officer, department, board, commission or agency, and two copies shall be delivered to the Director of Finance.
- (5) If the Director of Finance approves a requisition, he shall deliver the original to the Auditing Department.
- (6) If the Auditing Department approves the requisition, it shall issue its order for payment and shall deliver it to the City Treasurer. If it disapproves the requisition, it shall attach a memorandum thereto detailing its objections and return the requisition through the office of the Director of Finance to the requisitioning officer, department, board, commission or agency.

ANNOTATION

Sources: See Act of June 25, 1919, P.L. 581, Article XI, Section 4, Article XII, Section 3, as amended; the Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Article XV, as amended.

Purposes: 1. The procedure detailed for the payment of moneys out of the City Treasury is intended to prevent improper disbursements and to assure the strictest accountability for such funds as are disbursed. The safeguards provided for include requirements that funds shall be disbursed only by checks of the City Treasurer, only upon proper requisitions approved by the Director of Finance, and only upon approval and the order of the Auditing Department.

2. Flexibility is provided in the procedure for preparing checks so that the most economical and efficient method may be employed under varying circumstances.

3. Requisitions for payment are to originate in the agency having the appropriation against which the payment is to be charged since it should know all the facts justifying the requisition and the state of its funds.

4. Requisitions are to be prepared in triplicate so that the agency requesting payment and the Director of Finance may each have a copy for record and accounting purposes and so that the Auditing Department may have a copy to enable it to approve or disapprove the payment and to submit it to the City Treasurer.

5. The Director of Finance may disapprove a requisition if it fails to conform to current budgeting orders or if appropriations are unavailable to meet it. See Section 6-106. Approval of the Auditing Department is required to determine if the requisition is for a purpose comprehended by the appropriation against which it is drawn, in a proper amount and the amount stated is justly due. See Sections 6-400 and 6-402.

§ 8-102. Estimates of Current Expenditures by Departments, Boards and Commissions.

In order to enable the Mayor to avoid deficits and to check on performance, each officer, department, board and commission of the City, or other agency receiving a City appropriation shall from time to time as requested by the Mayor prepare and submit to him through the Director of Finance for approval or disapproval an estimate of the amount of money required for each activity or function to be carried on by him or it during the ensuing month, quarter or such other period of the current fiscal year as the Mayor shall prescribe. If such estimate does not meet with the approval of the Mayor, it shall be revised in accordance with the Mayor's direction and resubmitted for approval; but the Mayor shall not reduce the estimates of the City Council or of the Auditing Department without their consent nor the estimates of the Personnel Director and the Civil Service Commission below one-half of one percent of the amount to be expended for compensation for civil service employees.

After the approval of any such estimate, it shall be unlawful for the Director of Finance to approve the expenditure or encumbrance of any appropriation or part thereof except in accordance with such estimate, unless the same be revised with the approval of the Mayor.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 604, as amended.

Purposes: 1. Although certain appropriations may have been made to various officers and agencies, the Mayor may order, with exceptions noted hereafter, that the full amount of an authorized appropriation shall not be expended. Such an order would be appropriate if it should appear that revenues will not equal expenditures. To enable the Mayor to decide when an order reducing expenditures is necessary, officers and agencies are required to submit, when requested, estimates of proposed expenditures for stated future periods. The City Council and the Auditing Department are excepted from any order reducing expenditures unless they agree to such an order. See Annotation to Section 2-300. Estimates of the Personnel Director and Civil Service Commission may not be reduced below one-half of one percent of funds to be expended for compensation to civil service employees (see Annotation to Section 2-300), but since an order reducing expenditures of other offices and agencies may reduce the total amount of such compensation, the minimum assured to the Director and Commission may be reduced proportionately.

2. Orders of the Mayor are made enforceable by prohibiting the Director of Finance from approving requisitions which do not conform with such orders. See Sections 6-106 and 8-101.

§ 8-103. Duty to Respond to Requests for Budgetary Information.

It shall be the duty of the chief clerk of Council and of each officer or department and each independent board and commission of the City and every other agency of any kind desiring appropriations from the Council promptly to comply with any and all requests made by the Director of Finance for information dealing with the next annual operating budget or with prospective operating budget revisions for the unexpired portion of the current fiscal year; and it shall be the duty of each departmental board and commission promptly to furnish to the head of the department with which it is connected such information as may be requested by the head of the department for the departmental budget estimates.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 606.

Purposes: This section is necessary to enable the Director of Finance to prepare the annual operating budget for the Mayor. See Section 6-105.

§ 8-104. List of Employees to be Furnished to Certain City Officers.

Each department, board and commission of the City and every other agency receiving an appropriation from the City Treasury shall,

on the fifteenth day of June of each year, transmit to the City Controller, the Director of Finance, and the Personnel Director a complete list, as of June first preceding, of the names of all of its officers and employees entitled to receive compensation from the City Treasury for services rendered in or to the department, board or commission, or agency as the case may be. Such list shall show the position occupied by each such person, the date of birth and residence of such person, the salary at which or other basis upon which such person is entitled to be paid, the date when such person entered the service of the department, board, commission or agency, whether such person has been continuously employed by it since that date, and all periods of service and positions held for which compensation has been paid out of the City Treasury, or such additional information as the Mayor may prescribe.

Each month thereafter the heads of the several departments, boards and commissions, and the several agencies shall certify to the City Controller, the Director of Finance and the Personnel Director any changes in the annual list of employees last transmitted to them which shall have occurred during the preceding month.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 603.

Purposes: Personnel information required from each agency receiving any appropriation from the City Treasury will enable the Personnel Director to maintain his personnel records (see Section 7-100), will be necessary for payroll payments (see Sections 6-106, 6-301, 6-400 and 8-101), will facilitate checking on compliance with civil service requirements (see Section 7-302), and will aid budgeting and accounting (see Sections 6-101, 6-105 and 8-102).

§ 8-105. Custody of City Securities.

Securities owned or held by the City, including uncanceled obligations of the City, may be kept either in City vaults or in safes or safety deposit boxes in banking institutions, or may with the approval of the Council be delivered to and held by banking institutions as custodians. The City Treasurer or his designated deputy acting jointly with the City Controller or his designated deputy shall have sole access to such safes or safety deposit boxes but such access shall always be in the presence of an appropriate official of the banking institution. The City Treasurer shall furnish monthly to the Director of Finance a list of all City securities and their place of safekeeping.

ANNOTATION

Sources: No specific source.

Purposes: The City owns many valuable securities and this section makes provision for their safekeeping and for the accounting for them.

§ 8-106. Expenses.

Subject to the rules of the Administrative Board, the heads of departments, the members of all boards and commissions, all administrative officers and all persons employed under the provisions of this charter shall be entitled to receive their traveling and other necessary expenses actually incurred in the performance of their public duties on requisition of the appropriate officer, department head, or chairman or president of a board or commission, but in the case of departmental boards and commissions, such requisitions shall be subject to the approval of the department with which such boards or commissions are respectively connected.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 216.

Purposes: Officers and employees are entitled to traveling and other necessary expenses actually incurred in the performance of their public duties but to prevent abuses the Administrative Board is to promulgate rules governing the circumstances under which such payments are to be made. See Section 4-300(3)(a).

§ 8-107. Compensation for Extra Services.

No additional compensation for extra services shall be paid to any officers or employees unless such payment is expressly authorized in the case of civil service employees by the pay plan and in all other instances by the Administrative Board prior to the rendering of such services and such authorization is certified to the City Controller.

ANNOTATION

Purposes: Additional compensation for extra services has been known to be resorted to at times to increase the compensation of officers and employees when in fact there is no need for extra services. To prevent such abuses, additional compensation must be authorized by the pay plan in the case of civil service employees and in all other cases by the Administrative Board before the services are rendered. Authorization must be certified to the City Controller as a further check. See Annotation to Section 4-300(1)(d).

CHAPTER 2

CONTRACTS, PROCUREMENT, PROPERTY AND RECORDS

§ 8-200. Contracts. 77

(1) Except in the purchase of unique articles or articles which for any other reason cannot be obtained in the open market, competitive bids shall be secured before any purchase, by contract or other-wise, is made or before any contract is awarded for construction, alterations, repairs or maintenance or for rendering any services to the City other than professional services and the purchase shall be made from or the contract shall be awarded to the lowest responsible bidder; provided, however, that City Council may, by ordinance, prescribe bid preferences for businesses located in or doing business in Philadelphia, and provided further that Council may, by ordinance, regulate the process by which purchases and contracts not subject to the lowest responsible bidder requirement of this paragraph are awarded, and may require that contracts with agencies (as that term is defined in subsection 6-400(c) of this Charter) or with other entities include provisions obligating such agencies or entities to comply with any process established by Council under the authority of this subsection, except that such regulations may not require Council authorization of a contract unless Council authorization is required by some other provision of this Charter. 78

(2) Except as authorized by Section 8-200(4), if any purchase or contract for which competitive bidding is required involves an expenditure of more than twenty-five thousand (\$25,000) dollars, which amount shall be adjusted every five (5) fiscal years as rounded to the nearest one thousand (\$1,000) dollars to reflect the percentage change in the most recently published Consumer Price Index for All Urban Consumers (CPI-U) All Items Index, Philadelphia, Pennsylvania, United States Department of Labor, Bureau of Labor Statistics, the following procedure shall be applicable: 79

(a) The Procurement Department shall advertise for sealed bids (which may include, at the discretion of the Department, electronic submission of bids, so long as appropriate safeguards are in place to protect against premature disclosure) at least once a week for two weeks in one of the three newspapers having the largest paid circulation in the City and in such other newspapers as it deems necessary. Council may by ordinance adopted by a vote of two-thirds of all of its members specify different or additional methods by which the Department shall provide notice of contracts available for bids, in accordance with applicable law. Any such ordinance may include a requirement that notice be posted on the City's official website. The Department shall require bid security in an appropriate form and amount which shall be stated in the specifications to accompany all bids unless a bidder has filed an annual bid bond in excess of such amount. 80

(b) After the time specified for bid closing, bids shall publicly be opened and tabulated in the presence of a representative of the City Controller. At its discretion, and in lieu of sealed bids, the Department may provide for competitive electronic auction bidding under which (i) bids are submitted electronically at the time and in the manner designated in the invitation to bid; (ii) during the auction, only such information regarding the prices bid as the Department determines is likely to result in the lowest price to the City is disclosed to other bidders; (iii) bidders have the opportunity to reduce their prices during the auction; and (iv) at the conclusion of the auction, the name of each bidder and the lowest price it submitted are made available for public inspection. Whether or not the Department utilizes competitive electronic auction bidding, the Department may reject all bids if it shall deem it in the interest of the City so to do. Otherwise the contract shall be awarded to the lowest responsible bidder.

(c) Within ten days after the award of a contract, the successful bidder shall furnish such performance security and, where appropriate, payment security, as the Department may require, containing such terms as the Department and the City Solicitor shall require.

(d) The contract shall be in writing and shall be executed in behalf of the City by the Procurement Department but only after it has been approved as to form by the City Solicitor and as to availability of funds under the budget and appropriations by the City Controller and the Director of Finance. The Department may permit the contract to be executed electronically, in a manner approved by the Law Department. The contract shall contain a provision that in the performance of the contract the contractor will not discriminate nor permit discrimination against any person because of race, color, religion, ancestry, national origin, sex, gender identity, sexual orientation, age or disability. 81

(e) The Procurement Department may in its discretion, permit a bidder to file an annual bond, or other security acceptable to the Department, to cover bids that may be made by, or the performance of contracts that may be awarded to, such bidder during an annual period. Such security shall be in such an amount as the Department may determine and may be increased from time to time, as the Department may require, in order to keep it commensurate with the bids made or contracts awarded during the annual period.

(3) Contracts may be made for the leasing of real estate and for personal property to be supplied or services to be rendered over a period of more than one year only when permitted by ordinance. Otherwise no contract shall be binding upon the City unless there is an appropriation available for its payment. When the term of a contract exceeds four years, there shall be inserted a clause reserving to the City the right to terminate it at the option of the City at any time after the expiration of four years without liability to the other party for damages or loss of profits which would have been realized had the contract not been terminated. The limitations of this paragraph shall not apply to any contract entered into between the City and any authority.

(4) In lieu of compliance with Section 8-200(1) and 8-200(2), the Procurement Department may participate in a cooperative arrangement with the procurement office of any public agency for the joint procurement of any services, supplies, equipment or construction, or may utilize contracts of a public agency, upon certification by the Procurement Commissioner and the Director of Finance that the use of such an arrangement or contract is very likely to result in a lower total cost to the City than the use of procurement procedures otherwise authorized or mandated for such a procurement by this section and the basis for such determination; and that the public agency conducts the procurement pursuant to its own standard procedures in such a manner as to invite competition, guard against favoritism and corruption, and secure the lowest practicable price. The resulting City contract shall comply with all otherwise applicable ordinances, except and to the extent the Commissioner, after consultation with the Law Department, certifies that compliance is impracticable; and that entry into the contract, as opposed to a contract under Subsection (2) of this section, is unlikely to have a material impact on the City's ability to meet Annual Participation Goals established pursuant to Section 6-109(b). For purposes of this subsection, "public agency" shall mean any federal, State, or municipal government agency or any authority, school district or public college or university, or any consortium of such entities. Certifications required by this subsection shall be within the sole discretion of the designated officers and shall not be subject to further review. Nothing in this Subsection (4) is intended to apply to the making of any professional services contract. 82

ANNOTATION

Sources: See Act of June 25, 1919, P.L. 581, Article XX; the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Sections 2408-2410, as amended; Purchasing Laws for State, County and City Governments (1941) pp. 26 et seq.

Purposes: 1. Competitive bidding is required as a rule to assure the City's obtaining its purchases and letting its contracts at the lowest prices. However, since the bidder submitting the lowest bid may by experience, reputation or resources not be capable of the performance required, the lowest bidder must also be a "responsible" bidder within the meaning of that term as established by many judicial decisions.

2. Unique articles and other articles which cannot be obtained in the open market are not subject to the requirement of competitive bidding. Obviously they are not articles as to which a best competitive price may be obtained. Nor are contracts for professional services subject to the competitive bidding requirement for there is a personal, intangible quality involved in the rendition of such services which would be lost sight of if such contracts had to be awarded to the lowest bidder.

3. Although purchases and contracts are as a rule subject to the requirement of competitive bidding, only contracts in an amount above \$2,000.00 are subject to the procedure detailed in subsection (2). Contracts below this amount bulk so large in number that to make them subject to subsection (2) would be economically prohibitive.

4. Subsection (2) seeks to obtain by the requirement for newspaper advertising the widest practicable solicitation of bids; to protect the interests of the City through requirements for certified checks accompanying bids, bid, performance, labor and materials bonds written contracts and the right of the City to reject all bids; to protect the interests of bidders and of the City through sealed bids and the opening and tabulation of such bids publicly and in the presence of a representative of the City Controller; and by requiring a non-discriminatory practices provision in all contracts, to effectuate the policy of the Charter, that City funds shall not be used to promote practices of discrimination because of race, color, religion or national origin.

5. Long term contracts may at times be advantageous to the City. However, appropriations are made only for periods of one year. Accordingly contracts to run beyond a year must be authorized by Council and thereafter Council is bound to make appropriations for payment (see Section 2-309); in all other cases, a contract is not binding on the City unless there are funds appropriated in advance for its payment.

6. With the stated exception, in contracts extending beyond four years, a right in the City to terminate without liability after four years must be reserved so that the next administration will at some point during its four year term be able to terminate, should there be a sound reason for such action.

§ 8-201. Concessions. 83

All concessions granted by any officer, department, board or commission of the City for the sale of products or the rendition of services for a consideration on City property (whether such concession is granted by the execution of a concession contract, a lease, a license, or otherwise) shall be awarded by the Procurement Department only pursuant to the specifications of such officer, department, board or commission after competitive bidding and to the highest responsible bidder in a manner similar to that required by the preceding section relating to contracts for procurement involving an expenditure of more than twenty-five thousand dollars (\$25,000). No concession with a term of more than one year, as defined in Section 2-309(1), including, but not limited to, any concession granted by the Department of Commerce under Section 4-500(b) or (c), shall be granted without Council authorization by ordinance.

ANNOTATION

Sources: No specific source.

Purposes: City concessions may be valuable contract rights and to protect the interests of the City, competitive bidding and the following of the procedure detailed in Section 8-200(2) are required in the making of awards of such concessions. This section applies to City officers and agencies, including boards and commissions such as the Board of Trade and Conventions and the Fairmount Park Commission. But such officers or agencies may specify the qualifications a bidder must meet for as a rule they are primarily responsible for the management of the premises on which the concession is to be let.

Law Department Note (2009): Fairmount Park Commission was reconstituted by amendment approved November 4, 2008. See Footnote to Section 3-905.

§ 8-202. Procurement and Building Construction.

Except as otherwise provided in this charter, it shall be unlawful for any department, board or commission of the City or for any officer, board, commission or other governmental agency whose purchases are paid for with funds from the City Treasury, to purchase or contract for any personal property or any printing, engraving or publication of any kind or character, or to enter into any contract for which competitive bidding is required, except through the Procurement Department.

It shall likewise be unlawful for any such officer, department, board, commission or agency to contract for the services of a public utility company, or for bonds or insurance of any kind or description, or to subscribe to publications except through the Procurement Department, or to erect, remodel, alter or add to any building except through the Department of Public Property.

This section shall not apply to the purchase of books, prints, manuscripts, curios and specialties for libraries and museums, and animal and plant-life for aquariums, zoological and horticultural gardens.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Sections 507 and 508, as amended, and 509.

Purposes: This section implements the provisions of this Charter centralizing building, construction and procurement functions. See Sections 5-900 and 6-500. It applies to City agencies, Council, County agencies and any other governmental agency whose building, construction, or procurement requirements are paid for with funds from the City Treasury.

§ 8-203. Disposition of Unserviceable Personal Property.

Whenever any personal property of the City shall no longer be of service to the City or to the officer, department, board or commission of the City or any other governmental agency in whose possession it is, it shall be the duty of the officer, department, board, commission or agency to turn such property over to the Procurement Department for disposition. "Unserviceable property" shall not include products manufactured, grown, or raised by any department, board or commission, or by the inmates or patients of any City institution, or timber, stone, minerals, or other materials taken from any property of the City.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 510.

Purposes: This section implements Section 6-500(d). As to agencies to which it applies, see preceding Annotation.

§ 8-204. Acceptance of Gifts or Donations.

Every department, board and commission, may accept on behalf of the City gifts or donations of money, securities, or other personal property which, or the income of which, shall be useful in connection with the work of such department, board or commission, or for the benefit of the inmates or patients of any City institution administered by such department, board or commission.

A department, board or commission shall not accept any gift of real estate or any interest in real estate without specific authority from the Council so to do.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 513.

Purposes: The acceptance of gifts or donations by City agencies on behalf of the City is authorized so that offers of gifts may be readily accepted. The consent of Council is required in the case of gifts of interests in real estate for such offers may involve extensive obligations upon the part of the City, once they are accepted.

§ 8-205. Sale of Real Estate and Grants of Rights of Way or Other Rights over or in Real Estate.

A department, board or commission shall not sell or exchange any real estate belonging to the City or grant any license, easement, right of way, or other interest over or in such real estate without specific authority from the Council so to do. In deeds of land made by the City, appropriate restrictions may be imposed, including a restriction requiring that the design and location of structures to be altered or erected thereon be first approved by the Art Commission.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 514, as amended; Act of June 25, 1919, P.L. 581, Article II, Section 11(e).

Purposes: The consent of Council is required before any interest in land may be transferred because of the value of such interests. The power of the City to impose restrictions in deeds of land made by it is intended as a means for facilitating planned City development, extending the powers of the Art Commission in appropriate circumstances, and for enabling the City to impose deed restrictions of any kind when otherwise appropriate or desirable.

§ 8-206. Effect of Physical Development Plan.

No public way, ground or open space, or building or structure paid for in whole or in part with funds from the City Treasury, or of a public utility for which a franchise is necessary from the City, shall be developed, improved or constructed unless recommendations of the City Planning Commission as to location and size pursuant to the Physical Development Plan shall have been first requested and obtained. If the Commission fails to make its recommendations within thirty days, its approval shall be presumed.

ANNOTATION

Sources: Model City Charter (1941), Section 132; New York City Charter, 1938, Section 199.

Purposes: This section gives effect to the Physical Development Plan of the City. See Annotation to Section 4-600.

§ 8-207. Art Commission Approval.

(1) No work of art shall be acquired by any department, board or commission, or erected or placed in or upon or allowed to extend over any building, street, stream, lake, park, or other public place belonging to or under the control of the City, or removed, relocated or altered in any way without approval first obtained from the Art Commission.

(2) No construction or erection requiring the approval of the Art Commission shall be contracted for by any officer, department, board or commission without approval first obtained from the Art Commission.

(3) Nothing requiring the approval of the Art Commission shall be changed in design or location without its approval.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 11(d) and (e).

Purposes: Provisions of the 1919 Charter are continued. See Section 5-903.

§ 8-208. Maintenance and Use of Automobiles and Other Vehicles.

All automobiles and other vehicles purchased for the proper conduct of the business of the several departments, boards and commissions shall be maintained by or under the supervision of the Department of Public Property. The use of automobiles and other vehicles by officers and employees shall be subject to the rules of the Administrative Board.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 515.

Purposes: This section implements Sections 5-900(b) and 4-300(3)(b).

§ 8-209. Maintenance and Repair of Buildings and Other Real Estate.

The Department of Public Property shall itself, or by contract, keep clean and presentable, maintain and repair all City buildings and grounds except that with the approval of the Managing Director any department, board or commission may perform such services itself as to any building and grounds which it occupies exclusively. Any repairs constituting the remodeling of a building or a part thereof shall be performed in accordance with the provisions of this charter on the construction of new buildings or the remodeling or alteration of existing buildings.

ANNOTATION

Sources: No specific source.

Purposes: This section implements Section 5-900(a).

§ 8-210. Publications.

No department, board or commission shall publish or distribute to the public any printed matter, map or document except through the Procurement Department, unless that Department shall have consented to the direct publication or distribution of such printed matter, map or document by such department, board or commission.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 521.

Purposes: This section implements Section 6-500(b).

§ 8-211. Disposition of Records.

Whenever any office, department, board or commission shall have an accumulation of records which are not needful or useful in the transaction of its current or anticipated future work and which date back a period of more than four years, it shall be the duty of the head of such office, department, board or commission to submit to the Administrative Board and the Department of Records a report of that fact, accompanied by a concise statement of the condition, quantity and character of such records. If the Administrative Board shall be of the opinion that such records or any part thereof are not needed or useful in the transaction of the current or anticipated future work of such office, department, board or commission, the Department of Records shall determine whether any of such records are of historical or archival value to the City, and shall take over for preservation in the archives of the City any records which have such value. The remainder shall be turned over to the Procurement Department which shall dispose of it in accordance with the rules promulgated by the Department of Records for the disposition of records.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 524, as amended.

Purposes: To maintain all old City records entails the wasteful expenditure of money and facilities. However, they should not be disposed of except pursuant to an orderly procedure which will safeguard the interest of the City in records which may be needed for current or anticipated future work and which may be of archival value. See Annotations to Sections 4-300(1)(f), 5-1101(a)(5) and (d), 6-500(d) and 8-203.

§ 8-212. Microfilm or Other Reproduction Records.

Any officer, department, board or commission, with the approval of the Commissioner of Records, may have microfilm or other reproductions made of any records for the purpose of protecting and safeguarding the originals of such records or for the purpose of conserving filing space; and such microfilm or other reproductions shall, whenever possible, be used in place of the originals. In any case where the originals are microfilmed or otherwise reproduced under the provisions of this section for the purpose of conserving filing space, the department, board or commission may have such records disposed of in accordance with the preceding section.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 525, as amended.

Purposes: Reproducing records by microfilming or other reproduction scale-reducing methods is a means for conserving record storage space and preserving original records of value. However, expert advice and uniform practices are desirable for such purposes. See Annotations to Sections 5-1101(a)(4) and 8-211.



Notes

- 77 Paragraphs (2) and (4) amended by approval of the voters at the election held on November 2, 2010 and certified on November 22, 2010. See Bill No. 100334 (approved June 30, 2010); Resolution No. 100342 (adopted June 10, 2010).
- 78 Paragraph (1) amended by approval of the voters at the election held on November 4, 2003 and certified on December 1, 2003. See Bill No. 030098 (approved May 15, 2003); Resolution No. 030106 (adopted May 1, 2003). Further amended by approval of the voters at the election held on November 8, 2005 and certified on November 28, 2005. See Bill No. 040771-A (approved June 9, 2005); Resolution No. 050428 (adopted May 26, 2005).
- 79 Paragraph (2) amended by approval of the voters November 1991. Further amended by approval of the voters at the election held on November 4, 2003 and certified on December 1, 2003. See Bill No. 030115 (approved May 29, 2003); Resolution No. 030119 (adopted May 8, 2003). Pursuant to § 8-200(2), the Procurement Commissioner on July 22, 2008, effective August 1, 2008, certified a new bidding threshold of \$30,000; and on July 19, 2013, effective August 1, 2013, certified a new bidding threshold of \$32,000. See note 78 for further amendment.
- 80 Amended by approval of the voters at the election held on May 19, 2009, and certified on June 3, 2009. See Bill No. 090171 (approved April 1, 2009); Resolution No. 090179 (adopted March 26, 2009).
- 81 Amended by approval of the voters at the election held on November 2, 2010 and certified on November 22, 2010. See Bill No. 100335 (approved June 30, 2010); Resolution No. 100343 (adopted June 10, 2010).
- 82 Paragraph (4) added by approval of the voters at the election held on November 4, 2003 and certified on December 1, 2003. See Bill No. 030342 (approved September 17, 2003); Resolution No. 030359 (adopted September 11, 2003). See note 78 for further amendment.
- 83 Amended by approval of the voters at the election held on November 4, 2003 and certified

on December 1, 2003. See Bill No. 030115 (approved May 29, 2003); Resolution No. 030119 (adopted May 8, 2003). Further amended by approval of the voters at the election held on November 8, 2005 and certified on November 28, 2005. See Bill No. 040771-A (approved June 9, 2005); Resolution No. 050428 (adopted May 26, 2005).

CHAPTER 3 LEGISLATIVE AND EXECUTIVE OFFICEHOLDERS AND EMPLOYEES

§ 8-300. Oaths of Office.

All persons elected, appointed or employed under the provisions of this charter, including the City Controller and the City Treasurer, shall, before entering upon the duties of their offices or employments, take an oath of office to support the Constitutions of the United States and of the Commonwealth of Pennsylvania and this charter.

ANNOTATION

Sources: No specific source.

Purposes: Loyalty to the Constitutions of the national, state, and local governments is a reasonable condition to exact for City office- holding or employment.

§ 8-301. Other Offices or Positions.

Except as otherwise provided in this charter, no person shall hold more than one office or position of profit, whether elective or appointive, under the City and no such person shall hold such office or position while holding any other office or position of profit in or under the government of the United States, of the Commonwealth of Pennsylvania, or of any county, city or other political subdivision thereof, other than the office of notary public, any office in the military or naval service of the United States or of the Commonwealth of Pennsylvania, or any ex officio office held by virtue of another office or position.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 155, Article IV, Section 3.

Purposes: The provision as to dual office-holding of the 1919 Charter is continued with minor modifications, primarily of language.

§ 8-302. Fidelity Bonds.

Before entering upon the duties of their respective offices or positions, the Managing Director, the Director of Finance, all department heads, the City Treasurer, the Personnel Director, and such other officers and employees of the City, including those of the Council, as the Administrative Board shall determine, shall execute and file with the Department of Records, corporate surety bonds, conditioned for the faithful performance of their respective duties in such penal sums as shall be fixed by the Administrative Board but the amount of the bond shall not in any case be less than five thousand dollars.

All such bonds and sureties thereon shall, before being accepted by the Department of Records, be approved by the Law Department.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 219, as amended; see the Act of June 25, 1919, P.L. 155, Article IV, Section 6.

Purposes: The principal officers of the City named in this section are required to execute and file corporate surety bonds conditioned for the faithful performance of their duties to protect the interests of the City. Since officers and employees not named in this section may also hold special positions of trust or may handle City or other public funds in the custody of the City, the Administrative Board may require them to be bonded. The amounts of bonds will depend on the duties of particular offices and positions. The Administrative Board is empowered to determine such amounts but a minimum standard of protection of \$5,000 is fixed by the Charter. See Section 4-300(2)(b). Approval by the Law Department of all bonds and sureties is required to assure their meeting all legal requirements so that legal inadequacy of the obligation cannot be later put forward as a defense.

CHAPTER 4
EXECUTIVE AND ADMINISTRATIVE BRANCH

§ 8-400. Certain General Provisions to Apply to Certain Officers. 84

All of the provisions of this charter which apply generally to department heads or departments, boards and commissions shall apply to the Mayor, the Managing Director, the Director of Finance, the City Treasurer, the City Representative, the Insurance Public Advocate, the Public School and Child Advocate, the Handicapped and Disabled Advocate and the Personnel Director and to their offices.

ANNOTATION

Sources: No specific source.

Purposes: Certain provisions of this Charter apply generally to all department heads and to the principal officers of the executive and administrative branch. To avoid listing in each such section the offices of the Mayor, the Managing Director, the Director of Finance, the City Treasurer, the City Representative and the Personnel Director, reference is made generally to department heads, or departments, boards and commissions and such a reference includes the particular officers listed in this section. See, for example, Sections 8-405 and 8-406. The City Controller is regarded as a department head since he is the head of the Auditing Department.

§ 8-401. Coordination of Work.

The several departments, boards and commissions shall devise a practical and working basis for cooperation and coordination of work, eliminating duplication and overlapping of functions, and shall so far as practicable cooperate with each other in the use of employees, land, buildings, quarters, facilities and equipment. The head of any department or any board or commission may empower or require an employee of another department, board or commission, subject to the consent of the head of such department or of such board or commission, to perform any duty which he or it might require of the employees of his or its department, board or commission. Whenever in this charter power is vested in a department, board or commission to inspect, examine, or secure data or information or to procure assistance from any other department, board or commission, a duty is hereby imposed upon the department, board or commission upon which demand is made to render such power effective.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Sections 501 and 502.

Purposes: 1. Cooperation among the various City agencies and the coordination of their work are necessary for the effective execution of their functions and to effect economies in the cost of their operations.

2. Occasions may frequently arise where economies may be effected by one agency using an employee of another agency on a temporary basis or where a specific task committed to a given agency may be more effectively performed by a particular employee of another agency. In such instances an employee of another agency may be empowered or required to perform such duties as an agency head could require of his own employee, if the head of the other agency consents to his employee's performing the task in question.

3. All agencies are required to furnish information or assistance to other agencies empowered to obtain such information or to request such assistance so that such powers, granted by this Charter, will not be frustrated by the denial of an obligation to comply.

§ 8-402. Cooperation with Other Agencies.

In the performance of its functions each department, board or commission shall cooperate with private agencies and with agencies of the governments of the United States, the Commonwealth of Pennsylvania and any other state and with any of their political subdivisions, having similar functions.

ANNOTATION

Sources: No specific source.

Purposes: In a number of instances adequate and complete execution of functions may call for cooperation with other

governmental or private agencies. Examples include cooperation in public health and police work with state and federal health and police agencies. In such cases City agencies are empowered and required so to cooperate.

§ 8-403. Departmental Boards and Commissions.

Except as otherwise provided in this charter, each board or commission connected with a department shall exercise its powers and perform its duties independently of the departmental head and officers but shall account to the department for the expenditure of money. Each such department shall in all cases have the right to examine the books, records and accounts of its departmental boards or commissions.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 503.

Purposes: Certain boards and commissions are connected with various departments for purposes of fiscal administration where a functional relationship exists between them. See Section 3-100 and the Annotation thereto. Unless other provisions of the Charter provide otherwise [e.g. see Section 5-700(c)], the head of a department with which a board or commission is connected is not to direct how the board or commission shall perform its functions. Such a board or commission must account to the department for the expenditure of money, report periodically to the department on its activities (see Section 8-404), submit all requests for appropriations through the department (see Section 8-103), make available to the department for examination its books, records and accounts, and generally submit all administrative matters requiring action at a higher administrative level (e.g. at the level of the Managing Director or Director of Finance) through the department.

§ 8-404. Reports.

Not later than ninety days after the end of the fiscal year, the head of each department responsible solely to the Mayor and each independent board and commission shall make an annual report in writing to the Mayor and the head of every other department shall make an annual report in writing to the officer who appointed him. Each departmental board and commission shall, not later than sixty days after the end of each fiscal year, make an annual report in writing to the head of the department with which such board or commission is connected. All such reports shall be attached as exhibits to the report made by the head of the department to his superior officer. Not later than one hundred and twenty days after the end of the fiscal year, the Managing Director and the Director of Finance shall make their annual reports to the Mayor with recommendations. They shall transmit to the Mayor as appendices to their reports, all reports made to them by department heads. Copies of all reports required by this section shall be filed in the Department of Records.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 504.

Purposes: Annual reports are required of all officers and agencies of the City so that the Mayor and the public may be kept informed on a current basis of the operations of all phases of the City government. Such reports are to be channelled up through the administrative structure of the City government to the Mayor. They are to be filed with the Department of Records where they are to be available for public inspection. See Section 5-1104.

§ 8-405. Seals.

Each department and any board or commission may adopt and use an official seal. A copy of any paper or document on file with any such department, board or commission may be authenticated by any such seal as a true copy of the original.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 505.

Purposes: An agency seal may serve many useful purposes in the designation of documents as authentic and official.

§ 8-406. Rules.

Except as otherwise provided in this charter, the heads of all departments and all boards and commissions are hereby empowered to prescribe rules for their internal government. Such rules shall become effective only after approval by the Administrative Board.

ANNOTATION

Sources: Cf. the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 506.

Purposes: The Charter distinguishes between "rules" and "regulations". The term "rules" is used to designate standards for intra-governmental administration. The term "regulations" denotes standards applicable to private persons and organizations. See Section 8-407. This section authorizes City agencies to prescribe rules for their internal government subject to the approval of the Administrative Board. See Section 4-300(1)(a).

§ 8-407. Regulations.

Except as otherwise specifically provided in this charter, every department, board and commission is hereby empowered to make such reasonable regulations as may be necessary and appropriate in the exercise of its powers and performance of its duties under this charter or under any statute or ordinance. Except as otherwise provided in this charter, in the adoption of regulations, the following procedure shall apply:

- (a) The department, board or commission promulgating the regulations shall first submit them for approval to the Law Department and upon receiving such approval file them with the Department of Records where they shall be available for public inspection for thirty days;
- (b) The Department of Records shall give public notice of such filing by advertising in the three daily newspapers of the City having the largest paid circulation the fact that regulations relating to a particular subject have been filed with it, and that any person affected thereby may request a hearing. Council may by ordinance adopted by a vote of two-thirds of all of its members specify different or additional requirements for providing public notice of the filing of regulations and the availability of a hearing, in accordance with applicable law. Any such ordinance may include a requirement that notice be posted on the City's website; 85
- (c) If any person affected shall present to the Department of Records a written request therefor, he shall be afforded a public hearing before the department, board or commission promulgating the regulations and the City Solicitor. A report of the hearing reaffirming the regulations or modifying them with the approval of the Law Department shall be filed by the department, board or commission with the Department of Records.

The regulations shall become effective at midnight of the thirtieth day after their filing when no hearing has been requested and at midnight of the tenth day after a report has been filed when a hearing was requested and held.

All regulations shall be published and made available for distribution.

Amendments to regulations shall be adopted under the same procedure as the regulations which they amend.

The requirements of this section may be suspended by the Mayor in writing and temporary regulations promulgated in emergencies affecting the public health or safety but any regulations so put into force shall not remain effective unless the procedures otherwise required by this section are complied with forthwith.

ANNOTATION

Sources: Cf. the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 506.

Purposes: 1. See Annotation to Section 8-406.

2. Administrative agencies may not legislate. However, they may when appropriately authorized by this Charter, or by statute or ordinance, define and apply through administrative regulations standards established by this Charter or by legislation. Thus regulations afford a means for an administrative agency to exercise powers and to perform duties of law administration and enforcement imposed upon and vested in it by this Charter or by statute or ordinance.

3. Since members of the public will be the ones who will be affected by regulations, fairness to them prompts the requirement that they be afforded, as a rule, an opportunity to be heard on proposed regulations. Such hearings are intended to protect persons who will be affected from arbitrary administrative action. They should also serve to bring to the attention of administrative officials facts necessary for the exercise of informed judgment in the promulgation of regulations.

4. Approval by the Law Department of all proposed regulations is required to assure that they are authorized, comply with basic legislation, and do not exceed constitutional limits.

5. Filing with the Department of Records is required since this is the central depository for public documents and the agency where all public records are to be kept available for public use and inspection. See Article 5, Chapter 11.

6. The purpose of the advertising requirement of subsection (b) is to assure adequate notice to members of the public of proposed regulations and of the fact that persons who may be affected may request a hearing.

7. Persons affected by any proposed regulation are entitled upon written request to a public hearing before a representative of the agency promulgating the regulation and a member of the Law Department who will pass on any questions of law raised. After such a hearing the regulation in question may be reaffirmed or modified. A report of the action taken is to be filed with the Department of Records for purposes of public notice.

8. With the exception hereafter noted, regulations can in no event take effect earlier than thirty days after their filing. This period of time should afford affected persons an adequate opportunity to request public hearings should they desire to do so.

9. All regulations must be published and made available for distribution so that members of the public and City officers and employees may obtain copies.

10. The procedure for amending regulations is the same as that for new regulations since amendments may impose new requirements affecting members of the public.

11. Emergencies affecting the public health or safety may require immediate administrative action through regulations. In such instances disaster may be averted if it were required that the regular procedure of this section be followed before regulations become operative. Therefore, this section permits regulations in such emergencies to be put into force immediately by the Mayor suspending in writing the requirements specified. However, for such temporary regulations to remain effective, the steps normally required by this section must immediately be initiated and followed. If they are, the temporary regulations continue in effect while the filing, advertising, waiting period, hearings, etc. take place.

§ 8-408. Meetings of Boards and Commissions.

Every board and commission shall hold regular meetings at such times and places as it may by rule designate and in addition shall hold special meetings upon the call of its chairman or president at such times and places as he shall designate. At least three days' notice in writing shall be given of the time, place and purpose of all special meetings, unless such notice is waived in writing by all members. Except as otherwise specifically provided in this charter, a majority of the members of any board or commission shall constitute a quorum. All boards and commissions shall keep minutes of their proceedings.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 518.

Purposes: This section establishes minimum uniform requirements for all boards and commissions to follow in the holding of meetings so that all members will be apprised of the time and place of meetings, at least a majority of members will be required for business to be transacted, and a record will be kept of proceedings.

§ 8-409. Power to Obtain Attendance of Witnesses and Production of Documents.

Every officer, department, board or commission authorized to hold hearings or conduct investigations shall have power to compel the attendance of witnesses and the production of documents and other evidence and for that purpose it may issue subpoenas requiring the attendance of persons and the production of documents and cause them to be served in any part of the City. If any witness shall refuse to testify as to any fact within his knowledge or to produce any documents within his possession or under his control, the facts relating to such refusal shall forthwith be reported to any one of the Courts of Common Pleas of Philadelphia County and all questions arising upon such refusal and also upon any new evidence not included in the report, which new evidence may be offered either in behalf of or against such witness, shall as promptly as possible be heard by such court. If the court shall determine that the testimony or document required of such witness is legally competent and ought to be given or produced by him, the court may make an order commanding such witness to testify or to produce documents or do both and if the witness shall thereafter refuse so to testify or so to produce documents in disobedience of such order of the court, the court may deal with the witness as in other cases.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVI, Section 8.

Purposes: Administrative hearing or investigatory process may at times require the compulsion of a subpoena to be effective. Officers and agencies authorized to hold hearings or conduct investigations are thus empowered to compel the attendance of witnesses and the production of documents and other evidence within the geographical limits of the City, the jurisdiction over which this Charter extends. Since subpoenas for this purpose may be disobeyed and since such disobedience is not punishable by imprisonment and fine

unless it continues after a court has ordered compliance, City officers and agencies are authorized to resort through the Law Department (see Section 8-410) to the courts. However, the Charter Commission did not possess any power to require courts to enforce such administrative process or to specify the usual penalty of commitment for contempt until compliance. Cf. Annotation to Section 2-401. Accordingly, the action a court is to take is a matter for its discretion and subject to its customary powers.

§ 8-410. Legal Advice and Services.

Whenever any officer, department, board or commission shall require legal advice concerning his or its official business or whenever any legal question or dispute arises or litigation is commenced or to be commenced in which any officer, department, board or commission is officially concerned or whenever any taxes or other accounts of whatever kind due the City remain overdue and unpaid for a period of ninety days it shall be the duty of such officer, department, board or commission, to refer the same to the Law Department.

It shall be the duty of any officer, department, board or commission having requested and received legal advice from the Law Department regarding his or its official duty, to follow the same; and when any officer shall follow the advice given him in writing by the Law Department he shall not be liable in any way for so doing upon his official bond or otherwise.

Before the Law Department shall render any opinion interpreting any appropriation ordinance or ordinance authorizing the expenditure of money, it shall notify the City Controller of the question upon which its opinion has been requested and afford him an opportunity to present his views upon the question.

It shall be unlawful for any officer, department, board or commission to engage any attorney to represent him or it in any matter or thing relating to his or its public business without the approval in writing of the City Solicitor.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 512; Act of June 25, 1919, P.L. 581, Article XIII, Section 5.

Purposes: 1. This section implements Section 4-400. It seeks to prevent the practice of each officer and agency having its own counsel. It thereby makes possible an effective and well organized, central law agency.

2. Officers and agencies requesting and receiving legal advice from the Law Department must follow it. Resort may not be had to other counsel, except with the consent of the City Solicitor, for other advice nor may such other advice even if obtained be followed except at personal risk, a consequence from which an officer or agency is absolved if the advice of the Law Department is followed.

3. Questions involving the interpretation of appropriation ordinances or other ordinances authorizing the expenditure of money must be referred to the City Controller for his views since he is the City's auditor and will ultimately be required to pass upon the propriety of all expenditures of City funds.

§ 8-411. Custody of Private Personal Property.

Every officer and employee, who in the performance of his duties receives for custodial purposes personal property from any person, shall immediately upon receiving such property issue a receipt to such person and a copy to the City Controller itemizing the property received and stating the circumstances under which it was received, shall keep such property in such place as shall have been designated by the head of the department or the board or commission by which he is employed and shall return such property promptly to such person or his nominee, or to his executor or administrator in case of his death, when its retention by the City is no longer warranted by statute or ordinance.

ANNOTATION

Sources: No specific source.

Purposes: Certain officers and employees of the City, such as police officers and hospital employees, are required to or may in the performance of their duties receive for custodial purposes private personal property. This section requires complete accountability for any such property and its return, as soon as it is authorized or required, to the person entitled to it.

§ 8-412. Inspections.

Every department, board and commission shall have the power to make such inspections as are incident to or necessary for the performance of its functions except that, with the approval of the Administrative Board, the Mayor may issue an order in writing

transferring to the Department of Licenses and Inspections the duty of making inspections incidental to the performance of all or any of the functions of any other department or of any board or commission. After any such order becomes effective, the inspections to which it applies shall be made exclusively by the Department of Licenses and Inspections.

ANNOTATION

Sources: No specific source.

Purposes: See Annotation to Section 5-1002.

Notes

- 84** Amended by approval of the voters at the election held on November 4, 2003 and certified on December 1, 2003. See Bill No. 030220 (approved May 15, 2003); Resolution No. 030231 (adopted May 1, 2003). Amended by approval of the voters at the election held on November 6, 2007, and certified on November 26, 2007. See Bill No. 070395 (approved September 20, 2007); Resolution No. 070411 (adopted June 14, 2007); Bill No. 070395 (approved September 20, 2007); Resolution No. 070411 (adopted June 14, 2007).
- 85** Amended by approval of the voters at the election held on May 19, 2009, and certified on June 3, 2009. See Bill No. 090171 (approved April 1, 2009); Resolution No. 090179 (adopted March 26, 2009).

CHAPTER 5 REFERENDA APPROVED BY THE VOTERS 86

§ 8-500. Home Rule Power to Prevent and Reduce Gun Violence.

We, the citizens of Philadelphia, call upon the Pennsylvania General Assembly and the Governor to pass legislation that would authorize the City of Philadelphia to enact constitutionally lawful legislation regulating the sale, transfer and possession of firearms within the City limits for the purpose of preventing and reducing gun violence. All appropriate City officials are hereby vested with the duty and the responsibility to take all appropriate steps, to the fullest extent allowable under law, to promote and defend the will and mandate of the people.

§ 8-501. Surveillance Cameras to Prevent Crime and Violence. 87

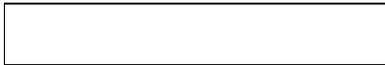
We, the citizens of Philadelphia, believe that the video surveillance has proven to be an effective tool to fight crime and violence in many cities, and that it can be implemented in a manner that protects civil liberties and legitimate privacy interests. Accordingly, The City of Philadelphia and its Police Department shall consider the use of video surveillance, in a manner that protects civil liberties and legitimate privacy interests, as part of the City's anti-crime, anti-violence program.

§ 8-502. Redeployment of U.S. Troops from Iraq. 88

We, the citizens of Philadelphia, believe that our troops have performed their mission successfully and with honor. We therefore urge the United States to redeploy U.S. troops out of harm's way in Iraq in the year 2007. Redeployment of U.S. troops will strengthen Iraqi determination to establish a coalition government and to rebuild their nation.

§ 8-503. Rejecting the Board of Revision's Full Valuation Initiative. 89

We, the citizens of Philadelphia, urge the stopping of real estate tax assessment increases which would result from the Board of



Notes

- 86 Added by approval of the voters at the election held on May 17, 2005 and certified on June 6, 2005. See Bill No. 050107 (approved March 31, 2005); Resolution No. 050120 (adopted March 17, 2005).
- 87 Added by approval of the voters at the election held on May 16, 2006, and certified on June 5, 2006. See Bill No.060092 (approved March 30, 2006); Resolution No. 060101 (adopted March 23, 2006).
- 88 Added by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060849 (approved March 7, 2007); Resolution No. 060861 (adopted February 22, 2007).
- 89 Added by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060576-A (became law March 15, 2007); Resolution No. 060590-A (adopted March 1, 2007).

**ARTICLE IX
REMOVAL OF ELECTIVE AND APPOINTIVE OFFICERS**

**CHAPTER 1
RECALL OF MAYOR AND OTHER ELECTIVE OFFICERS 90**

§ 9-100. Officers Subject to Recall.

Any person holding any elective office of the City, whether by election, succession, or appointment to fill a vacancy, shall be subject to removal from office at a recall election in the manner provided in this chapter.

ANNOTATION

Sources: See Charter of the City of Los Angeles (Annot. Ed., 1948) Section 290.

Purposes: 1. The power is vested in the electorate to recall officials elected by them so that such officials may be directly responsible for their behavior in office to the electorate. The Charter vests responsibilities of great magnitude in the Mayor, the City Controller and Councilmen. The electorate is entitled to expect the proper discharge of those responsibilities and in accordance with promises made when office was sought, barring changes in circumstances which justify other courses of action. The power of the electorate to recall should serve as a spur to elected officials to be faithful to this trust. It is also intended to serve as an expeditious and effective means for removing from office an elected official who has failed to sustain such trust. Cf. the impeachment procedure under the Act of June 25, 1919, P.L. 581, Article IV, Section 9 and the experience thereunder.

2. While no charges are required to be lodged formally against an elected official to subject him to a recall election it is anticipated on the basis of experience in other jurisdictions having the recall, that the electorate will exercise its power to recall wisely, for good reasons and in accordance with the purpose and spirit of the recall.

3. Elected officials subject to recall are the Mayor, the City Controller, the City Treasurer and Councilmen.

4. Officials holding an elective office are subject to recall regardless of the manner in which they were designated to hold office.

§ 9-101. Recall Procedure.

(1) A recall of an incumbent of an elective office shall be initiated upon petition signed by registered electors. In the case of an elective office to which a candidate is elected from the City at large, the petition shall contain signatures equal in number to at least twenty-five percent of the vote cast for the office of Mayor at the last preceding mayoralty election but signatures from any one ward in excess of one-fifth of the total number required on a petition shall not be counted. In the case of an elective office to which a candidate is elected from a district of the City, the petition shall contain signatures of registered electors in the district equal in number to at least twenty-five percent of the vote cast for the office at the last election. Every recall petition shall name the officer against whom it is directed.

(2) Each elector signing a recall petition shall add to his signature his occupation, his residence, stating the ward, and the date of signing. Signatures on a recall petition may be on separate sheets but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the City, or of the district, as the case may be, that they signed with full knowledge of the contents of the petition, and that their residences are correctly given.

(3) A recall petition shall be tendered for filing to the board of elections having jurisdiction over elections in the City. Such board shall examine it to see whether it contains a sufficient number of apparently genuine signatures. The board may question the genuineness of any signature or signatures appearing on the recall petition and if it shall find that any such signature or signatures are not genuine, it shall disregard them in determining whether the petition contains a sufficient number of signatures. It shall also disregard any signature dated more than sixty days before the date the petition was tendered for filing. The board shall eliminate any sheet of the petition which is not accompanied by the required affidavit. The invalidity of any sheet of the petition shall not affect the validity of the petition if a sufficient number of signatures remains after eliminating such an invalid sheet. The board shall complete its examination of the petition within fifteen days and shall thereupon file the petition if valid or reject it if invalid.

ANNOTATION

Sources: See Charter of the City of Los Angeles (Annot. Ed., 1948) Section 290(a) and (b); Charter of the City of St. Louis Proposed by the 1949-50 Board of Freeholders Article 111, Section 2-6; Act of April 21, 1949, P.L. 665, Section 6.

Purposes: 1. A recall is initiated by petition containing the number of signatures of registered electors specified in this section.

2. In the case of an office to which a candidate is elected by voters from the entire City, all registered voters of the City may sign recall petitions. To prevent frivolous resort to the recall and to limit the recall to cases where its basis will be of such merit as to call forth the support of substantial numbers of the citizenry, signatures equal in number to twenty-five percent of the vote cast for the office of Mayor at the last preceding mayoralty election are required in the case of an elective office at large. Signatures from any one ward in excess of one-fifth of the number required on a petition are not to be counted in arriving at the total required so that the recall petition will not be the product of sectional interests or efforts. Thus, if in the 1951 mayoralty election 400,000 votes are cast, 100,000 signatures will be required on a recall petition directed against a Mayor or a Councilman-at-large in 1953. Should there be 25,000 signatures of voters in the 22nd ward on the petition, only 20,000 will be counted in arriving at the required 100,000 signatures.

3. In the case of a district councilmanic office, only the voters of the district in questions are qualified to initiate a recall and the petition must contain signatures equal in number to at least twenty-five percent of the vote cast for that office at the last election.

4. Standards to safeguard the authenticity of recall petitions are set forth in this section. Petitions are to be tendered for filing with the board of elections having jurisdiction over elections in the City and such board is empowered to pass upon the validity of the petition. Signatures dated more than sixty days before a petition is tendered for filing are to be disregarded in order to prevent any practice of accumulating signatures over an indefinite period of time until the required number is met. The recall presupposes a crystallization of popular opinion because of the behavior in office of an elected official. Most persons signing a petition would intend their signatures to be effective within a reasonable time and not at some indeterminate future date when they may no longer have any grievances.

§ 9-102. Notice to Incumbent.

As soon as the board having jurisdiction over elections in the City has accepted a recall petition for filing, the chairman of the board shall notify the incumbent named in the petition that the petition has been filed. Upon receipt of such notice the incumbent may resign from his office and thereupon the recall proceedings shall terminate.

ANNOTATION

Sources: See Charter of the City of St. Louis Proposed by the 1949-50 Board of Freeholders, Section 6.

Purposes: An incumbent against whom a recall petition is directed may resign from office. In that event a recall election is unnecessary. See also Section 9-103(1).

§ 9-103. Recall Elections.

(1) If the incumbent against whom a recall petition is directed does not resign from his office within ten days after notice of the filing of such petition shall have been given to him, the board having jurisdiction over elections in the City shall arrange a recall election. If a regular or special election is to be held not less than thirty days nor more than ninety days after the ten days have expired, the recall question shall be placed before the electors at such an election. Otherwise a special recall election shall be fixed for a date not earlier than thirty days nor later than ninety days after the ten days have expired. The incumbent against whom a recall petition is directed may resign at any time prior to the recall election and thereupon the election shall not be held.

(2) The following question shall be presented to each elector in a recall election: - "Shall (name of officer) be recalled and removed from the office of (name of office)?" The above question shall appear as to every officer whose recall is to be voted upon and provision shall be made for the elector to vote "Yes" or "No" on the question.

(3) If a majority of the registered electors who vote on the question at a recall election shall vote "Yes", the incumbent shall be deemed recalled and removed from office, but if a majority of the registered electors shall vote "No", he shall remain in office.

ANNOTATION

Sources: See Charter of the City of Los Angeles (Annot. Ed., 1948) Sections 290(c) and 291; Charter of the City of St. Louis Proposed by the 1949-50 Board of Freeholders, Sections 6 and 7.

Purposes: 1. Should an incumbent against whom a recall petition is directed fail to resign from office upon notice of a filing of a recall petition against him (See Section 9-102), the board of elections is directed to arrange for a recall election.

2. The time limits fixed are such as to permit a minimum reasonable time for a recall campaign and a maximum period of ninety days for holding the election so that the affairs of the City will not suffer from a longer postponement of the time for resolving the issue.

3. The recall question is stated in such form as to permit the use of voting machines at a recall election.

4. If a majority of registered electors vote "Yes" at a recall election, the office in question is to be deemed vacated forthwith. If a majority vote "No", the officer continues in office as theretofore.

§ 9-104. Disqualification for Office.

No person who has been removed from an elective office by a recall election or who has resigned from such an office after a recall petition directed to him has been filed, shall be eligible for election or appointment to any office of the City within two years after his removal or resignation.

ANNOTATION

Sources: Charter of the City of Los Angeles (Annot. Ed. 1948) Section 294.

Purposes: Recall from office presupposes a failure to sustain the confidence of the electorate. Hence, reasonable limitations are imposed against an official removed as a result of a recall proceeding whether by a recall election or resignation, from being eligible for other City elective or appointive offices for a two-year period.

§ 9-105. Limitations.

No recall petition shall be filed against any incumbent of an elective office within the first year or the last six months of the term of his office or within six months after an unsuccessful recall election against him but an officer who has been reelected for a successive term shall be subject to recall also during the first year of such term.

ANNOTATION

Sources: See Charter of the City of St. Louis Proposed by the 1949-50 Board of Freeholders, Section 9.

Purposes: 1. An elected official should be afforded a reasonable period of time after election to office to establish a performance record. Thus no recall petition may be filed during the first year of office. This limitation does not apply to the first year of a term of office to which a person is reelected when the new term immediately follows the preceding one.

2. A recall election during the last six months of a term of office is a fruitless procedure, for the incumbent, should he wish to remain in office, would within six months or less have to seek reelection in any event.

3. The recall is not intended as a means for harassing elected officials. Thus if a recall election fails, no petition for recall may be filed until six months have expired since such an election.

Notes

90 The Pennsylvania Supreme Court has ruled that recall provisions of municipal home rule charters are unconstitutional. *Petition to Recall Reese*, 542 Pa. 114, 124, 665 A.2d 1162, 1167 (1995) (citing *Citizens Committee to Recall Rizzo v. Board of Elections*, 470 Pa. 1, 367 A.2d 232 (1976)).

CHAPTER 2 REMOVAL OF APPOINTIVE OFFICERS

§ 9-200. In General.

Except as herein specifically provided, any appointed officer may be removed at the pleasure of the appointing power.

ANNOTATION

Sources: Constitution of the Commonwealth of Pennsylvania. Article 6, Section 4.

Purposes: Effective administration requires as a rule that the appointing power be able to remove officers at pleasure, subject to his answering to his superiors or to the electorate.

§ 9-201. Managing Director.

The Managing Director may be removed by the Mayor. If the Mayor removes the Managing Director, he shall specify in writing and in detail his reasons for doing so and shall cause this specification to be served upon the Managing Director. The Managing Director may, within ten days after receipt of such specification, file with the Civil Service Commission a request for a public hearing before it, and thereupon the Civil Service Commission shall promptly afford him such a hearing. If the Civil Service Commission finds the Mayor's charges well founded and a sufficient cause for dismissal, that shall be the end of the matter, but if the Commission shall find that the charges were not well founded or that they do not constitute a sufficient cause for dismissal, the Commission may award to the Managing Director his salary for the balance of his term or such part thereof as it deems appropriate, and the Council shall promptly make an appropriation out of which the award can be paid.

ANNOTATION

Sources: No specific source.

Purposes: The office of Managing Director is one of the most important new offices created by this Charter. See Article V, Chapter 1. The nature of the duties to be performed by this officer are such as to make desirable his having some measure of independence and freedom from unwarranted pressures from the Mayor himself. Yet so fundamental is the necessity for maintaining in the Mayor the power to remove that such power must be preserved even as to this office. See Annotation to Section 9-200. One more consideration enters: it is that of being able to attract to the office of Managing Director an individual of experience and ability. This section seeks to balance these conflicting considerations. The power of the Mayor to discharge is preserved but he does so at the

risk of the Civil Service Commission finding his action unfounded and without sufficient cause, a factor that might well be grounds for a recall proceeding. Nevertheless, to assure administrative harmony the dismissal stands but the Managing Director may be awarded all or part of his salary for the balance of his term. The latter is intended to afford a measure of security, financially, to an experienced and able governmental or business official requested to assume the office of Managing Director and to leave his then position and employment. If the Civil Service Commission finds the Mayor's action well founded and sufficient cause for dismissal, no reason exists for awarding any salary for the balance of the term or any part of it. See generally Annotation to Section 3-403.

§ 9-202. Civil Service Commissioners.

A member of the Civil Service Commission may be removed by the Mayor only for cause. If the Mayor removes him, the Mayor shall state in writing and in detail his reasons for doing so. Thereupon, the Commissioner may request a public hearing before the Mayor, which shall be afforded to him. A record of the hearing shall be made, and a copy of the charges and of the transcript of the record of the hearing shall be filed with the chief clerk of the Council.

ANNOTATION

Sources: A Model State Civil Service Law, Section 4(c).

Purposes: See Annotation to Section 9-201 which involves comparable considerations. However, no reason exists in the case of Civil Service Commissioners for an award of salary for the balance of the term.

ARTICLE X

PROHIBITED ACTIVITIES OF COUNCILMEN, CITY OFFICERS, EMPLOYEES AND OTHERS, AND PENALTIES

§ 10-100. Councilmen Not to Engage in Certain Activities; Penalties.

As provided by statute, no councilman shall solicit, benefit by, or be interested directly or indirectly in any contract for the purchase of property of any kind to be paid for from the City Treasury, nor shall he be interested directly or indirectly in any contract for the erection of any structure, or for the supplying of any services to be paid for out of the City Treasury, nor shall he solicit or recommend the appointment of any person to any position in the civil service, nor shall he interfere with the performance of the duties of the members of the Philadelphia Police, or of any other employees in any department, board or commission of the City.

ANNOTATION

Sources: Act of June 24, 1939, P.L. 872, Section 682; Act of June 25, 1919, P.L. 581, Article XX, Section 3; A Model State Civil Service Law, Section 19.

Purposes: 1. Ethical standards of conduct preclude one who is a City officer from soliciting in a private capacity or personally profiting or being interested, directly or indirectly, in contracts with the City whose officer he is. See Act of June 24, 1939, P.L. 872, Section 682.

2. An effective civil service regime and principles of employment on merit preclude a legislator from soliciting or recommending the appointment of any person to a civil service position. Councilmen appropriate funds to City agencies and are in a position to affect in that manner and in other ways administrative operations. Officers of such agencies must remain completely free from pressures of legislators, direct or indirect, in staffing their offices with civil service personnel. If a Councilman were permitted to solicit or recommend an appointment, an administrative officer might assume such pressure and might be influenced by it as a matter of protecting the interest of his agency and position, regardless of the motives, integrity and intentions of the Councilman.

3. For comparable reasons, Councilmen are emphatically prohibited from interfering with the performance of the duties of any employees in the executive and administrative branch of the City government. An employee should perform his duties as required by law and by his superiors and not because of a fear of legislative retaliation, whether or not such fear is in fact warranted.

4. For penalties for violating this section, see Section 10-109.

§ 10-101. Officers and Employees Not to be Brokers or Agents for Procuring Bonds.

No officer or employee whose compensation is paid out of the City Treasury shall directly or indirectly be the broker or agent who procures or receives any compensation in connection with the procurement of bonds for City officers or employees.

ANNOTATION

Sources: No specific source.

Purposes: 1. Any officer or employee who is paid from the City Treasury (e.g. City and County officers and employees and Councilmen) may not, directly or indirectly, be a broker or agent profiting from the bonding of City officers or employees. See Annotation to Section 10-100. Past experience indicates the desirability of this prohibition.

2. For penalties for violating this section, see Section 10-109.

§ 10-102. City Officers and Employees Not to Engage in Certain Activities.

As provided by statute, the Mayor, the Managing Director, the Director of Finance, the Personnel Director, any department head, any City employee, and any other governmental officer or employee whose salary is paid out of the City Treasury shall not benefit from and shall not be interested directly or indirectly in any contract for the purchase of property of any kind nor shall they be interested directly or indirectly in any contract for the erection of any structure or the supplying of any services to be paid for out of the City Treasury; nor shall they solicit any contract in which they may have any such direct or indirect interest.

ANNOTATION

Sources: See Section 10-100.

Purposes: See Annotation to Section 10-100.

§ 10-103. Members of Political Committees Not to Interfere with Police and Certain Other Officers and Employees.

No member of a political committee shall interfere with or attempt to interfere with the Police Commissioner or any officer or member of the Philadelphia Police, the Fire Commissioner and any officer or employee of the Fire Department, or the Commissioner of Licenses and Inspections or any officer or employee of the Department of Licenses and Inspections in the proper performance of his duties.

ANNOTATION

Sources: No specific source.

Purposes: 1. Requests from persons politically influential to the end that law violators shall not be apprehended and prosecuted, are not to be permitted to be bought to bear upon law enforcement agencies and the Fire Department (concerned with the enforcement of fire prevention laws). See Annotation to Section 10-100.

2. For penalties for violating this section, see Section 10-109.

§ 10-104. Fees.

No officer or employee of the City shall collect any fees or perquisites for his own use, but all such fees or perquisites, collectible under law, shall be paid into the City Treasury.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article IV, Section 7.

Purposes: 1. The section continues existing law.

2. For penalties for violating this section, see Section 10-109.

§ 10-105. Gratuities.

No officer or employee of the City and no officer or employee whose salary or other compensation is paid out of the City Treasury shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of his public work. Provided, however, that the head of any department, board or commission of the City or other agency receiving appropriations from the City Treasury may permit an employee to receive a reward publicly offered and paid, for the accomplishment of a particular task.

ANNOTATION

Sources: No specific source.

Purposes: 1. Public officers and employees are compensated with public funds to perform the task for which they were elected, appointed or employed. Their holding office or employment presupposes their faithful discharge of all their duties without more. An exception is recognized and permitted in instances of a special reward authorized by the head of an agency for special accomplishments, such as the apprehension of a criminal, acts of particular courage and bravery, the devising of new methods or inventions to effect economies in the expenditure of City funds, and the like. Otherwise, however, no public official or employee should do that which he ought to do or not do that which he is not supposed to do because of the inducement of receiving directly or indirectly any benefit in addition to that which is the lawful incident of his position. The solicitation or acceptance of any such benefit by any City officer or employee of the executive or legislative branch or by any County or other governmental employee whose compensation is paid from the City Treasury is prohibited.

2. For penalties for violating this section, see Section 10-109.

§ 10-106. Impersonation of City Officers and Employees.

No person shall falsely personate by uniform, insignia or otherwise any officer or employee of the City.

ANNOTATION

Sources: See the Act of June 25, 1919, P.L. 581, Article V, Section 5.

Purposes: Provisions of the Charter of 1919 are broadened to include all officers and employees of the City, an extension necessary for protecting the City and members of the public.

§ 10-107. Political Activities.

(1) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the civil service.

(2) No person shall, for the purpose of influencing the vote or political action of any person, or for any consideration, use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the civil service, or an increase in pay or other advantage in employment in any such position.

(3) No officer or employee of the City and no officer or employee of any governmental agency whose compensation is paid from the City Treasury shall, from any person, and no officer or member of a committee of any political party or club shall, from any civil service employee, directly or indirectly demand, solicit, collect or receive, or be in any manner concerned in demanding, soliciting, collecting or receiving, any assessment, subscription or contribution, whether voluntary or involuntary, intended for any political purpose whatever. No officer or member of the Philadelphia Police or of the Fire Department shall pay or give any money or valuable thing or make any subscription or contribution, whether voluntary or involuntary, for any political purpose whatever. 91

(4) No appointed officer or employee of the City shall be a member of any national, state or local committee of a political party, or an officer or member of a committee of a partisan political club, or take any part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote.

(5) No officer or employee of the City, except elected officers running for re-election, shall be a candidate for nomination or election to any public office unless he shall have first resigned from his then office or employment.

(6) Any officer or employee of the City who violates any of the foregoing provisions of this section shall, in addition to any penalties provided for hereafter, be ineligible for one year for any office or position under the City.

ANNOTATION

Sources: A Model State Civil Service Law, Section 19; Act of June 25, 1919, P.L. 581, Article XIX, Section 23.

Purposes: 1. Merit principles of governmental employment require the divorcement of politics from such employment. They presuppose employment upon merit and not because of political connections, powers and pressures. They also presuppose that governmental employment will not serve as a means for political tribute to maintain political parties and regimes. The prohibitions of this section are intended to sustain these basic principles and precepts subject to certain qualifications which political necessities require to be made at certain levels of employment and office-holding. Absolutism in this area is neither necessary nor practicable for the fact is that political parties are essential parts of the democratic form of government in the United States. This section attempts to

balance the public interest involved.

2. All City officers, elected or appointed, and all City employees, civil service or non-civil service, and all officers and all employees of governmental agencies compensated with City funds, such as County officers and employees, are prohibited from demanding, soliciting, collecting or receiving from any person assessments, subscriptions or contributions for political purposes.

3. Members of a political party or clubs are prohibited from demanding, soliciting, collecting or receiving from any civil service employee such assessments, subscriptions or contributions. This prohibition does not apply to elected and appointed officers and non-civil service employees because political realism and democratic traditions require that a line be drawn here.

4. Voluntary contributions for political purposes are permitted to be made by civil service employees except that, because of the nature of their duties, policemen and firemen may not under any circumstances make any contributions for political purposes.

5. Officers and employees, except officers running for re-election, must resign before becoming candidates for nomination or election to public office. This requirement is imposed because an officer or employee who is a candidate for elective office is in a position to influence unduly and to intimidate employees under his supervision and because he may neglect his official duties in the interest of his candidacy.

6. The prohibitions of this section are phrased so that they may not be evaded by any indirect means whatsoever. Thus it is unlawful for a member of a political party to solicit advertisements from a civil service employee for a program or magazine the profits of which will inure to the benefit of a political party. It is likewise unlawful to sell tickets to a civil service employee for a dance or show benefiting a political party.

7. Any person violating this section is subject to penalties of imprisonment, fine and, if he is an officer or employee, to removal from office or dismissal (Section 10-109) and ineligibility for a period of one year to holding office or any position under the City.

§ 10-108. Unlawful Acts Pertaining to the Civil Service.

(1) No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under the civil service regulations or in any manner commit or attempt to commit any fraud preventing the impartial execution of such regulations.

(2) No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the civil service.

(3) No employee in the office of the Personnel Director, and no examiner, or other person shall defeat, deceive or obstruct any person in his right to examination, eligibility, certification or appointment under the civil service regulations or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the civil service.

(4) Any person who violates any of the provisions of this section shall upon conviction, in addition to any penalties and punishment provided for hereafter, for a period of five years be ineligible for appointment to or employment in any position under the City.

ANNOTATION

Sources: A Model State Civil Service Law, Section 20.

Purposes: Civil service procedures are protected from fraudulent and dishonest practices by subjecting those who participate in such practices to penalties of fines and imprisonment (Section 10-109) and ineligibility for a period of five years for appointment to or employment in any City position.

§ 10-109. Penalties.

A violation of any of the foregoing sections of this article shall be a misdemeanor, punishable by a fine of not more than three hundred dollars or by imprisonment for not more than ninety days, or both, and if the violator is an officer or employee of the City, by removal from office or immediate dismissal.

ANNOTATION

Sources: See Act of April 21, 1949, P.L. 665, Section 17.

Purposes: The maximum penalties that can be imposed under the enabling legislation (see Act of April 21, 1949, P.L. 665, Section 17) are made applicable in cases of violation of Sections 10-100 to 10-108 inclusive because of the gravity of such offenses. In addition, if a violator is an elective or appointive officer of the City, he is to be immediately dismissed from his position and in certain instances he becomes ineligible for appointment to or employment in any City position. See Sections 10-107 and 10-108.

§ 10-110. Refusal to Testify.

If any officer or employee of the City shall wilfully refuse or fail to appear before any court, or before the Council or any committee thereof, or before any officer, department, board, commission or body authorized to conduct any hearing or inquiry, or having appeared, shall refuse to testify or to answer any question relating to the affairs or government of the City or the conduct of any City officer or employee on the ground that his testimony or answers would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any matter about which he may be asked to testify before such court or at any such hearing or inquiry, he shall forfeit his office or position, and shall not be eligible thereafter for appointment to any position in the City service.

ANNOTATION

Sources: Cf. Constitution of the Commonwealth of Pennsylvania, Article III, Section 32, Article VII, Section 1. A Model State Civil Service Law, Section 18.

Purposes: Neither the holding of a City office nor City employment are constitutionally guaranteed rights; they constitute privileges in return for which the City may exact reasonable obligations such as loyalty, trust and confidence. It would be incongruous to permit one holding a City office or position to obstruct any official inquiry, investigation or examination relating to the affairs of the City government or to the conduct of any City officer or employee on the ground of his personal right against self-incrimination. Under such circumstances the City cannot compel him to waive his constitutionally protected right but it may refuse him the privilege of holding office or employment under it.

§ 10-111. Discrimination.

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the civil service, or in any way favored or discriminated against with respect to employment in the civil service because of his race, color, religion, national origin, political opinions or labor union activity lawful for municipal employees.

(2) No officer or employee and no department, board or commission of the City shall in the exercise of his or its powers and the performance of his or its duties or in the granting of the use of City property discriminate against any person because of race, color, religion or national origin but this paragraph shall not prohibit the use of City property by any fraternal, religious or sectarian organization.

ANNOTATION

Sources: As to subsection (1), A Model State Civil Service Law, Section 19(a).

Purposes: 1. The tradition and heritage of the United States, morally if not legally, preclude practices by governments or their officials of discrimination against any person because of his race, color, religion or national origin.

2. As to discriminatory practices in the civil service, see Annotations to Sections 4-700 and 7-201.

3. Consonant with the above policies, officers, employees and agencies of the City are prohibited from using their powers or performing their duties in such a manner as will discriminate against any person because of his race, color, religion or national origin. Thus, the injunction of this section prohibits any form of discrimination practices on City recreational facilities or in City hospitals and other institutions, in police practices, in inspection and licensing practices, and in the grant of or the refusal to grant the use of City property. An exception in the latter respect is necessarily made in the case of fraternal, religious or sectarian organizations. These examples illustrate the scope of the section and do not by any means constitute an exhaustive list of the types of discriminatory practices prohibited.

4. See Sections 4-700 and 4-701 and Annotations thereto.

91 The City was permanently enjoined from enforcing the last sentence of this subsection as to uniformed members of the Fire Department, by a decision of the federal court on October 6, 2003. *Philadelphia Fire Fighters' Union Local 22, AFL-CIO v. City*, 286 F. Supp. 2d 476 (E.D. Pa. 2003).

ARTICLE XI SEVERABILITY AND ACTS SUPERSEDED

§ 11-100. Severability.

It is the intention of the electors of Philadelphia that if this charter cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding invalid any part or parts thereof, the remaining provisions of the charter shall be given full force and effect as completely as if the part or parts held invalid had not been included herein. It is the intention of the electors that if any court of competent jurisdiction shall hold invalid any provisions of this charter transferring to an office, department, board or commission the powers and duties heretofore exercised and performed by an officer, department, board or commission abolished by this charter, the provisions abolishing such office, department, board or commission shall thereby become inoperative, and that in such event, such office, department, board or commission shall not be abolished, but shall continue as prior to the adoption of this charter. The remaining provisions of this charter shall in any such case be given full force and effect.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 2901.

Purposes: If any provision of this Charter is declared to be invalid, the remainder of the Charter is to remain in complete effect. While a declaration of invalidity of a transfer of powers and duties may reestablish an abolished agency, a remedy is available by way of amendment of this Charter.

§ 11-101. Statutes and Ordinances Superseded.

Subject to Section 18 of the Act of the General Assembly approved April 21, 1949, P.L. 665, of the Commonwealth of Pennsylvania, it is the intention of the electors in adopting this charter that it shall supersede all statutes or parts of statutes, local, special or general, and all ordinances of the City, affecting the organization, government and powers of the City to the extent that they are inconsistent or in conflict with this charter.

ANNOTATION

Sources: Act of April 21, 1949, P.L. 865, Section 18.

Purposes: 1. The legislation authorizing this Charter imposed certain limitations upon the powers of the Charter Commission. Section 18 thus provides:

"Section 18. Limitations. No city shall exercise any powers or authority beyond the city limits except such as are conferred by an act of the General Assembly, and no city shall engage in any proprietary or private business except as authorized by the General Assembly. Notwithstanding the grant of powers contained in this act, no city shall exercise powers contrary to, or in limitation or enlargement of, powers granted by acts of the General Assembly which are -

"(a) Applicable to a class or classes of cities on the following subjects:

"(1) Providing for the filing and collection of municipal and tax claims or liens and for the sale of real or personal property in satisfaction thereof;

"(2) Providing for the exercise of the power of eminent domain and the procedure for the condemnation of property for public purposes;

"(3) Providing for the assessment of damages and benefits for property taken, injured or destroyed;

"(4) Providing methods for the incurring or increasing of indebtedness;

"(5) Providing for the annexation or exclusion or detachment of territory;

- "(6) Regulating public schools;
- "(7) Providing for the personal registration of electors;
- "(8) Limiting rates and fixing subjects of taxation;
- "(9) Providing for assessment of real or personal property and persons for taxation purposes.
- "(b) Applicable in every part of the Commonwealth.
- "(c) Applicable to all the cities of the Commonwealth." Act of April 29, 1949, P.L. 665.

Accordingly, until the statute is amended, the provisions of this Charter cannot supersede any laws coming within the limitations quoted above.

2. Subject to the above limitations, provisions of this Charter do supersede all statutes or parts of statutes, local, special or general of the Commonwealth of Pennsylvania and all ordinances of the City in any manner affecting the organization, government and powers of the City to the extent that they are inconsistent with the Charter provisions. The Charter Commission did not have the express power to repeal statutes or ordinances but the same objective is obtained in substance by its power to supersede statutes and ordinances inconsistent with provisions of the Charter. No attempt was made to list all such laws superseded for statutes applicable to the City and ordinances of the City are too numerous to have permitted the Commission to perform this task. Codification and revision of City ordinances will be a step in that direction. See Sections 2-304 and 4-400(e). It should be noted in particular that provisions of the Charter of 1919 not inconsistent with this Charter are not superseded and remain in full force and effect. The same is true of the Consolidation Act of 1854 (see Section 11-103), and other statutes applicable to the City of Philadelphia or to Cities of the First Class.

§ 11-102. Statutes Relating to Indebtedness Not Superseded.

Except as otherwise specifically provided, this charter does not supersede any statutes or parts of statutes relating to indebtedness.

ANNOTATION

Sources: No specific source.

Purposes: See Section 11-101. Special mention is made in this case to protect the indebtedness of the City.

§ 11-103. Certain Provisions of Consolidation Act Still in Force.

This charter does not supersede, but takes effect subject to and in accord with, unless and until the Constitution of the Commonwealth of Pennsylvania is amended, and any legislation required by such amendment is enacted to provide otherwise, the following provisions of the act entitled "A further supplement to an act, entitled 'An Act to incorporate the City of Philadelphia'", approved February 2, 1854, P.L. 21, commonly called the Consolidation Act, namely:

"Section 1. ... the corporate name of the mayor, alderman, and citizens of Philadelphia shall be changed to 'The City of Philadelphia,' and the boundaries of the said city shall be extended so as to embrace the whole of the territory of the county of Philadelphia, and all the powers of the said corporation, as enlarged and modified by this act, shall be exercised, and have effect within the said county, and over the inhabitants thereof."

Section 10 which, as modified by Article VIII, Section 3, as amended, of the Constitution, Section 5 of the Act of March 2, 1911, P.L. 8, and Article XI, Section 1, of the Act of June 25, 1919, P.L. 581, provides in part that the qualified voters of the City shall, on the Tuesday next following the first Monday of November, 1913, and on the Tuesday next following the first Monday of November in every fourth year thereafter, elect a City Treasurer to serve for four years from the first Monday of January next succeeding such election and until his successor is elected and qualified and that no money shall be drawn from the Treasury of the City, except the same shall have been previously appropriated by the Council to the purpose for which it is drawn.

Section 12 which, as modified by Article VIII, Section 3, as amended, of the Constitution, Section 5 of the Act of March 2, 1911, P.L. 8, and Article XII, Section 1, of the Act of June 25, 1919, P.L. 581, provides that the qualified voters of the City shall, on the Tuesday next following the first Monday of November, 1913, and on the Tuesday next following the first Monday of November in every fourth year thereafter, elect a City Controller, to serve for the term of four years from the first Monday in January next succeeding his election and until his successor is elected and qualified.

Section 13 which, as modified by Article VIII, Section 3, as amended, and Article XIV, Sections 2 and 7, as amended, of the Constitution and Section 33 of the Schedule to the Constitution provides in part that the qualified voters of the City shall, on the

Tuesday next following the first Monday of November, 1911, and every fourth year thereafter on the Tuesday next following the first Monday of November, elect three persons for City Commissioners, to serve four years from the first Monday of January next succeeding their election; that in the election of said officers each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected; and that the City Commissioners, under the direction and control of the Council, shall be charged with all duties performed by the commissioners of the county not otherwise provided for in the act.

"Section 38. That the net debt of the county of Philadelphia, after deducting and canceling the portion held by the sinking fund, and the several net debts of the guardians for the relief and employment of the poor of the city of Philadelphia, the district of Southwark, and the townships of the Northern Liberties and Penn, of the mayor, aldermen and citizens of Philadelphia, of the commissioners and inhabitants of the district of Southwark, of the commissioners and inhabitants of the district of Moyamensing, of the commissioners and inhabitants of the Kensington district, of the commissioners and inhabitants of the incorporated district of the Northern Liberties, of the commissioners of the district of Spring Garden, of the commissioners and inhabitants of Richmond, in the county of Philadelphia, the districts of West Philadelphia and Belmont, of the boroughs of Whitehall, Manayunk, Germantown, Aramingo and Frankford, and of the commissioners and inhabitants of the district of Penn, and the board of health and controllers of the public schools, after deducting and canceling the portions held by the respective sinking funds of the said several corporations, is hereby consolidated and formed into one debt, to be called 'the debt of the city of Philadelphia,' and payable at the same times that the principals of said debts are now made payable; certificates of which said debts are to be issued in sums of not less than one hundred dollars, in lieu of the present separate debts so consolidated, to the respective owners, in lieu of their present certificates of the same, at the option of such owners, bearing the same rate of interest that the debts so to be exchanged now bear, and payable on the first days of January and July, at the office of the treasurer of the city of Philadelphia...."

"Section 39...; and the said city councils shall fix the rate, and levy all the taxes, now authorized by law, within the limits of said city and county, except the State tax...; they shall be collected and accounted for to the treasurer as one city and county tax:...."

"Section 41. The county of Philadelphia shall continue to be one of the counties of this Commonwealth, and all county officers, not superseded by this act, shall continue in office, and continue to be elected ... as ... now provided by law, and be denominated officers of the county of Philadelphia; and all courts shall continue therein to exercise the jurisdictions and powers now conferred upon them by the constitution and laws of this Commonwealth; and the councils of said city, and the officers thereof, shall exercise all the powers and authorities of the superseded county commissioners and county board, and commissioners of sinking fund, and of other officers not inconsistent with this act, in such way and manner as by this act is, or by the city councils may be established."

ANNOTATION

Sources: See Acts cited in text of section.

Purposes: See Annotation to Section 11-101. Sections of the Consolidation Act of 1854, as amended, are stated in substance or quoted to emphasize that they have not been superseded.

ARTICLE XII PUBLIC EDUCATION 92

Notes

92 Sections 12-201, 12-202, 12-204, 12-206, 12-207, 12-209 and 12-503 amended November 2, 1999, by approval of the voters. See Bill No. 990056 (approved June 28, 1999); Resolution No. 990056 (adopted June 24, 1999).

CHAPTER 1 THE HOME RULE SCHOOL DISTRICT

§ 12-100. The Home Rule School District.

A separate and independent home rule school district is hereby established and created to be known as "The School District of Philadelphia".

§ 12-101. The New District to Take Over All Assets and Assume All Liabilities of the Predecessor School District.

The home rule school district shall:

- (a) succeed directly the now existing school district for all purposes, including, but not limited to, receipt of all grants, gifts, appropriations, subsidies or other payments;
- (b) take over from the now existing school district all assets, property, real and personal, tangible and intangible, all easements and all evidences of ownership in part or in whole, and all records, and other evidences pertaining thereto; and
- (c) assume all debt and other contractual obligations of the now existing school district, any long term debt to be issued, secured and retired in the manner now provided by law.

**CHAPTER 2
THE BOARD OF EDUCATION**

§ 12-200. The Board Created; Its Function.

There shall be a Board of Education of the School District of Philadelphia which shall be charged with the administration, management and operation of the home rule school district.

§ 12-201. Members of the Board; Method of Selection.

There shall be nine members of the Board of Education who shall be appointed by the Mayor from lists of names submitted to him by the Educational Nominating Panel, or, if enabling legislation is enacted by the General Assembly of the Commonwealth, elected on a non-partisan basis by the qualified voters of the city, all as more fully set forth in later sections of this Chapter. There shall also be a non-voting student advisory member of the Board of Education and alternate appointed by the Board from among the students enrolled in the Philadelphia public schools, whose selection and participation in meetings and other Board activities shall be subject to rules adopted by the Board.

§ 12-202. Eligibility for Board Membership.

Members of the Board of Education shall be registered voters of the City. No person shall be eligible to be appointed or elected to more than three full terms. Persons who are nominated or appointed to the Board of Education should reflect the diversity of backgrounds, experience and training that is representative of the City, including but not limited to: being the parent(s) of a current or former public school student(s); having training or experience in the areas of business, finance, education, public housing, or community affairs; or, having any other such training or expertise relevant and beneficial to the operations and management of the public school system.

§ 12-203. Terms of Board Members.

The terms of appointed members of the Board of Education shall be four years, commencing on May 1 of the year a Mayor's term of office begins. If the General Assembly enacts legislation permitting the election of members of the Board on a non-partisan basis, then (1) the terms of elected members of the Board of Education shall begin on the first Monday in December and shall be six years except that of the first members elected, three shall be elected for terms of two years, three for terms of four years, and three for terms of six years, and (2) the terms of all members shall expire on the first Monday of December immediately following the municipal election at which the first elective Board is elected.

§ 12-204. Removal of Members of the Board.

Members of the Board of Education shall serve at the pleasure of the Mayor, except that if later there be an elective Board, elected members may be removed as provided by law. Before removing any appointed member from the Board, the Mayor shall, at least ten

(10) days before the date of removal, provide written notice to the Board member, with copies to the President of City Council and the Chief Clerk of City Council, that the Mayor intends to remove the member from the Board.

§ 12-205. Vacancies on the Board.

A vacancy in the office of member of the Board of Education shall be filled for the balance of the unexpired term in the same manner in which the member was selected who died or resigned. If a member of the Board is removed from office, the resulting vacancy shall be filled as provided by law.

§ 12-206. Educational Nominating Panel; Method of Selection.

- (a) The Mayor shall appoint an Educational Nominating Panel consisting of thirteen (13) members. Members of the Panel shall be registered voters of the City and shall serve for terms of four years from the dates of their appointment.
- (b) Nine members of the Educational Nominating Panel shall be the highest ranking officers of City-wide organizations or institutions which are, respectively:
 - (1) a labor union council or other organization of unions of workers and employees organized and operated for the benefit of such workers and employees,
 - (2) a council, chamber, or other organization established for the purpose of general improvement and benefit of commerce and industry,
 - (3) a public school parent-teachers association,
 - (4) a community organization of citizens established for the purpose of improvement of public education,
 - (5) a federation, council, or other organization of non-partisan neighborhood or community associations,
 - (6) a league, association, or other organization established for the purpose of improvement of human and inter-group relations,
 - (7) a non-partisan committee, league, council, or other organization established for the purpose of improvement of governmental, political, social, or economic conditions,
 - (8) a degree-granting institution of higher education whose principal educational facilities are located within Philadelphia, and
 - (9) a council, association, or other organization dedicated to community planning of health and welfare services or of the physical resources and environment of the City.
- (c) In order to represent adequately the entire community, the four other members of the Educational Nominating Panel shall be appointed by the Mayor from the citizenry at large.
- (d) In the event no organization as described in one of the clauses (1) through (9) of subsection (b) exists within the City, or in the event there is no such organization any one of whose officers is a registered voter of the City, the Mayor shall appoint the highest ranking officer who is a registered voter of the City from another organization or institution which qualifies under another clause of the subsection.
- (e) A vacancy in the office of member of the Educational Nominating Panel shall be filled with the balance of the unexpired term in the same manner in which the member was selected who died, resigned, or was removed.
- (f) The Educational Nominating Panel shall elect its own officers and adopt rules of procedure.

§ 12-207. The Educational Nominating Panel; Duties and Procedure.

- (a) The Mayor shall appoint and convene the Educational Nominating Panel (1) as soon as practicable after the Mayor's term of office begins, but not later than February 1 of that year, except that if the General Assembly enacts legislation permitting the election of members of the Board on a non-partisan basis, the Mayor shall appoint and convene the Educational Nominating Panel not later than May twenty-fifth of every odd-numbered year, and (2) whenever a vacancy occurs in the membership of the Board of Education.
- (b) The Panel shall within forty (40) days submit to the Mayor three names of qualified persons for every place on the Board of Education which is to be filled. If the Mayor wishes an additional list of names, the Mayor shall so notify the Panel within ten (10) days. Thereupon the Panel shall within ten (10) days send to the Mayor an additional list of three qualified persons for each place to be

filled. The Mayor shall within twenty (20) days make an appointment or, as provided in the following sub-section, certify a nomination from either list for each place to be filled.

(c) If the General Assembly of the Commonwealth shall have previously enacted enabling legislation permitting members of the Board of Education to be elected on a non-partisan basis, not later than September fifteenth of the odd-numbered year in which the legislation was enacted or the ensuing odd-numbered year, the Mayor shall select nine names from either one or two lists of 27 names submitted by the Educational Nominating Panel according to the procedure set forth in subsection (b) and shall certify those nine names to the county board of elections as his nominations for members of the Board of Education. In certifying the names of his nominees to the county board of elections the Mayor shall designate three of his nominees as candidates for terms of two years, three for terms of four years and three for terms of six years. The ballots or ballot labels shall not contain any party designation for any of the candidates nominated by the Mayor, and under each name there will be a space permitting the voter to write in the name of any other person. In every instance the Mayor's candidate will be elected if, but only if, he receives more votes than any other candidate whose name is written in. In every subsequent odd-numbered year, three members of the Board shall be nominated by the Mayor from names submitted to him by the Educational Nominating Panel and elected in the same manner provided by this subsection, and whenever a vacancy occurs the procedure for filling it shall be similar whether the vacancy be filled at a special election proclaimed by the Mayor or at a municipal election.

(d) The Educational Nominating Panel shall invite business, civic, professional, labor, and other organizations, as well as individuals, situated or resident within the City to submit for consideration by the Panel the names of persons qualified to serve as members of the Board of Education.

(e) Nothing herein provided shall preclude the Panel from recommending and the Mayor from appointing or nominating persons who have previously served on any board of public education other than the Board of Education created by these charter provisions.

§ 12-208. Officers of the Board of Education; Their Duties.

(a) The officers of the Board of Education shall be a President, a Vice-President, a Superintendent of Schools who shall be Secretary and Treasurer of the Board and such other officers as the Board may from time to time determine and who shall have such duties as the Board shall prescribe.

(b) The Superintendent of Schools shall attend all meetings of the Board, and may attend all meetings of any Board committees, except those concerned with his own salary, benefits, or tenure. The Superintendent shall have the right to advise on any question or matter under consideration but shall have no right to vote.

(c) As Secretary and Treasurer of the Board the Superintendent shall perform such duties pertaining to the business of the District as are required by law or as the Board may direct.

§ 12-209. Organization and Procedures.

(a) The Board of Education shall hold an annual organization meeting on the first Monday of December and shall by a majority vote of all its members elect a President and a Vice-President from among its members.

(b) The Board shall hold public meetings not less often than once every two months during the school year. All meetings of the Board shall be public except when the President, in his discretion, or two-thirds of the members of the Board on a roll-call vote, shall order an executive session. The Board, the Mayor and City Council shall also meet publicly at least twice during the school year in City Council chambers to review and discuss the administration, management, operations and finances of the School District in order to develop and adopt plans to coordinate their activities for the improvement and benefit of public education in Philadelphia.

(c) A majority of all the members of the Board shall constitute a quorum for the transaction of business. No action of the Board shall be binding unless a majority of the members present at a public meeting shall be recorded as voting in its favor, except as otherwise provided in this Article or by law.

(d) The Board may adopt rules for its government as provided in the Philadelphia Home Rule Charter to which this Article is a Supplement.

§ 12-210. School Auditors.

(a) The Board of Education shall appoint the City Controller of the City as School Auditor for the purpose of conducting an annual post-audit of the finances of every department of the District, and of all persons handling the funds of the District, including the accounts of the receiver of school taxes, the Treasurer of the Board, school depositories, teachers' retirement funds, directors'

association funds, sinking funds, and all other funds belonging to or controlled by the District. At the end of each fiscal year after conducting such audit the School Auditor shall certify to the Board that he has audited these accounts and report to the Board the result of such audit. A summary of the annual audit shall be published by the Board once a week for three successive weeks, beginning the first week after the audit has been furnished to the Board, in two newspapers of general circulation printed in the City. In addition to such publication, the Board shall make available to the public a reasonable number of copies of the complete audit report and shall, in its publication of the summary, state where copies may be obtained or inspected.

(b) The Board shall have the power to retain a competent and responsible firm of certified public accountants to conduct an objective and independent audit of the finances of the School District and to review the audit reports of the School Auditor, and to report the results of such audit to the Board. The Board shall cause such report to be published in the same manner as the annual audit report of the School Auditor is required to be published.

CHAPTER 3

THE BOARD OF EDUCATION; POWERS AND DUTIES

§ 12-300. General Powers.

To enable it to administer, manage, and operate the School District of Philadelphia, the Board of Education shall have the powers and duties enumerated herein and any other powers and duties, not inconsistent with law, which are necessary to carry into effect the powers and duties conferred upon it in this Article. The Board shall succeed to, and shall possess all the powers, rights, and privileges, not inconsistent with law, formerly possessed by the Board of Public Education of Philadelphia.

§ 12-301. Appointment, Compensation and Term of the Superintendent of Schools.

The Board of Education shall, by majority vote of all its members, elect and fix the compensation of the Superintendent of Schools, whose term shall be not more than six years, renewable at the discretion of the Board.

§ 12-302. Fiscal Year.

The Board of Education shall adopt a date for the beginning of each fiscal year appropriate to the requirements of the District and shall adopt a fiscal calendar consistent with such fiscal year and with all public notice and other timing requirements of this Article and state law. Any change in fiscal year shall be made only after public notice and public hearing on the proposed change. Not less than ninety (90) days prior to any proposed change in fiscal year, the Board shall publish, by advertisement at least once in two newspapers of general circulation printed in the City, notice of such proposed change; such advertisement shall include notice of public hearing scheduled for not less than sixty (60) days before such change is to become effective.

§ 12-303. Annual Operating Budget and Annual Revenue Estimate.

(a) The Board of Education shall, at least thirty (30) days before the end of the fiscal year, adopt by majority vote of all its members an operating budget setting forth in lump sum amounts the proposed expenditures of the Board during the next fiscal year as to each principal administrative unit of the District, according to such classes of expenditures as the Board may determine, and the estimated receipts of the Board during the next fiscal year, including approximate estimates of proposed revenues and all other receipts. The total amount of proposed expenditures shall not exceed the amount of funds available for School District purposes.

(b) At least sixty (60) days prior to adoption of the annual operating budget, the Board shall adopt and submit to the Mayor and Council a lump sum statement of anticipated receipts and expenditures for the next fiscal year and a request for authority to levy taxes to balance its budget for the year. Provided, however, that if Council shall no longer have the power to authorize taxes for School District purposes, the statement need not be submitted to the Mayor and Council.

(c) The Board shall, at least thirty (30) days prior to the time any budget or amendment thereto is adopted, conduct at least one public hearing thereon. At least thirty (30) days' notice of such public hearings shall be published by advertisement at least once in two newspapers of general circulation printed in the City. The Board shall make available to the public a reasonable number of copies of such budget or amendment, and the notice of public hearing shall state where copies may be obtained or inspected.

(d) The Board shall have the power to amend the budget to authorize the transfer of any unencumbered balance, or any portion thereof, from one appropriation to another, or from one spending agency to another.

(e) The Board shall have the power to make additional appropriations or increase existing appropriations to meet emergencies which could not be anticipated when the budget was adopted, the funds therefor to be provided from unexpended balances in existing appropriations, from unappropriated revenues, if any, or from temporary loans. Under no other circumstances may the Board increase the aggregate total of budget appropriations unless unappropriated revenues become available in sufficient amount to maintain the budget in balance, in which event the Board may make additional or increased appropriations.

§ 12-304. Capital Program and Capital Budget.

(a) Not later than the date of adoption of the annual budget, the Board of Education shall, by a majority vote of all its members, adopt a capital program and capital budget for the District. The capital budget shall at all times conform to the capital program and shall show in detail the capital expenditures to be made or incurred in the next fiscal year that are to be financed from funds subject to control or appropriation by the Board.

(b) The capital program shall embrace all physical public improvements and any preliminary studies and surveys relative thereto, the acquisition of property of a permanent nature, and the purchase of equipment for any improvement when first erected or acquired that are to be financed in whole or in part from funds subject to control or appropriation by the Board. It shall show the capital expenditures which are planned for each of the six ensuing fiscal years. For each separate purpose, project, facility, or other property, there shall be shown the amount, if any, and the source of the money that has been spent, encumbered, or is intended to be spent or encumbered prior to the beginning of the ensuing fiscal year and also the amounts and the sources of the funds that are to be spent during each of the ensuing six years.

(c) The capital program shall not be adopted, nor shall it be amended, until the Board of Education has requested the recommendations thereon of the City Planning Commission. The Board shall not be bound by such recommendations and may act without them if they are not received within thirty (30) days from the date they were requested. Immediately upon adoption of the capital program, the Board shall forward a copy to the City Planning Commission for publication as part of the capital program document which the City Planning Commission publishes annually.

(d) The Board shall at least thirty (30) days prior to the time any capital program or amendment thereto is adopted, conduct at least one public hearing thereon. At least thirty (30) days' notice of such public hearing shall be published by advertisement at least once in two newspapers of general circulation printed in the City. The Board shall make available to the public a reasonable number of copies of such program, and the notice of public hearing shall state where copies may be obtained or inspected.

§ 12-305. Tax Levy.

(a) The Board of Education shall levy taxes annually within such limits and upon such subjects as the General Assembly of the Commonwealth or the Council of the City may from time to time prescribe, in amounts sufficient to provide funds for the current operation of the schools of the District, the payment of interest and sinking fund charges on or other amortization of the debt of the District and its predecessor districts, and to provide for any services which may be incidental to the operation of the schools. Provided, that if the rate of taxation shall be fixed at a mill rate it shall also be stated in dollars and cents on each one hundred dollars of assessed valuation.

(b) When any levy of school taxes has been made by the Board, the Board shall forthwith certify the levy, under the seal of the District attested by the President and Secretary of the Board, to the proper authority of the City of Philadelphia authorized to prepare tax duplicates, to be entered thereon, and by such authority to be properly certified to the City's Department of Collections. The school taxes shall be collected as provided by law, at the same time, in the same manner and with like authority, subject to the same discounts and penalties as other taxes collected in the City.

(c) If the General Assembly of the Commonwealth shall enact legislation bestowing taxing power on the Board of Education, the Board shall levy and collect taxes as provided in the enabling act.

§ 12-306. Indebtedness.

The Board of Education shall have the power to create and incur indebtedness against the District and issue bonds to secure the same for the purposes and payable as provided by law, but no debt shall be incurred or increased which will cause the aggregate indebtedness to exceed at any one time five (5) per cent of the assessed value of the taxable property within the District without the consent of the electors thereof at a public election in such manner as shall be provided by law, nor shall the aggregate indebtedness of the District exceed fifteen (15) per cent of the last assessed valuation of property taxable for school purposes in the District.

§ 12-307. Comprehensive Plan.

The Board of Education shall furnish the City Planning Commission adequate information with respect to school needs and projections to enable the Commission to take such into account in its planning and to include schools in each revision of the City Comprehensive Development Plan.

§ 12-308. Personnel Policies.

(a) The Board of Education shall establish a table of organization setting forth a roster of positions for each principal administrative unit of the District and shall require the Superintendent of Schools to report monthly any changes made in the table.

(b) The Board shall adopt regulations based on merit principles and scientific methods governing all incidents of employment, including appointment, promotion, demotion, removal and discipline for all employees of the District except the following:

(1) Deputy Superintendents, associate superintendents, district superintendents, directors of departments responsible directly to the Superintendent or to any deputy superintendent, and such personal assistants as the Superintendent may require;

(2) Persons employed by contract to perform special services for the District where the Superintendent certifies that such services cannot be performed by District employees; and

(3) Persons temporarily appointed or designated to make or conduct a special inquiry or study, or to perform a special service of a unique character which cannot or should not be performed by regular District employees.

(4) In addition, the Superintendent of Schools may, with the consent of the Board, exempt not more than five per centum (5%) of the professional employees of the District.

(c) The personnel regulations adopted by the Board shall provide for the preparation, maintenance and revision of a position classification plan and of a pay plan for all employees, policies and procedures for recruitment, examinations, promotions, eligible lists and certifications, provisional and emergency appointments, suspension, discharge or reduction in rank, hours of work, holidays, leaves and vacations, employee hearings and such other matters as may be necessary or proper. Copies of the personnel regulations shall be available for public information and distribution at all times.

(d) The Board shall in its personnel regulations preserve and safeguard all rights of employment, status, and tenure of all employees of the School District which exist at the time of adoption of this Article, and of employees of any other governmental agency who may become employees of the School District by virtue of the operation of the provisions of this Article, consistent with law and the requirements of a fair and effective system of personnel administration.

§ 12-309. Cooperative Agreements.

(a) The Board of Education shall have the authority to enter into agreements relating to, but not limited to, joint tax collection, joint purchasing of supplies, equipment and contractual services, use of recreational and park equipment and facilities, control and prevention of juvenile delinquency, city planning, capital budgeting, capital programming, comprehensive development planning and health services with any department, agency, office, board or commission of the City, or with any agency of the Commonwealth or of the United States, or with any non-profit private agency, when, in the opinion of the Board, such agreement will further the efficient and effective administration of public education. In any such agreements, the Board shall, insofar as possible, safeguard all rights of employment, status, and tenure of employees who may be transferred into or out of School District service by virtue of the operation of such agreements.

(b) Unless otherwise prohibited by law, the Board shall have the authority to extend to all children residing in the District any service, welfare benefit, or educational incentive provided by the District under programs sponsored by the District, or by any municipal, state, federal or non-profit private agency, and to admit any such child to any course or program which the Board shall determine to be the subject of a dual enrollment program. The Board shall have the authority to enter into such agreements or arrangements with any public or non-profit agency as are necessary or proper to the effectuation of this section.

(c) The Board shall have the authority to maintain or support job placement centers, independently or in conjunction with any other governmental agency, for the purpose of collection and dissemination of information relating to employment opportunities available to graduates of, or dropouts from, any school administered by the District.

§ 12-310. General Public Hearings.

The Board of Education shall hold not less than two public hearings during the year in addition to any other regularly scheduled

hearings, for the specific purpose of considering all school issues or school problems of public interest. At least thirty (30) days prior to the date of any such hearing the Board shall publish by advertisement at least once in two newspapers of general circulation printed in the City notice that the hearing will be held. Interested persons may present written statements to the Board relating to proposed issues to be considered at the hearing not less than fifteen (15) days prior thereto.

CHAPTER 4

THE SUPERINTENDENT OF SCHOOLS; DUTIES AND POWERS

§ 12-400. General Powers.

The Superintendent shall be the chief administrative officer and chief instructional officer of the Board of Education and the School District, and shall be responsible for the execution of all actions of the Board, the administration and operation of the public school system subject to the policies of the Board, and the supervision of all matters pertaining to instruction in all the schools under the direction of the Board.

§ 12-401. Personnel Administration.

(a) Upon recommendation of the Superintendent the Board of Education shall have the authority to appoint and fix the compensation of deputy superintendents, associate superintendents, district superintendents, assistant district superintendents, director of departments responsible directly to the Superintendent or to any deputy superintendent, and such personal assistants as he deems consistent with the educational needs of the District.

(b) The Superintendent shall have the authority to assign and reassign all professional and classified employees of the District consistent with the laws of the Commonwealth.

(c) The Superintendent shall report annually to the Board:

(1) All assignments and reassignments of professional and classified employees made during the school year;

(2) All appointments of professional employees which were exempted from the personnel regulations of the Board, including the titles of the positions to which such assignments are made, the duties and responsibilities assigned, and the salaries and benefits received by the appointees; and

(3) On such other subjects as the Board may deem necessary or proper.

§ 12-402. School District - City Cooperation.

(a) The Superintendent shall, in conjunction with the several departments, commissions and boards of the City, devise methods and bases of cooperation and coordination to the maximum extent practicable between the City and the District relating to joint purchasing of supplies, equipment and contractual services, use of recreational and park equipment and facilities, control and prevention of juvenile delinquency, city planning, capital programming, capital budgeting, comprehensive development planning, health services and any other phase of the District's work. The Superintendent shall recommend for the Board's approval such agreements on these subjects with the City, as well as with other governmental or non-profit agencies, as will further the efficient and effective administration of the District.

(b) The Superintendent shall also, in conjunction with City procurement officials, regularly review all possibilities for more economic operation which could result from greater cooperation and coordination between the City and the District, and which are consistent with the needs of the school system.

§ 12-403. Budgetary Controls.

(a) All of the pre-audit functions and duties of the School Controller as prescribed by law shall be exercised by the Superintendent or his designee. The Superintendent shall, establish and maintain a system of accounts and expenditure controls in accordance with the budgets approved by the Board of Education and in accordance with law. The Superintendent shall as soon as is practicable after the end of each fiscal year, submit to the Board an annual financial statement for the District for the past year. Such statement shall include itemized data with respect to all assets of the District, school taxes and receipts, outstanding indebtedness and sinking funds, if any, and such other information relating to the finances of the District as the Board may deem necessary or proper.

(b) The Board of Education shall, consistent with law, determine which officers and employees shall be required to furnish surety bonds, conditioned on the faithful performance of their respective duties, to determine the amounts of such bonds, and to approve the surety or sureties in each case.

CHAPTER 5

GENERAL POLICY; SEVERABILITY; REPEALER; EFFECTIVE DATE

§ 12-500. School District to be Part of the Public School System of Pennsylvania.

The School District of Philadelphia is and shall continue to be a part of the system of public education of the Commonwealth of Pennsylvania, and it shall be subject to all laws relating to school matters which are of statewide application, and to all rules and regulations promulgated by the Commonwealth's Department of Public Instruction under authority of such laws.

§ 12-501. Severability.

It is the intention of the electors of Philadelphia that if this Supplement to the Philadelphia Home Rule Charter cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding invalid any part or parts thereof, the remaining parts of this Supplement shall be given full force and effect as completely as if the part or parts held invalid had not been included herein.

§ 12-502. Repealer.

(a) The foregoing charter provisions shall supersede the following Acts or parts of Acts of Assembly, insofar as they apply to school districts of the first class but not to all classes of school districts:

Sections 302, 315, 401, 402, 403, 607, 631, 651, 653, 654, 657, 664, 665, 666, 1071, 1342, 2102, 2103, 2104, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2121, 2122, 2123, 2124, 2129, 2130, 2131, 2401(1) and 2421 of the Act of March 10, 1949, P.L. 30, as amended, and, in addition, Sections 632, 636 and 637 of the Act of March 10, 1949, P.L. 30, as amended, so far as they relate to the aggregate limit of debt which may be incurred by the District, but not so far as they relate to the temporary debt limits which may be incurred by the District or to the requirement of voter approval for an increase of indebtedness.

(b) To avoid any misapprehension, the voters of Philadelphia hereby declare that the following Acts or parts of Acts of Assembly, as amended, are not superseded by these charter provisions, notwithstanding the fact that they relate only to school districts of the first class:

Sections 229, 439, 603, 652, 655, 655.1, 656, 658, 659, 660, 661, 662, 707(4), 807, 1194, 1341, 1351, 1371, 1412, 1422, 1844(d), 2105, 2125, 2126, 2127, 2128, 2132, 2201, 2202, 2203, 2204, 2513 and 2525 of the Act of March 10, 1949, P.L. 30;

Act of May 10, 1951, P.L. 237; Act of May 10, 1951, P.L. 265; Act of May 29, 1951, P.L. 493; Act of July 8, 1957, P.L. 548; Act of November 19, 1959, P.L. 1552; Act of July 16, 1963, P.L. 254; Act of August 8, 1963, P.L. 591; Act of August 8, 1963, P.L. 592.

(c) The following Sections of the Philadelphia Home Rule Charter shall not apply to the Board of Education or to The School District of Philadelphia:

Sections 2-308, 3-306, 4-300, 4-400, Chapter 1 of Article 6, 6-500, 6-600, 6-601, 7-100, 7-102, 7-201, 7-300, 7-301, 7-302, 7-400, 7-401, 8-101, 8-103, Chapter 2 of Article 8, 8-406, 8-407 and 8-410. In all other respects the Philadelphia Home Rule Charter so far as pertinent shall apply to the Board and to the District.

§ 12-503. Effective Date.

(a) These charter provisions shall become effective on the first Monday of December, 1965, except that the provisions relating to the selection of the members of the Board of Education shall become effective immediately. 93

(b) The amendments to Sections 12-201, 12-202, 12-203, 12-204, 12-206 and 12-207, relating to the method of selection and term of office of members of the Board of Education, and relating to the Educational Nominating Panel, shall become effective on the first Monday of January, 2000. Members of the Board of Education who hold office on December 31, 1999 shall continue to hold office until their successors are appointed pursuant to the provisions of Section 12-201, as amended.

(c) A person who serves as a member of the Board of Education prior to the amendment of Section 12-201 may be appointed to the Board pursuant to the provisions of Section 12-201, as amended, provided that any person who served as a Board member for ten or more years shall not be eligible for further appointment to the Board.

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Notes

93 Renumbered by Code editor. The amendments adding subsections (b) and (c) failed to provide for a subsection (a). The former entire section has been renumbered as subsection (a).

APPENDIX

CHAPTER A-1

§ A-100. Certain Existing Departments, Boards and Commissions Abolished.

The following offices, departments, boards and commissions of the City government are hereby abolished:

- (a) All existing offices except the City Controller, the City Treasurer and the City Commissioners;
- (b) All existing executive or administrative departments, bureaus and divisions;
- (c) All existing boards and commissions except the Commissioners of Fairmount Park, the Board of Trustees of the Free Library of Philadelphia, the Board of Trustees of the Atwater Kent Museum, and the City Housing Rent Commission which shall continue as a temporary Commission until the Council shall abolish it.

The functions of all officers, departments, boards and commissions of the City shall, after the effective date of this charter, be those herein contained unless expressly otherwise stated.

Except as otherwise specifically provided, this charter shall not apply to the Board of Directors of City Trusts and to any institutions operated by it.

ANNOTATION

Sources: See the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 2.

Purposes: 1. Since the Charter reorganizes the City government completely, all offices, departments, boards and commissions other than those excepted are abolished.

2. The officers listed in subsection (a) are also County officers and are therefore not abolished.

3. The City Housing Rent Commission is not abolished or dealt with in the Charter because it is a temporary agency. The other boards and commissions listed in subsection (c) are not abolished because they hold privately donated property in trust.

4. The Board of City Trusts is generally not dealt with by the Charter to protect its special status as a trustee.

§ A-101. Transfer of Functions of Abolished Governmental Agencies.

(1) Within the scope of their respective functions under this charter, the following departments created by this charter shall, in addition to such other powers and duties as are conferred upon them by this charter or by ordinance, exercise the powers and perform the duties of the following offices, departments and boards abolished by this charter:

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Law Department -	City Solicitor and Department of Law;
Department of Commerce -	Department of Wharves, Docks and Ferries and Department of Public Works;
Police Department -	Director of Public Safety and Department of Public Safety;
Department of Public Health -	Department of Public Health;
Fire Department -	Fire Marshal, Department of Public Safety, and Board of Examiners for Motion Picture Licenses;
Department of Streets -	Department of Public Safety, Department of Public Works, and Board of Highway Supervisors;
Department of Recreation -	Department of Public Welfare;
Department of Public Welfare -	Department of Public Welfare;
Water Department -	Department of Public Works;
Department of Public Property -	Department of City Transit, Department of Public Works, Department of Public Safety, and Department of City Architecture;
Department of Licenses and Inspections -	Department of Public Safety, Department of Public Health, Department of Public Works, and Board of Plumbing Supervision;
Auditing Department -	Department of City Controller;
Procurement Department -	Department of Supplies and Purchases.

(2) All rights, powers and duties which have heretofore been vested in, exercised by or imposed upon any officer whose office is abolished by this charter or any department, board, commission, bureau or division abolished by this charter, or any deputy, assistant, officer, agent or other subordinate or employee thereof, and which are by this charter transferred either in whole or in part to an office, department, board or commission created by this charter, shall be vested in, exercised by and imposed upon the office, department, board or commission to which the same are transferred by this charter and not otherwise. Every act done in the exercise of such rights and powers and the performance of such duties shall have the same legal effect as if done by the former office, department, board, commission, bureau or division, or deputy, officer, agent or other subordinate or employee thereof. Every person and corporation shall be subject to the same obligations and duties, and shall have the same rights arising from the exercise of such rights or powers or in the performance of such duties as if such rights, duties or powers had been exercised or such duties performed by the office, department, board, commission, bureau or division, or deputy, officer, agent or other subordinate or employee thereof designated in the respective statutes or ordinances which are to be administered by offices, departments, boards or commissions created by this charter. Every person and corporation shall be subject to the same penalties, civil or criminal, for failure to perform any such obligation or duty or for doing a prohibited act, as if such obligation or duty arose from or such act were prohibited in the exercise of such rights, powers and duties by the office, department, board, commission, bureau or division, or deputy, officer, agent or other subordinate or employee thereof designated in the respective statutes and ordinances which are to be administered by the offices, departments, boards and commissions created by this charter.

ANNOTATION

Sources: See the Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Section 3.

Purposes: 1. Subsection (1) indicates the departments to which functions are transferred from agencies under the 1919 Charter. In cases where functions of one of the departments under the 1919 Charter are transferred to several departments under this Charter, the particular functions transferred to a particular department are determined by reference to the Charter functions of the new department. Old functions coming within the scope of new functions of the new department, are transferred to such department. Thus, of the functions of the Department of Public Safety, police functions, traffic functions, fire functions, electrical bureau functions pertaining to the maintenance of City buildings, and building safety and licensing functions are transferred to new departments within the scope of whose functions they fall, to wit, respectively, the Police Department, Department of Streets, Fire Department, Department of Public Property and Department of Licenses and Inspections.

2. Subsection (2) is necessary to accomplish the reorganization required by the Charter.

§ A-102. Records and Equipment.

When an existing office, department, board, commission, bureau or division is abolished by this charter, all books, papers, maps, charts, plans, records, and other equipment in the possession of such office, department, board, commission, bureau or division, or any member or officer thereof, shall be delivered to the officer or to the head of the department or independent or departmental board or commission to which its rights, powers, duties and obligations are transferred. If such rights, powers, duties and obligations are not specifically transferred to any office, department, board or commission by this charter, such books, records, and equipment shall be delivered to the Department of Records, which shall make such disposition of them as is appropriate. In case rights, powers, duties and obligations are divided between two or more offices, departments, boards or commissions, each of such offices, departments, boards or commissions shall receive such books, papers, maps, charts, plans, records or other equipment as pertain to the rights, powers, duties and obligations transferred to that office, department, board or commission. All questions arising under this section shall be determined by the Mayor.

ANNOTATION

Sources: The Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Section 4.

Purposes: This Section is necessary to accomplish the reorganization required by the Charter.

§ A-103. Employees.

Where an existing office, department, board, commission, bureau or division is abolished by this charter, all employees thereof shall, as temporary appointees of the office, department, board or commission to which the rights, powers, duties and obligations of such office, department, board, commission, bureau or division, are transferred, continue to perform their usual duties upon the same terms and conditions as theretofore until removed, appointed to positions in accordance with this charter relative to such office, department, board or commission, or transferred to other offices, departments, boards or commissions. Where the rights, powers, duties and obligations of any such office, department, board, commission, bureau or division are divided between two or more offices, departments, boards or commissions, each of such offices, departments, boards or commissions shall receive on the foregoing terms and conditions such of the employees of the office, department, board, commission, bureau or division as are regularly occupied in connection with the functions thereof, which are by this charter transferred to such office, department, board or commission. Every employee to which this section applies shall be placed temporarily in one of the City's offices, departments, boards or commissions. All questions arising under this section shall be determined by the Mayor.

ANNOTATION

Sources: No specific source.

Purposes: This section is necessary to accomplish the reorganization required by the Charter. Reference to City employees as being "temporary appointees" or "temporarily placed" is not intended to denote that employees under the 1919 Charter become, upon this Charter going into effect, "temporary" employees in the sense in which that term is used in civil service parlance. They do not lose their employment status upon this Charter taking effect but may be assigned temporarily to new agencies as provided in this section pending complete reorganization. See Section A-104.

§ A-104. Civil Service Status of Present Employees.

Employees holding positions in the classified service at the time of the adoption of this charter who were appointed after test and certification to such positions, shall be continued in their respective positions without further examination, until lawfully separated from their positions. Employees of the City at the time of the adoption of this charter and employees of any other governmental agency who may become employees of the City by virtue of amendment of the Constitution of the Commonwealth of Pennsylvania and the enactment of any legislation required by such amendment, who were not appointed after civil service test and certification shall also be continued in their respective positions provided that within one year after this charter takes effect or within one year after any such constitutional amendment and such legislation become effective they pass a qualifying test prescribed by the Personnel Director and approved by the Civil Service Commission. Those who fail to so qualify shall be dismissed from their positions within thirty days after the establishment of an eligible list for their respective positions. Nothing herein shall preclude the reclassification or reallocation as provided by the civil service regulations of any position held by any such employee.

ANNOTATION

Sources: A Model State Civil Service Law, Section 11.

Purposes: 1. The Annotations to the provision appearing in "A Model State Civil Service Law" reads as follows:

"By far the most common method provided in civil service laws for determining the status of incumbents has been 'blanketing in'. Under such procedure a person holding a position in the 'classified service' at the time the act takes effect becomes a classified service employee without regard to formal proof of fitness and is thereafter subject in all respects to the provisions of the act. Another method often resorted to is to require incumbents to qualify after noncompetitive examinations to retain their places. A less common method gives no privilege of continuance in employment to incumbents.

"The method proposed in this draft, which has been employed in some jurisdictions, represents a middle ground compromise. It provides for the establishment of reasonable standards of fitness for retention in the service and yet avoids the obvious administrative difficulties resulting from holding open competitive examinations for all positions."

2. It is the intention of this section of the Charter that:

(a) Employees in the civil service as a result of test and certification under the 1919 Charter automatically become civil service employees under this Charter. As such they are subject all the requirements of civil service employees under this Charter and are entitled to all the rights of such employees.

(b) Non-civil service employees under the 1919 Charter or civil service employees thereunder not employed after a civil service test and certification automatically retain their employment status for a period of one year. To remain thereafter in the employ of the City as civil service employees they must take and pass a qualifying examination. The examination required is not intended to be a competitive test nor need it be a written one. Its sole purpose is to establish that a former non-civil service employee or employee not appointed pursuant to test and certification meets certain minimum qualifications necessary to perform the duties of the position which he holds. Experience and a previous record of satisfactory performance are factors to be considered in the test rating. It is not the intention of this section to take off the City payroll employees who have faithfully and creditably performed their duties of employment prior to the effective date of this Charter merely because they were not civil service employees pursuant to test and certification under the 1919 Charter. The presumption should be that such employees are qualified to continue their employment but as civil service employees. To protect the interest in the respects noted of such employees, it is required that the Civil Service Commission itself in this instance shall approve the qualifying test prescribed by the Personnel Director.

3. The comments above are equally applicable to County employees who may become City employees by virtue of City-County consolidation.

§ A-105. Retirement Rights.

Persons who at the time when this charter takes effect are appointed to or employed by any office, department, board, commission, bureau or division abolished by this charter and are appointed to positions in any other office, department, board or commission, shall retain all rights to retirement with pension which shall have accrued or would thereafter accrue to them, and their services shall be deemed to have been continuous, as if this charter had not been adopted.

ANNOTATION

Sources: No specific source.

Purposes: Reorganization should not affect existing pension and retirement rights.

§ A-106. Pending Proceedings.

All petitions, hearings and other proceedings pending before any officer, department, board, commission, bureau or division which is abolished by this charter, and all prosecutions, legal or other proceedings, and investigations begun by any such officer, department, board, commission, bureau or division, and not completed at the time of the taking effect of this charter, shall continue and remain in full force and effect, notwithstanding the passage of this charter, and may be completed before or by the officer, department, board or commission which succeeds to the rights, powers, duties and obligations of such officer, department, board, commission, bureau or division. All questions arising under this section shall be determined by the Mayor, or, at his direction, by the City Solicitor.

ANNOTATION

Sources: The Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Section 5.

Purposes: Reorganization is not intended to suspend or discontinue any pending proceedings in the sense in which that term is used in this section.

§ A-107. Rules and Regulations.

All orders, rules and regulations made by any officer, department, board, commission, bureau or division which is abolished by this charter shall remain in full force and effect until revoked or modified by the officer, department, board or commission which succeeds to the rights, powers, duties and obligations of such officer, department, board, commission, bureau or division.

ANNOTATION

Sources: See the Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Section 6.

Purposes: This section is necessary to accomplish the reorganization required by the Charter.

§ A-108. Contracts and Obligations.

All existing contracts and obligations of the officers, departments, boards, commissions, bureaus or divisions abolished by this charter shall remain in full force or effect, and shall be performed by the officers, departments, boards and commissions to which the rights, duties, powers and obligations of such abolished officers, departments, boards, commissions, bureaus or divisions are transferred.

ANNOTATION

Sources: No specific source.

Purposes: Reorganization is not intended to terminate or suspend existing contracts and obligations.

§ A-109. Service of Notices.

Whenever reports or notices are now required or given, or papers or documents furnished or served by any person to or upon any office, department, board, commission, bureau or division, or deputy, assistant, officer, agent or other subordinate or employee thereof abolished by this charter, the same shall be made, given, furnished or served in the same manner to or upon the office, department, board or commission upon which are now conferred or imposed by this charter the rights, powers and duties now exercised or discharged by such office, department, board, commission, bureau or division, or deputy, assistant, officer, agent or other subordinate or employee thereof, and every penalty for failure to do so shall continue in effect.

ANNOTATION

Sources: See the Fiscal Code of 1929, Act of April 9, 1929, P.L. 343, Section 7.

Purposes: This section is necessary to accomplish the reorganization required by this Charter.

§ A-110. Continuation of Existing Statutes and Ordinances.

The provisions of this charter so far as they are the same as those of existing statutes or ordinances shall be construed as a continuation of such statutes or ordinances and not as new enactments.

ANNOTATION

Sources: The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, Section 2902.

Purposes: This section treats certain provisions of this Charter as being but a continuation of certain statutes or ordinances so that the legal effect of such statutes and ordinances shall not be considered to have terminated or to have been suspended at any time.

§ A-111. Implementation of This Charter.

The Council shall as promptly as possible pass any ordinances which may be necessary to implement the provisions of this charter.

ANNOTATION

Sources: No specific source.

Purposes: It is the duty of the Council under the 1919 Charter during the period between April 17, 1951 and the first Monday of January, 1952 and the new Council under this Charter to implement this Charter by ordinances to the extent required by this Charter.

CHAPTER A-2

§ A-200. Schedule.

This charter shall become effective on the first Monday of January, 1952, except in the following particulars:

(1) The Mayor and the members of the Council shall be elected in 1951 under the provisions of this charter, and for that purpose section 2-100, section 2-101, section 2-102, section 2-103, section 3-200, and section 3-300 shall become effective immediately upon the adoption of this charter by the electors.

(2) If the electors in adopting this charter shall vote in the affirmative on Question No. 3, a Revenue Commissioner (heretofore called "Receiver of Taxes") shall not be elected in 1951. If the electors shall vote in the negative on Question No. 3, section 3-100(a) shall, insofar as it changes the title of "Receiver of Taxes" to "Revenue Commissioner," become effective upon the adoption of this charter so as to permit a Revenue Commissioner to be elected in 1951, but the Receiver of Taxes may continue to use that title until the first Monday of January, 1952.

(3) All appropriations made in the budget ordinance for the year 1952 shall be made to the then existing offices, departments, boards and commissions of the City or their successors under this charter. Provision shall also be made in the budget ordinance for the year 1952, for any offices, departments, boards or commissions created by this charter to exercise new functions and any such provision may be increased in 1952 notwithstanding sections 2-300 and 2-301 of this charter.

(4) The Mayor shall appoint promptly upon taking office in 1952 all officers and department heads which this charter authorizes him to appoint; the Managing Director and Director of Finance shall promptly upon taking office appoint the officers whom this charter authorizes them to appoint; and the Civil Service Commission shall promptly upon taking office appoint Personnel Director. Insofar as possible, the new officers and new department heads shall immediately assume charge of the functions over which this charter gives them jurisdiction but in cases in which the functions of abolished departments, boards or commissions are divided among several departments, boards or commissions, reorganization under this charter shall proceed as promptly as possible, but in such a way as not to disrupt the continuous conduct of the City's business. The old departments may be continued until the new departments are ready to function, and the Mayor may designate any of the new department heads to serve as acting heads of one or more of the old departments until the reorganization is completed. The reorganization shall in all cases be completed and the old departments shall cease to exist not later than July 1, 1952.

(5) Appropriations to the Personnel Director and to the Civil Service Commission shall be made in the budget ordinance for the year 1952 as required by this charter.

(6) The amendment to Section 2-307 of this Charter relating to the City Planning Commission's review of legislation affecting zoning, the City's physical development plan, land subdivision, or authorizing the purchase or sale of real estate shall take effect January 7, 2008. 94

(7) The amendment to Section 3-800 of this Charter providing for the composition of the City Planning Commission shall take effect January 7, 2008. Members of the Planning Commission who hold office on January 6, 2008 shall continue to hold office until their successors have been appointed, provided that the Mayor may reappoint any such member who meets one of the required categories of membership set forth in amended Section 3-800. 95

(8) Merger of Powers and Duties of Fairmount Park Commission and Department of Recreation. 96

(a) Effective July 1, 2009, the new Department of Parks and Recreation and the new Commission on Parks and Recreation shall assume all of their respective powers and duties, as set forth in this Charter, and the Fairmount Park Commission and the Department of Recreation shall cease to exist. Any administrative implementation issues regarding the absorption by the Department of Parks and Recreation of the former powers and duties of the Department of Recreation or the Fairmount Park Commission shall be completed no later than July 1, 2010.

(b) All provisions of Chapter A-1 relating to the abolition of an agency by this charter shall apply with respect to the merger of the powers and duties of the Fairmount Park Commission and the Department of Recreation into the Department of Parks and Recreation.

(c) On and after July 1, 2009, the Parks and Recreation Commissioner:

(.1) Shall serve as the successor trustee of all money and property donated to, or otherwise held by, the Fairmount Park Commission in trust; and shall administer those trusts strictly for their respective trust purposes; and

(.2) Shall serve as the successor custodian of all money and property held by the Fairmount Park Commission in any custodial account; and shall use funds in any of those accounts strictly for the purposes of those accounts.

(9) The amendment adding subsection 2-300(7) and section 6-110, both of which relate to the Budget Stabilization Reserve, shall first take effect with respect to the first fiscal year commencing not less than sixty days after adoption of the amendment by the voters. 97

Upon approval by the voters of the amendment adding this subsection to this charter, the City Solicitor shall forthwith take all actions the City Solicitor believes necessary to effectuate this provision.

ANNOTATION

Sources: No specific source.

Purposes: 1. While this Charter becomes effective for the most part in 1952, certain of its provisions must necessarily become operative before that time.

2. Thus as a Mayor and Council are to be elected to take office in January 1952 as provided by this Charter, provisions pertaining to their election had to become effective immediately upon adoption of the Charter [subsection (1)].

3. Likewise, appropriations must be made in 1951 for 1952 operations of officers and agencies under this Charter. If such appropriations are made to agencies under the 1919 Charter, as they may be made, the funds appropriated are to be allocated administratively to the new agencies under this Charter upon their establishment in 1952, according to functions transferred. Thus an appropriation in 1951 for 1952 to the Department of Public Safety will be divided in 1952 among the Police Department, Fire Department, Department of Streets, etc. Since it will not be possible to predict with complete accuracy the amount of funds which will be needed for new agencies exercising new functions, appropriations made in 1951 may be increased in 1952; the prohibition of Sections 2-300 and 2-301 will not be applicable in this instance.

4. Subsection (4) stresses the intention that this Charter shall be promptly and completely put into effect in 1952 and therefore places an ultimate time limit for completing the reorganization required by July 1, 1952.

5. The appropriation in 1951 for the Personnel Director's and Civil Service Commission's operations in 1952 must be an amount equal to at least one-half of one percent of the aggregate of all appropriations for compensation to City employees who will be subject to civil service in 1952. See Section 2-300(4)(a).



Notes

94 Added by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060684 (approved January 23, 2007); Resolution No. 060704 (adopted December 14, 2006). Enrolled Resolution numbered this as subsection (8); renumbered by Code editor.

- 95 Added by approval of the voters at the election held on May 15, 2007, and certified on June 4, 2007. See Bill No. 060682 (approved January 23, 2007); Resolution No. 060706 (adopted December 14, 2006). Enrolled Resolution numbered this as subsection (6); renumbered by Code editor.
- 96 Added by approval of the voters at the election held on November 4, 2008, and certified on November 28, 2008. See Bill No. 080169 (approved August 4, 2008); Resolution No. 080181 (adopted June 19, 2008).
- 97 Added by approval of the voters at the election held on November 9, 2011, and certified on November 28, 2011. See Bill No. 100303 (approved April 27, 2011); Resolution No. 100314-A (adopted April 14, 2011).