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[HISTORY: Adopted by the Allentown voters 4-23-1996, effective 1-1-1997; amended through 11-5-2019. Subsequent amendments noted where applicable.]

ARTICLE I
Powers of the City

SECTION 101. The City.

- A. The City shall be a municipality of the Commonwealth of Pennsylvania known as the City of Allentown. Its boundaries shall remain as they are on the effective date of this Charter unless otherwise changed by law. The City shall be governed pursuant to this Charter.
- B. English shall be the official language of the City of Allentown and the language in which City business shall be conducted, unless otherwise required by applicable state and/or federal law or regulation.

SECTION 102. Grant of power.

The City shall have the power to exercise any power or to perform any function not denied by the Constitution of the United States, by the Constitution of Pennsylvania, by act of the General Assembly of Pennsylvania, or by this Charter.

SECTION 103. Exercise of powers.

All powers of the City shall be exercised as provided by this Charter, or if the Charter makes no provision, as provided by ordinances or resolutions of the City Council.

SECTION 104. Preservation of powers of the people.

Powers reserved to the people by the Constitution of the United States and by that of the Commonwealth of Pennsylvania shall be inviolate.

SECTION 105. Construction.

- A. Powers. The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this Article.
- B. Severability. If any provision of this Charter shall be judged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Charter, but shall be limited in its effect and operation to the particular provision involved.

ARTICLE II
The Legislative Branch

SECTION 201. City Council.

There shall be seven members of Council elected at large. The President of Council shall be nominated and elected by the Council members.

SECTION 202. Eligibility.

- A. Only qualified voters of the City, as established by the general laws of the Commonwealth of Pennsylvania for municipal elections, shall be eligible to run for City Council.
- B. All Council members and the Council President must retain residence in the City during their term of office. If, during a term of office, a Council member moves out of the city, he or she must resign from his or her position on City Council.

SECTION 203. Election and terms.

- A. The regular election of Council members shall be held on the General Municipal Election Day as established by the laws of the Commonwealth of Pennsylvania. The terms of Council members shall begin at noon (12:00 p.m.) on the first Monday of January next following the municipal election and shall be four years.
- B. In the year the Mayor is elected, four Council members shall be elected. In the next municipal election, three Council members shall be elected.

SECTION 204. Compensation.

- A. Each Council Member elected at the first election under this Charter and in subsequent elections, or already in office when this Charter takes effect, shall receive an annual salary in the amount of \$15,000. The President of Council shall receive \$1,000 in addition to the salary of a regular City Council member. Increases in the salary of City Council members may be attained only by referendum. **[Amended 11-7-2023 (7-19-2023 by Ord. No. 15916)]**
- B. In addition to their salary, Council members may, at their own expense, purchase into the existing health care plan for city employees for themselves and for their families at the group rates, charged by the health care provider, to the City, available to City employees. City Council members shall be reimbursed for their legitimate expenses related to the office of Council, and shall receive no other benefits.

SECTION 205. Vacancies.

The Office of Council Members shall become vacant upon death of the Member, resignation, removal from office in any manner authorized by law or forfeiture of office.

SECTION 206. Forfeiture of office.

A Member of Council shall forfeit office if the Member:

- A. Lacks, at any time during the term of office, any qualification for the office prescribed by this Charter or by law;

- B. Violates any express prohibition of this Charter;
- C. Fails to attend three consecutive regular meetings of the Council without being excused by the President of Council or a simple majority of remaining Council members;
- D. Is convicted of any crime classified as a misdemeanor of the second degree or higher, under the laws of the Commonwealth of Pennsylvania or of the United States, or be convicted of any comparable graded crime under the laws of any other state in the United States.

In all cases of forfeiture, the Member shall be entitled to notice and a hearing before Council in accordance with administrative procedures to be established by Council.

SECTION 207. Filling of vacancies.

A vacancy in the Council shall be filled by a majority vote of the remaining Members of Council. If the Council fails to act within 30 days following the occurrence of the vacancy, the court of Common Pleas of Lehigh County shall, upon petition of three Members of Council or 10 qualified voters of the City, fill the vacancy in such office by the appointment of a qualified resident of the City. The replacement Council member shall be a qualified voter of the same party as the person vacating the seat, or, if the person vacating the seat had no party affiliation, a person of any political party as appointed by Council. The individual appointed will remain in office until the first Monday in January following the next municipal election. At such municipal election, a qualified person shall be elected to serve from the first Monday of January following the election for the remainder of the term of the person originally elected to such office or, if such term would otherwise expire on the first Monday following, for a new full term.

SECTION 208. General powers and duties.

All powers of the City not otherwise provided for in this Charter shall be exercised in a manner to be determined by Council. Council shall provide for the exercise and performance of any such other powers and duties in a manner consistent with the terms of this Charter.

SECTION 209. Prohibitions.

- A. No Council Member shall hold any compensated appointive City office or City employment.
- B. No Council Member shall serve as a compensated elected official in any other office in the Commonwealth of Pennsylvania or political subdivision thereof.
- C. No Council member shall hold any compensated appointive City office or City employment until one year after his or her resignation or one year after the expiration of the term for which the member was elected to the Council.
- D. Except for the purpose of inquiry, the Council and its Members shall deal with all departmental and bureau employees through the Mayor or a designee of the Mayor.
- E. Neither the Council nor any of its Members shall, in any manner, dictate the appointment or removal of any City administrative offices or employees whom the Mayor or subordinates of the Mayor are empowered to appoint except as otherwise provided in this Charter.
- F. No Council Member shall serve as an employee of any municipal authority, which is created solely or jointly by the City with one or more political subdivisions until one year after the expiration of the term for which the Member was elected to Council.

G. Any Council Member who has a financial interest, direct or indirect, or by reason of ownership of stock in any corporation in any sale of land with the City or in any contract with the City, shall immediately make publicly known their interest and shall refrain from voting upon, or otherwise participating in the sale of such land or making of such contract. A statement of such interest shall be filed with the City Clerk. Any Council Member who willfully conceals such interests shall be guilty of malfeasance in office.

Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City.

SECTION 210. Investigations.

- A. In addition to the authority of the City Controller to conduct audits under Section 403D of this Home Rule Charter, Council shall have the power, by ordinance, to make or cause to be made investigations, audits or studies of the City and the conduct of any City department, office or agency, and, for this purpose, may retain professional and technical assistance, subpoena witnesses, administer oaths, take testimony, require the production of evidence and provide funds for such investigation, audit and study. **[Amended 5-18-2021 (1-6-2021 by Ord. No. 15668)]**
- B. The subjects of such investigation, audit or study shall be specifically stated in the authorizing ordinance.

SECTION 211. Removal powers.

- A. Council shall have the power to remove from office for cause set forth in this section, any person appointed to the office by Council.
- B. Council may, at its discretion, remove the City Solicitor if six Members of the City Council vote in favor of a motion to do so.
- C. Council shall have the power to remove any elected official or appointed department head from office, if Council finds such person guilty of malfeasance in office. Malfeasance in office means an unlawful act committed willfully by an elective public officer in his or her capacity as an elected official.

SECTION 212. Procedures.

- A. Rules. The Council shall determine its own rules and Order of Business.
- B. Meetings. Council shall hold a regular meeting at least twice each month in the evening on a day and place as the Council may prescribe by rule. Council may, by resolution, cancel a meeting in the advent it is deemed not necessary due to lack of business. **[Amended 11-6-2001]**
- C. Special meetings. Special meetings may be held on the call of the President of Council or at least four Members of Council at such time and place and under such conditions as the Council may prescribe by rule.
- D. Meetings open to the public. All meetings shall be open to the public, except executive sessions as authorized by law. The Chambers shall be arranged in such a way as to have all Members of Council facing the public.
- E. Voting. All action shall be at a public session and shall require a majority full vote of Council, except

in the case of a vote to override a veto which shall require an affirmative vote of five Members, and in the case of passage of an ordinance which shall require a majority vote of Council as a whole unless otherwise specified in this Charter or State Law. Voting shall be by Roll Call vote, and the vote of each Member of Council shall be entered in the Minutes of the Meeting.

F. The Council shall provide for keeping of minutes of its proceedings. The Minutes shall be a public record and shall be maintained in City Hall and a copy in the Allentown Public Library and in the Lehigh County Law Library.

SECTION 213. Citizens' right to be heard.

The Council must provide reasonable opportunity for interested citizens and taxpayers to address the Council on matters of general or special concern. Citizens' right to be heard shall be the first order of business at all public meetings and before a vote on any Council business. The public shall be granted the opportunity to comment at Council meetings without time limitations, except when the Council President, imposes a reasonable time limitation deemed necessary. Council members, by a vote of a majority plus one, may override the Council president's time limitation.

SECTION 214. Quorum.

A Quorum of Council shall consist of a majority plus one of qualified Council members.

SECTION 215. Ordinances in general.

Council may legislate by passage of an ordinance. All ordinances introduced shall be kept in a place accessible to the public at all reasonable times. Final action on all ordinances shall take place during public meetings.

SECTION 216. Form of an ordinance.

Every ordinance shall have a title clearly expressing its subject and every ordinance shall contain only one subject.

SECTION 217. Procedures.

- A. An ordinance shall be introduced by any two Members of City Council at any regular or special meeting of the Council without vote.
- B. After the first reading, the City Clerk shall distribute a copy of the proposed ordinance to each Council Member and to the Mayor and shall file and make available a reasonable number of copies in the office of the City Clerk.

SECTION 218. Final passage of ordinances.

A minimum of 14 days must intervene between introduction and passage of an ordinance unless Council finds and declares a public emergency posing a sudden, clear and present danger to life or property. However, Council may by the affirmative vote of six of its seven members reduce or eliminate the fourteen-day period between introduction and passage of any ordinance.

SECTION 219. Effective date of legislation.

Subject to the provisions of Section 221 Submission to Mayor and Veto Power, every adopted ordinance

except emergency legislation shall become effective at the expiration of 30 days after passage by Council and approval by the Mayor, or repassage by Council over the Mayor's veto, or at a date specified therein, but not less than 10 days after adoption.

SECTION 220. Emergency ordinance.

An emergency ordinance may be adopted to meet a public emergency posing a sudden, clear and present danger to life or property. An emergency ordinance shall be introduced in the form and manner prescribed for an ordinance generally, except that it shall be plainly designated as an emergency ordinance and shall describe in clear and specific terms the nature of the emergency. Every emergency ordinance shall automatically stand repealed as of the 91st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance if the emergency still exists.

SECTION 221. Submission to Mayor and veto power.

- A. Before any ordinance takes effect, it must first be submitted to the Mayor for approval. The Mayor shall sign the ordinance within 10 days if approved, but if not, shall return it to Council stating objections in a written message, except in the case of budget or levy ordinances for which said period shall be reduced to five days. Council may at its next meeting, reconsider the ordinance and may pass it over the Mayor's veto by the affirmative vote of five members of City Council. **[Amended 11-6-2001]**
- B. If the Mayor fails within 10 days after any ordinance is submitted to him to sign the ordinance and/or return it to Council, such ordinance shall be considered adopted at the expiration of the ten-day period, except in the case of budget or levy ordinances, such ordinances shall be considered adopted at the expiration of the five day period. **[Amended 11-6-2001]**
- C. The veto power of the Mayor shall not apply to ordinances adopted by initiative or referendum.

SECTION 222. Recording of ordinances.

The Clerk shall record all ordinances, resolutions and City Council minutes in accordance with the Retention and Disposition Schedule for Records of Pennsylvania Municipalities. No later than three months after the close of each year, the codification and index of ordinances shall be compiled. After they are passed, all ordinances shall be open and available for public inspection at the Allentown Public Library.

SECTION 223. Action by resolution or motion.

Nothing in this Article is intended to preclude Council from taking appropriate action by resolution or motion.

SECTION 224. City Clerk.

City Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, take the minutes of all City Council meetings, keep the minutes of its proceedings, be a notary public, shall serve as secretary to the Council and perform such other duties as are assigned by the Administrative Code, the Council, or state law.

ARTICLE III
The Executive Branch

SECTION 301. The Mayor.

The executive, administrative and law enforcement powers of the City shall be vested in the Mayor. The Mayor shall control and be accountable for the executive branch of the City government, as provided by this Charter.

SECTION 302. Election and terms. [Amended 11-7-2017 (6-21-2017 by Ord. No. 15377)]

The election of the Mayor shall be held in municipal elections in the manner provided by law. The term of office of the Mayor shall be four years commencing the first Monday in January after the election.

No person shall be elected to the office of Mayor more than twice. The time served to fill in for the remainder of an unexpired term shall not be deemed a 'term' for the purposes of this limitation

SECTION 303. Eligibility.

The candidate for Mayor shall be a registered voter of the City. The Mayor shall continue to reside in the City throughout the term of office.

SECTION 304. Vacancy.

- A. If the office of the Mayor becomes vacant for any reason, Council shall appoint an interim Mayor of the same political party who shall serve until the next Municipal election.
- B. If the Council fails to act within 30 days following the occurrence of the vacancy, the Court of Common Pleas of Lehigh County shall, upon petition of three members of Council or 10 qualified electors of the City, fill the vacancy in such office by the appointment of a qualified resident of the City. A vacancy in the office of Mayor shall be filled at the next Municipal Election, in the manner provided by law. The person elected shall hold the qualifications for the office of the Mayor and shall serve the remaining portion of the vacated term.
- C. If the vacancy occurs more than 90 days before the next general municipal election, the appointee as selected in the preceding paragraph shall serve until the first Monday of January next following said election. If a portion of the term remains beyond said date, an individual shall be elected at said general municipal election to serve from the first Monday of January following said election to the end of the term as provided in Section 302.
- D. Until the vacancy is filled, the President of Council shall act as Mayor. If the President of Council should resign or be unable to act, the Acting Mayor shall be chosen by a majority vote of the remaining members of Council to serve as Acting Mayor until the vacancy is filled by election.

SECTION 305. Forfeiture of office.

The Mayor shall forfeit office if the Mayor:

- A. Lacks at any time during term of office for which elected any qualifications for the office prescribed by this Charter or by law;
- B. Violates any expressed prohibition of the Charter; or

C. Is convicted of any crime classified as a misdemeanor of the second degree or higher, under the laws of the Commonwealth of Pennsylvania or the United States or be convicted of any comparable graded crime under the laws of any other state in the United States.

In all cases of forfeiture, the Mayor shall be entitled to notice and a hearing in accordance with the administrative procedures to be established by Council.

SECTION 306. Prohibitions.

- A. The Mayor shall not hold any compensated appointive City office or City employment during the term of office for which the Mayor was elected.
- B. The Mayor shall not serve as an elected official in any other office in the Commonwealth of Pennsylvania or political subdivision thereof.
- C. The Mayor shall not serve as an employee of a municipal authority, which is created solely or jointly by the City with one or more political subdivisions until one year after the expiration of the term of office for which the Mayor was elected.
- D. A Mayor who has a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of land, shall immediately make known that interest to Council. A Mayor who willfully conceals any such interests shall be guilty of malfeasance in office. Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City.

SECTION 307. Compensation.

- A. The Mayor shall receive an annual salary in the amount of \$61,493 until such amount is changed by City Council.
- B. City Council may determine the annual salary of the Mayor by ordinance, but no ordinance changing such salary shall become effective until the date of commencement of the term of the Mayor elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months.

SECTION 308. Powers and duties of the Mayor.

The Mayor shall have the following powers and duties:

- A. Execute, enforce and obey the ordinances of the City, the laws of the Commonwealth of Pennsylvania and the United States of America.
- B. Prepare and present a budget to City Council in accordance with the provisions of this Charter.
- C. Inform City Council and the public each January of the financial and general condition of the City.
- D. Provide Council with all information concerning finances and general conditions of the City as may be requested by Council.
- E. Prepare and submit, to City Council, on an annual basis a five year financial plan and budget.
- F. Introduce proposed legislation to Council and make recommendations to City Council concerning the

affairs of the City.

- G. Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by the Charter or by law.
- H. Supervise and direct the negotiation and administration of any collective bargaining agreements with City employees.
- I. Ensure that all laws, provisions of this Charter and acts of City Council are faithfully executed.
- J. Be responsible for the establishment and development of the administrative policy.
- K. Be present or represented at all regular City council meetings. The Mayor may participate in all regular City Council discussions but shall have no vote.
- L. Execute all bonds, notes, contracts, and written obligations of the City.
- M. Issue subpoenas and compulsory processes, under the official seal of the Mayor, for the attendance of such persons and the production of such books and records as deemed necessary by the Mayor, and seek enforcement of such subpoenas by the Court of Common Pleas of Lehigh County.
- N. Appoint, suspend or remove any City employee, except as otherwise provided by this Charter or by law, and unless otherwise provided, be responsible for the employment of personnel necessary for the effective operation of city government.
- O. Perform such other duties and exercise such other powers as stated in this Charter, by law, or ordinance.

SECTION 309. Appointment by the Mayor.

The Mayor shall appoint:

- A. One City Solicitor. Any person so appointed shall hold office unless removed during the term for which the Mayor is elected and until a successor is appointed and qualified. Four affirmative votes of Council, at each Mayor's term, shall be necessary for confirmation. The City Solicitor is required to be reappointed and reconfirmed by the majority of Council and is required to be either a resident of Allentown and/or be a taxpayer prior to their appointment. The Mayor may also appoint one or more assistant solicitors as are necessary and approved by Council. **[Amended 11-5-2002]**
- B. All members of boards, authorities and commissions, over which he has the power to appoint. The majority of Council shall be necessary for confirmation, except where otherwise provided by state statute.

SECTION 310. Removals by the Mayor.

The Mayor may remove from office anyone appointed pursuant to Section 309, unless otherwise provided by law.

SECTION 311. Deputy Mayor.

Upon taking office, the Mayor shall designate a department head or elected City official who shall serve as Deputy Mayor, in the event of the Mayor's temporary disability or absence from the City. The Mayor may change his designation from time to time. The Deputy Mayor shall exercise all the duties of the Mayor,

except the power of appointment or removal from office.

ARTICLE IV
City Controller

SECTION 401. Election and terms.

The election of the City Controller shall be held in municipal elections in the manner provided by law. The term of office of the City Controller shall be four years commencing the first Monday in January after the election.

SECTION 402. Eligibility. [Amended 11-7-2023 (7-19-2023 by Ord. No. 15915)]

The candidate for City Controller shall be a registered voter of the City and shall continue to reside in the City throughout the term of office. The City Controller elected at the first election under this Charter shall receive an annual salary that is equal to 80% of the Mayor's salary.

SECTION 403. Responsibility.

The City Controller shall:

- A. Have financial oversight of City finances, independent of the Executive and Legislative branches and shall review all expenditures of the Mayor, City Council and City Boards, Commissions and Agencies;
- B. Review the Annual Budget before approval by City Council, and make nonbinding recommendations to the Mayor and to City Council for consideration, if he or she deems it necessary;
- C. Be present or represented at all Council meetings;
- D. Perform audits, including performance audits, of the City and any City department, office, authority, board or commission. In the performance of such audits, the City Controller, to the fullest extent allowable by law, shall be given access to any and all information and documents reasonably and actually necessary for the completion of such audits. The Controller, in conducting such audits, shall in all respects comply with Section 171.02.B (Confidential Information) of the City Ethics Code and Section 140.17 (Employee Conduct and Work Rules), Part H.12 of the Personnel Code prohibiting the unauthorized disclosure of confidential information in violation of federal, state and local laws. All information and documents made available to the Controller to conduct such audits and any reports resulting therefrom shall be subject to the provisions of the Pennsylvania Right-to-Know Law.¹
[Amended 5-18-2021 (1-6-2021 by Ord. No. 15668)]
- E. Report, to the Mayor and to City Council, on the progress of the implementation of any recommendations as found in the Annual Audit and Management Letter;
- F. Assist in all audits conducted by independent auditors;
- G. Assure the accurate and timely completion and submittal of audit reports along with appropriate follow-up recommendations;
- H. Furnish to City Council, the Mayor, and others, as appropriate, periodic reports of audits conducted;
- I. Interpret and communicate audit policies and procedures to all City management and staff;

1. Editor's Note: See 65 P.S. § 67.101 et seq.

- J. Direct internal financial security and loss investigation activities;
- K. Prepare an annual budget for the office of City Controller and operate the office of City Controller within approved budget limitations; and
- L. Issue any subpoenas in order to fulfill the duties and responsibilities of the office of City Controller.

SECTION 404. Forfeiture of office.

The City Controller shall forfeit that office if the City Controller:

- A. Lacks, at any time during term of office, for which any qualification for the office prescribed by this Charter or by law;
- B. Violates any express prohibition of the Charter; or
- C. Is convicted of any crime classified as a misdemeanor of the second or degree higher, under the laws of the Commonwealth of Pennsylvania or the United States, or be convicted of any comparable crime under the laws of any other state in the United States.

In all cases of forfeiture, the City Controller shall be entitled to notice and a hearing in accordance with the administrative procedures to be established by Council.

SECTION 405. Vacancy.

- A. If the office of the City Controller becomes vacant for any reason, Council shall appoint an interim City Controller, of the same political party, who shall serve until the next Municipal Election.
- B. A vacancy in the office of the City Controller shall be filled at the next Municipal Election, in the manner provided by law. The person elected shall hold the qualifications for the office of the City Controller and shall serve the remaining portion of the vacated term.

SECTION 406. Prohibitions.

- A. The City Controller shall not hold any compensated appointive City office or City employment during the term of office for which the City Controller was elected.
- B. The City Controller shall not serve as an elected official in any other office in the Commonwealth of Pennsylvania or political subdivision thereof.
- C. The City Controller shall not hold any compensated appointed City office or City employment until one year after the expiration of the term for which the City Controller was elected.
- D. The City Controller shall not serve as an employee of a municipal authority which is created solely or jointly by the City with one or more political subdivisions until one year after the expiration of the term for which the City Controller was elected.
- E. A City Controller who has a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any sale of land with the City or in any contract with the City, shall immediately make known that interest to Council. A City Controller who willfully conceals any such interest shall be guilty of malfeasance in office. Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City.

ARTICLE V
Administration

SECTION 501. Administrative Code.

The Administrative Code shall be made a part of the Codified Ordinances. City Council shall enact, and from time to time, may amend the Administrative Code, which shall set forth in detail the organization and administrative structure and procedures of the City, including:

- A. A specific enumeration of departments, offices and agencies and the division of powers and responsibilities among them;
- B. The internal procedures for the operation of the departments, offices and agencies; and
- C. Any other rules, regulations and procedures reasonably appropriate for efficient administration.

SECTION 502. Common administrative procedures.

City Council shall have the power, by ordinance, to adopt uniform administrative procedures, regulations and forms to be followed by all elected officials, departments, offices and agencies.

SECTION 503. Heads of departments, offices and agencies.

- A. Appointment. Except as otherwise provided by this Charter or other applicable statute, the Mayor shall appoint and remove the head of any department, office and agency. An appointment shall not be effective unless City Council, by resolution, confirms it or fails to reject it within 60 days after the appointment. The appointee shall serve unless rejected by City Council or until removal from office, whichever is sooner.
- B. Removal. The Mayor shall have the power at any time to remove the head of any department, office or agency immediately under the Mayor's direction and supervision, but the Mayor shall, within 14 days, notify, in writing, City Council of the removal and the reason for it.

SECTION 504. Qualifications.

The heads of departments, offices and agencies shall be selected solely on the basis of education, training, experience; and professional, executive and administrative abilities; and such other qualifications as may be set forth in this Charter.

SECTION 505. Prohibitions.

- A. The Department Head shall devote full time to the office; shall hold no compensated elective public office; and shall hold no other City office or City employment for which any compensation is paid or received.
- B. A Department Head who has a financial interest, direct or indirect, or by reason of ownership of stock in any corporation in any sale of land with the City or, in any contract with the City, shall immediately make known that interest to Council. A Department Head who willfully conceals such an interest shall be guilty of malfeasance in office. Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City.

C. The Department Head shall refrain from participating in the debate and discussion of policy by City Council unless authorized by the Mayor but may respond to inquiries on any matter under consideration.

SECTION 506. Department of Public Works/City Engineer.

The Department of Public Works is mandated by this Charter. The Mayor shall appoint and fix the compensation of the head of the Department of Public Works/City Engineer. He or she shall perform the duties required through the Administrative Code or other action, or as may be required of a City Engineer by general law.

SECTION 507. Department of Finance.

There shall be a Department of Finance which is established for the purpose of creating a unified City accounting system. A Director of Finance shall be appointed by the Mayor with confirmation of Council. The Director of Finance shall be responsible for the administration of activities that include:

- A. The receipt, expenditure, accounting, investment, custody and control of municipal funds and assets, including the budget (both operating and capital);
- B. Financial accounting, which shall be conducted according to generally accepted accounting principles;
- C. Investments and insurance;
- D. Payroll;
- E. Pension administration;
- F. Materials management;
- G. All other financial matters that may arise.

ARTICLE VI
Personnel System

SECTION 601. Job discrimination.

No individual shall be discriminated against with respect to any position or office because of age, gender, race, creed, handicap, color, religion, ancestry, veteran's status, national origin, sexual orientation, political opinions or affiliations or lawful activity in any employee organization.

SECTION 602. Personnel system.

Each elected official, officer and employee of the City shall be a member of either the career or exempt service.

A. The exempt service shall consist of:

- (1) All elected officials;
- (2) The City Solicitor;
- (3) The heads of departments, offices and agencies immediately under the direction and supervision of the Mayor;
- (4) The City Clerk;
- (5) The members of authorities, boards and commissions;
- (6) Temporary, part-time or seasonal employees;

B. All other officers and employees shall be members of the career service.

C. Merit personnel system. There shall be a merit personnel system, the purpose of which shall be to require that all personnel decisions be made solely on the basis of merit and qualifications, applicable to all employees. Any appointment, promotion, transfer, demotion, suspension, dismissal or disciplinary action shall be carried out in accordance with the merit personnel system.

SECTION 603. Personnel code.

Within six months of the effective date of this Charter or other applicable law and as a part of the Allentown City Code, City Council shall enact, and from time to time, may amend the Personnel Code for all City employees. It shall be the goal of the Personnel Code to provide for merit selection for all applicable positions; establish well-defined job descriptions with salaries to be reviewed on a regular basis; provide for fair and objective annual employee evaluations; provide equal access to employee training; and promotion from within the career service. The Personnel Code shall include, but not be limited to, the following:

- A. Classification of all City positions based on the duties, authority and responsibility of each position with adequate provisions for reclassification of any position when needed;
- B. Well-defined job descriptions for all City positions;
- C. Well-defined provisions for salary, fringe benefits, such as sick and vacation leave, holidays, overtime and salary administration, including a uniform pay plan for all City positions;

- D. Procedures concerning the substance, procedure and enforcement of a merit personnel system, including fair and objective annual employee evaluations;
- E. Procedures for the recruitment, selection, training and development of personnel, based solely on merit and qualifications;
- F. Procedures for advancement based on merit and qualifications with emphasis on promotion from within the career service;
- G. Procedures concerning the discipline and discharge of personnel, including reduction in force;
- H. Procedures providing for in-house training programs for personnel;
- I. Procedures for those holding provisional appointments;
- J. Procedures establishing grievance procedures, with final hearings on such grievance to be held by the Mayor;
- K. Procedures governing relationship with employee organizations; and
- L. Any other procedures necessary for the administration of personnel.

SECTION 604. Collective bargaining agreements.

No personnel procedures or policies established under the provisions of this Charter shall conflict with acts of the General Assembly providing for collective bargaining and labor agreement administration. Nothing in this Charter or any ordinances passed by City Council shall interfere with any lawful collective bargaining agreement entered into between the City and representatives of its employees.

SECTION 605. Department of Human Resources.

There shall be a Department of Human Resources. A director of the Department of Human Resources shall be appointed by the Mayor. The Director of Human Resources shall be responsible for administering the Department of Human Resources and administering the personnel system on the merit principles described in this Charter and promulgated by City Council as a part of the Personnel Code or otherwise.

SECTION 606. Compensation of heads of departments, offices and agencies, and City Solicitor. [Amended 11-5-2002; 5-18-2021 (1-6-2021 by Ord. No. 15666)]

The compensation of all heads of departments, offices and agencies, and the City Solicitor, under the direction of the Mayor, shall be proposed by the Mayor and approved by ordinance. Compensation of all other employees shall be set in accordance with the uniform pay plan established by City Council in the Personnel Code.

Residency requirement. All such heads of departments, offices, and agencies need not be residents of the City at the time of appointment, but shall legally reside within five miles of the City's borders within 12 months of being appointed. The appointment will terminate automatically 12 months after the appointment if the residency requirement has not been met. This provision shall apply to appointments under the requirements of the Charter.

SECTION 607. Political activity.

All employees are prohibited from engaging in any form of political activity during regular work hours and

are prohibited from using city facilities or property for any political activity. Violation of this section will warrant discharge or other discipline under the provisions of the Personnel Code.

ARTICLE VII
City Solicitor

SECTION 701. Qualifications and responsibilities. [Amended 5-18-2021 (1-6-2021 by Ord. No. 15667)]

- A. The Mayor shall appoint a City Solicitor who shall be a member of the bar of the Supreme Court of Pennsylvania and experienced in municipal law. The City Solicitor, as the Head of the Legal Department, shall serve as chief legal advisor to the Mayor and all City departments and agencies, represent the City in all legal proceedings to which the City is a party, and shall perform such other duties prescribed by law, by this Charter and by the City Administrative Code.
- B. The Mayor shall have the power, if needed, to engage other temporary Solicitors to represent the City as the need may be. Such appointments shall be temporary and shall be for the purpose of representing the City in specific legal matters.
- C. City Council may appoint legal counsel to serve as City Council Solicitor to provide City Council with legal advice.
- D. The City Solicitor shall direct and control the legal matters of the City.

ARTICLE VIII
Financial Procedures

SECTION 801. Fiscal year.

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

SECTION 802. Submission of balanced budget and capital program. [Amended 11-5-2019 (6-20-2019 by Ord. No. 15543)]

On or before 90 days prior to the ensuing fiscal year, the Department Heads will submit Proposed Budget and Capital Program to the Mayor. On or before 75 days prior to the ensuing fiscal year, the Mayor will submit to the City Council a balanced budget, Capital Program and an accompanying message. The Proposed Balanced Budget and Capital Program shall be in such form as the Mayor deems desirable, unless otherwise required by Council.

SECTION 803. Budget message.

The Budget shall be accompanied by a message which shall include:

- A. An explanation of the expenditures and revenues in the proposed budget, indicating and explaining major changes from the current year and the prior year.
- B. An outline of proposed programs and an explanation of new, expanded or abolished programs or functions.
- C. A summary of the City's debt position.
- D. Such other material, as required by Council that will inform the Council and the public of municipal goals.

SECTION 804. Budget.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year in accordance with all Generally Accepted Accounting Principles and, except as required by this Charter, shall be in such form as the Mayor deems desirable or the Council may require. In organizing the budget, the Mayor shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. The Budget shall contain, among other things, the following:

- A. It shall begin with a general summary of its contents.
- B. It shall show, in detail, all estimated income, indicating the existing and proposed tax levies, as well as other assessments, fees and charges.
- C. It shall show all proposed expenditures, including debt service, for the ensuing fiscal year.
- D. It shall show the number of proposed employees in every job classification.
- E. It shall be so arranged as to show comparative figures for actual and estimated income and expenditures for the current fiscal year and actual income and expenditures of the preceding four fiscal years.

- F. It shall indicate proposed expenditures during the ensuing fiscal year, detailed by offices, departments and agencies, in terms of their respective work programs and the methods of financing such expenditures.
- G. It shall indicate proposed capital expenditures during the ensuing fiscal year, detailed by office, departments and agencies when practicable, and the proposed method of financing each such capital expenditure. The Mayor will include this separate Capital Program section in the annual Budget and submit to Council with appropriate supporting information as to the necessity for such programs.
- H. It shall indicate anticipated net surplus or deficit for the ensuing fiscal year of each utility, i.e., water, sewer and enterprise funds, owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

SECTION 805. City Council action on budget.

- A. Public access to budget. The proposed budget shall be available for public inspection at City Hall and at the Allentown Public Library and the Lehigh County Law Library, and copies shall be available for the public at a reasonable fee to be set by the Council. **[Amended 11-6-2001]**
- B. Amendment before adoption. After the public hearing, the City Council may adopt the budget with or without amendments. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income and thereby allowing for line item changes by the City Council.

If the amended Budget increases, decreases or readjusts funding requirements by more than 5%, or adds or deletes a program, the Budget shall be returned to the Mayor immediately for comment and resubmission to the Council within three normal City work days.

Council shall provide for another public hearing to be held within five days after the Mayor has resubmitted the Budget.

- C. Adoption. Council and the Administration must adopt an annual budget by no later than December 31st of the fiscal year currently ending. See this Charter, Sections 219 and 221 for discussion of effective dates. **[Amended 11-5-2019 (6-20-2019 by Ord. No. 15544)]**

SECTION 806. (Reserved)²

SECTION 807. Revenue.

- A. Council shall establish no new tax except for the Emergency and Municipal Service Tax. **[Amended 5-16-2006 (2-2-2006 by Ord. No. 14356)]**
- B. Council shall not raise the rates of the Earned Income, Business Privilege, Occupational Privilege, Amusement Devices and Resident Taxes above their 1996 levels. **[Amended 5-16-2006; 11-19-2025 by Ord. No. 16176]**

2. Editor's Note: Former Section 806, Revised budget, was deleted per ballot question 11-6-2001.

C. Property Development Incentive Taxation System.

- (1) Beginning in 1997, the City of Allentown will adopt a property taxation system designed to encourage development of new properties and improvements to existing properties. The system will accomplish this by gradually reducing the tax rate applied to all buildings relative to the tax rate applied to all land (whether developed or undeveloped).
- (2) The following shall be the minimum ratios of the land tax rate to the building rate for the respective years:

1997	1.49
1998	2.06
1999	2.76
2000	3.62
2001 and beyond	4.70

- (3) Council may establish a ratio of the land tax rate to the building tax rate higher than 4.70 after 2001.
- D. Council may reduce any tax rate or fee (provided it maintains the minimum ratios for property taxes as in Section 807(C)(2)) by a majority vote. Council may increase property tax rates or fees (provided it maintains the minimum ratios for property taxes as in Section 807(C)(2)) by four votes. **[Amended 5-18-1999; 11-5-2019 (6-20-2019 by Ord. No. 15544)]**
- E. The citizens of Allentown may increase or decrease property tax rates through the referendum process defined in Sections 1002-1009 (provided that, as long as the Property Development Incentive Taxation System is in effect, the resulting ratio meets or exceeds the minimum ratio set by this Charter or by Council).
- F. After the year 2001, the citizens of Allentown may amend or terminate the Property Development Incentive Taxation System by reducing the ratio of the land tax rate to the building tax rate or by reverting to a single tax rate for land and buildings through the referendum process defined in Sections 1002-1009.

SECTION 808. Amendments after adoption.

- A. Emergency appropriations may be made by the Council to meet a public emergency posing a sudden, clear and present danger to life or property. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 220 of this Charter.
- B. Supplemental appropriations may be made by the Council by ordinance upon certification by the Mayor that there are available for appropriation revenues in excess of those estimated in the Budget.
- C. Transfer of appropriations may be made in accordance with provisions of the Administrative Code.

SECTION 809. Lapse of appropriations.

Every appropriation, except an appropriation for a Capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

SECTION 810. Administration of the budget and capital plan.

The Mayor shall be responsible for and shall supervise the administration of the Annual and Capital Budgets.

SECTION 811. Capital plan.

- A. Submission to City Council. The Mayor shall prepare and submit to the City Council a five year capital program no later than the final date for submission of the budget.
- B. Contents of capital plan. The capital plan shall include:
 - (1) A clear general summary of its contents;
 - (2) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
 - (3) Cost estimates and recommended time schedules for each improvements or other capital expenditure;
 - (4) Method of financing, upon which each capital expenditure is to be reliant;
 - (5) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired; and
 - (6) All Capital Projects must be included in the Capital Plan Budget.

The above shall be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

- C. Financing capital projects. Financing for Capital Projects shall be obtained by Competitive Bidding.
- D. Capital projects approved. Proposed Capital Projects in the Capital Plan must be considered on their own individual merits by the Director of Finance, the City Controller, and the Proposer of the project. The procedures to approve the individual Capital Projects are:
 - (1) Preliminary feasibility study.

The Capital Project preliminary feasibility study shall include:

- (a) A clear general summary of its purpose and justification.
- (b) The cost estimates and time schedule for the Capital Project including the cost of the Post Project Completion Audit.
- (c) The method of financing and sources upon which this Capital Project is reliant.
- (d) The annual cost of operating and maintaining the project to be constructed or acquired.

The Council approval of Capital Projects in this preliminary feasibility study will require a simple majority vote in order to move on to a final approval and funding acceptance.

- (2) Final proposal and financing.

The Final Capital Project proposal and financing shall include:

- (a) A clear general summary of its purpose and justification.
- (b) The cost estimates and time schedule for the Capital Project including the cost of the Post Project Completion Audit.
- (c) The method of financing and sources upon which this Capital Project is reliant.
- (d) The annual cost of operating and maintaining the project to be constructed or acquired.
- (e) This final Capital Project Proposal will be published and made available for the public to review. Capital Project replaces Capital Program. The final Council approval of Capital Projects will require five votes to approve.

(3) Capital project reporting.

- (a) Current projects. All Capital Projects in process must be reported on a quarterly basis and provide an update on cost, completion date, and estimated revised operating costs. This information is to be supplied by the Director of Finance and the Project Manager to the City Council in such a form that it is available to the public.
- (b) Extended projects. If commencement of a Capital Project does not begin by end of the fiscal year, following the year in which final approval is obtained, the project must go through Section 811(D)(1) and (2).

(4) Post project completion audit. Following completion of the Capital project, a complete and detailed audit must be published and made available to the public. This Post Audit is to be completed by an independent auditor appointed by the Council. The purpose of the Post Audit is to confirm the estimates of costs and explain any deviation between actual and estimated costs.

SECTION 812. City Council action on capital plan.

- A. Public access to capital plan. The proposed Capital Plan shall be available for public inspection at City Hall and copies shall be available for the public at a reasonable fee to be set by the Council. **[Amended 11-6-2001]**
- B. Adoption. Council must adopt an annual Capital Plan, with or without amendment, no later than December 15th of the fiscal year, currently ending. If Council fails to adopt a Capital Plan by December 15th then the Mayor's original Capital Plan shall become the official Capital Plan of the City for the ensuing fiscal year.

SECTION 813. Public records.

Copies of the budget, capital plan and appropriation and revenue ordinances shall be public records and shall be made available to the public at City Hall and at the Allentown Public Library.

SECTION 814. Independent audit.

The Council shall provide for an annual independent audit to be completed and submitted to the Mayor within 180 days of the close of the fiscal year. It shall include City receipts, expenditures, accounts and reports by a Pennsylvania Certified Public Accountant or a Certified Public Accounting firm, experienced

in municipal finance, having no personal interest, direct or indirect, in the fiscal affairs of the City or any of its elected or appointed personnel. The Council may provide for more frequent audits at its discretion. Within 30 days of completion, the Mayor shall present to the Council, the results of the annual audit and a financial statement of the fiscal affairs of the City, with the results of the independent auditor's survey of internal control and any recommendations thereon. The evaluation of the internal control shall take the form of a Management Letter. This Management Letter shall be submitted to the City Council after every audit. A summary of the annual audit of the independent auditor shall be published at least once in one or more newspapers of general circulation in the City within 30 days after submission to the Mayor. The annual audit shall be conducted in accordance with generally accepted auditing standards. The financial report shall be prepared in accordance with generally accepted accounting principles, and shall include a balance sheet for each fund, and on a consolidated fund basis reflecting all current assets, current liabilities and fund balances. The Council shall designate such accountant or firm annually or for a period not exceeding three years. Such accountant or firm shall not serve for more than six consecutive years.

SECTION 815. Bidding process. [Amended 5-20-1997; 11-4-1997]

- A. Competition principle. All purchases of materials, supplies, equipment and services by the City government shall be made through competitive processes, with evidence available to demonstrate broad solicitation of suppliers and opportunities for participation in the acquisition process; and the value received for the money paid.
- B. Competitive Policies Code. Consistent with applicable Federal and State laws, the Council shall adopt and may amend, by Ordinance, a Code for the establishment, regulation, and maintenance of a competition system, governing the policies necessary to effectively administer a system of competitive purchasing for the City government. This code may include but is not limited to: 1) establishing varied procedures for types of services or materials to be acquired; 2) setting the dollar limits which would require: a) verbal solicitation of price quotes with a written record; b) written price quotes after informal solicitation; and c) formal public solicitation of written price quotes after public advertising; 3) establishing procedures for determining sole source contract awards; 4) policies regarding minority or local resident preference; and 5) policies and procedures to encourage the use of contemporary purchasing techniques such as reverse auctioning and electronic commerce. **[Amended 11-4-2008 (7-17-2008 by Ord. No. 14601)]**

ARTICLE IX
Authorities, Boards and Commissions

SECTION 901. Establishment.

- A. City Council shall encourage the participation of citizens in their government through the establishment of authorities, boards, and commissions to carry out City business. Such authorities, boards and commissions shall be established by ordinance including a clear statement of whether they shall be advisory in nature or they shall have power and authority under City ordinance or state or federal code.
- B. City Council may not change the powers or authority of any authority, board or commission except by ordinance.
- C. City Council may, by ordinance, abolish any authority, board or commission not established by state or federal mandate or by this Charter.
- D. All authorities created by Council have the responsibility to provide an annual report to Council of their finances and their programs.

SECTION 902. Membership.

- A. Appointments. City Council shall approve all appointments for each authority, board and commission, except as otherwise required by State Law. Broad citizen participation shall be encouraged in recruiting appointees and making appointments.
- B. Vacancies. Any vacancy caused by death or resignation shall be filled promptly pursuant to the procedure set forth in Section 309(B). The person so appointed shall serve for the unexpired term of the person vacating such position.
- C. Qualifications. As a general rule, members of authorities, boards and commissions shall be residents of the City. At the discretion of Council, persons not residents of the City, but who have a significant property or business interest in the City, may be selected to serve.

ARTICLE X
Citizens' Rights and Participation

SECTION 1001. General provisions.

The Council shall protect and promote the rights of the citizens of the City of Allentown to participate in a positive and constructive manner in the government of the City. Any citizen of the City may participate in the government of the City by:

- A. Seeking elective office of the City as prescribed by this Charter and voting for candidates for elective office;
- B. Serving on boards, commission, authorities or other agencies of the City government when requested by the appropriate officials;
- C. Attending and being heard at public meetings of the Council and other boards, commissions, authorities and agencies of the City government;
- D. Addressing suggestions to the Council and others to provide guidance for their actions;
- E. Exercising the right of initiative and referendum as provided in this Charter or as otherwise may be provided by law.

SECTION 1002. Initiative and referendum.

- A. Initiative. The qualified voters of the City shall have the power to propose ordinances to the Council. If Council fails to adopt a proposed ordinance, the initiative process gives the qualified voters of the City the opportunity to adopt or reject the proposed ordinance at a primary, municipal or general election. **[Amended 11-6-2001]**
- B. Referendum. The qualified voters of the City shall have the power to require reconsideration by Council of any adopted ordinance. If Council fails to repeal an ordinance, the Referendum process gives the qualified voters of the City the opportunity to approve or reject the ordinance at a primary, municipal or general election. **[Amended 11-6-2001]**

SECTION 1003. Initiative and referendum; petitioners committee; affidavit.

Any five qualified voters of the City may file with the City Clerk an affidavit stating they will constitute the Petitioners Committee and be responsible for circulating the petition and filing it in proper form stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out, in full, the proposed initiative ordinance or the ordinance sought to be reconsidered. Within five days after the affidavit of the Petitioners Committee is filed and validated, the City Clerk shall issue the appropriate petition blanks to the petitioners.

SECTION 1004. Initiative and referendum; petitions.

- A. Number of signatures. Initiative and referendum petitions must be signed by 2,000 registered voters of the City.
- B. Form and content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall include the address of the person signing and the date signed. Petitions shall contain or have attached thereto throughout their circulation the full text of the proposed ordinance or the ordinance to be

reconsidered. **[Amended 11-6-2001]**

- C. Affidavit of circulator. Each paper of a petition shall have attached to it when filing a notarized affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, and believes them to be valid and that each signer had an opportunity before signing to read the full text of the proposed ordinance or the ordinance to be reconsidered. **[Amended 11-6-2001]**
- D. Time for circulation and filing petitions. Petitions must be circulated and signed within 65 days after the filing of the affidavit of Petitioners' Committee with the City Clerk. **[Amended 11-6-2001]**

SECTION 1005. Initiative and referendum; procedure after filing.

- A. Certificate of clerk; amendment. Within 20 days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the Petitioners' Committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once. The Petitioners' Committee may file a supplementary petition upon additional papers within 10 days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Subsection (B) and (C) of Section 1004, and within five days after it is filed, the City Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the Petitioners' Committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the Petitioners' Committee does not elect to amend or request Council review under Subsection (B) of this section within the time required, the City Clerk shall promptly present their certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition. **[Amended 11-6-2001]**
- B. Council review. If a petition has been certified insufficient and the Petitioners' Committee does not amend it, or if an amended petition has been certified insufficient, the Committee may, within five days after receiving the copy of such certificate, file a request that it be reviewed by Council. Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition. **[Amended 11-6-2001]**
- C. Court review; new petition. A final determination as to the insufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

SECTION 1006. (Reserved)³

SECTION 1007. Initiative and referendum; action on petitions.

- A. Action by Council. When an initiative or referendum petition has been finally determined sufficient, Council shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the specified ordinance. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the ordinance under consideration within 30 days after the date the petition was finally determined sufficient, it shall submit the

3. Editor's Note: Former Section 1006, Referendum petitions; suspension of effect of ordinance, was repealed by referendum on 11-6-2001.

proposed or referred ordinance to the voters of the City. **[Amended 11-6-2001]**

- B. Submission to voters. The question shall be placed on the ballot at the next primary, municipal or general election occurring at least 90 days after final Council action. Copies of the proposed and the ordinance to be reconsidered shall be made available to the public during regular business hours at City Hall and at the Allentown Public Library. **[Amended 11-6-2001]**
- C. Withdrawal of petitions. An initiative or referendum petition may be withdrawn at any time prior to the 45th day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least four members of the Petitioners' Committee. Upon the filing of such request, the petition shall have no further force of effect and all proceedings thereon shall be terminated.

SECTION 1008. Initiative and referendum; results of election.

- A. Initiative. If a majority of the qualified voters vote in favor of a proposed initiative, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- B. Referendum. If a majority of the qualified voters vote for the repeal of a referred ordinance, it shall be considered repealed upon certification of the election.

SECTION 1009. Initiative and referendum; limitations.

- A. Default of initiative and referendum. Any proposed initiative or reconsidered ordinance which is rejected by the qualified voters in an election cannot be resubmitted for initiative and referendum for a period of two years from the date of the election where the ordinance was defeated. **[Amended 11-6-2001]**
- B. Repeal or modification of initiative and referendum by Council. The Council shall take no action to repeal or modify substantively an ordinance adopted or repealed by referendum within a period of two years from the date of the election at which the ordinance was approved, or until the January following a municipal election if the initiative was adopted by Council. **[Amended 11-6-2001]**
- C. Limit on the number of initiative and referendum. No more than two initiative and two referendum measures may be placed on the ballot at any primary, municipal or general election. The first two initiative and two referendum measures which are filed with the City Clerk will be the only ones allowed on the ballot.

SECTION 1010. Citizens' right to place an item on the City Council agenda.

- A. The qualified voters of the City of Allentown, upon receipt of a petition by the City Clerk, may enter one agenda item on the regular agenda of City Council.
- B. The petition filed with the City Clerk must contain the signatures and addresses of 35 registered qualified voters of the City, and the item to be placed on the agenda of City Council for discussion/consideration before Council. Upon receipt of such petition and a two day review/certification period of the petition by the City Clerk, the President of City Council must include the item on the agenda at the next regularly scheduled meeting of City Council.

SECTION 1011. Citizens' right to call a special meeting of City Council.

- A. The qualified voters of the City of Allentown, upon filing a signed petition with the City Clerk, may require the City Council to hold a special meeting.
- B. The petition filed with the City Clerk must contain the signatures and addresses of 200 registered voters of the City and the purpose for which the meeting is being called. Upon receipt of such petition and a two day review/certification period of the petition by the City Clerk, the President of City Council must convene the special meeting on an evening within 14 days of the certification.
- C. The public notification process will adhere to the special meetings provisions of this Charter.

ARTICLE XI
General Provisions

SECTION 1101. Conflict of interest and Code of Ethics.

- A. Conflicts of interest. The use of public office for private gain is prohibited. No elected official, officer or employee shall:
 - (1) Act in an official capacity on matters in which the employee or official has a private financial capacity, on matters in which the employee or official has a private financial interest clearly separate from that of the general public;
 - (2) Accept gifts and other things of value in return for a favorable decision or vote. In all cases, gifts received must be publicly recorded and submitted to the City Clerk specifying the date received, the name and address of the donor, and the value of the gift;
 - (3) Act in a private capacity on matters dealt with as a public official or employee;
 - (4) Use confidential information for personal gain;
 - (5) Appear before City departments, offices and agencies on behalf of private interests.
- B. Code of Ethics. As a part of the Administrative Code, City Council shall adopt and enact a City Code of Ethics within one year of the effective date of this Charter which shall apply to all elected officials, officers and employees. The Code of Ethics shall adopt regulations implementing the conflict of interest provision set forth above, shall provide for reasonable public disclosure of finances by officials with major decision-making authority over monetary expenditures and contractual matters, and insofar as permissible under state law, provide for fines and imprisonment for violations.
- C. Board of Ethics. The Mayor, with the approval of City Council, shall establish an independent Board of Ethics consisting of five City residents holding terms of three years, to administer and enforce the conflict of interest provision of this Charter (Section 1101) and the prohibition sections of this Charter. No member of the Board may hold elective or City office in the City or any other government or hold any political party office. Insofar as possible under state law, the Mayor shall authorize the Board to issue binding opinions, conduct investigations on its own initiative and on referral or complaint, refer cases for prosecution, impose administrative fines, and to consult with independent counsel. City Council shall appropriate reasonably sufficient funds to the Board of Ethics to enable it to perform the duties assigned to it. Members of the Board of Ethics may be removed by the Mayor with the consent of City Council.

SECTION 1102. Prohibitions.

- A. Activities prohibited.
 - (1) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
 - (2) No person who seeks appointment or promotion to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.

(3) No elected City official shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any City election from any City employee.

B. Penalties. Any person found in violation of this section, by the Board of Ethics, and confirmed by Council, shall immediately forfeit his or her office or position. City Council shall establish, by ordinances, such further penalties as it may deem appropriate.

SECTION 1103. Amendments.

The Charter shall be amended by:

A. The citizens of the City through the initiative and referendum process provided by this Charter in Sections 1002 through 1009;

B. City Council through referendum; or

C. A Government Study Commission by amendments being placed on the ballot in accordance with the Home Rule Charter and Optional Plans Law, 53 P.S. §§ 1-101 et seq.⁴

4. Editor's Note: See now 53 Pa.C.S.A. § 2901 et seq. for the Home Rule Charter and Optional Plans Law.

ARTICLE XII
Transition

SECTION 1201. Purpose of article.

The purpose of this Article is to establish an orderly procedure for the transition to the new form of government provided by this Charter. The provisions of this Article address the transition from the existing form of government to the form of government established by this Charter. Where inconsistent with the preceding articles of this Charter, the provisions of this Article shall constitute temporary exceptions.

SECTION 1202. Effective date.

This Charter shall be submitted to the voters at the primary election of 1996, and if adopted, shall take effect on the first Monday of January 1997. However, to the extent necessary to comply with the other provisions of this Article governing the period between the date of adoption and the effective date of this Charter, this Charter shall be implemented upon the date of adoption.

SECTION 1203. Initial elections.

- A. 1997 Election. The following elected officials shall be nominated at the primary election, in May 1997, and shall be elected at the municipal election in November 1997 for the following terms:
 - (1) One Mayor, for a term of four years;
 - (2) Four members of City Council, for a term of four years.
 - (3) The three remaining members of City Council shall be elected at the municipal election in November, 1999, for a term of four years.
- B. Vacancy. If any of the elected offices becomes vacant between the time this Charter is effective and January 1, 1999, such vacancy shall be filled as provided for in this Charter.

SECTION 1204. Initial salaries of elected officials.

The Members of City Council elected at the municipal election of 1997 shall be initially compensated at the annual salaries set forth in Article II. These salaries of elected officials shall continue until changed in accordance with this Charter.

SECTION 1205. Continuation of boards and commissions.

All board and commissions established for or under the authority of the City before the effective date of this Charter shall continue to exist and operate unless abolished by this Charter or by ordinance of City Council. Members of the boards and commissions existing on the effective date of this Charter and not abolished by its provisions shall remain in office for as long as their respective terms continue or until the status of their respective boards or commission shall be altered by City Council. Vacancies in the membership of such boards and commissions shall be filled in accordance with this Charter.

SECTION 1206. Specific transfer of functions.

The duties, functions and powers assigned by law and not inconsistent with this Charter are hereby transferred to City Council or to the Mayor in accordance with this Charter. If a department, office or agency is abolished by this Charter, its functions, powers and duties shall be transferred to the department,

office or agency designated by the Charter or, if the Charter makes no such provision, as designated by ordinance. All departments, offices and agencies shall continue until abolished or modified.

SECTION 1207. Personnel.

- A. Charter effect on employees. Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of individuals who are employees of the City on the effective date of this Charter as to salary, tenure, residency, retirement or pension benefits; employments; leave with pay; or, other personal rights. Nothing in this Charter shall diminish the rights and privileges of any former employees in their pension or retirement benefits.
- B. Exemption from competitive tests. Any employee holding a position with the City at the time this Charter takes effect who is serving in the same or comparable position at the time of its adoption shall not be subject to competitive tests as a condition for continuance in the same position, but in all respects shall be subject to the personnel system provided for in this Charter.
- C. Personnel action. Until approval by City Council of the Personnel Code required by Section 603, the Mayor shall have the power to establish by written directive a personnel system for all employees. All appointments and promotions, except additions to the exempt service, shall be made on the basis of merit and fitness. All personnel actions shall be in accordance with the provisions of a personnel system established by such written directive. Copies of all such directives shall be forwarded by the Mayor to City Council within 24 hours after being issued.

SECTION 1208. 1997 Budget.

The City Council in office in 1996 shall prepare and adopt in 1996, the budget for 1997, complying insofar as possible with the provisions of this Charter. This shall in no way limit the power of City Council taking office on the first Monday of January 1997 to revise the 1997 Budget as authorized by law and by this Charter.

SECTION 1209. Legal continuity.

- A. City laws. All City ordinances, resolutions, rules and regulations which are in force on the effective date of this Charter, not inconsistent with the provisions of this Charter, shall continue in force until amended or repealed.
- B. Legal actions. All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the City shall continue except as modified pursuant to the provisions of this Charter.
- C. Property, records and equipment. All property, records and equipment of any agency existing on the effective date of this Charter shall be transferred to the agency assuming its powers and duties; but, in the event that the powers and duties are to be discontinued or divided between agencies, or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more agencies designated by City Council in accordance with this Charter.

SECTION 1210. Temporary ordinance.

In order to effect the transition of government under this Charter, City Council shall have the power to enact temporary ordinances. A temporary ordinance may be introduced and passed at any regular meeting of City Council during the three-month period following the effective date of this Charter. It shall become effective immediately after passage and shall automatically stand repealed at the end of six months after the effective date of this Charter. A temporary ordinance shall not be renewed or otherwise continued except

as in the manner prescribed by this Charter for the regular consideration and adoption of ordinances.

SECTION 1211. Mandatory acts.

Within six months after the effective date of this Charter, City Council and the Mayor shall adopt or enact the codes mandated by this Charter.

SECTION 1212. Transition Committee.

- A. Establishment and powers. On or before January 1, 1997, there shall be a Transition Committee established consisting of five persons to facilitate the transition from the existing form of government to the form of government established by this Charter. The Transition Committee may draft necessary ordinances, rules and regulations, including the Administrative, Fiscal and Personnel Codes in order that they may be adopted on or after the effective date of this Charter.
- B. Membership. The Transition Committee shall include:
 - (1) The current Mayor;
 - (2) One Member of current City Council;
 - (3) Three Members of the Allentown City Government Study Commission, said members to be selected by the Chairperson of the Commission;
- C. Vacancies. Any vacancy on the Transition Committee shall be filled by a majority of the remaining Members of the Transition Committee.
- D. Compensation. The Transition Committee shall serve without compensation but shall be reimbursed for legitimate expenses.

ARTICLE VIII

Allentown Parking Authority

[Adopted 10-17-1984 by Ord. No. 12628 (Article 168 of the 1962 Codified Ordinances)]

§ 12-40. Purpose.

The Parking Authority shall provide efficient and equitable parking services to the public to meet the needs of the growing and changing City of Allentown and promote economic growth particularly in the downtown business area. The purpose and powers of the said Parking Authority shall be as determined in the Parking Authority Law 1947, June 5, P.L. 458, as amended.⁵

§ 12-41. Membership. [Amended 5-21-1986 by Ord. No. 12713]

Prior to the incorporation, the Mayor of the City of Allentown shall appoint five members, all of whom shall be residents of the City, who shall serve on the Board of the Parking Authority of the City of Allentown. The members who are first appointed shall serve for terms of one, two, three, four and five years, respectively. Thereafter, the term of office shall be five years. The members of the Board shall include a member of the Council of the City of Allentown, the Director of Finance or his designee and a representative of the Allentown Economic Development Corporation. The position of any member of the Board appointed because of his capacity as Councilperson, Director of Finance or his designee or Allentown Economic Development Corporation representative who ceases to be so engaged shall automatically be considered vacant. The member of the Council of the City of Allentown and the Director of Finance or his designee shall not serve as the Chairperson of the Allentown Parking Authority.

§ 12-42. Powers.

- A. The Allentown Parking Authority is hereby empowered, subject to the provisions of this article, to exercise all powers necessary or convenient for the administration and enforcement of an efficient system of off-street and on-street parking regulations within the City of Allentown.
- B. In accordance with the general grant of authority contained in the Parking Authority Law, Act of June 5, 1947, P.L. 458, as amended, and § 12-42A of this article, and pursuant to the limitation of the Parking Authority Law that authorities may not engage in the performance of municipal functions except such functions as are delegated to it by municipal ordinance. The Allentown Parking Authority is hereby delegated, subject to the provisions of § 12-43 of this article, the power and right to exercise those municipal functions necessary or convenient for the administration, supervision and enforcement of an efficient system of off-street and on-street parking, including the power and right:
 - (1) To conduct research and maintain data related to off-street and on-street parking programs;
 - (2) To distribute, issue and process parking tickets;
 - (3) To enforce parking regulations by the issuance of parking tickets and by booting, towing and impounding vehicles as provided by law, including the providing for and the establishment of procedures governing the removal and impounding of any vehicle parked on the highways or City property in violation of law;

5. Editor's Note: The Parking Authority Law of 1947 was repealed and replaced by P.L. 287, 2001. See now 53 Pa.C.S.A. § 5501 et seq.

- (4) To collect, on behalf of the City of Allentown, all revenue derived from on-street parking programs, except fines and penalties from contested on-street parking violations, and to pay to the City of Allentown said revenue in excess of:
 - (a) Costs incurred by the Authority for on-street parking programs including the costs of administration, operation (including a reasonable allowance for repair and replacement of equipment), and enforcement.
 - (b) Costs incurred by the Authority for off-street parking programs in excess of revenues derived therefrom; off-street costs shall include administration, operation (including a reasonable allowance for maintenance of facilities and debt service), and enforcement.
- (5) To acquire parking meters and related supplies, and to locate, install and maintain such parking meters;
- (6) To administer a program of residential permit parking as provided by law; and
- (7) To make, from time to time, such regulations as are necessary and convenient for the administration, supervision and enforcement of an efficient system of on-street parking, including the regulation or prohibition of stopping, standing or parking.

§ 12-43. Limitation of powers.

The delegation of authority provided for it in § 12-42B of this article shall not be construed as an authorization to the Authority to undertake any municipal function of the City government unless and until the Mayor, or such other officers of the executive and administrative branch of City government as he shall designate, or as required by law, has reviewed, or caused to be reviewed, and has approved the transfer of any executive or administrative municipal function to the Authority; nor shall said delegation be construed in contravention, limitation or enlargement of any other article of the City of Allentown, relating to the regulation of off-street or on-street parking, unless specifically authorized herein or by ordinances of City Council.

§ 12-44. Community input.

The Authority shall actively consult with residents, civic and business organizations, and institutions on the installation of parking meters and implementation of regulations and residential permit parking within areas where these groups, individuals or institutions would be affected by the contemplating action.

§ 12-45. Annual reports. [Added 6-2-2010 by Ord. No. 14800]

The Allentown Parking Authority shall prepare a written report of the year's activities, a one-year plan and long-term goals and scenarios, to enhance the City's on and off-street parking resources using a template provided by City Council. The report shall be given to the Mayor and shall be presented to Allentown City Council at a public meeting.

ARTICLE III
Police Pension Fund
[Adopted as Article 143 of the 1962 Codified Ordinances]

§ 75-29. Association established. [Amended 4-5-1978 by Ord. No. 12300]

There is hereby created the Allentown Police Pension Fund Association, which shall have charge of the distribution of pensions and service increments to, and payments to widows or widowers and children of, members of the Police Pension Fund, and shall designate the beneficiaries thereof as herein directed.

§ 75-30. Association membership; appointment and term. [Amended 4-26-1972 by Ord. No. 11919; 3-8-2006 by Ord. No. 14377; 10-20-2009 by Ord. No. 14744; 2-15-2023 by Ord. No. 15873]

The Police Pension Fund Association shall consist of:

- A. City officials: the Mayor, the City Finance Director and the City Controller, whose memberships shall be concurrent with their tenure of office.
- B. City residents: four residents of the City which shall consist of:
 - (1) Two members to be chosen by the Mayor, concurrent with the Mayor's tenure of office.
 - (2) One member chosen by Council concurrent with a Council's two-year tenure.
 - (3) One member of whom shall be chosen by the City police, who shall serve for a period of three years or until their successors are named.
- C. Police officers: four persons to be selected from among the police officers of the City, two who shall be selected in each year to serve for the period of two years, such selectees to be chosen by the officers and employees of the Police Bureau who have accepted the provisions of this article as hereinafter provided. In the event that the office of any of the selectees becomes vacant by reason of death, resignation or otherwise, his office shall be filled for its unexpired term by the officers and the employees of the Police Department by special election.

§ 75-31. Association officers. [Amended 3-16-1988 by Ord. No. 12835; 2-15-2023 by Ord. No. 15873]

The Mayor shall be the President, the City Controller the Secretary, and the City Finance Director shall be the Treasurer of the Police Pension Fund Association.

§ 75-32. Fund corpus turn over to corporate trustee. [Amended 4-26-1972 by Ord. No. 11932]

When a corporate trustee shall be appointed as hereinafter provided in § 75-68, the Treasurer is authorized to turn over all cash and investments making up the corpus of the Pension Fund to the corporate trustee.

§ 75-33. Expenses. [Amended 1-5-1971 by Ord. No. 11857]

All incidental expenditures (stationery, postage, miscellaneous supplies, etc.) necessary to the transaction of the business of the Association shall be provided for from the Pension Fund.

§ 75-34. No compensation. [Amended 1-5-1971 by Ord. No. 11857]

The members of the Police Pension Fund Association shall receive no compensation for the services thus performed.

§ 75-35. Fund established. [Amended 1-5-1971 by Ord. No. 11857]

There shall be created by the Association a fund, to be known as the "Police Pension Fund."

§ 75-36. Fund sources of income. [Amended 1-5-1971 by Ord. No. 11857]**A. Bequests, gifts or donations.**

- (1) There shall be paid into the Police Pension Fund all bequests, legacies, gifts or donations made thereto, all sums subscribed by the public, lost, abandoned, unclaimed or stolen money or property in the possession of the Police Bureau for a period of three years, and for which there is no lawful claimant, as well as all net incomes resulting from all games, sports, entertainments, or any and all other source of income conducted by or under the supervision of the Bureau of Police.
- (2) The Police Pension Fund Association may take and receive gifts, grants, devices or bequests of any monies real estate, personal property or other valuable things from whatever source, for the purposes of the Fund.

B. "Contributions by employees. [Amended 1-5-1971 by Ord. No. 11857; 4-5-1978 by Ord. No. 12300; 3-16-1988 by Ord. No. 12835; 4-29-1988 by Ord. No. 12840; 11-14-1989 by Ord. No. 12931; 12-22-1994 by Ord. No. 13312; 6-19-1997 by Ord. No. 13584; 7-21-2005 by Ord. No. 14300; 2-15-2023 by Ord. No. 15873]

- (1) Service increment. There shall also be paid into the Fund the amount of 1/2 of 1%, but not to exceed the sum of \$1 per month, to be retained or deducted by the Finance Department from the salary of each officer or employee in the Bureau of Police, who shall have accepted the provisions of this article, until such officer or employee retired under the provisions of this article or becomes 65 years of age, whichever occurs first.
- (2) Pension funding. Every covered employee, regardless of date of hire, shall pay into the Police Pension Fund the amount of 5% of the covered employee's salary.
- (3) Disability funding. Every covered employee, regardless of date of hire, shall pay into the Police Pension Fund an additional amount of 1% of salary which shall be used to fund disability pension benefits.

C. Council appropriations. There shall be appropriated by the City annually to the Police

6. **Editor's Note: Former Subsection B, regarding rewards, was repealed 2-15-2023 by Ord. No. 15873. This ordinance also redesignated former Subsections C through E as Subsections B through D, respectively.**

Pension Fund Association for the purpose of the Fund such amount as Council may consider proper or expedient within the limitation fixed by law.

D. No benefit increases/actuarial study required. Notwithstanding any other provisions of this article, there shall be no future increases in any benefits of any officers or employees in such Pension Fund, except as already provided, until an actuarial study is made to determine the increased burden of such increased benefits on the Pension Fund and Council shall be obligated to provide for such funds as are necessary to equal such increased burden on the Pension Fund. [Amended 4-20-1977 by Ord. No. 12248]

§ 75-37. Annual actuarial study. [Amended 12-17-1986 by Ord. No. 12748; 3-6-2008 by Ord. No. 14571; 2-15-2023 by Ord. No. 15873]

An actuarial study shall be done every year and made public no later than 90 days prior to the ensuing fiscal year. The cost of the annual actuarial study shall be paid by the Police Pension Fund Association.

§ 75-38. Association powers and meetings. [Amended 4-26-1972 by Ord. No. 11932]

The Police Pension Fund Association herein provided for shall keep full and accurate accounts of all transactions, shall have full power to make rules for such transactions, and shall have full power to make rules for the transaction of its business, the application and investment of its funds by the corporate trustee, and its time and place of meeting. It shall meet at least four times in each year (special meetings upon the call of the President of the Association).

§ 75-39. Annual financial statement. [Amended 4-26-1972 by Ord. No. 11932]

It shall be the duty of the Police Pension Fund Association, each year at the time of making up the general appropriation ordinances, with the assistance of the corporate trustee, to prepare a full and detailed statement of the assets of the Fund and the amount which it is required to pay and to present the same to Council together with a statement of the amount of money required to enable the Association to pay the pensions and service increments in full, together with refunds.

§ 75-40. Resolution and orders by vote. [Amended 1-5-1971 by Ord. No. 11857]

No resolution shall be passed or order made for payment of money unless by affirmative vote of a majority of the members of the Police Pension Fund Association. Upon all questions of fact relating to the Administration of the Fund, such resolution or order shall be conclusive.

§ 75-41. Payment certificates. [Amended 1-5-1971 by Ord. No. 11857]

The Police Pension Fund Association shall issue certificates signed by its President and Secretary to the officer or employee entitled to retirement and pension and also service increment under the provisions of this article, for the amount of money ordered paid to such officer or employee out of the Police Pension Fund, which certificate shall state for what purpose payment is made.

§ 75-42. Ineligibility for nonpayment. [Amended 1-5-1971 by Ord. No. 11857]

No officer or employee shall be entitled to a pension and/or a service increment and/or a refund

who does not make the payments herein required.

§ 75-43. Salary for pension purposes.

- A. Effective January 1, 1997, wherever, "salary" is used in this article to define benefits and pension funding, it shall include base pay, longevity, holiday pay, shift differential, and overtime, but not including any monies received for off-duty employment pursuant to § 5-41 of the Code of the City of Allentown. For pension calculation purposes, overtime shall be the individual officer's average overtime compensation during the last three years of employment prior to the effective date of retirement. Effective January 1, 2005, the basis of the amount of the pension shall be determined by the rate of the monthly pay of the employee at the time of retirement, or the highest average annual salary which the covered employee received during any five years of service preceding retirement, whichever is higher. During the final 30 days of employment, a retiring employee shall not artificially contrive or manipulate his regular or overtime hours so as to increase the rate of pension to which he would otherwise be entitled. When the covered employee submits his/her letter of retirement to the City, the City shall provide the employee with an itemized list of salary for each and all years of service. The definition of "the rate of the monthly payment" contained in this provision shall be a period of 30 calendar days counting backwards from the day of retirement. The salary earned within that thirty-day period shall be counted for the purposes of calculation of pension, including compensatory time earned within the last 30 days of employment. **[Amended 6-19-1997 by Ord. No. 13584; 7-21-2005 by Ord. No. 14300; 2-15-2023 by Ord. No. 15873]**
- B. Effective January 1, 2009, for purposes of calculating the pensions of officers retiring after December 31, 2008, the maximum amount of overtime compensation to be included in such calculation for any retiree opting for a pension based on his/her final 30 days compensation (which shall be based upon the period of 30 calendar days counting backwards from the day of retirement) shall be no greater than 10% of the officer's base compensation for that thirty-day period. By way of example, if an officer's base compensation for that thirty-day period is \$4,000, the maximum allowable overtime credit would be \$400. **[Amended 1-22-2009 by Ord. No. 14680]**

§ 75-44. Retirement period and age. [Amended 1-4-1972 by Ord. No. 11919; 11-14-1989 by Ord. No. 12931; 6-22-2000 by Ord. No. 13846; 2-15-2023 by Ord. No. 15873]

Effective August 23, 1999, every covered employee may make application to retire after 20 years of continuous service and shall be eligible to collect a pension. There is no minimum age for retirement.

§ 75-45. Amount of pension. [Amended 1-5-1971 by Ord. No. 11857; 11-14-1989 by Ord. No. 12931; 12-22-1994 by Ord. No. 13312; 6-22-2000 by Ord. No. 13846]

Effective August 23, 1999, every covered employee who has served for a period of at least 20 years of continuous service, regardless of age, shall be permitted to retire and receive a pension at the rate of 50.5% of his/her salary on the date of retirement.

§ 75-46. (Reserved)⁷

§ 75-47. Service increment computation. [Amended 1-5-1971 by Ord. No. 11857; 11-14-1989 by Ord. No. 12931; 12-22-1994 by Ord. No. 13312; 6-19-1997 by Ord. No. 13584; 7-21-2005 by Ord. No. 14300; 1-22-2009 by Ord. No. 14680; 2-15-2023 by Ord. No. 15873]

A. For officers hired before January 1, 2009, the total of pension and service increments shall represent the following percentages of salary:

- (1) 21 years of service: 58%.
- (2) 22 years of service: 61%.
- (3) 23 years of service: 64%.
- (4) 24 years of service: 67%.
- (5) 25 years of service: 70%.

B. Officers hired on or after January 1, 2009, shall be entitled to a pension calculated in conformity with the provisions of the Pennsylvania Third Class City Code.⁸

§ 75-48. Cost of living adjustment. [Amended 7-21-2005 by Ord. No. 14300]

Effective January 1, 2005, any covered employee retiring after January 1, 2005, shall receive an annual cost of living adjustment. Such increases shall be in conformity with a uniform scale, which may be based on the cost of living, but that the total of any such allowances received by said covered employee, shall not, at any time, exceed 1/2 of the current salary being paid patrolmen/women of the highest bargaining unit pay grade. The cost-of-living adjustment shall conform to the Federal Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

§ 75-49. (Reserved)⁹

§ 75-50. Credit for Police Cadet and/or Para Police service. [Amended 10-18-1995 by Ord. No. 13358]

Every current member of the Police Pension Fund who served as a City of Allentown Police "Cadet" or "Para Police" Officer prior to their appointment as a police officer shall be entitled to have full credit for each year or fraction thereof, not to exceed four years of such service, upon payment to the Police Pension Fund of an amount equal to that which they would have paid had they been a member of the Police Pension Fund during the period of Allentown "Cadet" or "Para Police" service. All purchased Allentown "Cadet" or "Para Police" service shall be credited as "active service" for pension purposes.

§ 75-51. Vesting. [Amended 6-19-1997 by Ord. No. 13584; 6-22-2000 by Ord. No. 13846; 2-15-2023 by Ord. No. 15873]

Every covered employee shall be vested in their prorated pension after 12 years of credited

7. Editor's Note: Former § 75-46, Retirement prior to January 1, 1990, as amended, was repealed 2-15-2023 by Ord. No. 15873.

8. Editor's Note: See 11 Pa.C.S.A. § 10101 et seq.

9. Editor's Note: Former § 75-49, Credit for CETA service, as amended, was repealed 2-15-2023 by Ord. No. 15873.

service. Where an employee shall have served 12 years or more and their tenure of employment shall be terminated with or without their voluntary action, the employee shall be entitled to receive upon the date when they would have achieved 20 years of service, such portion of their full pension compensation, based on their wages when termination occurred, as the period of their full years of service, up to the date of termination, bears to the full twenty-year period of service. Pension benefits shall be payable when the terminated and vested employee shall have reached the date when he/she would have achieved 20 years of service.

§ 75-52. (Reserved)¹⁰

§ 75-53. (Reserved for any future deferred retirement option plans)¹¹

§ 75-54. (Reserved)¹²

§ 75-55. Benefits for surviving spouse or dependent children. [Amended 12-7-1983 by Ord. No. 12580]

A. Death in the line of duty. [Amended 12-22-1994 by Ord. No. 13312; 1-22-2009 by Ord. No. 14680; 2-15-2023 by Ord. No. 15873]

- (1) If any police officer while in the actual performance of his or her duty is killed or so injured that he or she dies from the effects thereof, his or her surviving spouse shall be entitled to receive a pension equivalent to 62.5% of the officer's salary at the time of death or 50 1/2% of such salary and any service increment in effect on that date which the officer may have been entitled to at the time of death, whichever is higher.
- (2) In case there is no surviving spouse, or after the death of the surviving spouse, or in case of the surviving spouse's remarriage, the pension and service increment shall be paid to the guardian of the deceased officer's dependent children, if any, without abatement until the youngest child reaches the age of 18 years, after which all pension and service increment rights shall cease, with the exception that after the last child has reached the age of 18 years, then the surviving spouse who has since remarried, at this time will once again have his or her pension rights as a surviving spouse reinstated for the remainder of his or her life.
- (3) No surviving spouse who has for one year or upwards previous to the death of the police officer, willfully or maliciously deserted the police officer shall have the right to claim any pension or service increment under the provisions of this article.

B. Death of pensioner.

- (1) The surviving spouse of a retired police officer, including current retired police officers retired prior to 1969, shall be entitled to receive the same pension as was paid to the retired police officer. In case there is no surviving spouse, or after the death of the

10. Editor's Note: Former Section 143.18.18, Early retirement option, was repealed 1-22-2009 by Ord. No. 14680, effective 1-1-2009.

11. Editor's Note: Former § 75-53, One-time deferred retirement option plan, as amended, was repealed 2-15-2023 by Ord. No. 15873.

12. Editor's Note: Former § 75-54, Years of employment as basis for service increment, as amended, was repealed 2-15-2023 by Ord. No. 15873.

surviving spouse or in the case of her or his remarriage, the pension shall be paid to the guardian of the deceased officer's dependent children, if any, without abatement until the youngest child reaches the age of 18 years, after which all pension and service increment rights of the guardian shall cease, with the exception that after the last child has reached the age of 18 years, then the surviving spouse who has since remarried, at this time will once again have his or her pension rights as a surviving spouse reinstated for the remainder of his or her life. **[Amended 4-17-1997 by Ord. No. 13570]**

(2) No surviving spouse, who has, for one year or upwards previous to the death of the police officer, willfully or maliciously deserted the police officer, shall have the right to claim any pension or service increment under the provisions of this article.

C. Death after 10 years on police force.

(1) If a member of the police force served more than 10 years, his or her surviving spouse shall be entitled to receive a pension equivalent to 1/2 of the salary received by the officer at the time of death, and any service increment the officer may have been entitled to at the time of death. In case there is no surviving spouse, or after the death of the surviving spouse, or in the case of her or his remarriage, the pension and service increment shall be paid to the guardian of the deceased officer's dependent children, if any, without abatement until the youngest child reaches the age of 18 years, after which all pension and service increment rights of the guardian shall cease, with the exception that after the last child has reached the age of 18 years, then the surviving spouse who has since remarried, at this time will once again have his or her pension rights as a surviving spouse reinstated for the remainder of his or her life.

(2) If such death occurs on or after January 1, 1995, such pension shall be equivalent to 50 1/2% of such salary and any service increment in effect on that date which the officer may have been entitled to at the time of death. **[Amended 12-22-1994 by Ord. No. 13312]**

(3) No surviving spouse who has, for one year or upwards previous to the death of the police officer, willfully or maliciously deserted the police officer, shall have the right to claim any pension or service increment under the provisions of this article.

D. Death before 10 years on police force.

(1) The surviving spouse of a member of the police force which member had 10 or less years of service in the Police Bureau shall be entitled to receive a pension equivalent to 1/2 the pension which the deceased police officer would have received had he or she been retired at the time of his or her death. In case there is no surviving spouse, or in the case of her or his remarriage, the pension shall be paid to the guardian of the deceased police officer's dependent children, if any, without abatement until the youngest child reaches the age of 18 years, after which all pension rights shall cease, with the exception that after the last child has reached the age of 18 years, then the surviving spouse who has since remarried, at this time will once again have his or her pension rights as a surviving spouse reinstated for the remainder of his or her life.

(2) No surviving spouse who has for one year or upwards previous to the death of the police

officer, willfully or maliciously deserted the police officer shall have the right to claim any pension or service increment under the provisions of this article.

- E. Application. The benefits for the surviving spouse or dependent children set forth in Subsections A, C and D hereof shall apply to the surviving spouses of City police officers who died after December 16, 1969. The benefits for the surviving spouse or dependent children of a retired police officer which are set forth in Subsection B hereof shall apply to police officers who retired after December 16, 1969. Effective June 1, 1998, surviving spouses of police officers who retired prior to December 16, 1969, shall prospectively receive a pension equivalent to the pension the deceased officer received. [Amended 4-23-1998 by Ord. No. 13662]
- F. On or after January 1, 1984, all current active employees in the fund, all current retirees in the fund, and all surviving spouses of deceased retirees in the fund who have not remarried since their spouse's death, shall be covered by this amendment that permits the surviving spouse of fund retirees to remarry without the loss of his or her survivor's pension benefits, except as limited in Subsections A, B, C, and D above.

§ 75-56. Credit for military service. [Amended 6-13-1973 by Ord. No. 12016; 11-14-1989 by Ord. No. 12931; 3-5-1998 by Ord. No. 13651]

Every covered employee who served in the Armed Forces of the United States subsequent to September 1, 1940, and who was not a member of the covered Police Department prior to such military service, shall be entitled to have full credit for each year or fraction thereof, not to exceed five years of such service, upon his/her payment to the Police Pension Fund of an amount equal to that which he/she would have paid had he/she been a member during the period for which he/she desires credit, and his/her payment to such fund of an additional amount as the equivalent of the contributions of the City of Allentown on account of such military service. All purchased military time shall be credited as "active service" for pension purchases. Any retired member who retired prior to June 13, 1973, and would otherwise qualify for this credit may purchase such credits to be applied prospectively from the effective date of this article (passed on March 5, 1998, becoming effective April 5, 1998) and according to the Police Pension Fund benefit plan, in effect, at the date such member retired.

§ 75-57. Retirement for disability. [Amended 11-7-1979 by Ord. No. 12388; 4-9-2011 by Ord. No. 14883]

- A. The Police Pension Fund Association shall have the right, on application received, to retire on pension any officer or employee accepting the provisions of this article, if in its opinion and in the opinion of a maximum of two reputable physicians who have been selected by the Association, who shall make a physical examination and file their opinion in writing with the Association (whose fees shall be paid by the Association) that such officer is totally disabled, through injury received or disease contracted in the actual performance of duty and by reason of the performance of such duty and without fault or misconduct on their part, rendering the officer unable to perform his duties in the Bureau of Police. However, the Association shall have the authority to order another examination at the expiration of six months from the date of retirement or thereafter, and if the disability of the pensioner is found to have been removed, the Association shall terminate the pension and they shall be reinstated as an active

member of the Bureau. [Amended 2-15-2023 by Ord. No. 15873]

B. As used in the section, "totally disabled" shall mean permanent mental or physical impairment which renders the police officer unable to perform his duties.

§ 75-58. Reinstatement after disability. [Amended 1-5-1971 by Ord. No. 11857; 4-9-2011 by Ord. No. 14883]

Any officer or employee who is retired under the provisions of § 75-57 on account of physical or mental incapacity may (upon his application) be reinstated by the Association as an active member of the Police Bureau with the same rank and rating which they had upon retirement, if upon satisfactory proof presented to the Association, it shall determine that such incapacity has been removed and the applicant is physically and mentally fit for duty in such position and rank; provided, however, that the applicant shall, if reinstated, file with the Association a release, duly executed and acknowledged, of any right or claim to the pension during the period which they shall serve after such retirement.

§ 75-59. Pension for disability retirement in line of duty. [Amended 10-18-1972 by Ord. No. 11963; 12-22-1994 by Ord. No. 13312; 4-9-2011 by Ord. No. 14883; 2-15-2023 by Ord. No. 15873]

A. Every officer or employee of the Bureau of Police retired under the provisions of § 75-57 shall be deemed to be fully vested in the police pension fund, regardless of the actual number of years of credited service and shall be entitled to a pension of 50.5% of such salary as set forth in § 75-45 herein and any service increment in effect on that date which the officer may have been entitled to as set forth in § 75-47 herein at the time of total disability, which shall be calculated in accordance with § 75-43 herein.

B. The police pension fund shall be subrogated to the right of the claimant to the extent of any payments made under the Act of June 2, 1915 (P.L. 736, No. 338), known as "The Pennsylvania Workers' Compensation Act,"¹³ or the Act of June 28, 1935 (P.L. 477, No. 193), referred to as the "Enforcement Officer Disability Benefits Law."¹⁴

§ 75-60. Pension for disability retirement not in line of duty. [Added 2-15-2023 by Ord. No. 15873¹⁵]

Any police officer who has less than 10 years of service and who is totally disabled due to injuries or mental incapacities not in the line of duty and is unable to perform the duties of a police officer shall be entitled to a pension of 25% of his or her annual compensation. For injuries received after 10 years of service, such pension shall be equivalent to 50% of such salary and any service increment in effect on that date which the officer may have been entitled to at the time of retirement. The disability pension set forth above shall be payable to the police officer's widow or widower if she or he survives. If this surviving spouse subsequently dies or remarries, the pension shall be payable to the police officer's child or children under the age of 18 years.

13. Editor's Note: See 77 P.S. § 1 et seq.

14. Editor's Note: See 53 P.S. §§ 637 and 638.

15. Editor's Note: This ordinance also repealed former § 75-60, Basis of pension amount; increase, as amended.

§ 75-61. Suspension; leave of absence. [Amended 1-5-1971 by Ord. No. 11857]

Suspension from duty, other than as herein described or leave of absence under one year, shall not affect the period of continuous service in any event.

§ 75-62. Acceptance of provisions. [Amended 1-5-1971 by Ord. No. 11857; 2-15-2023 by Ord. No. 15873]

The provisions of this article shall apply to all regular sworn salaried officers of the Bureau of Police excepting the janitor or similar employee, who shall have accepted the provisions of this article, but it shall be optional with each officer and employee as to whether or not he or she accepts the provisions of this article, his or her acceptance to be signified by his or her signing the Police Pension Fund Roll, which shall be kept by the Secretary of the Association, and which Police Pension Fund Roll shall show conclusively the date upon which such member accepted the provisions of this article, as well as the date upon which he or she was appointed a regular salaried officer or employee of the Bureau and that he or she has been in continuous service to the date of his or her acceptance.

§ 75-63. through § 75-64. (Reserved)¹⁶**§ 75-65. Termination of employment; reinstatement. [Amended 1-5-1971 by Ord. No. 11857]**

If for any cause whatsoever, any officer or employee of the Bureau of Police who has accepted the provisions of this article by the signing of the Pension Roll, shall cease to be an officer or employee of the Bureau or for any other reason shall not be entitled to a pension and/or a service increment under the provisions of this article, the total amount of the contribution paid into the Pension Fund by such officer or employee out of his salary shall be refunded to him, without interest. If any such member shall have returned to them the amount contributed, and shall afterward again become a member of the police force, they shall not be entitled to the pension designated until 20 years after their reemployment, unless they shall return to the Pension Fund the amount withdrawn, in which event, the period of 20 years shall be computed from the time the member first became a member of the police force, excluding there from any period of time during which the member was not employed by the police force.

§ 75-66. Payment of contribution of deceased member. [Amended 4-5-1978 by Ord. No. 12300]

In the event of the death of a member of the Police Pension Fund before the member becomes entitled to the pension and/or service increment herein provided, and such member is not survived by a spouse or family entitled to payments as hereinbefore provided, the total amount of contributions paid into the pension fund by the member shall be paid over to the police officer's estate.

§ 75-67. Payment of contribution of deceased pensioner. [Amended 1-5-1971 by Ord. No.

16. Editor's Note: Former § 75-63, Signatures required, as amended, and § 75-64, Notice of enactment; acceptance period, as amended, were repealed 2-15-2023 by Ord. No. 15873.

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In the event of the death of a pensioner, before they shall have received as much as they contributed to the Police Pension Fund, the balance thereof remaining, without interest, shall be paid to their estate.

§ 75-68. Investment account; deposit with corporate trustee. [Amended 4-26-1972 by Ord. No. 11932]

- A. The Police Pension Fund Association is directed to create a Police Pension Fund Investment Account.
- B. Such Account shall be deposited with a corporate trustee who shall be selected or changed by action of the Association with notice to its members and with the advice and consent of Council.

§ 75-69. Authority to invest. [Amended 4-26-1972 by Ord. No. 11932]

The corporate trustee is hereby authorized to invest for the credit of the Police Pension Investment Account the surplus money accumulated in the Pension Fund in excess of such sum as may be fixed by the Association, together with such amounts as may be required for the payment of pensions and service increments as directed by this article during the year.

§ 75-70. Interest; sale of securities. [Amended 4-26-1972 by Ord. No. 11932]

The interest received from investments shall be paid into the Pension Fund upon receipt of same and if at any time sufficient funds are not available (inclusive of the monies appropriated by the City up to the amount it may be permitted to pay under the law) for the payment of all pensions and service increments in full, then corporate trustee may dispose of and sell such securities as it may hold in its Investment Account and use the proceeds thereof to supply the deficiency.

§ 75-71. Control limits of corporate trustee. [Amended 4-26-1972 by Ord. No. 11932]

The corporate trustee shall be bound by this article, the order of the Association and the trust agreement governing the management of the fund.

§ 75-72. All charges borne by Fund. [Amended 9-2-1987 by Ord. No. 12793]

All charges that may be assessed for all normal operations of this Pension Fund shall be borne by this Fund.

§ 75-73. Benefits exempt from garnishment nontransferable. [Amended 1-5-1971 by Ord. No. 11857]

All pensions and service increments granted under the provisions of this article and every portion thereof shall be exempt from attachment or garnishment processes and shall not be seized, taken or subject to detainer or be levied upon by virtue of an execution of any processes or proceedings whatsoever, issued out of or by any court in the commonwealth for the payment and satisfaction in whole or in part of any claim, damage, demand or judgment against any pensioner, and no

pensioner shall have the right to transfer or assign his or her pension or any part thereof either by way of mortgage or otherwise.

§ 75-74. Repealer. [Amended 1-5-1971 by Ord. No. 11857]

Ordinance No. 1890 of the City, enacted March 9, 1926, as amended, and all other ordinances or parts thereof inconsistent herewith be and the same are hereby repealed, except that the foregoing repeal shall not affect any act done, any liability, duty or obligation incurred, or any right accrued or any tenure acquired by virtue of the provisions of Ordinance No. 1890, as amended, for which purpose the ordinance shall remain in full force and effect.

§ 75-75. Service increment effective date. [Amended 1-5-1971 by Ord. No. 11857]

The provisions of this article pertaining to service increments, as provided for by Act No. 596, of the 1951 Pennsylvania Legislature, shall become effective as of January 1, 1952.

§ 75-76. Method of payment. [Amended 10-16-1996 by Ord. No. 13424]

The pensioners shall have the right to choose whether they want payment by check, mailed to them, or direct deposit.

§ 75-77. Minimum pension. [Amended 3-15-2000 by Ord. No. 13821]

Effective on and prospectively from January 1, 2000, every retired officer and employee of the Department of Police, or surviving spouse of a retired officer or employee of the Department of Police, currently receiving a pension inclusive of any ad hoc adjustment payable pursuant to the Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act (53 P.S. § 896.101 et seq.) totaling less than \$10,400 shall receive a minimum pension, inclusive of such ad hoc adjustment of \$10,400.