

**CODIFIED ORDINANCES  
THE CITY OF HARRISBURG  
TITLE TWO - ADMINISTRATIVE CODE**

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**CHAPTER 2-101**

**MAYOR**

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**CROSS REFERENCES**

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Compensation: see Optional Charter Law §607 (53 P.S. §41607)  
Duties: see Optional Charter Law §412 (53 P.S. §41412)  
Election and term: see Optional Charter Law §402 (53 P.S. §41403)  
Judicial authority: see 3rd Class Code §1207 (53 P.S. §36207)  
Preparation of budget: see Optional Charter Law §418 (53 P.S. §41418)  
Qualifications: see 3rd Class Code §1201 (53 P.S. §36201)

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**2-101.1 ASSIGNED PERSONNEL**

One (1) or more administrative assistants as may be necessary from time to time shall be assigned for administrative purposes to the Office of the Mayor. (Ord. 10-1971.)

**2-101.2 ADMINISTRATIVE ASSISTANTS TO THE MAYOR**

Administrative assistants to the Mayor shall be appointed by the Mayor and shall carry out such duties as are assigned by the Mayor. (Ord. 10-1971.)

## **CHAPTER 2-102**

### **MAYOR'S OFFICE OF ECONOMIC DEVELOPMENT**

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### **CROSS REFERENCES**

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#### **2-102.1 LEGISLATIVE PURPOSE AND INTENT**

(a) The Mayor's Office of Economic Development (MOED) is responsible for the development, administration and implementation of the Community Development Block Grant Revolving Loan Program (RLP). The RLP provides low interest financing to firms in the City who will in turn strengthen existing jobs, create new employment opportunities, stabilize or increase the tax base, and increase private investment. Funding for the RLP can be appropriated only by the action of Council. (Ord. 11 1987.)

(b) MOED is responsible for the development, administration and implementation of the Special Projects Revolving Loan Program (SPRLP). The SPRLP provides low interest financing for small business start-up or expansion; small business contracting with Fortune 500 companies or governmental agencies; and fixed asset acquisition (construction). (Ord. 31-1991.)

(c) Repayment of loans, both as principal and interest, and all application and processing fees, shall be returned to a separate RLP or SPRLP account, as appropriate, for use in making additional loans so long as the program remains in effect. (Ord. 11-1987.)

#### **2-102.2 DEFINITIONS**

As used in this chapter, certain terms are defined as follows; some terms may be found in the Glossary:

(a) "COMMERCIAL ENTERPRISE" means any business, other than an industrial or service enterprise, which by its nature or size has created, or offers reasonable likelihood of creating, substantial employment opportunities. The term may include wholesale, retail and other mercantile activities, office buildings (if not in violation of other prohibitions, i.e., no investor/developers), department stores (also if not otherwise in violation) and international, national and regional headquarter facilities.

(b) "CONSTRUCTION" includes the acquisition, erection, extension, renovation, enlargement, or substantial repair of structures utilized in, or related to, eligible business projects. The term does not include cost of demolition or removal of structures.

(c) "ELIGIBLE BUSINESS" means any commercial, industrial or service business locating or expanding in the City.

(d) "ELIGIBLE PROJECT" means activities undertaken by an Eligible Business and conducted pursuant to Subsection (p), "Use of Funds", as well as expense related to inventory and working capital. The latter, however, are not considered as eligible use of funds. In the case of a mixed-use structure, the costs associated with renovation of the residential portion of the structures may be counted as eligible project costs, but RLP funds are limited to costs associated with the business portion of the project.

(e) "FINANCIAL INSTITUTION" means any bank, savings and loan or similar institution, one of whose primary business functions is the making of loans to business enterprises.

(f) "INDUSTRIAL ENTERPRISE" means a business, other than a commercial or service enterprise, which by its nature or size requires substantial capital and which by its nature or size has created or offers a reasonable likelihood of creating substantial employment opportunities. The term may include manufacturing activities and research and development as well as warehouse facilities, distribution facilities, and international, national and regional headquarter facilities.

(g) "INVESTOR/DEVELOPER" means any person engaged in the development of a project to be occupied by a person or persons other than the loan recipient.

(h) "LOAN REVIEW COMMITTEE" or "(LRC)" means the committee of five (5) members appointed by the Mayor and confirmed by City Council, consisting of two (2) representatives of the community and three (3) representatives of the business community. The LRC will reflect the demographic make-up of the community at large. Term of office shall be three (3) years. Terms of office shall be staggered.

(i) "LOW AND MODERATE INCOME PERSON" means a person falling within the low and moderate income guidelines as defined by the U.S. Department of Housing and Urban Development.

(j) "MANUFACTURING ACTIVITY" means the giving of new shapes, new qualities or new combination to matter by the application of skill and labor thereto through the use of equipment or otherwise.

(k) "MINORITY" means any person who is:

(A) African American: all persons having origins in any of the black racial groups of Africa, the West Indies or the Caribbean Basin;

(B) Hispanic American: all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

(C) Asian American: all persons having origins in any of the original peoples of the Far East, Southeast Asia and the Indian Sub-continent;

(D) Native American: all persons having origins in any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition; or

(E) American Aleut: all persons having origins in any of the original peoples of the Pacific Islands.

(l) "MINORITY BUSINESS ENTERPRISE" means a sole proprietorship, partnership, joint venture, corporation, or other entity run and controlled by minorities wherein:

(A) at least fifty-one percent (51%) of the enterprise is owned by minorities;

(B) minority owners share in the risks and profits of the enterprise to the extent of their individual holdings;

(C) control by the minority owners of the enterprise is active and not passive, and such control is not wholly dependent on the consent of majority group members who also have holdings in the enterprise; and

(D) the minority owners provide the primary input into the day-to-day operation of the business.

(m) "OCCUPANT" means any person, partnership or corporation engaged in an industrial, commercial, service, or retail enterprise and determined by the LRC to be financially responsible to assume all obligations prescribed by the LRC (and this chapter) in the lease, sale and operation of an eligible project.

(n) "PERMANENT JOBS" means a position or positions providing not less than twenty-five (25) hours of gainful employment per week for a period of at least three (3) years.

(o) "SERVICE ENTERPRISE" means any enterprise, other than a commercial or industrial enterprise, that provides essential and necessary services to the business and residential community and which by its nature offers reasonable likelihood of creating substantial employment opportunities. The term includes, but is not limited to, legal counsel, engineering, architectural, investment, and counseling services.

(p) "USE OF FUNDS" includes the expense of construction and of acquisition of all structures, land and other property rights and interests in land necessary to the project. The term does not include the expense of demolishing, removing or relocating any buildings or structures on land, machinery and equipment, financing charges, cost of engineering, financial and legal services, plans, specifications, studies, surveys necessary to determining the feasibility of a project, administrative expenses, reserves for interest and for extensions of payment thereof, enlargements, additions and improvements, and other such expenses that may be necessary to the project. Use by investor/ developers is not permitted.

(q) "WOMEN BUSINESS ENTERPRISE" means a sole proprietorship, partnership, joint venture, corporation, or other entity run and controlled by women wherein:

(A) at least fifty-one percent (51%) of the enterprise is owned by women;

(B) women owners share in the risks and profits of the enterprise to the extent of their individual holdings;

(C) the control of the women owners in the enterprise is active and not passive, and such participation is not wholly dependent on the consent of men who also have holdings in the enterprise; and

(D) the women owners provide the primary input into the day-to-day operation of the business.

(Ord. 11-1987.)

### **2-102.3 ELIGIBILITY**

The RLP and SPRLP are available generally to a project which involves the investment of private capital in the fixed assets of a business venture within the City. They are intended to finance projects which would have a positive impact on the City by leveraging a significant amount of private investment and creating new employment opportunities for City residents or strengthening existing jobs. At least fifty-one percent (51%) of all jobs created or retained must be provided to low and moderate income persons who are residents of the City of Harrisburg. Loans are permitted for both job retention as well as job creation. For every three (3) jobs retained, one new job must be created. (Ord. 11-1987.)

### **2-102.4 MINORITY PARTICIPATION**

(a) All development undertaken with proceeds of the RLP or SPRLP must conform to the requirements set forth in the Affirmative Action Cooperation Agreement as amended and readopted. (See Chapter 2-903.)

(b) A minimum goal of twenty percent (20%) of the total dollar volume of RLP loans awarded in any calendar year shall go to qualified minority business enterprises. A minimum of five percent (5%) of the total dollar volume of RLP loans awarded in any calendar year shall go to qualified women-owned business enterprises. (Ord. 11-1987.)

### **2-102.5 APPLICATION PROCESS**

(a) Completion of an application and submission to MOED staff for review. A fifty dollar (\$50.00) application fee must accompany an RLP application; the fee for an SPRLP application is one hundred

dollars (\$100.00). Loan applications will be evaluated by MOED staff prior to submission to the Loan Review Committee. Applications will be considered by the LRC at its regularly scheduled meeting.

(b) Review and consideration of application by MOED and the LRC at a public meeting.

(c) Issuance of a preliminary Approval Letter to the applicant following approval by the LRC.

(d) Execution of a Loan Agreement with required evidentiary materials, following approval by the City Solicitor.

(e) Receipt by MOED of loan funds approximately two (2) weeks following approval of the Solicitor and receipt of approved expenditures. (Ord. 11-1987.)

### **2-102.6 FEES**

(a) The application fee is non-refundable.

(b) A non-refundable Processing Fee of one percent (1%) of the total amount of City financing will be charged by MOED, plus the cost of filing fees with government offices, with a minimum RLP fee of two hundred fifty dollars (\$250.00) and a maximum of one thousand five hundred dollars (\$1,500.00) and a minimum SPRLP fee of one thousand dollars (\$1,000.00) to a maximum of ten thousand dollars (\$10,000.00). The processing fee is payable at the time of settlement. The borrower will also be responsible for all legal fees and expenses of legal counsel for the City incurred during the processing of the loan, as well as any other extraordinary expenses the City may incur which are directly related to the implementation of the loan. The LRC may waive the Processing Fee if, in its sole judgment, the circumstances warrant such action relative to the program objectives. (Ord. 11-1987.)

### **2-102.7 SELECTION CRITERIA**

Applicants will be evaluated individually by the LRC to determine credit-worthiness, project feasibility, the ratio of new, permanent jobs to be created per dollar borrowed, the number of City residents to be hired as a result of the project, the retention of jobs for low or moderate income individuals, the ability of the project to leverage private investment and tax revenues, and other benefits generated. All applications will be reviewed on a first-come first-served basis. All official notifications, approvals, rejections, and other communications to the applicant will come from the LRC. (Ord. 11-1987.)

### **2-102.8 FINANCING SPECIFICATIONS AND REQUIREMENTS**

(a) The amount of any RLP loan made for a project cannot exceed ten thousand dollars (\$10,000.00) per single permanent job created or retained in the City within three (3) years of the date of the loan; within one (1) year of the date of the loan, at least fifty percent (50%) of the permanent jobs to be created or retained must be in existence with the remainder to be in existence at the end of the three (3) year period. In no case will the RLP provide more than forty percent (40%) of the financing for an eligible project.

(b) A minimum of five percent (5%) of the project cost, in real assets (either cash or property), is required for all RLP loans. The investment itself, however, can be made in either program eligible expenditures or in working capital.

(c) Firm commitments for participatory funding of the investment proposal, both debt and equity, other than the program loan funds requested, must be in place at the time a program loan application is submitted. All loan applications must include the participation of a conventional lender except where the applicant is:

(1) able to obtain required additional financing through non-governmental programs;

(2) able to raise the required financial participation through equity financing; or

- (3) able to obtain a mortgage from the owner of the building or a note from an equipment supplier who is not a party in the development entity.
- (d) Part of the application must include a statement demonstrating the need for assistance through the program.
- (e) The term of the loan for projects under this program is dependent upon the nature of the items financed:
- (A) machinery and equipment
    - (i) RLP: no longer than five (5) years;
    - (ii) SPRLP: no longer than seven (7) years;
  - (B) building and renovation
    - (i) RLP: no longer than (10) years;
    - (ii) SPRLP: no longer than eighteen months;
  - (C) real estate (SPRLP only): 20 years. The exact term, which may be less than the term applicable above, will be determined by the LRC based upon a case-by-case analysis of the proposed use of the program funds.
- (f) The applicant shall enter into a collateral security agreement with the City, which shall be the secured party therein, which agreement shall note the execution and delivery of a Judgment Note to the City evidencing the indebtedness of the applicant to the City. The agreement shall be in such form as approved by the City Solicitor and shall include, but not be limited to:
- (A) a security interest in all inventory, equipment, fixtures, receivables, additions, improvements, and substitutions;
  - (B) provisions for the protection of collateral by prohibition of transfer or encumbrance without the written consent of the City and the maintenance of insurance coverage satisfactory to the City;
  - (C) indicia of default by the borrower; and
  - (D) the rights and remedies of the City upon default by the applicant/borrower.
- (g) The applicant/borrower shall also execute and deliver to the City a suretyship guaranty agreement in such form as approved by the City Solicitor.
- (h) Security statements, liens, or other similar documents will be filed by the City to fully secure any and all loans.
- (i) Interest rate
    - (A) RLP: for the first five (5) years one-half (1/2) of the New York Prime Rate, with a four percent (4%) minimum interest rate as of the date of approval by the LRC. Loans with terms in excess of five (5) years shall be renegotiated at the end of the five year period but shall not be less than one-half (1/2) the New York Prime Rate or higher than the same (Ord. 11-1987.);
    - (B) SPRLP: 80% of the New York Prime Rate. (Ord. 31-1991.)
  - (j) Maximum loan amount per project
    - (A) RLP: one hundred thousand dollars (\$100,000.00) (Ord. 11-1987.);
    - (B) SPRLP: two hundred fifty thousand dollars (\$250,000.00) (Ord. 31-1991.).
- This maximum shall apply to a specific project regardless of whether the financing is done in one or more stages. (Ord. 11-1987.)

## **2-102.9 POWERS OF LOAN REVIEW COMMITTEE**

- (a) Subject to the RLP guidelines, the LRC has the power to:
  - (A) create the Committee by-laws and operations procedures;
  - (B) elect a chairman and other officers, if necessary;
  - (C) determine application periods;

- (D) set loan review criteria;
  - (E) approve or reject loan applications;
  - (F) notify all applicants of the actions of the committee; and
  - (G) other powers as may from time to time become necessary.
- (b) The decisions of the LRC are final. No appeal may be taken.
- (c) Only the LRC will announce program availability and program application deadlines, and applications for the program will only be accepted during such announced periods. Applications submitted in other than authorized periods will be returned to the applicant for resubmitting at the appropriate time. (Ord. 11-1987)

## **2-102.10 EFFECT OF NONCOMPLIANCE WITH PROGRAM REQUIREMENTS**

The LRC will adopt guidelines for action in cases of noncompliance with these requirements by the borrower. In such cases, the interest rate on the loan awarded shall be recalculated at the New York Prime Rate from the date of the loan or from the date of discovery of the noncompliance, whichever is later. The guidelines adopted by the Loan Review Committee will further explain this program element. (Ord. 11-1987)

## **2-102.11 REPORTING REQUIREMENTS OF LOAN REVIEW COMMITTEE**

The LRC will submit to City Council an annual report on program status. Such report shall include a review of loans made during the reporting period as well as payment progress on loans made in prior reporting periods. (Ord. 11-1987.)

## **CHAPTER 2-103**

### **CITY CONTROLLER**

Section 2-103.1 Duties

Section 2-103.2 Monthly Reports

Section 2-103.3 Bond

Section 2-103.4 Staff and Budget Control

### **CROSS REFERENCES**

Appropriations and transfers: see Section 2-703.4

Auditing accounts: see 3rd Class Code §1704 (53 P.S. §36704)

Bond: see 3rd Class Code §1702 (53 P.S. §36702)

Budget operation: see Section 2-703.3

Compensation: see Optional Charter Law §607(c) (53 P.S. §41607(c))

Control function: see Optional Charter Law §420 (53 P.S. §41420)

Deputy Controller: see 3rd Class Code §§1708, 1709 (53 P.S. §§36708, 36709)

Election and term: see Optional Charter Law §403 (53 P.S. §41403)

Qualifications: see 3rd Class Code §1701 (53 P.S. §36701)

Vacancy in office: see Optional Charter Law §406(b) (53 P.S. §41406(b))

Violation in office: see Optional Charter Law §601 et seq., 53 P.S. §41601 et seq.

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### **2-103.1 DUTIES**

(a) The City Controller shall administer an encumbrance system of budget operation and shall also be responsible for a pre-audit of all claims and demands against the City prior to payment, which in all instances shall be accompanied by written requisition from the appropriate department or City office and



the Department of Administration, and for such other duties as are provided by law, including but not limited to the right to examine at any time any and all bids, proposals, contracts, or other documents relating in any manner to the receipt or disbursement of funds of the City.

(b) The City Controller shall sign all warrants for disbursement of City funds. (Ord. 10-1971.)

### **2-103.2 MONTHLY REPORTS**

Within thirty (30) days after the end of each month, the City Controller shall submit to the Mayor and Council a report of expenditures in relation to the budget. (Ord. 10-1971.)

### **2-103.3 BOND**

The City Controller shall give bond to the City as required by general law in the amount of twenty-five thousand dollars (\$25,000.00). (Ord. 10-1971.)

### **2-103.4 STAFF AND BUDGET CONTROL**

Provision shall be made in the budget for adequate staff to enable the Controller to perform the duties assigned to that office. Personnel shall be assigned to the Controller by the Department of Administration, subject to the Controller's approval and exclusive direction and control and subject to the general personnel policies of the City administered by the Department of Administration; provided, however, that, except to the extent that personnel policies and compensation for such employees are subject to a collective bargaining agreement, the Controller, within the appropriations made to that office in the budget, may fix and determine the compensation to be paid to employees assigned to the Controller's office, and such determination shall not be subject to the approval of any other official. (Ord. 8-1974.)

## **CHAPTER 2-105 CITY TREASURER**

Section 2-105.1 Duties

Section 2-105.2 Disbursement

Section 2-105.3 Bond and Insurance

Section 2-105.4 Staff and Budget Control

Section 2-105.5 UDAG Loan Repayment Account

Section 2-105.6 Investment Policy

Section 2-105.7 Pennsylvania Local Government Investment Trust (PLGIT)

Section 2-105.8 State Treasurer's Instrument Program

Section 2-105.9 Section 108 Loan Proceeds

Section 2-105.99 Penalty

### **CROSS REFERENCES**

Act 72 of 1971: Act of August 6, 1971, P.L. 281 (72 P.S. §3836-1 et seq.)

Assistants and employees: see 3rd Class Code §1408 (53 P.S. §36408)

Bonds and insurance of Treasurer: see 3rd Class Code §1402 (53 P.S. §36402)

Compensation: see Optional Charter Law §606(c) (53 P.S. §41606 et seq.)

Deposits of public money: see 3rd Class Code §1406 (53 P.S. §36406)

Election and term: see Optional Charter Law §403 (53 P.S. §41403)

Handling money transactions: see 3rd Class Code §1403 et seq. (53 P.S. §36403 et seq.)

Powers and duties: see Optional Charter Law §415(a) (53 P.S. §41415(a))

Qualifications of Treasurer: see 3rd Class Code §1401 (53 P.S. §36401)  
Vacancy in office: see Optional Charter Law §406(b) (53 P.S. §41406(b))  
Violation in office: see Optional Charter Law §601 et seq., (53 P.S. §41601 et seq.)

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### **2-105.1 DUTIES**

The City Treasurer shall carry out such duties and exercise such powers with respect to the receipt and disbursement of public monies as are provided by general law and, in addition, shall receive for deposit from the departments of the City Government all City monies collected by such departments. (Ord. 10-1971.)

### **2-105.2 DISBURSEMENT**

The City Treasurer shall disburse City funds only in accordance with warrants presented to him therefore, signed by the Controller and countersigned by the Treasurer. Checks or drafts drawn by the City Treasurer disbursing City funds shall be valid only when countersigned by the City Controller. (Ord. 10-1971.)

### **2-105.3 BOND AND INSURANCE**

The City Treasurer shall furnish such fidelity bond and insurance as is required by general law. The fidelity bond shall be in the amount of five hundred thousand dollars (\$500,000.00), or the Treasurer shall be included in the blanket bond covering all City officers and employees. The Treasurer shall furnish insurance protection in the amount of fifty thousand dollars (\$50,000.00) against the loss of funds through fire, burglary, larceny, theft, robbery, or forgery. (Ord. 10-1971.)

### **2-105.4 STAFF AND BUDGET CONTROL**

Provision shall be made in the budget for adequate staff to enable the Treasurer to perform the duties assigned to the office. Personnel shall be assigned to the City Treasurer by the Department of Administration, subject to the Treasurer's approval and exclusive direction and control and subject to the general personnel policies of the City administered by the Department of Administration; provided, however, that except to the extent that personnel policies and compensation for such employees are subject to a collective bargaining agreement, the Treasurer, within the appropriations made to that office in the budget, may fix and determine the compensation to be paid to employees assigned to the office, and such determination shall not be subject to the approval of any other official. (Ord. 8-1974.)

### **2-105.5 UDAG LOAN REPAYMENT ACCOUNT**

There is hereby created in the City an escrow account which shall be known as the Urban Development Action Grant (UDAG) Loan Repayment Account for the deposit of the repayments of UDAG Loans. The funds deposited in this account shall bear interest and be insured by an agency of the United States Government. Such funds shall be spent for eligible activities approved by the United States Department of Housing and Urban Development; provided, however, that no funds shall be paid, expended, transferred or otherwise removed from said escrow account except upon appropriation by the City Council. (Ord. 17-1984.)

### **2-105.6 INVESTMENT POLICY**

(a) The City Treasurer shall deposit all City funds in a bank or other federally regulated financial institution (the "Depository") with offices within the limits of the City. Such depository relationship

shall be by written contract between the City and the institution approved by the Office of the City Solicitor, and that institution shall confirm that all City funds are protected as provided in Act 72 of 1971.

(b) The City Treasurer is granted authority to purchase United States Treasury Bills and Notes at a purchase price discount of their mature market value. Such Bills or Notes shall be purchased at a discount so that interest is realized upon maturity and/or sale of said Bills and Notes. Such Bills or Notes will be delivered to the designated Department of the City Depository, or any other federally regulated bank or financial institution with which the City maintains a custodial agreement for these purposes, as provided in Act 72 of 1971 (the "Custodian"). The City reserves the right to dispose of such Bills or Notes at its discretion. Should physical possession in a custodial account of these documents be unavailable due to current United States Treasury regulations, ledger entries indicating the possession of the securities shall be made to an account specifically registered in the name of the City of Harrisburg. No disposition of this account will be allowed without specific authorization of the City Treasurer.

(c) The City Treasurer is granted authority to purchase short-term obligations of the United States Government, its agencies or instrumentalities. These obligations shall be purchased at a discount of market value, thus to insure a specified interest rate and maturity date. Physical possession in a restricted account in the name of the City of Harrisburg is required where applicable.

(d) The City Treasurer is granted authority to deposit funds in savings accounts and time deposit accounts in federally regulated commercial banking or savings and loan institutions, provided the institution is covered by FDIC/FSLIC insurance. All deposits in excess of the insurable limits will be secured by acceptable collateral as specified in Act 72 of 1971. A written contract requiring the collateralization of deposits in excess of the federally insured limits is required.

(e) The City Treasurer is granted authority to purchase Certificates of Deposit of bank and trust companies and savings and loan associations, provided the Certificates of Deposit are insured by FDIC/FSLIC insurance. An amount purchased in excess of the insurable limits will be secured by acceptable collateral as specified by Act 72 of 1971. All Certificate of Deposit transactions will be conducted with the institution issuing said certificate. Certificate of Deposit brokerage firm transactions are not permitted. All institutions proposed for Certificate of Deposit transactions must provide financial statements to the City for its review prior to purchase of any Certificates of Deposit with that institution.

(f) The City Treasurer is granted authority to purchase General Obligation Bonds of the Commonwealth of Pennsylvania or any other State or any Pennsylvania subdivision, agency and instrumentality, so long as these investments are backed by the full faith and credit of the issuing entity and have the highest rating of a recognized bond rating agency, such as Moody's or Standard and Poor's. In every case, possession of the physical securities will be taken by the Custodian referred to in Subsection 2-105.6(b). These securities will be placed in a restricted account in the name of the City of Harrisburg, and the City Treasurer shall reserve the right to dispose of these obligations at any time.

(g) The City Treasurer is granted authority to make a simultaneous contract to purchase and later sell government securities, including securities of federal agencies and instrumentalities, provided such transaction involves the actual purchase of such securities and is not merely a contract with a third party. These simultaneous transactions are referred to as "Repurchase Agreements" or "Repos". Repurchase agreements of government securities will be conducted with primary dealers of United States Government Securities who report their daily activity to the Federal Reserve Bank of New York. Repurchase Agreements can also be conducted with commercial banks with assets in excess of one billion dollars (\$1,000,000,000.00). All Repurchase Agreement transactions shall be of a short-term nature, no more than thirty (30) days. If a Repurchase Agreement transaction exists over the end of any given month, re-evaluation of collateral requirements will be examined by the Office of the City

Treasurer and/or the Custodian. The value of all collateral contained within any Repurchase Agreement transaction must equal at least one hundred five percent (105%) of the purchase price. All collateral must be delivered to the Custodian. All agreements for Repurchase/Agreement transactions shall specify "Payment for securities upon delivery."

(h) The City Treasurer is granted authority to purchase shares of registered investment companies, such as mutual or money market funds, whose portfolios consist solely of government securities acceptable in previous provisions of this chapter. In no way shall approval for purchase be granted if said portfolio contains any securities not covered by this chapter or approved for collateral as specified in Act 72 of 1971.

(i) The City Treasurer is granted authority to participate in investing with pooled funds of public agencies of the Commonwealth, provided said fund administration conforms to all provisions of Act 72 of 1971 and the Intergovernmental Cooperation Law, Act of July 12, 1972, P.L. 762, as amended, 53 P.S. §§481-490 as the same may be amended. All "pooled" investment agreements must be approved by the City Council prior to any fund pooling. The Pennsylvania Local Government Investment Trust (PLGIT) is an example of an approved pooled fund.

(j) The following special provisions and/or requirements are to be included in all investment activities specified in this chapter:

(1) The City reserves the right to dispose of the securities (the actual documents delivered to the Custodian, if applicable) as it sees fit at any time for any reason.

(2) Any authorized City Depository may secure City deposits by pledging assets on a pooled basis pursuant to Act 72 of 1971. It shall be the responsibility of any Depository which utilizes the pooled basis to comply completely with the provisions of the Act.

(3) The City will allow substitution of collateral securities held by the Custodian so long as devaluation of the collateral does not occur and all requirements of Act 72 of 1971 with regard to collateral substitution are met by the Custodian.

(4) The City reserves the right to reject any securities held for purpose of collateralization for any reason. The Custodian must immediately substitute acceptable securities at the City's request. This applies to individual investment transactions as well as pooled asset collateralization.

(5) A signed custodial agreement with an authorized Custodian is required for the conduct of City related investment activity and any custodial agreement will include the following:

(A) a signed contractual agreement between the City and the institution specifying the responsibilities of each. This contract shall be signed by the City Solicitor, the Mayor, **City Controller**, City Treasurer and the authorized representative of the financial institution;

(B) the payment of a reasonable fee by the City for services included in any custodial agreement; based upon a request for proposal solicited from all available financial institutions offering custodial agreement services. These proposals shall be evaluated based on current need and flexibility by the Office of the City Treasurer. Selection of the Custodian shall be the sole responsibility of the City Treasurer;

(C) any financial institution proposed as Custodian does not have to be the authorized City Depository;

(D) the custodial agreement specifies that the City will take delivery of all United States securities either invested in or used as collateral, where applicable. The only exception to this rule is securities currently transacted as only ledger entries, i.e., Treasury Bills and Notes;

(E) all collateral is to be maintained in an account specifically restricted for the City of Harrisburg only. No agency or individual shall have the right to violate this account and conduct any transactions without express written consent of the City Treasurer;

(F) except in unusual circumstances, no obligations of the Government National Mortgage Association will be held by the City as collateral during the first week of any month, since these securities are subject to significant devaluation of collateral;

(G) notwithstanding any of the above, the City Treasurer may be further limited in deposits and investments by the terms of any document by which funds are entrusted to his care. (Ord. 36-1985.)

## **2-105.7 PENNSYLVANIA LOCAL GOVERNMENT INVESTMENT TRUST (PLGIT)**

(a) This City shall become a settler of the Pennsylvania Local Government Investment Trust, entering into the Declaration of Trust by incorporating such Declaration of Trust by reference. A copy of the Declaration of Trust shall be filed with the minutes of the meeting at which this section was adopted and shall be open to inspection by any interested person.

(b) The Mayor, the City Treasurer, the **City Controller** and the Director of the Bureau of Finance are hereby authorized from time to time to purchase shares of the Trust from City funds and to redeem such shares as, from time to time, funds are required for municipal purposes, all such actions to be in the discretion of such officers.

(c) The trustees of the Trust are hereby designated as having official custody of this City's funds which are invested therein by the purchase of shares.

(d) The following matters are specifically found and determined:

(1) The conditions of the agreement are set forth in the Declaration of Trust presented to this meeting and filed with the minutes hereof.

(2) This City's participation in the Declaration of Trust shall be terminable at any time by ordinance.

(3) The Declaration of Trust and the purchase of the shares are for the purpose of investing this City's fund in obligations which are otherwise legal for this City's investments as part of a pooled arrangement with other governmental units, thereby achieving economic and other advantages of pooled investments.

(4) It is not necessary to finance the agreement authorized herein except through the purchase of shares from City's funds.

(5) The Trust shall be managed by a Board of Trustees as set forth in the Declaration of Trust and the bylaws provided for therein.

(6) Shares may be purchased and redeemed as the City may from time to time determine to be necessary or appropriate to meet its cash needs. (Ord. 17-1981.)

## **2-105.8 STATE TREASURER'S INVESTMENT PROGRAM**

(a) This City shall join with other local governments in accordance with the Intergovernmental Cooperation Law by becoming a member in the State Treasurer's Investment Program for Local Governments ("INVEST") for the purpose of purchasing and redeeming shares of INVEST ("INVEST Shares") and by entering into an Intergovernmental Cooperation Agreement with State Treasurer (the "Agreement"), upon such terms and conditions as are more fully set forth in the Agreement, a signed copy of which shall be filed with the minutes of the meeting at which this ordinance was adopted.

(b) The duration of the Agreement shall be for a period of three (3) years with automatic renewal of one (1) year periods.

(c) The purpose of the Agreement is to permit the State Treasurer to invest the funds of this City with the objectives of safety of principal, liquidity and high yield, consistent with sound investment strategy.

(d) The Agreement will not be financed, except for the purchase of INVEST shares, in quantities determined by the City Treasurer in accordance with existing investment practices contained in Section 2-105.6.

(e) The State Treasurer shall serve as the investment manager under the terms of the Agreement.

(f) This City is permitted to purchase and redeem shares that in turn are pooled with other local government shares to acquire and sell certain investment securities at a rate of one dollar (\$1.00) per share.

(g) The City Treasurer or designee shall be authorized to make deposits and withdrawals, establish accounts and perform such other duties as are necessary or appropriate for participation as an INVEST member. (Ord. 23-1993.)

### **2-105.9 SECTION 108 LOAN PROCEEDS**

The City Treasurer shall not authorize the disbursement of Section 108 Loan proceeds unless a development entity, in addition to the Harrisburg Redevelopment Authority, has signed promissory notes and other documents as may be required to guarantee the repayment of the loan in a manner which has been approved by City Council and unless the principal of said loan does not exceed the amount authorized by Council. (Ord. 20-1986.)

### **CHAPTER 2-106 PROPERTY INSURANCE**

Section 2-106.1 Fire Legal Liability and Casualty Insurance

Section 2-106.2 Escrow of Fire Insurance Proceeds When Fire Damage Exceeds \$7,500.00

Section 2-106.3 Properties in Which Fire Damage is Sixty Percent (60%) or More of Policy Coverages

Section 2-106.4 Procedure When More Than One Insured

Section 2-106.5 Miscellaneous

Section 2-106.99 Penalty

### **CROSS REFERENCES**

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#### **2-106.1 FIRE LEGAL LIABILITY AND CASUALTY INSURANCE**

(a) In order to protect the health, safety and welfare of the residents of the City, it is hereby declared to be the policy of the City to require casualty and fire legal liability insurance for all landlords letting property in the City.

(b) All landlords owning property in the City shall be required to obtain a minimum of fifty thousand dollars (\$50,000.00) in fire legal liability insurance and casualty insurance in an amount sufficient to either restore or remove the building. Further, in the event of any fire or loss covered by such insurance, it shall be the obligation of the property owner to use such insurance proceeds to cause the restoration or demolition or other repair of the property, adhering to applicable housing or building code provisions.

(c) Said landlords shall be required to place their insurance company name, policy number and policy expiration date on their City real estate tax remittances or, in the alternative, to provide the City with a copy of their actual casualty and fire legal liability insurance policies. (Ord. 22-1990.)

#### **2-106.2 ESCROW OF FIRE INSURANCE PROCEEDS WHEN FIRE DAMAGE EXCEEDS \$7,500.00**

- (a) When the fire loss to any property in the City is more than seven thousand five hundred dollars (\$7,500.00), no insurance company, association or exchange ("Insurer") shall pay a claim of an Insured for fire damage to a building or other structure located within the City ("structure"), unless said Insurer is provided with a Municipal Certificate from the City Treasurer and unless there is compliance with all of the procedures and provisions of this chapter.
- (b) The request shall be made in writing by the named Insured to the City Treasurer and shall specify the tax number of the property, the name and address of the Insurer(s), the total amount of insurance on the property, the date of the fire, and documented proof of the date the loss was reported to the Insurer(s).
- (c) The City Treasurer shall respond to such request within fourteen (14) days.
- (d) The Municipal Certificate shall state whether all City taxes, liens, utilities, assessments, penalties, user charges, and other costs have been paid for the property.
- (e) If delinquent sums are due, the City Treasurer shall attach a municipal bill to the Certificate, indicating what sums are due, including all City taxes, liens, utilities, assessments, penalties, and user charges as well as all costs incurred by the City for the removal, repair or securing of the structure. An unpaid tax or charge is deemed delinquent at the time a lien could have been filed by the City. For all municipal utilities, a lien can be filed at the time the utilities are provided.
- (f) The Municipal Certificate shall bear the signatures of the Director of the Bureau of Codes Administration, the Director of the Bureau of Operations & Revenue, the City Solicitor, and the City Treasurer.
- (g) No Insurer shall pay any fire claim to the Insured until all sums listed on the Municipal Certificate have been paid in full.
- (h) The City Treasurer shall have no duty to supply the Municipal Certificate until the property owner requests said Certificate. (Ord. 1-1995.)

### **2-106.3 PROPERTIES IN WHICH FIRE DAMAGE IS SIXTY PERCENT (60%) OR MORE OF POLICY COVERAGES**

- (a) If fire damage to a property is sixty percent (60%) or more of policy coverage, the Insurer shall pay the City two thousand dollars (\$2,000.00) for every fifteen thousand dollars (\$15,000.00) of the claim.
- (b) The City Treasurer shall place said sums into an Escrow Account established for this purpose and shall be entitled to retain said funds until such time as the insured repairs or removes the fire-damaged structure or until such time as alternative arrangements are made between the City and the insured.
- (c) If the Insured does not repair or remove or otherwise make alternative arrangements with the City, the City shall, after giving reasonable notice and an opportunity for response, repair or remove said structure. If the City has to correct the damage, the costs to the City are to be deducted from the fund, and any remaining principal amounts are to be applied first to any delinquent taxes, liens, delinquent utilities, assessments, penalties, and user charges due and owing to the City, and the remainder of the principal amounts may be returned to the Insured. If any principal amount remains, then the Insured shall also be entitled to accrued interest, if any. If no principal amount remains after all taxes, liens, delinquent utilities, assessments, penalties, costs, and user charges are paid, then the City shall be entitled to retain any accrued interest.
- (d) If the City has not incurred any costs for the repair, removal or securing of the structure and all taxes, liens, delinquent utilities, assessments, penalties, costs, and user charges have been paid, the amounts that have been transferred to the City by the Insurer shall be paid over to the Insured when the City Treasurer receives confirmation from the Codes Administrator that repair, removal or securing of the structure has been completed.
- (e) Nothing in this section shall be construed to limit the ability of the City to recover any deficiency.

(f) Nothing in this section shall be construed to prohibit the City and the Insured from entering into an agreement that permits the transfer of funds to the Insured after some other reasonable disposition of the damaged property has been negotiated. (Ord. 1-1995.)

#### **2-106.4 PROCEDURE WHEN MORE THAN ONE INSURED**

- (a) If a property is insured by more than one policy, the transfer of proceeds to the City Treasurer shall be on a pro rata basis by all Insurers insuring the structure.
- (b) Policy proceeds remaining after the assessment of delinquencies and costs, if any, shall be allocated on a pro rata basis among all Insurers insuring the structure and shall be disbursed in accordance with instruction from the Insurers. (Ord. 1-1995.)

#### **2-106.5 MISCELLANEOUS**

- (a) It shall be the duty of the Insurer to provide the City with the name and mailing address of the Insured, if the request for a Certificate is made by an Insurer on behalf of the Insured.
- (b) The City shall notify the Insured, in writing, when appropriate proceeds have been received by the City and that the procedures of this chapter shall be followed in order for the proceeds to be disbursed to the Insured.
- (c) The City Clerk shall file with the Department of Community affairs a certified copy of this chapter upon its effectiveness and identify for said department the municipal official designated by the Mayor as responsible for compliance with this chapter.
- (d) No report shall be released by the Bureau of Fire unless the Insured has requested from the City Treasurer a municipal certificate if required by Section 2-106.2 of this chapter. (Ord. 1-1995.)

#### **2-106.99 PENALTY**

Any person who violates the provisions of this chapter shall be subject to the General Code Penalty, Section 1-301.99, of these Codified Ordinances.

### **CODIFIED ORDINANCES THE CITY OF HARRISBURG**

#### **TITLE TWO - ADMINISTRATIVE CODE**

#### **PART THREE 2-300 ADMINISTRATIVE OFFICES**

Chapter 2-301 General Provisions

Chapter 2-303 City Solicitor

Chapter 2-305 City Engineer

Chapter 2-307 Department of Administration

Chapter 2-309 Department of Public Safety

Chapter 2-311 Department of Public Works

Chapter 2-313 Department of Building and Housing Development

Chapter 2-315 Department of Parks and Recreation

Chapter 2-317 Department of Incineration and Steam Generation

#### **CHAPTER 2-301**

#### **GENERAL PROVISIONS**

Section 2-301.1 Departmental Organization

Section 2-301.2 Administrative Assignment of Boards, Commissions and Authorities

Section 2-301.3 Appointment Procedures

Section 2-301.4 Appointee Removal and Vacancy



Section 2-301.5 Department Heads; Appointment and Duties; Acting Heads  
Section 2-301.6 Rules and Regulations  
Section 2-301.7 Abolition of Department of Accounts and Finances; Assignment of Council's Administrative Functions  
Section 2-301.8 Administrative Fees  
Section 2-301.9 Sale of Personal Property  
Section 2-301.10 Sale of Real Property  
Section 2-301.11 Exceptions  
Section 2-301.12 Expert Testimony  
Section 2-301.13 Identification of City-Owned Vehicles  
Section 2-301.14 Grant Applications  
Section 2-301.15 City Government Center

### **CROSS REFERENCES**

Annual Reports of departments: see Optional Charter Law §412 (53 P.S. §41412)  
Board of Health: see Chapter 6-101  
Board of Plumbing: see Chapter 8-105  
Building and Housing Code Board of Appeals: see Chapter 8-505  
Investigation of departments by Council: see Optional Charter Law §409 (53 P.S. §41409)  
License and Tax Appeal Board: see Chapter 5-103  
Number of departments: see Optional Charter Law §415(b) (53 P.S. §41415(b))  
Organization, term: see Optional Charter Law §415(c) (53 P.S. §41415(c))  
Planning Commission: see Chapter 7-101  
Removal of department directors: see Optional Charter Law §415(d) (53 P.S. §41415(d))  
Requests for appropriations: see Optional Charter Law §417 (53 P.S. §41417)  
Violations in office: see Optional Charter Law §601 et seq. (53 P.S. §41601 et seq.)  
Zoning Hearing Board: see Chapter 7-305

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### **2-301.1 DEPARTMENTAL ORGANIZATION**

The administrative functions, powers and duties of the City are hereby assigned to and allocated among the following departments and bureaus:

- (a) General Government:
  - (1) Office of City Council
  - (2) Office of the Mayor
  - (3) Office of the City Controller
  - (4) Office of the City Treasurer
  - (5) Office of the City Solicitor
  - (6) Harrisburg Human Relations Commission
  - (7) Mayor's Office of Economic Development
- (b) Department of Administration:
  - (1) Office of the Business Administrator
  - (2) Office of Insurance and Risk Management
  - (3) Bureau of Financial Management
  - (4) Bureau of Data Processing
  - (5) Bureau of Human Resources
  - (6) Bureau of Operations and Revenue

- (c) Department of Building and Housing Development:
  - (1) Office of the Director
  - (2) Bureau of Planning
  - (3) Bureau of Codes Enforcement
  - (4) Bureau of Housing
- (d) Department of Public Safety:
  - (1) Bureau of Police
    - (A) Office of the Police Chief
    - (B) Police Administration
    - (C) Police Uniformed Patrol
    - (D) Technical Services
    - (E) Criminal Investigation
    - (F) Parking Enforcement
  - (2) Bureau of Fire
- (e) Department of Public Works:
  - (1) Office of the Director
  - (2) Bureau of City Services
  - (3) Bureau of Engineering
  - (4) Bureau of Vehicle Management
  - (5) Bureau of Building Maintenance
  - (6) HydroElectric Project
- (f) Department of Parks and Recreation:
  - (1) Office of the Director
  - (2) Bureau of Recreation
  - (3) Bureau of Parks Maintenance
- (g) Department of Incineration and Steam Generation. (Ord. 9-1996.)

**2-301.2 ADMINISTRATIVE ASSIGNMENT OF BOARDS, COMMISSIONS AND AUTHORITIES**

For administrative purposes the following boards, commissions and authorities are hereby assigned to the departments indicated:

- (1) Office of the Mayor:
  - (A) Harrisburg Parking Authority
  - (B) Youth Commission
- (2) Department of Administration:
  - (A) Civil service boards and commissions
  - (B) License and Tax Appeal Board
  - (C) Harrisburg Leasing Authority
- (3) Department of Building and Housing Development:
  - (A) Housing Authority
  - (B) Redevelopment Authority
  - (C) Zoning Hearing Board
  - (D) Planning Commission
  - (E) Plumbing Board
  - (F) Electrical Code Advisory and Licensing Board
  - (G) Building and Housing Code Board of Appeals

- (H) Historical Architectural Review Board
  - (I) Property Reinvestment Board
- 2-35
- (4) Department of Public Works:  
(A) The Harrisburg Authority (Ord. 9-1996.)

### **2-301.3 APPOINTMENT PROCEDURES**

Where the appointment of members to boards, commissions and authorities is vested in the City by statute or ordinance, such members shall be appointed by the Mayor with the advice and consent of Council, subject, however, to all provisions of applicable state, federal or local laws, ordinances or regulations. (Ord. 10-1971.)

### **2-301.4 APPOINTEE REMOVAL AND VACANCY**

Except as otherwise provided by law, in any case where appointment to any board, commission or authority is made by the Mayor with the advice and consent of Council, the appointee may be removed at the pleasure of the Mayor and the vacancy thus created filled for the balance of the unexpired term, subject, however, to all provisions of applicable state, federal or local laws, ordinances or regulations. (Ord. 10-1971.)

### **2-301.5 DEPARTMENT HEADS; APPOINTMENT AND DUTIES; ACTING HEADS**

- (a) Department head appointments shall be based solely upon executive and administrative qualifications appropriate to the duties of each department. All appointments submitted by the Mayor to Council for approval must be acted upon by Council, if the Mayor so requests, at its next stated meeting occurring at least seven (7) days after such appointment. If Council fails to act upon such appointment at its next stated meeting, the appointment shall be deemed to be approved.
- (b) In addition to the duties prescribed in general law, each director of a department shall, under direction of the Mayor:
  - (A) prescribe and modify as required with the Mayor's approval the internal organization of the department and the functions, powers and duties of subordinate officers and employees within the department;
  - (B) direct the performance of all duties and responsibilities required of the department or its subordinate agencies by state law, this Administrative Code, and other City ordinances and such other lawful duties as may be required by the Mayor;
  - (C) delegate to division and bureau chiefs such powers as may be deemed necessary for efficient administration;
  - (D) report at least annually to the Mayor and Council in the form approved by them on the work of the department for the prescribed year;
  - (E) keep informed of advances in the particular field and institute in the department those practices deemed in the best interest of the City; and
  - (F) establish and supervise such in-service training programs as deemed desirable or necessary for the improvement of services and personnel in cooperation with and under the direction of the Department of Administration. (Ord. 10-1971.)
- (c) The Mayor may appoint an acting department head for a time period not to exceed one-hundred twenty (120) days unless the appointment of such acting department head has been subject to the advice

and consent of Council. No individual may serve as an acting department head for more than one-hundred twenty (120) days during a Mayor's term of office. (Ord. 29-1982.)

### **2-301.6 RULES AND REGULATIONS**

(a) No rule or regulation made by any department, office, agency or authority of the City, except such as relates to the organization or internal management of the City, shall take effect until it has been approved by the Mayor. Council shall receive all such rules and regulations which shall be filed with the City Clerk.

(b) All such rules and regulations shall be published by posting in the Office of the City Clerk for twenty (20) days and in whatever other manner Council deems desirable.

(c) The City Clerk shall keep a current record of all rules and regulations filed. (Ord. 10-1971.)

### **2-301.7 ABOLITION OF DEPARTMENT OF ACCOUNTS AND FINANCES; ASSIGNMENT OF COUNCIL'S ADMINISTRATIVE DUTIES**

Whenever, in any statute of the Commonwealth of Pennsylvania or resolution or ordinance of the City, there is a reference to the Department of Accounts and Finance or to the Director of the Department of Accounts and Finance, the reference shall be construed to mean the Department of Administration or the Business Administrator. Any references to Council or any other board, body or office shall be construed to mean such body, officer or office to which the respective functions, powers or duties are assigned by this Administrative Code. (Ord. 10-1971.)

### **2-301.8 ADMINISTRATIVE FEES**

No fees levied by any department of the City may be increased or established without the approval of Council by ordinance or, if appropriate, resolution. (Ord. 28-1991.)

### **2-301.9 SALE OF PERSONAL PROPERTY**

(a) No City personal property shall be disposed of, by sale or otherwise, except upon approval of Council by ordinance or resolution.

(b) In cases where Council approves a sale of City personal property, it shall estimate the value of the entire lot to be disposed of.

(1) If Council estimates such value to be less than five hundred dollars (\$500.00), it shall require a notice of the proposed sale to be posted for at least ten (10) days on the bulletin board in the City Government Center. Such notice shall describe and itemize the property to be sold and direct that bids may be made thereon at the Office of the Purchasing Director. Thereafter, the

Purchasing Director may sell such property, in whole or in part, for the best price or prices obtainable.

(2) If Council estimates the value to be five hundred dollars (\$500.00) or more, the entire lot shall be advertised for sale once in accordance with the provisions of Section 109 of the Third Class City Code, and sale of the property advertised shall be made to the most responsible bidder.

(3) The bids shall not be opened until at least ten (10) days after the advertisement.

(4) The City may sell any such property at auction, but the notice provisions contained in this section shall be likewise observed as to the holding of such auction sale.

(5) The provisions of this section shall not be mandatory where City personal property is to be traded in or exchanged for new City personal property. (Ord. 36-1979.)

(c) Notwithstanding the provisions of Subsection (b) in the case of City Surplus vehicles, the City shall place an annual ad designating Mason-Dixon Auto Auction or another selected Agent as the auction service for the City's surplus vehicles. Then throughout the year the Director of the Bureau of Vehicle

Management will submit short lists of surplus vehicles to Council. Council in turn may pass resolutions authorizing those vehicles to be taken to auction. (Ord. 15-1996.)

### **2-301.10 SALE OF REAL PROPERTY**

(a) No City real property shall be disposed of by sale or otherwise except upon approval of Council by ordinance or resolution.

(b) If the Director of the Department of Building and Housing Development (DBHD) and the City Controller certify that the real property has a value of less than four thousand dollars (\$4,000.00), the sale of said property may be accomplished by any of several means:

(1) At the direction of the Mayor or upon written request of a prospective purchaser, the Director of the DBHD shall initiate the sale of City-owned real property and shall establish a minimum price for the real property, which price shall include the administrative and legal costs attendant with the transfer of title of the parcel and any other cost of conditions of sale necessary to protect the City's interest.

(2) The Director of DBHD shall advertise the property for sale in a daily newspaper on two (2) separate occasions, which advertisement shall set forth the minimum price, any conditions of sale and the deadline for the submission of sealed bids to be delivered to an identified City official and location of same. When a condition of sale is that the property may only be used as an accessory residential use, then the minimum price shall equal the administrative and legal costs attendant with the transfer of the property. (Ord. 33-1986.)

(3) No City real property shall be disposed of by sale or otherwise without posting the property as being for sale and without notifying adjoining property owners of the potential sale. Notification to adjoining property owners shall be by certified mail and shall set forth the minimum price and conditions of the sale. (Ord. 19-1987.)

(4) The Director of DBHD shall review the bids received and make a recommendation to the Mayor and City Council as to a proposed purchaser. City Council shall act upon the recommendation by resolution within forty-five (45) days of its submission by the Director; however, failure to act within such time period shall not cause the recommendation to be deemed approved.

(c) If the property has a reasonable market value of more than four thousand dollars (\$4,000.00):

(1) A marketing plan for the individual property shall be formulated by the Director of DBHD, whose plan shall include a recommended minimum sales price based upon administrative and legal costs, an independent appraisal, other conditions of sale which might be appropriate, the manner of marketing, i.e., the use of advertisements, signs, real estate brokers, etc., and the proposed time frame for the marketing plan.

(2) Prior to the initiation of the marketing process, the marketing plan shall be approved by resolution of City Council within twenty (20) days of its submission, or the same shall be deemed approved.

(3) Upon approval of the marketing plan, the Director of DBHD shall implement said plan. At the conclusion of the marketing process, the DBHD Director shall make a recommendation to the Mayor and City Council on the disposition of the property.

(4) Council shall approve or disapprove the recommendation by resolution within forty-five (45) days of its submission by the Director; however, failure to act within such time shall not cause the recommendation to be deemed approved. (Ord. 33-1986.)

(d) If the Director of the DBHD purchases residential real estate from the U.S. Department of Housing and Urban Development with the intent of resale, the Director may initiate resale of the HUD acquired property through use of a licensed real estate agent, who will market and sell the real estate for residential purposes only, without the need for instituting a marketing plan and obtaining the approval of City Council. (Ord. 36-1992.)

(e) The Mayor may recommend to City Council from time to time the transfer of real property to The Harrisburg Authority the Harrisburg Redevelopment Authority, the Parking Authority, the Broad Street Market Authority, the Harrisburg Housing Authority, or other governmental agency, educational institution, or non-profit corporation, without instituting a marketing plan. Said transfer shall be approved by resolution of City Council. (Ord. 33-1986.)

### **2-301.11 EXCEPTIONS**

The sale of electricity for non-residential use shall be subject to approval of Council by ordinance or resolution. Such sale shall not be subject to the same valuation requirements as other personal property. Contracts for the sale of electricity produced by the City may be effected through private negotiation. (Ord. 45-1986.)

### **2-301.12 EXPERT TESTIMONY**

(a) No employee of the City of Harrisburg may provide expert testimony in any civil matter in which the City is not a party if the matter giving rise to the litigation occurred within the City and the employee's knowledge of the facts giving rise to the litigation resulted from his or her job-related duties.  
(b) A City employee may provide expert testimony in civil matters arising outside the City limits so long as said employee performed no job-related duties with regard thereto and so long as said employee does so during non-work hours or during appropriate leave authorized by his or her supervisor in advance. (Ord. 35-1993.)

### **2-301.13 IDENTIFICATION OF CITY-OWNED VEHICLES**

All vehicles owned by the City of Harrisburg shall be permanently marked in an easily visible location with the words "CITY OF HARRISBURG - FOR OFFICIAL USE ONLY." Exceptions to this rule shall be marked vehicles of the Police and Fire Bureaus and certain vehicles to be utilized by the Police as unmarked vehicles for concealment purposes. The Director of the Department of Public Works shall insure that this identification of City-owned vehicles shall be accomplished within thirty (30) days of the effective date of this ordinance. (Ord. 8-1982.)

### **2-301.14 GRANT APPLICATIONS**

Any and all applications for grants, submitted by the Mayor or any Department to any Federal, State, municipal or non-profit governmental or corporate agency, must be approved by Resolution of Council prior to submission to such agency. (Ord. 27-1980.)

### **2-301.15 CITY GOVERNMENT CENTER**

The official name of the city government center located in the Third Ward of the City shall be the Rev. Dr. Martin L. King, Jr., City Government Center. (Ord. 11-1986.)

## **CHAPTER 2-303 CITY SOLICITOR**

Section 2-303.1 Appointment

Section 2-303.2 Duties

Section 2-303.3 Assistants

## **CROSS REFERENCES**

Appointment: see Optional Charter Law §410(b) (53 P.S. §41410(b))

Assistant Solicitor: see 3rd Class Code §1609 (53 P.S. §36609)

Bond: see Chapter 2-703

Direction of legal matters: see 3rd Class Code §1602 (53 P.S. §36602)

Duties: see 3rd Class Code §1603 (53 P.S. §36603)

Procedure regarding claims: see 3rd Class Code §1606 et seq. (53 P.S. §36606 et seq.)

Retention of special counsel: see 3rd Class Code §1610 (53 P.S. §36610)

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### **2-303.1 APPOINTMENT**

The City Solicitor shall be appointed by the Mayor with the advice and consent of Council. (Ord. 10-1971.)

### **2-303.2 DUTIES**

The City Solicitor shall have such duties and responsibilities as are set forth in general law. (Ord. 10-1971.)

### **2-303.3 ASSISTANTS**

One (1) or more assistant city solicitors may be appointed by the Mayor with the advice and consent of Council. (Ord. 10-1971.)

## **CHAPTER 2-305**

### **CITY ENGINEER; REAL ESTATE REGISTRY**

Section 2-305.1 Qualifications, Appointment and Duties

Section 2-305.2 Real Estate Registry Established

Section 2-305.3 Official Records

Section 2-305.4 Duty to Register

Section 2-305.5 Properties Transferred by Judicial Sale

Section 2-305.99 Penalty

### **CROSS REFERENCES**

Council to provide for Register: see 3rd Class Code §1515 (53 P.S. §36515)

Duties of realty owners: see 3rd Class Code §1519 (53 P.S. §36519)

Property sold at Judicial Sale: see 3rd Class Code §1520 (53 P.S. §36520)

Preservation of records: see 3rd Class Code §1517 (53 P.S. §36517)

Real Estate Transfer Tax: see Chapter 5-505

Bond: see Chapter 2-703

Real Estate Registry required: see 3rd Class Code §§1515-1521

State law provisions: see 3rd Class Code §1501 et seq. (53 P.S. §36501 et seq.)

Street improvements: see Chapter 9-101

Subdivision regulations: see Chapter 7-350

Water extension assessments: see Chapter 9-703

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### **2-305.1 QUALIFICATIONS, APPOINTMENT AND DUTIES**

The City Engineer, who shall be a registered civil engineer, shall be appointed by the Mayor and shall be the Chief of the Bureau of Engineering in the Department of Public Works. He shall perform the duties of the City Engineer as provided by law and such other duties as may be delegated to him by the Mayor or the Director of the Department of Public Works. (Ord. 10-1971.)

### **2-305.2 REAL ESTATE REGISTRY ESTABLISHED**

For the purpose of procuring accurate information in reference to the ownership of all real estate within the City, a registry thereof shall be made and kept as provided in this chapter. (Ord. 29-1918.)

### **2-305.3 OFFICIAL RECORDS**

(a) The City Engineer shall cause to be made all such necessary books, maps and plans as will show the situation and dimensions of each property in the City, which books, maps or plans shall be prepared so as to show the City number and the owner of each lot, with provision for the names of future owners and dates of future transfer of title.

(b) The books, maps and plans shall be carefully preserved by the City Engineer, and shall be so kept, by additions from time to time or otherwise, as to show the ownership of every lot or piece of real estate or subdivision thereof within the City limits, with the successive transmissions of title from the date of the commencement of such plans. Certified copies, under the hand of the City Engineer, or any of the entries in such books or upon such maps or plans, may be furnished to any person desiring the same, for the fee as established and set by the City. (Ord. 29-1918.)

### **2-305.4 DUTY TO REGISTER**

It shall be the duty of all owners of unregistered real estate within the City limits, within one month from the date of the approval of Ordinance 29 passed February 12, 1918, and of every subsequent purchaser, devisee, or person acquiring title by partition or otherwise to any real estate therein, within one month after acquiring such title, to furnish to the City Engineer descriptions of their respective properties, upon blanks to be furnished by the City, and at the same time to present their conveyances to be stamped by the City Engineer without charge as evidence of the registry thereof. For the purpose of this chapter, "Purchaser" shall include the buyer in an agreement of sale as well as a grantee of a deed. The information to be recorded shall include, but is not limited to:

- (A) the date of birth of each purchaser of the real estate; and
- (B) the complete name, without the use of initials, of the buyer and/or grantee; and
- (C) certification that a water meter recording service to the property is in place and in working order; and
- (D) a water meter reading that is not more than thirty (30) days old. (Ord. 29-1993.)

### **2-305.5 PROPERTIES TRANSFERRED BY JUDICIAL SALE**

The Sheriff of Dauphin County shall present for registry the deeds of all properties within the City limits sold by him at Upset or Judicial Sale, whether in partition or otherwise. The Prothonotary and Recorder of Deeds of Dauphin County shall not admit for record any deed for any City property bearing a date subsequent to the approval of Ordinance 29, passed February 12, 1918, unless such deed has been duly stamped as herein directed as proof of registry. (Ord. 29-1918.)

### **2-305.99 PENALTY**

Any person who violates the provisions of this chapter shall be subject to the General Code Penalty, Section 1-301.99, of these Codified Ordinances.

## **CHAPTER 2-307**

### **DEPARTMENT OF ADMINISTRATION**

Section 2-307.1 Fiscal and Administrative Duties

Section 2-307.2 Budget Composition; Capital Improvement Program Procedure



Section 2-307.3 Budget Administration  
Section 2-307.4 Appropriations and Expenditure Procedures  
Section 2-307.5 Contracts  
Section 2-307.6 Non-Responsible Vendors  
Section 2-307.7 Personnel  
Section 2-307.8 Reproduction Fees  
Section 2-307.9 Payment of Undisputed Bills

### **CROSS REFERENCES**

Administrative organization: see Section 2-301.2  
Appointment and removal of employees: see Optional Charter Law §415(e) (53 P.S. §41415(e))  
Assignment for administrative purposes: see Section 2-301.3  
Compensation of Directors: see Optional Charter Law §607(c) (53 P.S. §41607(c))  
Department heads: see Optional Charter Law §415(c) (53 P.S. §41415(c))  
Director as Acting Mayor: see Optional Charter Law §414 (53 P.S. §41414)  
Duties of department: see Optional Charter Law §416 (53 P.S. §41416)  
Duties of Directors: see Section 2-301.6  
Establishment, number and functions of departments: see  
Optional Charter Law §415(b) (53 P.S. §41415(b))  
Investigation by Council: see Optional Charter Law §409 (53 P.S. §41409)  
License and Tax Appeals Board: see Chapter 5-103  
Preparation of City Budget: see Optional Charter Law §416, 417 (53 P.S. §41416, 41417)  
Qualifications and duties of Business Administrator: see  
Optional Charter Law §416 (53 P.S. §41416)  
Reports submitted to Mayor: see Optional Charter Law §412 (53 P.S. §41412)

Rules and regulations: see Optional Charter Law §510 (53 P.S. §41610)  
Violations in office: see Optional Charter Law §601 et seq. (53 P.S. §41601 et seq.)

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### **2-307.1 FISCAL AND ADMINISTRATIVE DUTIES**

The Department of Administration, under the Business Administrator, shall perform the fiscal and administrative service functions for the City and its departments, including the establishment of a uniform accounting system for the City, and shall coordinate City departments, boards, commissions, and other agencies to cause a concerted effort of all of the City's activities with a view toward the conservation of time and money and application of available resources to the needs and conditions of the City. (Ord. 10-1971.)

### **2-307.2 BUDGET COMPOSITION; CAPITAL IMPROVEMENT PROGRAM PROCEDURE**

(a) The City budget shall consist of the following:  
(A) General Fund;  
(B) Special Revenue Funds:  
(i) State Liquid Fuels Tax Fund;  
(ii) Community Development Block Grant Fund;  
(C) Debt Service Fund;  
(D) Utility Funds:  
(i) Water Utility Fund;

- (ii) Sewer Utility Fund;
- (iii) Incinerator Utility Fund;
- (iv) Sanitation Utility Fund.(Ord. 9-1996.)

(b) On or before April 1st of each year, the Bureau of Planning, after consultation with the directors and heads of all City departments and offices, shall submit a proposed five (5) year capital improvement program to the City Planning Commission for its study and recommendations. On or before June 1st of each year, after receipt of the report of the Planning Commission, the Mayor shall submit the program to Council, incorporating any of the recommendations of the Planning Commission which the Mayor deems advisable. The program submitted may be modified by the affirmative vote of five (5) members of Council. Passage of the five (5) year capital improvement program shall be subject to annual revision. (Ord. 10-1971.)

### **2-307.3 BUDGET ADMINISTRATION**

(a) The Business Administrator shall supervise the preparation and administration of each annual budget.

(b) Immediately after the budget has been enacted and after consultation with the heads of the departments, the Business Administrator shall establish quarterly or such other periodic allotments of appropriations to each department as he or she may deem necessary.

(1) At the beginning of each allotment period, the amount specified shall become available to each department for obligation during that period.

(2) Such allotments for any department may be modified, upon request of the head of the department, by the Business Administrator or by direction of the Mayor.

(3) The Business Administrator shall file with the Controller a copy of each allotment and modification thereof.

(4) An encumbrance system of accounts to control all expenditures within the limits of budget appropriations and to control such allotments shall be maintained by the City Controller.

(5) If at any time during the budget year the Business Administrator shall ascertain the probability of a cash deficit, he or she shall reconsider the work programs and allotments of the several offices, departments and agencies. Upon such reconsideration, and with the approval of the Mayor, the Business Administrator shall revise the allotments so as to forestall, so far as possible, the making of commitments and expenditures in excess of the revenue to be realized during the fiscal year. (Ord. 10-1971.)

### **2-307.4 APPROPRIATION AND EXPENDITURE PROCEDURES**

(a) No debt shall be created by any department of the City, except in pursuance of previous authority of law or ordinance. No monies shall be paid out of the City Treasury except upon appropriation previously made by Council, unless otherwise provided by law or ordinance and upon written remittance sheet or request pursuant to such appropriation, which request shall explicitly state the purpose for which the money is to be drawn.

(1) Any such request, together with a copy of the bill or other documentation, will be delivered to the City Controller who shall ascertain whether the expenditure is within the appropriation made by Council. If the Controller finds that the expenditure is within the appropriation, he or she shall approve the same and forward such request, together with a copy of the bill or other documentation, to the Department of Administration, which shall prepare a warrant therefore and return the same to the City

Controller for signature. The Controller shall then send the warrant to the City Treasurer for his or her signature. The Treasurer shall return the warrant to the Department of Administration for issuance to the payee thereof. No warrant shall be payable without the signature of the Controller, countersigned by the Treasurer.

(2) If the Controller finds the expenditure exceeds the appropriation, the request shall be returned to the Department of Administration together with an explanation thereof. No work shall be hired to be done, no materials purchased, no contracts made, and no order issued for the payment of any monies in any amount which will cause the sums appropriated to specific purposes to be exceeded.

In every case in which an appropriation shall be exhausted but the object of which is not completed, the Business Administrator shall immediately report the fact to the Council and accompany such report with a statement of the monies which have been drawn on such appropriation and the particular purpose for which they were drawn. Council may make supplemental appropriations for any lawful purpose from funds on hand, or estimated to be received within the fiscal year, not appropriated to any other purposes.

(3) Council shall have the power to authorize the transfer of any unexpended balance of any appropriation, or any portion thereof, but such action shall be taken only on the recommendation of the Business Administrator. Expenditures from amounts budgeted for contingencies shall be made upon the express approval of Council. For the purpose of this ordinance, the word "appropriation" shall refer to that amount set forth in the budget ordinance for the year in question which is the most restrictive amount budgeted in the most restrictive category set forth in said budget ordinance, regardless of whether said amount is categorized as "Bureau", "Office", "Division", "Commission", or, in the case of appropriations from funds other than the general operating fund, any other designation. (Ord. 46-1979.)

(b) Prior to the authorization of any individual budgetary transfer exceeding twenty thousand dollars (\$20,000.00) within the most restrictive category set forth in said budget ordinance, or any budgetary transfer from any Personnel Services allocation, the Business Administrator shall be required to obtain the approval of City Council. The permitted twenty thousand dollar (\$20,000.00) transfer is a cumulative maximum for the budget year in any category. (Ord. 28-1983.)

(c) No money shall be loaned, removed or transferred from one City fund account to another City fund account without prior approval of the Council by ordinance or resolution; provided, however, that the City Treasurer may continue to invest and reinvest the City's funds in a fiscally sound manner by combining funds from the several accounts of the City when deemed to be in the best interest of the City. (Ord. 28-1984.)

(d) The Business Administrator shall issue a report to the Mayor, City Council, City Controller, and the City Treasurer no later than forty-five (45) days after June 30th. Said report shall include actual receipts and expenditures, including encumbrances, of the various budget funds for the preceding six (6) month period ended June 30th as well as projections to yearend of all receipts and expenditures, including encumbrances. (Ord. 29-1990.)

## **2-307.5 CONTRACTS**

(a) Contract administration for the City, heretofore vested in Council, shall be vested in the Mayor and Department of Administration, to be exercised in accordance with the procedures adopted by the Mayor. The exception shall be the award of no-bid contracts for professional services. Due to the sensitive and

controversial nature of these contracts, coordination with and approval by the City Council is required. (Ord. 1-1985.)

(b) The Business Administrator shall file or cause to be filed monthly with the City Clerk a list by department of each duly executed purchase order identifying the vendor, the product or service purchased and the amount of each purchase order. (Ord. 31-1993.)

### **2-307.6 NON-RESPONSIBLE VENDORS**

(a) Prior to issuing any purchase order or causing any contract to be executed, the Business Administrator shall cause the records of the City to be reviewed to determine whether or not the individual or entity to whom the purchase order or contract is to be issued, or the principals of any business in whose name the purchase order is to be issued, owe delinquent taxes or municipal claims to the City individually, jointly, or as the principal(s) of any entity. As provided under General Municipal Law, 53 P.S. §7231, the municipal claims need not have been filed as liens in the Office of the Prothonotary of Dauphin County and shall include all penalties, interest, and costs due on such delinquent taxes and municipal claims.

(b) Any person or principal of any company who is found to owe the City delinquent taxes or municipal claims shall be deemed "non-responsible," and no purchase order shall be issued in favor of such person or business entity.

(c) If a purchase order is issued or contract executed notwithstanding the requirements of this ordinance, the appropriate officials of the City are directed to set off the City's claim in the manner provided for in Article IV of Chapter 25 of the General Municipal Law, 53 P.S. §7231-7235, as amended. (Ord. 31-1993.)

### **2-307.7 PERSONNEL**

Personnel administration for the City, heretofore vested in Council, shall be vested in the Mayor and Department of Administration, to be executed in accordance with procedures adopted by the Mayor; provided, however, that only positions authorized and listed in the budget are eligible to be paid. The Controller shall be authorized to execute paychecks only for positions which are authorized and listed in the current year's budget. (Ord. 47-1983.)

### **2-307.8 REPRODUCTION FEES**

The Business Administrator shall establish a schedule of fees to be paid by the general public for reproduction services and shall establish rules and regulations relative thereto. For the purposes of this section, reproduction requests shall include photocopying, microfilm reproduction, maps, pamphlets, and related documents and materials. (Ord. 42-1982.)

### **2-307.9 PAYMENT OF UNDISPUTED BILLS**

(a) The Business Administrator is herein directed to satisfy and discharge all undisputed bills presented for payment by city creditors within ninety (90) days of receipt thereof.

(b) Should the Business Administrator anticipate that a particular bill shall not be paid within the mandatory ninety (90) day period, the Business Administrator shall document such non-payment and forward said documentation to the City Council, City Controller and City Solicitor. (Ord. 9-1980.)

## **CHAPTER 2-309**

### **DEPARTMENT OF PUBLIC SAFETY - BUREAU OF POLICE**

Section 2-309.1 Police Chief; Appointment

Section 2-309.2 Organization

#### **CROSS REFERENCES**

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#### **2-309.1 POLICE CHIEF; APPOINTMENT**

The Bureau of Police shall be under the supervision and direction of a Chief of Police who shall be appointed by the Mayor. (Ord. 1-1960.)

#### **2-309.2 ORGANIZATION**

Within the Bureau of Police, there shall be established such other divisions and offices as may from time to time be created by ordinance or designated by the Mayor to perform particular functions. (Ord. 1-1960.)

## **CHAPTER 2-310**

### **DEPARTMENT OF PUBLIC SAFETY - BUREAU OF FIRE**

Section 2-310.1 Assistant Chief

Section 2-310.2 Fire Marshal; Creation, Appointment and Duties

Section 2-310.3 Fire Prevention Inspector

Section 2-310.4 Service of Orders

Section 2-310.5 Appeal

Section 2-310.6 Right of Entry

Section 2-310.7 Additional Remedy

Section 2-310.8 Master Mechanic

Section 2-310.9 Volunteers

#### **CROSS REFERENCES**

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#### **2-310.1 ASSISTANT CHIEF**

The Assistant Chiefs in the Bureau of Fire shall aid and assist the Chief of the Bureau of Fire in the supervision, direction and control of all firefighters within the Bureau of Fire and any volunteer firefighters acting in concert with them. It shall be the duty of the Assistant Chief having the greatest seniority within that office to act as Chief of the Bureau of Fire during the absence or inability of the Chief to act and, during such absence or inability, the Assistant Chief shall exercise all the rights and powers of the Chief. (Ord. 72-1967.)

#### **2-310.2 FIRE MARSHAL; CREATION, APPOINTMENT AND DUTIES**

(a) Pursuant to the provisions of the Act of June 23, 1931, P.L. 932 as amended, 53 P.S. §37104, there is hereby created and established the position of Fire Marshal in and for the City of Harrisburg.

(b) The Fire Marshal shall be appointed biannually by the Mayor, with the approval and consent of Council.

(c) The Fire Marshal need not be a member of the uniformed firefighting service of the City, but the office of Fire Marshal is hereby assigned, for administrative purposes, to the Department of Public

Safety and the Bureau of Fire. The Fire Marshal shall be responsible to and perform such duties as may be assigned by the Mayor and the Fire Chief. (Ord. 30-1971.)

### **2-310.3 FIRE PREVENTION INSPECTOR**

In the interest of public safety and security from fire, the Fire Prevention Inspector, who shall be so designated by the Director of the Department of Public Safety, shall have full power and authority:

(A) to enforce by order all laws, ordinances, rules, and regulations relating to the manufacture, sale, storage, or transportation of flammable or explosive substances; and

(B) at any and all reasonable times, to enter upon and into any building or premises within the City for the purposes of examining and inspecting the same to ascertain the condition thereof with regard to the presence, arrangement or location of all appliances, materials, substances, goods, wares, or merchandise therein to determine whether or not a fire hazard exists. (Ord. 131-1950/1951.)

### **2-310.4 SERVICE OF ORDERS**

The service of the orders of the Fire Prevention Inspector shall be made upon the owner, lessee or occupant, or agent of any of them, of the building or premises affected. Such service shall be accomplished either by delivering to and leaving with such individual or any person in charge of the building or premises a copy of the order or, in case such person is not found, by posting a copy thereof in a conspicuous place on the premises. The owner, lessee, occupant, person in charge, or agent of any of any such building or premises in violation must comply with such order or orders within twenty-four (24) hours after service, unless an appeal is taken as provided hereinafter. (Ord. 131-1950/1951.)

### **2-310.5 APPEAL**

Any person aggrieved by such order may, within twenty-four (24) hours after the order has been served, appeal to the Fire Chief or appointed designee. The Fire Chief or appointed designee shall thereupon issue such order as may be deemed right and reasonable and fix the time within which the same shall be complied with. (Ord. 131-1950/1951.)

### **2-310.6 RIGHT OF ENTRY**

In addition to the any other remedy, the Fire Prevention Inspector, together with workmen, may enter at any time any building or premises in the City for the purpose of eliminating a fire hazard. The costs and expenses of the elimination of fire hazards shall be recoverable from the owner or owners of such buildings or premises from which the hazards shall be eliminated, or from any person or persons causing or maintaining the building or premises in the same manner as fines and penalties for violation of an ordinance. (Ord. 131-1950/1951.)

### **2-310.7 ADDITIONAL REMEDY**

Where the Fire Prevention Inspector finds the existence of a fire hazard detrimental to life or health which has not been corrected within twenty-four (24) hours after written notice, the Fire Prevention Inspector shall report such condition to the Board of Health of the City of Harrisburg which shall take such action as deemed necessary. This procedure shall be additional to any other remedy granted in this chapter. (Ord. 131-1950/1951.)

### **2-310.8 MASTER MECHANIC**

(a) The Fire Chief, having the direction and control of the Bureau, may appoint a Master Mechanic and one (1) or more Assistants. The Master Mechanic shall be charged with the responsibility for maintenance and repair of all motor or power equipment used by the Bureau of Fire. Master Mechanic assistants shall assist the Master Mechanic in his or her duties.

(b) Appointments to the offices of Master Mechanic and Assistant Master Mechanic shall be made by the Mayor from a list of three (3) eligible applicants certified by the Civil Service Commission. (Ord. 130-1968.)

### **2-310.9 VOLUNTEERS**

No aged, infirm, or any member of a volunteer fire company who may be physically unfit to undertake the exacting and 2-57

exhausting work of fighting fires and the risks and dangers incident thereto shall accompany the apparatus of the Bureau to a fire or, if present, to assist in any such work. (Ord. 107-1931.)

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## **CHAPTER 2-311**

### **DEPARTMENT OF PUBLIC WORKS**

#### **CROSS REFERENCES**

Administrative organization: see Section 2-301.1

Assignment for administrative purposes: see Section 2-301.3

Bureau of Parking and Traffic: see Title Three

City Engineer: see Chapter 2-305

Sewers: see Title Nine, Part Five 9-500

Shade trees: see Chapter 10-301

Solid waste collection and disposal: see Title Nine, Part Three 9-300

Street and sidewalk areas: see Title Nine, Part One 9-100

Water supply: see Chapter 9-701

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(There are no sections in this chapter.)

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## **CHAPTER 2-313**

## **DEPARTMENT OF BUILDING AND HOUSING DEVELOPMENT**

### **CROSS REFERENCES**

Administrative organization: see Section 2-301.2  
Assignment for administrative purposes: see Section 2-301.3  
Building and Housing Code Board of Appeals: see Chapter 8-501  
Community Development Block Grant Program (Citizen Participation Plan): see Chapter 8-709  
Electrical Code Advisory and Licensing Board: see Sections 2-501.1, 8-103.14  
Municipalities Planning Code: see Act of December 21, 1988, P.L. 1329, as amended (53 P.S. §10101-11202, 1996 Supp.)  
Planning Commission: see Chapter 7-101  
Plumbing Board: see Section 8-105.7  
Zoning Hearing Board: see Chapter 7-305

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(There are no sections in this chapter.)

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### **CHAPTER 2-315**

## **DEPARTMENT OF PARKS AND RECREATION**

### **CROSS REFERENCES**

Administrative organization: see Section 2-301.2  
Assignment for administrative purposes: see Section 2-301.3  
Conduct in parks: see Title Ten  
Plan of parks: see 3rd Class Code §3701 et seq. (53 P.S. §38701 et seq.)

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(There are no sections in this chapter.)

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### **CHAPTER 2-317**

## **DEPARTMENT OF INCINERATION AND STEAM GENERATION**

Section 2-317.1 Director; Duties and Qualifications  
Section 2-317.2 Consulting Engineer Duties  
Section 2-317.3 Restricted Receipt Revenue Fund  
Section 2-317.4 Unrelated Expense  
Section 2-317.5 Replacement Reserve Fund  
Section 2-317.6 Extraordinary Maintenance Reserve  
Account Fund

### **CROSS REFERENCES**

Director appointment: see Section 2-301.6  
Rules and regulations: see Chapter 2-307; Optional Charter Law §610 (53 P.S. §41610)

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### **2-317.1 DIRECTOR; DUTIES AND QUALIFICATIONS**

The Director of the Department of Incineration and Steam



Generation shall be responsible for the operation and maintenance of the Harrisburg Steam Generation Facility. The Director shall be an individual who has experience in the operation, maintenance and management of a steam generation plant. (Ord. 40-1983.)

### **2-317.2 CONSULTING ENGINEER DUTIES**

(a) The City shall employ a Consulting Engineer. It shall be the duty of the Consulting Engineer to prepare and file with the Mayor and City Council, on or before December 1, 1983, and before November 15th of each year thereafter, a report setting forth the following:

(A) the Engineer's advice and recommendations as to the proper maintenance, repair and operation of the Steam Generation Facility during the next fiscal year, the estimate for said fiscal year of the amount of money that should be expended for current expenses and the estimate of the gross steam revenues for said fiscal year;

(B) a form of budget, prepared on a quarterly basis, for the next fiscal year which shall reflect the  
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recommendations made pursuant to Subsection (A) above;

(C) the Engineer's advice and recommendations as to the Capital Additions that should be made during the next fiscal year and the estimate of the amount of money necessary for such purposes;

(D) the Engineer's recommendations as to any necessary or advisable revision of rates and charges;

(E) the Engineer's findings whether or not the properties of the Steam Generation Facility have been maintained in good repair, working order and sound operating condition and the estimate of the amount, if any, required to place such properties in such condition, and the details of such expenditures and the approximate time required therefore.

(b) During the construction of the Capital Improvements or Capital Additions, as authorized by the 1983 Steam Revenue Bond, the Consulting Engineer shall provide, on a quarterly basis, a report to the Mayor and City Council as to the progress of the improvements and additions. (Ord. 40-1983.)

### **2-317.3 RESTRICTED RECEIPT REVENUE FUND**

(a) All operating and non-operating revenues of the Department of Incineration and Steam Generation shall be deposited in a Restricted Receipt Revenue Fund in accordance with the requirements of the Steam Revenue Bond of 1983.

(b) After the Steam Revenue Bond of 1983 has been paid off, the Restricted Receipt Fund shall continue.

(c) No funds may be transferred from this account without specific appropriation by City Council. (Ord. 40-1983.)

#### **2-317.4 UNRELATED EXPENSE**

Personnel not performing services for the Steam Generation Facility shall not be paid from the Steam Generation Facility's Restricted Receipt Revenue Fund. Furthermore, the Restricted Receipt Revenue Account shall not be charged for expenses unrelated to the operation and maintenance of the Steam Generation Facility. The Controller shall be responsible for the enforcement of this section. (Ord. 40-1983.)

#### **2-317.5 REPLACEMENT RESERVE FUND**

A Replacement Reserve Fund shall be established as a part of the Operating Budget. Five percent (5%) of all operating and  
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non-operating revenue shall be placed in the fund for the purpose of funding necessary maintenance activities as appropriated in the annual budget of the Steam Generation Facility. (Ord. 40-1983.)

#### **2-317.6 EXTRAORDINARY MAINTENANCE RESERVE ACCOUNT FUND**

An Extraordinary Maintenance Reserve Account shall be established in the amount of seven hundred fifty dollars (\$750.00) in order to provide funds for extraordinary expenditures at the Steam Generation Facility. (Ord. 40-1983.)

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### **CODIFIED ORDINANCES**

#### **THE CITY OF HARRISBURG**

#### **TITLE TWO - ADMINISTRATIVE CODE**

#### **PART FIVE 2-500 BOARDS, COMMISSIONS AND AUTHORITIES**

Chapter 2-501 Boards, Commissions and Authorities

Chapter 2-503 Youth Commission

Chapter 2-505 Cable Television Regulation

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#### **CHAPTER 2-501**

#### **BOARDS, COMMISSIONS AND AUTHORITIES**

Section 2-501.1 Boards, Commissions and Authorities

Section 2-501.2 Registration

Section 2-501.3 Notification of Deliberation

#### **CROSS REFERENCES**

Assignment for administrative purposes: see Section 2-301.3

Housing Authorities Law: see 35 P.S. §1541 et seq.

Municipality Authorities Act: see 53 P.S. §301 et seq.

Parking Authorities Law: see 53 P.S. §344 et seq.

Urban Redevelopment Law: see 35 P.S. §1701 et seq.

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## **2-501.1 BOARDS, COMMISSIONS AND AUTHORITIES**

(a) The following boards and commissions have been created by ordinance:

- (1) Building and Housing Code Board of Appeals. (Building Code Board of Appeals: Ord. 1-1972; Housing Code Board of Appeals: 48-1979. Merged by Ord. 15-1995.)
- (2) Business Revolving Loan Committee. (Ord. 11-1987.)
- (3) Cable Regulation Board. (Ord. 4-1994.)
- (4) Electrical Code Advisory and Licensing Board. (Ord. 18-1994.)
- (5) Fire Civil Service Commission. Authorized by Firemen's Civil Service provisions of the Third Class City Code, Chapter 82, Article II.
- (6) Harrisburg Board of Health. (Ord. 33-1979.)
- (7) Harrisburg Property Reinvestment Board. (Ord. 26-1979; amended Ord. 3-1983, Ord. 16-1989.)
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- (8) Historical Architectural Review Board. (Ord. 13-1974, as amended, Ord. 14-1986.)
- (9) Human Relations Commission. (Ord. 6-1983, as amended and reenacted.)
- (10) License and Tax Appeal Board. (Ord. 1-1971.)
- (11) Planning Commission. (Ord. 3-1970.)
- (12) Plumbing Board. (Ord. 2-1972, as amended.)
- (13) Police Civil Service Commission. Authorized by the Civil Service provisions of the Third Class City Code, Article XLIV.
- (14) Youth Commission. (Ord. 8-1978.)
- (15) Zoning Hearing Board. (Ord. 13-1977.)

(b) The City is actively involved with the following community boards, commissions, committees, agencies, etc. as an active participant in community affairs:

- (1) Affirmative Action Review Committee
- (2) Affordable Housing Group & SRO Subcommittee
- (3) Business Development Executive Council
- (4) Camp Curtin Historical Society
- (5) Capital City Economic Development Corporation
- (6) Capital Tax Collection Bureau
- (7) Endall
- (8) Harrisburg Area Transportation Coordinating Committee
- (9) Interfaith Family Shelter Advisory Board
- (10) Mayor's Commission on Literacy

- (11) Mayor's Hispanic Advisory Board
  - (12) Pennsylvania Association of Housing & Redevelopment Agencies  
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  - (13) Pennsylvania Building Officials Conference
  - (14) Public Act Advisory Board
  - (15) SETCO, Youth Committee
  - (16) Shelter Committee
  - (17) South Central Pennsylvania Housing Development Foundation
  - (18) Susquehanna Conference (An Association for Regional Planning and Co-operation)
  - (19) Susquehanna Valley Geographic Information Systems Assoc.
  - (20) Tri-County Housing Development Corporation Advisory Board
  - (21) Tri-County Regional Planning Commission
- (c) The City has created the following authorities pursuant to the cited statutes:
- (1) Broad Street Market Authority. Municipality Authorities Act of 1945, Act of May 2, 1945, P.L. 382, as amended, Ord. 22-1981, 53 P.S. §301 et seq. (Ord. 35-1978, as amended.)
  - (2) Capital Area Regional Solid Waste Authority, Municipalities Authorities Act (Ord. 30-1986.)  
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  - (3) Capital Area Transit Authority. Municipality Authorities Act of 1945, Act of May 2, 1945, P.L. 382, as amended, 53 P.S. §301 et seq. (Ord. 6-1973.)
  - (4) The Harrisburg Authority. Originally created by Ord. 66-1957 as the Harrisburg Sewerage Authority under the Municipality Authorities Act of 1945, Act of May 2, 1945, P.L. 382, as amended, 53 P.S. §301 et seq. (Ord. 2-1990.)
  - (5) Harrisburg Housing Authority. Housing Authorities Law, Act of May 28, 1937, P.L. 955, as amended, 35 541 et seq. (Res. 110-1937.)
  - (6) Harrisburg Parking Authority. The Parking Authorities Act, Act of June 5, 1947, as amended, 53 P.S. §344 et seq. (Ord. 13-1972.)
  - (7) Harrisburg Redevelopment Authority. Urban Redevelopment Law, Act of May 24, 1945, P.L. 991, as amended, 35 P.S. §1701 et seq. (Res. 57-1949.)
  - (8) Job Development Authority. Municipality Authorities Act of 1945, Act of May 2, 1945, P.L.

382, as amended, 53 P.S. §301 et seq. (Ord. 30-1990.)

(9) Leasing Authority. Municipality Authorities Act of 1945, Act of May 2, 1945, P.L. 382, as amended, 53 P.S. §301 et seq. (Ord. 7-1986.) (Ord. 9-1996.)

### **2-501.2 REGISTRATION**

Citizens and/or community groups who have an interest in the deliberations of a particular board, commission or authority shall register with such entity by notifying the secretary of such entity of said interest and providing to the secretary the name and address of the citizen and/or community group, the geographic area or subject matter of the interest and such further information as the secretary deems reasonable. (Ord. 28-1987.)

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### **2-501.3 NOTIFICATION OF DELIBERATION**

(a) It shall be the duty of the secretary of each board, commission and authority, or person designated by such board, commission and authority, to provide notice to any registered citizen and/or community group of those matters pending before such board, commission or authority in which such citizen and/or community group has expressed a written interest.

(b) The duty of the secretary hereinabove specified shall extend to those citizens and/or community groups who are duly registered with a board, commission or authority.

(1) For purposes of this subsection, sufficient notice shall constitute the deposit of a copy of the agenda or other document adequately describing the topics of discussion of the board, commission or authority meeting by certified mail, return receipt requested, addressed to that duly registered interested citizen and/or community group at least one (1) week prior to the scheduled date of the board, commission or authority meeting. Said notice required herein shall be in addition to that notice required by any other applicable state or local law.

(2) A board, commission or authority shall not deliberate upon or take any action with reference to matters which require notification under this subsection without first notifying registered, interested citizens and/or community groups of the meeting.

(Ord. 28-1987.)

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## **CHAPTER 2-503**

### **YOUTH COMMISSION**

Section 2-503.1 Purpose

Section 2-503.2 Composition and Member Qualifications

Section 2-503.3 Selection, Term and Organization

### **CROSS REFERENCES**

Curfew: see Chapter 3-133

Open meetings law: see 65 P.S. §261 et seq.

Purchase of alcoholic beverages: see Chapter 3-317

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#### **2-503.1 PURPOSE**

The purpose of the Youth Commission shall be to advise the City government on all matters pertaining to youth in the City and to offer recommendations on issues of concern to our youth.

(Ord. 8-1978.)

#### **2-503.2 COMPOSITION AND MEMBER QUALIFICATIONS**

(a) The Youth Commission shall consist of eleven (11) residents of the City who shall be between the ages of thirteen (13) and eighteen (18) inclusive. Commission members reaching the age of nineteen during the course of their term shall complete the term to its conclusion.

(b) Commission members shall be students representing the following schools according to the ratio as indicated below:

School Student Representatives

Harrisburg High 4

Bishop McDevitt High 3

Harrisburg Middle 2

Yeshiva Academy 2

(Ord. 8-1978.)

#### **2-503.3 SELECTION, TERM AND ORGANIZATION**

(a) At the beginning of each school year, Youth Commission members shall be either elected by their student peers or  
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appointed by the administration of the school through a democratic qualifying process, whichever method is deemed most appropriate by the principal of the school.

(b) Terms of office shall be one (1) year, and members shall serve without compensation.

(c) In the event of a vacancy on the Commission, the principal of the school in which the vacancy has occurred shall determine the method of filling the vacancy for the remaining portion of the unexpired term.

(d) Following the selection of all eleven (11) members, the Commission shall assemble and organize at the direction of the Mayor and Council for the purpose of electing a Chairperson, Vice-Chairperson and a Secretary. The City Clerk shall provide

staff services to the Commission.

(e) After the Commission's organization, it shall establish and approve its by-laws and shall thereafter meet once a month at a place, date and time set by the Commission.

(f) The Directors of the Departments of Building and Housing Development, Parks and Recreation and Public Safety, or appropriate departmental designees, shall be ex-officio members of the Youth Commission. (Ord. 8-1978.)

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## **CHAPTER 2-505**

### **CABLE TELEVISION REGULATION**

Section 2-505.1 Short Title

Section 2-505.2 Definitions

Section 2-505.3 Cable Regulation Board

Section 2-505.4 Rate Regulation Provisions

Section 2-505.5 Customer Service Regulation Provisions

Section 2-505.6 Enforcement

Section 2-505.7 Execution of Documents

Section 2-505.8 Existing Franchise Agreements

Section 2-505.9 Authority

Section 2-505.10 Construction

Section 2-505.11 Controlling Law

Section 2-505.99 Penalties

### **CROSS REFERENCES**

The Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 98-549, amending the Cable Communication Policy Act of 1984, Pub. L. 102-385

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#### **2-505.1 SHORT TITLE**

This Chapter shall be known and may be cited as the "Cable Television Regulation Code." (Ord. 4-1994. This ordinance is the source for the whole chapter, unless otherwise noted.)

#### **2-505.3 2-505.2 DEFINITIONS**

As used in this chapter, the following terms shall have the following meanings:

(a) "ASSOCIATED EQUIPMENT" means all equipment in a cable subscriber's home that is used to receive the basic service, regardless of whether such equipment is additionally used to receive other tiers of regulated programming service and/or unregulated service. Associated equipment includes, but is not limited to, converter boxes, remote control units, connections for additional television receivers, and other cable home wiring.

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(b) "BASIC SERVICES" means, at a minimum, all signals of domestic television broadcast stations provided to any subscriber except a signal secondarily transmitted by satellite carrier

beyond the local service area of such station, regardless of how such signal, is ultimately received by the cable system; any public, educational, and governmental programming required to be carried on the basic tier; and any additional video service or other programming service added to the basic tier by the cable operator.

(c) "BASIC SERVICE RATE" means the rate charged by a cable operator for basic service and associated equipment costs.

(d) "CABLE ACT OF 1992" means the Cable Televisions Consumer Protection and Competition Act of 1992, Pub. L. 98-549, amending the Cable Communications Policy Act of 1984, Pub. L. 102-385, and all regulations promulgated thereunder, as the foregoing may be amended from time to time.

(e) "CABLE OPERATOR" means any person or group of persons who (1) provides cable service over a cable system and who directly or through one or more affiliates owns a significant interest in such cable system, or (2) otherwise owns, controls or is responsible for, through any arrangement, the management and operation of a cable system.

(f) "CABLE SERVICE" means both (1) the one-way transmission to subscribers of (A) video programming or (B) other programming service; and (2) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

(g) "CABLE SYSTEM" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment, that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community but does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations, (2) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility uses any public right-of-way, (3) a facility of a common carrier except to the extent that such facility is used in the transmission of video programming directly to subscribers, or (4) any facilities of any electric utility used solely for operating its electric utility systems.

(h) "FCC" means the Federal Communications Commission of the Federal Government.

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(i) "NORMAL BUSINESS HOURS" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" includes some evening hours at least one night per week and weekend hours.

(j) "NORMAL OPERATING CONDITIONS" means those service



conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(k) "SERVICE INTERRUPTION" means the loss of picture or sound on one or more cable channels.

### **2-505.3 CABLE REGULATION BOARD**

(a) There is hereby created a Cable Regulation Board (Board) to be composed of three (3) individuals, as follows:

(1) A member of City Council or a representative thereof, to be appointed as Council shall determine;

(2) The Mayor or the Mayor's designee;

(3) A resident of the City who shall be appointed by the Mayor with the advice and consent of Council.

(b) Each member of the Board shall serve at the pleasure of the appointing authority or for a term of three (3) years, whichever is shorter, and shall serve until a successor is appointed; provided, however, that the initial term of the Mayor's designee shall expire December 31, 1996, the initial term of Council's designee shall expire December 31, 1995, and the initial term of the resident member shall expire December 31, 1994.

(c) The Board shall have the authority and its duties shall include:

(1) taking such action on behalf of the City as may be required from time to time to obtain and maintain the City's certification to regulate cable basic service rates;

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(2) notifying the cable operator serving the City when the City has been certified by the FCC to regulate basic service rates and when the Board has been duly constituted;

(3) notifying the cable operator serving the City that the City intends to enforce the minimum customer service standards established by the Cable Act of 1992;

(4) making all filings required or permitted to be made to the FCC by the City pursuant to the Cable Act of 1992;

(5) receiving, filing in the public records of the City, reviewing for completeness, and placing on its agenda for consideration all submissions, petitions and other filings required or permitted to be made to the City pursuant to the Cable Act of 1992. All submissions, petitions and other filings shall be made via first-class mail, postage prepaid, to the attention of the Cable Regulation Board at the following address: Office of the City Clerk, Suite 101, Rev. Dr. Martin L. King, Jr., City Government Center, 10 North Second Street, Harrisburg, Pennsylvania 17101;

(6) receiving and transmitting to the proper officer of the City any filing fees which may be established by the Board from time to time;

(7) retaining the services of a qualified expert in cable rate matters to provide opinions to the Board on such matters as the Board shall deem appropriate;

(8) adopting, promulgating, amending, and rescinding suitable rules and regulations to carry out the provisions and purposes of this chapter;

(9) holding hearings, administering oaths or affirmations, examining any person under oath or affirmation, issuing subpoenas, requiring the attendance and giving of testimony of witnesses, and requiring the production of any books, papers, documentary or other evidence;

(10) taking, or causing to be taken, affidavits or depositions within or without the City;

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(11) rendering each year to the Mayor and Council a written report of its activities;

(12) enforcing the provisions of this chapter and all decisions of the Board to the fullest extent permitted by the Cable Act of 1992; and

(13) taking such other actions as may be necessary from time to time to protect the right of the City to regulate cable television to the fullest extent permitted by the Cable Act of 1992.

#### **2-505.4 RATE REGULATION PROVISIONS**

(a) The Board shall regulate basic service rates in accordance with the substantive and procedural provisions of the Cable Act of 1992 and any applicable state law or regulations or local ordinances.

(b) Duties of Cable Operators.

(1) Within thirty (30) days receiving written notification from the City that it has been certified by the FCC to regulate rates for basic service and that a Cable Regulation Board has been duly established, a cable operator shall file its schedule of rates for the basic service and associated equipment with the City together with the fee specified by the Board, if any.

(2) At least thirty (30) days prior to increasing its rates for basic service, a cable operator shall file with the City notice of the proposed rate increase, together with the fee specified by the Board, if any.

(3) At the time of filing a schedule of rates or a proposed rate increase with the City, a cable operator shall (A) publish a summary of the rates or rate increase in a local newspaper of general circulation for at least three (3) consecutive days and (B) cablecast a summary of the rates or rate increase on its public information channel at least twice daily at such times as are reasonably expected to reach the largest audience over a three (3) day period, in each case notifying interested parties that they must submit written comments by a date within fifteen (15) days of the cable operator's filing with the City at the address set forth in Section 2-505.3(c)(5).

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(4) A cable operator shall comply with all orders of the Board.

(c) Duties of the Board.

(1) Upon receipt of a cable operator's schedule of rates or a proposed rate increase, the Board shall prepare or cause to be prepared a summary of the rate(s) or rate increase(s) on the channel(s) allocated to the City for cablecast at least twice daily at such times as are reasonably expected to reach the largest audience over a three (3) day period, along with a notice that interested parties shall submit written comments to the Board by a date within fifteen (15) days of the cable operator's filing with the City at the address set forth in Section 2-505.3(c)(5).

(2) The Board shall rule on the reasonableness of current basic service rates and proposed rate increases pursuant to the procedural and

substantive provisions of the Cable Act of 1992.

(3) In ruling on the reasonableness of current basic service rates or proposed rate increases, the Board shall have the authority to compel the production of proprietary information from cable operators, and, in such circumstances, the Board shall be subject to the confidentiality provisions of the Cable Act of 1992.

## **2-505.5 CUSTOMER SERVICE REGULATION PROVISIONS**

(a) The City hereby adopts the minimum customer service standards established by the Cable Act of 1992:

(1) Cable system office hours and telephone availability:

(A) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers twenty-four (24) hours a day, seven (7) days a week. Trained company representatives will be available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after 2-77

normal business hours must be responded to by a trained company representative on the next business day.

(B) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds.

These standards shall be met not less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.

(C) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless a historical record of complaints indicates a clear failure to comply.

(D) Under normal operating conditions, the customer will receive a busy signal less than

three (3%) percent of the time.

(E) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls: under normal operating conditions, each of the following four standards will be met not less than ninetyfive percent (95%) of the timer measured on a quarterly basis:

(A) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(B) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(C) The "appointment window" alternatives for installations, service calls and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours; 2-79

provided, however, that the operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

(D) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(E) If a cable operator representative is running late for an appointment with a customer and will be unable to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer. If the only time which is convenient for the customer is outside of

normal business hours, the cable operator shall charge no more for such rescheduled appointment than it would during normal business hours.

(3) Communications between cable operators and cable subscribers:

(A) The cable operator, upon installation of service, to all subscribers at least annually and at any time upon request, shall provide written information covering each of the following areas:

- (i) products and services offered;
- (ii) prices and options for programming services and options for programming services and conditions of subscription to programming and other services;
- (iii) installation and service maintenance policies;
- (iv) billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Billing.

(i) Bills will be clear, concise and understandable. Bills must be fully itemized, including, but not limited to, basic and premium service charges and equipment charges. Bills shall also clearly delineate all activity during a billing period, including optional charges, rebates and credits.

(ii) In case of a billing dispute, the cable operator must respond to a written

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complaint from a subscriber within thirty (30) days.

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(4) Refund checks: refund checks will be issued promptly, but not later than either:

(A) the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier;

or

(B) the return by the customer of the equipment supplied by the cable operator if service is terminated.

(5) Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(b) All other customer service standards, whether established by franchise agreement, state law or regulation or local ordinance, and whether now or hereafter enacted, shall remain in full force and effect to the extent that such other customer service standards are not preempted by the Cable Act of 1992.

### **2-505.6 ENFORCEMENT**

In issuing its rulings the Board shall have the full authority granted to it pursuant to the Cable Act of 1992 to order a cable operator to take any and all actions as the law permits, including, without limitation:

(1) ordering a cable operator to implement a reduction in basic service tier or associated equipment rates where necessary to bring rates into compliance with the standards set forth in the Cable Act of 1992;

(2) prescribing a reasonable rate for the basic service tier or associated equipment after it determines that a proposed rate is unreasonable;

(3) ordering a cable operator to refund to subscribers that portion of previously paid rates determined to be in excess of the permitted tier charge or above the actual cost of equipment under the Cable Act of 1992. Before ordering such a refund, however, the board shall give the cable operator notice of its intention to issue such order and shall give the operator fifteen (15) days from the date such notice is given to submit written comments to the Board. Any such refund order

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shall be further subject to the limitations contained in the Cable Act of 1992;

(4) ordering the cable operator to issue credits or pay refunds to the subscribers to the cable operator's system;

(5) filing suit against a cable operator to compel specific performance;

(6) conducting performance evaluations at the time of renewal of the cable operator's franchise agreement.

### **2-505.7 EXECUTION OF DOCUMENTS**

Until the Board is duly constituted, the Mayor and the City

Clerk are hereby authorized to execute any documents and file such forms as are necessary to obtain certification from the FCC.

**2-505.8 EXISTING FRANCHISE AGREEMENTS**

All franchise agreements between the City and any cable operator are abrogated to the extent inconsistent herewith, except to the extent abrogation is not required by the Cable Act of 1992 or the regulations promulgated thereunder.

**2-505.9 AUTHORITY**

This chapter is enacted under the authority of the Cable Act of 1992 which permits local franchising authorities to regulate cable television basic tier rates and other matters, subject to certain substantive and procedural limitations.

**2-505.10 CONSTRUCTION**

In interpreting and applying the provisions of this chapter, these provisions shall be construed as broadly as required for the maintenance of peace, good government, safety, and welfare of the City its citizens and its trade, commerce and manufacture.

**2-505.11 CONTROLLING LAW**

This chapter is intended to conform to the Cable Act of 1992. If a court of competent jurisdiction declares any provision of this Chapter to be in conflict with the said Act, the Act will control to the extent that any provision declared to be in conflict with the Cable Act of 1992 shall not apply. Any ordinance in conflict herewith is hereby repealed.

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**2-505.99 PENALTIES**

Any person who violates the provisions of this chapter shall be subject to the General Code Penalty, Section 1-301.99, of these Codified Ordinances.

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**CODIFIED ORDINANCES**

**THE CITY OF HARRISBURG**

**TITLE TWO - ADMINISTRATIVE CODE**

**PART SEVEN 2-700 EMPLOYMENT AND BENEFITS**

Chapter 2-701 Compensation of Elected Officials

Chapter 2-703 Employment Generally

Chapter 2-705 Non-Uniformed Municipal Employees

Retirement System

Chapter 2-707 Police Retirement System

Chapter 2-709 Firefighter Retirement System

Chapter 2-711 Residency

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**CHAPTER 2-701**

**COMPENSATION OF ELECTED OFFICIALS**

Section 2-701.1 Mayor

Section 2-701.2 President of City Council



Section 2-701.3 Members of City Council  
Section 2-701.4 City Controller  
Section 2-701.5 City Treasurer

**CROSS REFERENCES**

Compensation: see Optional Charter Law §607(c) (53 P.S. §41607(c))

Elected officials: see Optional Charter Law §403 et seq. (53 P.S. §41403 et seq.)

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**2-701.1 MAYOR**

(a) The annual compensation of the Mayor shall be as follows for uninterrupted terms:

- 1ST YEAR - \$45,000
- 2ND YEAR - \$48,000
- 3RD YEAR - \$50,000
- 5TH YEAR - \$52,000
- 7TH YEAR - \$53,000
- 8TH YEAR - \$55,000
- 9TH YEAR - \$57,000
- 11TH YEAR - \$58,000
- 13TH YEAR - \$60,000
- 15TH YEAR - \$65,000
- 16TH YEAR - \$70,000
- 17TH YEAR - \$72,000
- 19TH YEAR - \$74,000
- 21ST YEAR - \$75,000.

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(b) In addition to the compensation set forth above, the Mayor shall automatically become a member of the City's Police Pension Plan B. Said membership is in view of the Mayor's historical and present role as responsible for the City's law enforcement agency and the City shall pay all costs associated with the Mayor's membership in Police Pension Plan B, for all years of service. (Ord. 1-1997.)

**2-701.2 PRESIDENT OF CITY COUNCIL**

The annual compensation of the President of City Council shall be ten thousand five hundred dollars (\$10,500.00) beginning in the year 1990 and thereafter until changed as provide by law. (Ord. 4-1987.)

**2-701.3 MEMBERS OF CITY COUNCIL**

The annual compensation of Members of City Council other than the President of City Council shall be ten thousand dollars (\$10,000.00) beginning in the year 1990 and thereafter until changed as provided by law. (Ord. 4-1987.)

**2-701.4 CITY CONTROLLER**

The annual compensation of the City Controller shall be fifteen thousand dollars (\$15,000.00) for the term beginning in the year 1978 and thereafter until changed as provided by law. (Ord. 4-1976.)

### **2-701.5 CITY TREASURER**

The annual compensation of the City Treasurer shall be fifteen thousand dollars (\$15,000.00) for the term beginning in the year 1980 and thereafter until changed as provided by law. (Ord. 4-1976.)

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## **CHAPTER 2-703**

### **EMPLOYMENT GENERALLY**

Section 2-703.1 Blanket Bonds

Section 2-703.2 Individual Bonds

Section 2-703.3 Payroll Deductions

### **CROSS REFERENCES**

Bonds of officers: see 3rd Class Code §906 et seq. (53

P.S. §35910 et seq.)

Employee provisions: see 3rd Class Code §901 et seq. (53

P.S. §35901 et seq.)

Personnel administration: see Chapter 2-307

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### **2-703.1 BLANKET BONDS**

Any officer or employee of the City who is, or may be, required to give bond to the City conditioned for the faithful performance of his or her duties, except such officers and employees who are required by law to give individual bonds, may be covered by a public employees' blanket bond, the amount and coverage thereof to be determined by the Mayor. (Ord. 10-1971.)

### **2-703.2 INDIVIDUAL BONDS**

The bonds required of certain City officials by the Third Class City Code not set forth elsewhere in this Code are fixed in the following sums:

City Engineer \$ 5,000

City Solicitor \$10,000

Business Administrator \$25,000

Health Officer \$ 1,000

(Ord. 54-1963.)

### **2-703.3 PAYROLL DEDUCTIONS**

(a) The Business Administrator may deduct from the wages or salary of any City employee such amount as the employee

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authorizes, in a writing filed with the Business Administrator, for the purchase by the employee of United States Savings Bonds. The Business Administrator may make such rules and regulations governing the purchase of the bonds as he or she may deem necessary. Such rules and regulations shall be incorporated in

the employee's written authorization. The authorization of the employee may be withdrawn by the employee at any time upon filing written action of withdrawal with the Business Administrator; provided, that such withdrawal shall not become effective until there has been deducted from the wages or salary of such employee a sum equivalent to the purchase price of the next lowest denomination of United States Savings Bond to which such employee would become entitled by virtue of deductions already standing to his or her credit at the time of the filing of such withdrawal notice. (Ord. 149-1951.)

(b) The Business Administrator may deduct from the wages of any City employee who is a member of a labor organization such amount as the employee authorizes, in a writing filed with the Business Administrator, for the purpose of making voluntary political contributions to the labor organization. The Business Administrator may make such rules and regulations governing the collection, payment of funds collected and regular reports to the labor organization of such voluntary payments. Such rules and regulations shall be incorporated in the employee's written authorization. The authorization of the employee may be withdrawn by the employee at any time upon filing written action of withdrawal with the Business Administrator and the labor organization. (Ord. 3-1985.)

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## **CHAPTER 2-705**

### **NON-UNIFORMED MUNICIPAL EMPLOYEES RETIREMENT SYSTEM**

#### Part I - General Provisions

##### Section 2-705.1 Definitions

##### Section 2-705.2 Election to Join State Retirement System; Enrollment Contract and Assumption

##### Section 2-705.3 Repeal of Plan B

##### Section 2-705.4 Enrollment of Plan B Employees

##### Section 2-705.5 Transfer of Plan B Assets

##### Section 2-705.6 Transfer of Plan A Benefits Received as of 8-31-1984

##### Section 2-705.7 Enrollment of Plan A Employees

##### Section 2-705.8 Transfer of Plan A Assets

##### Section 2-705.9 Transfer of Plan A Benefits

##### Received 9-1-84 to 12-31-1986

##### Section 2-705.10 City Guarantee

##### Section 2-705.11 Effective Date

##### Section 2-705.12 Coverage

#### Part II - Plan B

##### Section 2-705.13 Terms and Conditions of Benefits of Former Plan B Members and New Members

Section 2-705.14 Superannuation Retirement Age  
Section 2-705.15 Final Salary  
Section 2-705.16 Superannuation Retirement  
Section 2-705.17 Early Retirement  
Section 2-705.18 Vesting  
Section 2-705.19 Options on Superannuation or Early Retirement  
Section 2-705.20 Death in Service  
Section 2-705.21 Disability Retirement  
Section 2-705.22 Death Benefits  
Section 2-705.23 Withdrawal of Accumulated Deductions  
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Section 2-705.31 Superannuation Retirement Age  
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Section 2-705.33 Final Salary  
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Section 2-705.37 Vesting  
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Section 2-705.39 Surviving Spouse's Death Benefits for Members Not Electing Section 2-705.15 Options and Section 2-705.16 Death in Service Benefits  
Section 2-705.40 Disability Retirement  
Section 2-705.41 Death Benefits  
Section 2-705.42 Withdrawal of Accumulated Deductions  
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Part IV - Administration

Section 2-705.47 Determination of City Liability  
Section 2-705.48 Advanced Payments  
Section 2-705.49 Interest After Termination  
Section 2-705.50 Prior Service Credits  
Section 2-705.51 Filing of Documents by the Members  
Section 2-705.52 Payment Schedule  
Section 2-705.53 Effective Date of Retirement  
Section 2-705.54 Certification of Membership  
Section 2-705.55 Exemption from Attachment or Execution;  
Non-assignability  
Section 2-705.56 Retroactivity and Correction of Errors  
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Section 2-705.57 Procedure  
Section 2-705.58 Confidentiality of Records

### **CROSS REFERENCES**

Pennsylvania Municipal Retirement System: see 53 P.S.  
§881.101 et seq.

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## Part I - General Provisions

### **2-705.1 DEFINITIONS**

The following terms used in this chapter shall have the stated meanings unless the context clearly indicated otherwise:

(a) "ENROLLMENT CONTRACT" or "AGREEMENT" means the Agreement negotiated between the Pennsylvania Municipal Retirement Board and the City under the provisions of Article IV of the Pennsylvania Municipal Retirement Law, as amended from time to time.

(b) "PLAN A" means the pension plan established for the municipal employees of the City by Ordinance 85-1969 and closed to new members by Ordinance 23-1974, including all written or oral amendments establishing or modifying pension benefits or liabilities made by any means whatsoever, including any ordinance, regulation, resolution, decision, or decree of the Harrisburg City Council; the office of the Mayor of Harrisburg; or the Officers' and Employees' Retirement Board; collective bargaining agreements; and custom, habit or practice.

(c) "PLAN B" means the pension plan established for the municipal employees of the City of Harrisburg by Ordinance 23-1974, which provided a new benefit structure for employees hired on or after December 31, 1974, including all written and oral amendments thereto establishing or modifying pension benefits or liabilities made by any means whatsoever, including any ordinance, regulation, resolution, decision or decree of the City Council; the office of the Mayor; the Officers' and Employees' Retirement Board; collective bargaining agreements; and custom, habit and practice.

(d) "ACCUMULATED DEDUCTIONS" means the total amount contributed by a member through deductions from compensation or 2-93

through pickup contributions and paid over by the City or paid by the member from any existing pension or retirement system or plan directly into the System and credited to the member's account, together with regular interest thereon. (Ord. 35-1984.)

(e) "CREDITED SERVICE" means each day of active membership. Benefits, unless otherwise stated, shall be based on years and months expressed as whole years or portions thereof. Effective March 1, 1995, any member who elects a superannuation or early retirement shall have the individual option to receive pension service credit for all unused accrued sick leave. Only whole days of accrued sick leave will be considered. For every five (5) days of accrued sick leave, the member will be entitled to seven (7) days of credited pension service. Members electing this option shall not have their retirement date adjusted but, rather, will have the retirement calculations performed using the additional credited time as certified to the Board by the City. (Ord. 4-1994.)

(f) "DESIGNATED BENEFICIARY" means the person or persons last designated in writing by the member and filed with the Board to receive benefits after the death of the member. If the designated beneficiary predeceases the member, or no beneficiary was designated, then the member's estate will be deemed the designated beneficiary.

(g) "EXCESS INTEREST ACCOUNT" means the account to which any excess investment earnings allocated by the Board and the City to a member is credited, plus regular interest credited on that amount by the Board.

(h) "EXCESS INVESTMENT EARNINGS" means the investment earnings on the fund in excess of that required for allocations to regular interest and expenses, calculated according to the formula established by the Board.

(i) "FORMER PLAN A MEMBER" means a municipal employee who is a member of Plan A on the date the members of Plan A are enrolled in the System. A municipal employee who had been earning credited service towards Plan A or Former Plan A benefits, who for a period of time fails to earn such credited service, shall be considered a Former Plan A member should he or she maintain accumulated deductions with the fund until he or she again earns credited service towards the pension benefits.

(j) "FORMER PLAN B MEMBER" means a municipal employee who is a member of Plan B on the date the members of Plan B are enrolled in the System. A municipal employee who had been earning credited service towards Plan B or Former Plan B benefits

who for a period of time fails to earn such credited service  
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shall be considered a former Plan B member should he or she maintain accumulated deductions with the fund until he or she again earns credited service toward the pension benefits.

(k) "MUNICIPAL EMPLOYEE" means a person holding an office or position in the City, other than that of a municipal firefighter or municipal police officer, and paid on a regular salary, wage or per diem basis. This term shall not include officers and employees paid wholly on a fee basis.

(l) "NEW MEMBER" means a municipal employee of the City hired or elected on or after September 1, 1984 who is not a Former Plan A Member or a Former Plan B Member or a municipal employee hired or elected prior to September 1, 1984 who is not enrolled in Plan A or Plan B, subject to the limitations set forth in Section 2-705.13(a).

(m) "PICKUP CONTRIBUTIONS" means member contributions which are made by the City on behalf of its employees for current service. Such contributions shall be made according to the Act of August 16, 1954, 68A Stat. 5, known as the Internal Revenue Code of 1954, as amended, for Federal Income Tax purposes. For all other purposes, pickup contributions shall be treated as contributions made by a member in the same manner and to the same extent as if they were not being picked up.

(n) "REGULAR INTEREST" means the rate fixed by the Board, from time to time, on the basis of earnings on investments.

(o) "SURVIVOR ANNUITANT" means the person named by a member in writing filed with the Board under a joint and survivor annuity option to receive an annuity upon the death of such member.

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(p) "VESTEE" means:

(A) a Former Plan B Member or a New Member with ten (10) or more years of credited service who terminates employment with the City; or

(B) a Former Plan A Member

(i) with twenty (20) or more years of credited service prior to obtaining superannuation retirement age; or

(ii) with twelve (12) or more but less than twenty (20) years of credited service whose office or employment is terminated without his or her voluntary action and who does not withdraw his or her accumulated deductions or apply for and receive a benefit under this chapter.

(Ord. 35-1984.)

**2-705.2 ELECTION TO JOIN STATE RETIREMENT SYSTEM;  
ENROLLMENT CONTRACT AND ASSUMPTION**

The City hereby elects to join the Pennsylvania Municipal Retirement System, established by the Pennsylvania Municipal Retirement Law, Act 15 of 1974, as amended. The City hereby agrees to be bound by all the requirements and provisions of the Pennsylvania Municipal Retirement Law, the amendments thereto, regulations promulgated by the Pennsylvania Municipal Retirement Board, and the terms and conditions of the enrollment contract. The enrollment contract sets forth the benefits and obligations of the City employees, the City and the Pennsylvania Municipal Retirement Board vis-a-vis the pension plans hereby elected by the City. The City hereby assumes all obligations, financial and otherwise, placed upon member municipalities by the Pennsylvania Municipal Retirement Law, the amendments thereto, regulations promulgated thereunder, and the terms of the enrollment contract.

(Ord. 35-1984.)

**2-705.3 REPEAL OF PLAN B**

Plan B (non-uniformed) is hereby repealed. (Ord. 35-1984.)

**2-705.4 ENROLLMENT OF PLAN B EMPLOYEES**

All municipal employees of the City who were enrolled in Plan B are hereby enrolled in the Pennsylvania Municipal Retirement System with the obligations and benefits set forth in the enrollment contract, the Pennsylvania Municipal Retirement Law, the amendments thereto, and the regulations promulgated thereunder. (Ord. 35-1984.)

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**2-705.5 TRANSFER OF PLAN B ASSETS**

Pursuant to the terms and conditions of the enrollment contract, the City hereby transfers all assets of Plan B, including contributions made by the members, to the Pennsylvania Municipal Retirement System to be placed in the advance payment account established by the Board. Such transfer shall be effective September 1, 1984. (Ord. 35-1984.)

**2-705.6 TRANSFER OF PLAN A BENEFITS RECEIVED AS OF  
8-31-1984**

The City hereby transfers the administration of all benefits of all members and beneficiaries of Plan A receiving benefits as of August 31, 1984 to the Pennsylvania Municipal Retirement Board, pursuant to the terms and conditions of the enrollment contract. The City hereby transfers all of the assets set aside as an actuarial reserve of these members into the advance payment account established pursuant to the enrollment contract.

Pensioners or their successors receiving benefits as of August 31, 1984 shall not be considered members of the Pennsylvania



Municipal Retirement System. (Ord. 35-1984.)

**2-705.7 ENROLLMENT OF PLAN A EMPLOYEES**

On January 1, 1987 all municipal employees of the City who are enrolled in Plan A hereby shall be enrolled in the Pennsylvania Municipal Retirement System, with the obligations and benefits set forth in the enrollment contract, the Pennsylvania Municipal Retirement Law, the amendments thereto, and the regulations promulgated thereunder. (Ord. 35-1984.)

**2-705.8 TRANSFER OF PLAN A ASSETS**

Pursuant to the enrollment contract, the City hereby transfers all assets of Plan A as of January 1, 1987 to the Pennsylvania Municipal Retirement System to be placed in the advance payment account established by the Board. (Ord. 35-1984.)

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**2-705.9 TRANSFER OF PLAN A BENEFITS RECEIVED 9-1-1984 TO 12-31-1986**

Pursuant to the enrollment contract, the City hereby transfers, as of January 1, 1987, the administration of benefits of all members of Plan A or their beneficiaries who first began receiving payment between September 1, 1984 and December 31, 1986, inclusive, and all vested members of Plan A who have terminated employment with the City without receiving benefits, to the Board. The City shall also transfer all of the assets set aside as an actuarial reserve of these annuitants, beneficiaries and vested members into the advance payment account established pursuant to the enrollment contract. Such annuitants, vestees and beneficiaries shall not be enrolled in the Pennsylvania Municipal Retirement System. (Ord. 35-1984.)

**2-705.10 CITY GUARANTEE**

The City guarantees payment of all benefits which may be payable under this chapter, the enrollment contract, Plan A or Plan B. (Ord. 35-1984.)

**2-705.11 EFFECTIVE DATE**

This chapter electing membership for the City in the Pennsylvania Municipal Retirement System shall be effective September 1, 1984 and shall be filed with the Board. (Ord. 35-1984.)

**2-705.12 COVERAGE**

(a) This chapter shall cover all New Employees and all annuitants and beneficiaries receiving benefits from Plan A on August 31, 1984. Current annuitants and beneficiaries of Plan A shall have their existing benefits administered by the Board according to this chapter; they shall not be deemed to be enrolled in the System.

(1) Notwithstanding this provision, elected officials

shall have the option of joining the System, and employees hired on a temporary or seasonal basis shall not be eligible for membership. Elected officials holding office on the effective date of this chapter who do not elect membership within ninety (90) days of such date, and other elected officials who do not elect membership within ninety (90) days of assuming office, shall not be members. This decision shall be irrevocable and shall apply for the entire term of office. If

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membership is not elected, credit for that service may not be purchased at some later date. A membership election shall be made for each term of office.

(2) The probationary status of any new municipal employee otherwise covered by this chapter shall not affect that employee's eligibility for membership in the System.

(b) Upon the affirmative vote of seventy-five percent (75%) of all municipal employees who are members of Plan B, all members of Plan B will be enrolled in the System and covered by the terms of the enrollment contract. After their enrollment they will have the benefits and obligations set forth in this section and Sections 2-705.29 and 2-705.47 through 2-705.58.

(c) Upon the affirmative vote of seventy-five percent (75%) of the vestees and members of Plan A, but not before January 1, 1987, all Former Plan A Members will be enrolled in the System. Until the Former Plan A Members are enrolled in the System, they will continue to have their pension plan administered by the City. After their enrollment they will have the benefits set forth in this section and Sections 2-705.13 and 2-705.31 through 2-705.58 of this chapter, unless otherwise agreed to by the City and the Board. (Ord. 35-1984.)

Part II - Plan B

#### **2-705.13 TERMS AND CONDITIONS OF BENEFITS OF FORMER PLAN B MEMBERS AND NEW MEMBERS**

(a) Each member shall contribute an amount equal to five percent (5%) of his or her compensation to fund the benefits under this Plan. Contributions shall be paid only on compensation which would be includable in a calculation of final salary or wages. The required member contributions shall be paid into the fund by the City, either through payroll deductions or through pickup contributions, in such manner and time as the Board may by rule or regulation determine. A member may not make additional voluntary contributions to increase the member's

accumulated deductions or the size of any annuity to which the member may be entitled. (Ord. 4-1996.)

(b) Each member shall, in addition, contribute at a rate certified by the Board as sufficient to fund any purchase or reinstatement of credit. (Ord. 35-1984.)

#### **2-705.14 SUPERANNUATION RETIREMENT AGE**

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Superannuation retirement age shall be sixty-five (65) years of age. (Ord. 35-1984.)

#### **2-705.15 FINAL SALARY**

Final Salary shall be the average compensation, including overtime and shift differential payments, earned and received during the final five (5) full calendar years of City service.

Bonuses and lump sum accrued vacation, sick leave, severance, and other such payments are hereby excluded from final salary.

However, effective January 1, 1997, the final salary shall be the average compensation, including overtime and shift differential payment, earned and received during the highest three consecutive full calendar years of City service. Bonuses and lump sum accrued vacation, sick leave, severance, and other such payments are excluded from final salary. (Ord. 4-1996.)

#### **2-705.16 SUPERANNUATION RETIREMENT**

(a) A member who terminates service at or after superannuation retirement age prior to January 1, 1996 shall receive a basic superannuation retirement allowance equal to eight-tenths percent (.8%) of the first nine thousand dollars (\$9,000.00) plus one and six-tenths percent (1.6%) of any excess over nine thousand dollars (\$9,000.00) of the final salary of the member multiplied by the number of years of credited service of the member.

(b) A member who terminates service at or after superannuation retirement age on or after January 1, 1996, shall receive a basic superannuation retirement allowance equal to one and six-tenths percent (1.6%) of the final salary of the member multiplied by the number of years of credited service of the member.

(c) A vestee who attains superannuation retirement age may apply for a superannuation retirement allowance computed according to this Section. The basis of the calculation will be the date the member vested and not the date the vestee attained superannuation retirement age. (Ord. 4-1996.)

#### **2-705.17 EARLY RETIREMENT**

An active member with ten (10) or more years of credited service who attains sixty-two (62) years of age shall be eligible for an early retirement allowance. The early retirement allowance shall be a basic superannuation retirement allowance,

computed according to Section 2-705.16, based upon credited service at the time of the effective early retirement date,  
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reduced by five-ninths of one percent (5/9%) for each month or fraction thereof by which the early retirement date precedes his or her sixty-fifth (65th) birthday. (Ord. 35-1984.)

#### **2-705.18 VESTING**

At or after attaining superannuation retirement age or the minimum age required for an early retirement allowance, a vestee may apply for a superannuation retirement allowance or early retirement allowance, as the case may be. A vestee shall have interest credited at the same rate as active members. (Ord. 35-1984.)

#### **2-705.19 OPTIONS ON SUPERANNUATION OR EARLY RETIREMENT**

(a) At the time of superannuation or early retirement, an eligible member may elect to receive benefits in a retirement allowance payable throughout his or her life, which shall be known as a Single Life Annuity. In the event of the death of an annuitant who has elected to receive the maximum single life annuity before he or she has received in annuity payments the full amount of the total accumulated deductions, not including the excess interest account standing to his or her credit on the effective date of retirement, the balance shall be paid to his or her designated beneficiary. Alternatively, at retirement, the member may elect to receive the actuarial equivalent of his or her maximum single life annuity retirement allowance in a lesser allowance payable throughout life with provisions that:

(1) Option 1. If the member shall die before receiving in payments the present value of his or her retirement allowance as of the time of retirement, the balance, if less than five thousand dollars (\$5,000.00), shall be paid in a lump sum to his or her legal representative, or to or in trust for his or her designated beneficiary.

If the balance is five thousand dollars (\$5,000.00) or more, the designated beneficiary may elect by application duly acknowledged and filed with the Board to receive payment of such balance according to any one of the following provisions:

- (A) a lump sum payment;
- (B) an annuity having a present value equal to the balance payable;
- (C) a lump sum payment and an annuity. Such annuity shall be of equivalent actuarial value to the balance payable less the amount

of the lump sum payment specified by the beneficiary.

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(2) Option 2. Upon his or her death, the retirement allowance shall be continued throughout the life of and paid to the survivor annuitant, if then living.

(3) Option 3. Upon his or her death, one-half (1/2) of the retirement allowance shall be continued throughout the life of and paid to the survivor annuitant, if then living.

(b) Beneficiaries designated under Option 1, the maximum single life annuity, may be changed by filing a new designation with the Board. Survivor annuitants named in Option 2 or Option 3 may not be changed. In the event a survivor annuitant predeceases a member, a substitute may not be named. (Ord. 35-1984.)

#### **2-705.20 DEATH IN SERVICE**

A member who dies in service who is eligible for a superannuation or early retirement allowance shall be considered to have retired the day before his or her death under the provisions of Option 1. (Ord. 35-1984.)

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#### **2-705.21 DISABILITY RETIREMENT**

(a) An active New Member or active Former Plan B Member with ten (10) or more years of credited service prior to reaching superannuation age may, upon application or on application of a head of the department of the City in which the member is employed, be retired by the Board on a disability retirement allowance of thirty percent (30%) of final salary if the physician designated by the Board shall certify to the Board that the member is unable to engage in any gainful employment and that said member ought to be retired. (Ord. 4-1996.)

(b) Where the disability of a member is determined by the Board to be total and permanent prior to eligibility for superannuation retirement, which disability results from a condition arising out of and incurred in the course of employment and which is compensable under the applicable provisions of the Pennsylvania Workers' Compensation Act, Act of June 2, 1915, P.L. 736, as amended, 77 P.S. 829, or the Pennsylvania Occupational Disease Act, Act of June 21, 1939, P.L. 566, as amended, 77 P.S. §1101-1112, no minimum period of service shall be required for eligibility. The disability retirement allowance of such member shall equal fifty percent (50%) of the member's final salary, minus the amount of any payments for which the member shall be eligible under the Pennsylvania Occupational Disease Act.

(c) Any member entitled to retire for disability may, in lieu of such retirement, elect to retire under the early retirement provisions of this Agreement, if he or she has met the age and service requirements of those provisions. Such a retirement shall not be considered a voluntary action of the member.

(d) The components of the disability retirement allowance shall be as follows:

(A) a member's annuity of actuarial value equal to his or her accumulated deductions, but not to exceed the amount of the disability retirement allowance;

plus

(B) if the member's annuity in Subsection (A), above, is not equal to the disability retirement allowance, an excess interest annuity of actuarial value equal to the balance in his excess interest account, but such that the combined annuity shall not exceed the disability retirement allowance;

plus

(C) if the combined annuity in Subsections (A) and (B), above, is not equal to the disability retirement allowance, a municipal annuity of actuarial value to equal the City contributions

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made on account of the member and, if necessary, the disability reserve supplement contributions made by the City sufficient to increase the disability retirement allowance to the amount allowed.

(e) Once every year the Board may require any disability annuitant, while still under superannuation retirement age, to undergo a medical examination by a physician designated by the Board. Should the physician report and certify to the Board that such disability annuitant is no longer physically or mentally incapacitated for the performance of duty and is able to engage in a gainful occupation, then the disability retirement allowance shall be discontinued. Should the disability retirement allowance be discontinued, other than for refusing to be examined, an early or involuntary retirement allowance shall at that time be granted equal to the early or involuntary allowance the member was eligible to receive, if any, at the time the disability annuity began. If the member was not eligible for early retirement and the member has received less in disability payment than the total amount of his or her accumulated deductions and excess interest at the time of retirement, then the member may receive the difference. The member may also elect

to receive this difference in lieu of taking an involuntary or early retirement.

(f) Should a disability annuitant, while under superannuation retirement age, refuse to submit to at least one medical examination in any year by a physician designated by the Board, such disability retirement allowance shall be discontinued until the withdrawal of such refusal. Should such refusal continue for one (1) year, then all rights in and to any disability retirement allowance, or for an early or involuntary retirement allowance provided for by this chapter, shall be forfeited by such member.

(g) A discontinued disability annuitant may return to service within ninety (90) days of being discontinued. In such event the member will be credited with the number of years of service accrued at the time of disability retirement, and an amount will be transferred from the annuity reserve account to the member's accumulated deductions account equal to the present value of the member's annuity portion of his or her disability retirement allowance, and an amount will be transferred from the annuity reserve account to the member's excess interest account equal to the present value of the excess interest annuity portion of the disability retirement allowance.

(h) A discontinued disability annuitant who does not return to service within ninety (90) days but who subsequently returns to service may elect within ninety (90) days of returning to

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service to restore credit for prior service by paying to the system the amount of benefits, including return of accumulated deductions, received from the System or the amount of accumulated deductions standing to his or her account on the date the disability annuity became effective, whichever is less.

Otherwise he or she shall not be entitled to the credit earned prior to the disability retirement. This reinstatement of credit shall be according to the provisions of Section 2-705.25.

(i) Should a disability annuitant die before the total disability retirement allowance received is at least equal to the amount of accumulated deductions and balance in his or her excess interest account at the time of disability retirement, then the Board shall pay to the designated beneficiary an amount equal to the difference between such total retirement allowance received and the annuitant's accumulated deductions plus excess interest. If such difference is less than one hundred dollars (\$100.00) and no letters testamentary or of administration have been taken out on the estate within six (6) months after death, then such difference may be paid to the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker. No other payments shall be made from the account of

a deceased disability annuitant. (Ord. 35-1984.)

#### **2-705.22 DEATH BENEFITS**

Should a vestee die before becoming eligible for a retirement allowance, or should a member die while in service before becoming eligible for any other benefits contained in this Agreement, the full amount of the accumulated deductions plus the balance in the member's excess interest account, including interest credited to date of death, shall be paid to his or her designated beneficiary. If, upon death, the member shall have less than one hundred dollars (\$100.00) in accumulated deductions with interest and excess interest standing to his or her credit and his or her estate is the designated beneficiary, the Board may, if no letters testamentary or of administration have been taken out on the estate within six (6) months after death, pay such accumulated deductions and excess interest on the claim of the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker. (Ord. 35-1984.)

#### **2-705.23 WITHDRAWAL OF ACCUMULATED DEDUCTIONS**

(a) A person who no longer holds a position of employment with the City that entitles such person to membership in the System under this chapter shall be entitled to withdraw his or her total contributions, including interest and excess interest credited to such member's account, regardless of the person's eligibility for any other benefit provided under this chapter.

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(b) A member who withdraws contributions does so in lieu of any other benefit to which he or she is entitled under this chapter. A member who elects to withdraw any of his or her contributions made under this chapter must withdraw all of them. The withdrawal of contributions shall be made by filing a written application with the Board. Upon the filing of the "Refund Application", the member shall lose all service credits for which the contributions being withdrawn were made. (Ord. 35-1984.)

#### **2-705.24 MILITARY SERVICE**

(a) An active member with credited service of not less than six (6) months with the City and who is inducted into active military service in times of war, armed conflict or national emergency shall be eligible for intervening military service credit during the continuance of such period of time, provided he or she returns to City employment within six (6) months following separation from active military service and he or she makes the contributions required by this section.

(b) The City shall continue making municipal contributions on account of any member who is on intervening military service. Any active member desiring to purchase credited service toward an annuity for such intervening military service shall file with the



Board an application to purchase such credited service within ninety (90) days of returning to City employment. The contribution required for this purchase shall be computed by applying the contribution rate of the member to his or her compensation at the time of entry into active military service, multiplying the same by the number of years and fractional parts thereof of such service and adding regular interest from the date the employee returns to City employment, which shall be within six (6) months following separation from active military service, to the date of purchase.

(c) A member may also purchase credited service for nonintervening active military service for a period not in excess of five (5) years, provided that he or she has completed at least five (5) years of credited service with the City subsequent to such active military service. Within ninety (90) days of enrollment in the System, a member shall file with the Board a notification of intent to purchase non-intervening military service. A member who does not file such notice shall not be eligible to purchase non-intervening military service. The Board shall inform a member who files said notice of his or her eligibility for non-intervening military service when he or she has completed five (5) years of credited service with the City. A member shall have ninety (90) days after such notification to purchase non-intervening military service credit.

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(d) A member who purchases credit for non-intervening military service shall make the payment for both the member's contributions and the municipal contributions.

(1) If the member's separation from active military service is prior to the date of the City's membership, it shall be treated as prior service credit when credit is purchased. In such case the amount due from the member shall be computed by applying the member's basic contribution rate, plus the City's rate of contribution during its first year of entry into the System, to the individual's salary earned during the twelve (12) months prior to the municipality's entry date into the System and multiplying the result by the number of years and fractional part of a year of creditable service. Interest from the later of the date of entry by the City into the System or the member's employment by the City to the date of purchase shall be added.

(2) In the event the separation of the member from active military service occurred subsequent to the

enrollment of the City in the System, the credit purchased for such non-intervening service shall be considered current service credit. The amount due by the member for such current service credit for non-intervening service shall be computed by applying the member's basic contribution rate, plus the municipality's normal contribution rate for current service in effect when the member entered the employ of the City, multiplied by the average annual rate of compensation over the first five (5) years of employment and multiplied again by the number of years, or fractional parts of a year, sought to be purchased, plus regular interest from the date of employment to the date of purchase.

(e) In all cases in which military service is to be purchased, the interest charged shall be regular interest in effect on the date that the application for such service is filed with the Board.

(f) A request for purchase will be granted only if the applicant's discharge or separation from service was granted under other than dishonorable conditions. Proof of the nature of the discharge or separation must accompany the application for 2-107

credit for military service, whether intervening or nonintervening.

(g) Limitations shall be as follows:

(1) A member shall not be eligible for credit for nonintervening military service if such service

entitles him or her to receive now or in the future, or if a member is receiving, a governmental pension based on such non-intervening military service, irrespective of the fact that such member may have actual military service in excess of the minimum amount necessary to qualify for such pension.

(2) The crediting of non-intervening military service shall also be unavailable to anyone who is in a reserve component of the Armed Forces or the National Guard of any state or territory, regardless whether that person may actually be entitled to receive a federal pension based on such service.

(3) A member who is receiving disability compensation based on service-connected injury or illness as a result of active military service shall be eligible for credit of non-intervening military

service.

(4) In all cases, military service shall be limited to active military service rendered only to the Armed Forces of the United States.

(h) The provisions of this section shall apply regardless of when the creditable military service was rendered. (Ord. 35-1984.)

#### **2-705.25 REPURCHASE OF SERVICE CREDIT**

(a) A member who withdrew all contributions from the System or from Plan A or Plan B upon separation from City employment may, within ninety (90) days after return to service, by written application filed with the Board, elect to restore to the System the amount withdrawn plus regular interest from the date the withdrawal was made. Upon receipt of the application, the Board will certify to the member the amount due.

(b) Upon receipt of payment, the Board will credit the member with the years of service previously withdrawn. Each continuous period of prior membership service for which repayment

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is made and service credit restored must be made in its entirety. However, in the event of two (2) or more discontinuous periods of membership in the System, the member may, at Member's option, choose not to restore one (1) or more or them. The Board will bill the member separately for each period of service the member seeks to restore. A member who terminates service under the terms of this Agreement, whether by death, retirement or taking a position with the City not covered by this chapter, prior to the receipt by the Board of any funds for the repayment of withdrawn contributions or restoration of service credit, shall not receive any credit for the time sought to be purchased regardless of any other written or oral agreement between the member and the Board to the contrary. In the event only partial payment has been made, the member will receive only the credited service equivalent to the dollars paid into the System. No credit shall be given for the unpaid portion.

(c) Except when the estate of a deceased member or the guardian of an incompetent member completes partial payments, no one, including a beneficiary or survivor annuitant, can make payments to restore credit or purchase military time on behalf of the member, except the member himself.

(d) Upon restoration of service credits, a member's credited service will be adjusted and applied to the benefit plan under which he or she rejoins the System. Obligations as a member shall also begin again. (Ord. 35-1984.)

#### **2-705.26 PURCHASE OF SERVICE FROM OTHER MUNICIPALITIES**

A member shall not be permitted to repurchase service

withdrawn from other municipalities, except that he or she may complete payments which began during service with another municipality pursuant to Section 2-705.28. (Ord. 35-1984.)

#### **2-705.27 PORTABILITY**

When a member leaves the employment of the City and enters into service as a municipal employee of another municipality which enrolls its municipal employees in the Pennsylvania Municipal Retirement System under an Article II or IV benefit plan, accumulated service credits will remain unimpaired.

However, the City will pay the System any member contributions made prior to the enrollment in the System that have not been paid. The unpaid municipal liability for prior service shall be prorated by the Board between the City and the subsequent employing municipality on an equitable basis. The member shall be liable for any debts owed under the City plan, but otherwise all future benefits and obligations shall be according to the benefit plan of the subsequent employing municipality. Likewise, 2-109

any member who, prior to employment as a municipal employee of the City, was enrolled as a municipal employee in an Article II or IV benefit plan in another municipality shall retain his or her service credits. Said member shall be liable for any debts owed under the prior municipality plan but shall henceforth be covered by the terms of this chapter. Unpaid municipal liability will be prorated, and prior service payments may continue. (Ord. 35-1984.)

#### **2-705.28 PURCHASE OF PRIOR SERVICE**

A New Member who was an employee of the City at the time the City enrolled in the System may elect within ninety (90) days of the effective date of this chapter to purchase credit for prior service according to the rules and regulations of the Board. The City will make the necessary municipal contributions for such prior service. The member will make the member contributions. (Ord. 35-1984.)

#### **2-705.29 ADMINISTRATION OF CURRENT PLAN A BENEFITS AND ANNUITIES**

(a) The City will certify to the Board the names, addresses, Social Security numbers, sexes, birth dates, and benefits being received or to be received (including death benefits and beneficiaries) of all persons, trusts and estates receiving benefits from Plan A as of August 31, 1984. Upon the enrollment of the Former Plan A Members, the City will certify to the Board the names, addresses, Social Security numbers, sexes, birth dates and benefits being received or to be received (including death benefits and beneficiaries) of the vestees of Plan A and of all persons, trusts and estates who or which began

to receive benefits from Plan A on or after September 1, 1984 and prior to January 1, 1987. The payment of benefits so certified will be administered by the Board according to the terms of this section.

(b) Prior to January 1, 1989 the Board will certify to the City as due and owing the amount of the benefits payable for each full month after the City has certified the list of Plan A annuitants and vestees. The System will notify the City at least forty-five (45) days in advance of each date payment is due. Upon receipt from the City of the amount so due, the Board will authorize the System to pay that month's benefits. No payments will be made until the full amount due that month has been received by the Board. Partial, incomplete or late payments by the City will result in a delay in payment of the benefits being administered by the Board.

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(c) As of January 1, 1989 the remaining total liability on these benefits will be calculated by the Board. The amount necessary to fully amortize this unfunded liability in twentyfive (25) consecutive annual installments, paid quarterly, will be certified to the City by the Board as part of the liability payments due from the City pursuant to Section 2-705.47. The City shall in all events guarantee payments under this section. In the event the City fails to make the necessary funding payments, the payment by the Board of the benefits so assumed shall cease. (Ord. 35-1984.)

Part III - Plan A

### **2-705.30 TERMS AND CONDITIONS OF THE BENEFITS OF FORMER PLAN A MEMBERS AFTER JANUARY 1, 1987 ENROLLMENT**

(a) Former Plan A Members will have the benefits set forth below after their enrollment in the System unless this chapter is amended prior to that date.

(b) Each member shall have a liability in an amount equal to the appropriate percentage outlined below, as determined by the appropriate coverage, times compensation, in order to fund the benefits under the plan. Contributions shall be paid only on that which would be includable in a calculation of final salary. The required member contributions shall be paid into the fund by the City either through payroll deductions or through pickup contributions in such manner and time as the Board may by rule and regulation determine. A member may not make additional voluntary contributions to increase accumulated deductions or the size of any member's annuity to which such member may be entitled.

(1) Each single coverage member shall contribute an

amount equal to four percent (4%) of compensation.

(2) Each joint coverage member shall contribute an amount equal to four and one-half percent (4.5%) of compensation on which Social Security taxes are payable and six percent (6%) of compensation in excess of that on which Social Security taxes are payable.

(3) Each dual coverage member shall contribute an amount equal to six percent (6%) of compensation.

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(4) A member certified by the City as eligible for an additional service retirement allowance shall pay a sum, in addition to his or her normal retirement contributions, equal to one-half of one percent (.5%) of compensation, provided that such additional service retirement allowance contribution shall not be paid after the member has reach the age of sixty-five (65) years. (Ord. 35-1984.)

#### **2-705.31 SUPERANNUATION RETIREMENT AGE**

Superannuation retirement age shall be sixty (60) years of age. (Ord. 35-1984.)

#### **2-705.32 SUPERANNUATION SERVICE REQUIREMENT**

The years of service required to retire at superannuation age shall be twenty (20) years. (Ord. 35-1984.)

#### **2-705.33 FINAL SALARY**

(a) Final Salary shall be the average of the highest annual basic compensation, including longevity, overtime and shift differential payments, earned and received over any five (5) years of service or the average annualized basic compensation rate at the termination of service, whichever is higher.

(b) Bonuses and lump sum accrued vacation, sick leave, severance and other such payments are excluded from final salary. Terminal leave pay, payments for off-duty schooling or drill or court time, clothing and equipment allowances, meal allowances, educational incentive payments, payments in lieu of dependent's health insurance costs and other special forms of compensation are excluded from final salary. (Ord. 35-1984.)

#### **2-705.34 SUPERANNUATION RETIREMENT**

(a) A member who terminates service at or after attaining superannuation retirement age and who has a total of twenty (20) years of credited service shall receive a basic superannuation retirement allowance of fifty percent (50%) of final salary. A member terminated involuntarily who has twelve (12) or more years of credited service shall receive a benefit proportionally reduced for years of service less than twenty (20).

(b) In addition to a basic superannuation retirement allowance, members who elected to be eligible for additional service increments shall receive an additional service retirement allowance, provided the required member contributions have been made. The additional service retirement allowance shall be equal 2-112

to two and one-half percent (2.5%) of the basic superannuation retirement allowance multiplied by the number of whole years of total service credits beyond twenty (20) that were earned prior to reaching sixty-five (65) years of age.

(c) A vestee who attains superannuation retirement age may apply for a superannuation allowance computed according to this section if he or she has twenty (20) or more years of service. If the vestee is involuntarily terminated, the service requirement is twelve (12) or more years, and the benefit shall be proportionally reduced for years of service less than twenty (20). (Ord. 35-1984.)

#### **2-705.35 EARLY RETIREMENT**

An active member who has twenty (20) or more years of service credited prior to attaining fifty-five (55) years of age and whose office or employment is terminated without such member's voluntary action shall be eligible for a superannuation retirement allowance computed according to Section 2-705.34 if such member is fifty-five (55) or more years of age at the time of termination or, upon the attaining of fifty-five (55) years of age, if he or she becomes a vestee under Subsection 2-705.34(c). (Ord. 35-1984.)

#### **2-705.36 EFFECT OF SOCIAL SECURITY BENEFITS**

The superannuation retirement allowance or early retirement allowance to be paid in accordance with the provisions of Sections 2-705.35 and 2-705.36 of this chapter to a joint coverage member after the age and upon that portion of final salary on which full Social Security benefits are payable, shall be reduced by an amount equal to forty percent (40%) of the Social Security paid or payable to the member. Such reduction shall be subject to the following provisions:

(1) Upon attainment by the member receiving benefits according to the provisions of this PART III of the age at which full Social Security benefits are payable, or upon retirement of the member after attaining that age, eligibility to the old age insurance benefits and the primary insurance amount of Social Security, upon which the reduction in the benefits shall be based, shall be computed by the Board in the manner specified in the Federal Social Security Act, except that in

determining such eligibility and such amount, only wages and compensation for services performed in the employ of the City shall be included.

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(2) The reduction shall not apply to benefits for disability payable in accordance with the provisions of this Section 2-705.40.

(3) Whenever the amount of the reduction from the benefits has been once determined, it shall remain fixed for the duration of the receipt of benefits, except that any decrease in the primary amount under the Social Security Act shall result in a corresponding decrease in the amount of the reduction from the benefits.

(4) The total sum, including Social Security benefits, to be received upon retirement by the member shall not be less than the benefits that would be paid by the System in the absence of the Social Security benefits reduction. (Ord. 35-1984.)

#### **2-705.37 VESTING**

As set forth in Sections 2-705.12 and 2-705.18. (Ord. 35-1984.)

#### **2-705.38 OPTIONS ON SUPERANNUATION OR EARLY RETIREMENT; DEATH IN SERVICE**

As set forth in Sections 2-705.19 and 2-705.20, but only for members who, within ninety (90) days of the date of enrollment, file with the Board to waive the spouse's death benefit stated in Plan A and Section 2-705.41 of this Part and elect to have the Options and Death in Service benefits set forth in Sections 2-705.19 and 2-705.20 of this chapter. Such an election shall be irrevocable, whether or not an eligible spouse exists to receive a spouse's death benefit at the time it is due. A failure to file an election within ninety (90) days after enrollment in the System shall be deemed a retention of the spouse's death benefit and a waiver of the Options and Death in Service benefits set forth in Sections 2-705.19 and 2-705.20. (Ord. 35-1984.)

#### **2-705.39 SURVIVING SPOUSE'S DEATH BENEFITS FOR MEMBERS NOT ELECTING SECTION 2-705.15 OPTIONS AND SECTION 2-705.16 DEATH IN SERVICE BENEFITS**

The surviving spouse of a member who did not elect to be covered by Sections 2-705.19 and 2-705.20 shall, during the spouse's lifetime, or so long as such spouse does not remarry, be entitled to receive a pension benefit calculated at the rate of fifty percent (50%) of the pension benefit to which the member was entitled under the following conditions:

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(1) The spouse must have been married to the member at the time of commencement of pension benefits.

(2) The member must have fulfilled the requirements in order to qualify for pension benefits under the provisions of this Agreement.

(Ord. 35-1984.)

#### **2-705.40 DISABILITY RETIREMENT**

(a) An active member under superannuation retirement age with fifteen (15) or more years of credited service shall be eligible for a disability retirement allowance equal to fifty percent (50%) of final salary, plus an additional service retirement allowance computed according to Section 2-705.35(b), if he or she has more than twenty (20) years of credited service. Such member shall be eligible for a disability retirement allowance if the physician designated by the Board shall certify to the Board that the member is unable to engage in any gainful employment and that said member ought to be retired.

(b) Subsections 2-705.21(d) through 2-705.21(h) shall be applicable to Former Plan A Members. (Ord. 35-1984.)

#### **2-705.41 DEATH BENEFITS**

Should a vestee die before he or she becomes eligible for a retirement allowance, or should a member die while in service and before becoming eligible for any other benefits contained in this Part III, the full amount of the accumulated deductions plus the balance in the member's excess interest account, including interest credited to the date of death, shall be paid to the designated beneficiary. If, upon death, the member shall have less than one hundred dollars (\$100.00) in accumulated deductions with interest and excess interest and the decedent's estate is the designated beneficiary, the Board may, if letters testamentary or of administration have not been taken out on the estate within six (6) months after death, pay such accumulated deductions and excess interest on the claim of the undertaker or to any person or municipality which shall have paid the claim of the undertaker. (Ord. 35-1984.)

#### **2-705.42 WITHDRAWAL OF ACCUMULATED DEDUCTIONS**

As set forth in Section 2-705.23. (Ord. 35-1984.)

#### **2-705.43 MILITARY SERVICE**

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(a) As set forth in Section 2-705.24. (Ord. 35-1984.)

(b) Alternatively, any Former Plan A Member who enters active duty in the military service of the United States when a member of Plan A or the System shall have the years of active duty in the military service, not to exceed a total of six (6), credited toward retirement, provided that:

(A) the member receives an honorable discharge,

certificate of satisfactory service or the equivalent thereof and produces same to the Board; and

(B) the member is re-employed by the City; and

(C) the member pays into the System the amount which such member would have been obligated to pay during the period of military service, but not to exceed a total of six (6) years, if such member had been an active employee of the City, which amount shall be based on the last salary or wages as a City employee prior to induction in the military service. (Ord. 35-1984.)

**2-705.44 REPURCHASE OF SERVICE CREDIT**

As set forth in Section 2-705.25. (Ord. 35-1984.)

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**2-705.45 PURCHASE OF SERVICE FROM OTHER MUNICIPALITIES**

As set forth in Section 2-705.26. (Ord. 35-1984.)

**2-705.46 PORTABILITY**

As set forth in Section 2-705.27. (Ord. 35-1984.)

Part IV - Administration

**2-705.47 DETERMINATION OF CITY LIABILITY**

(a) The Board shall determine from time to time, and City shall pay, the amount which shall be contributed annually by the City as the normal cost for current service credits, including credit for intervening military service, of all members subsequent to the time they are enrolled in the System, and the additional amount which shall be contributed annually by the City toward a reserve account for disability allowances payable to all enrolled members, in order that all future service liability may be fully funded on an actuarial basis according to the normal methods and procedures used by the Board. In the event the City fails to make the payments due under this subsection, the benefit which such payments are funding will be actuarially reduced.

(b) The City shall also pay an annual administration assessment fee of twenty dollars (\$20.00) per member enrolled in the System and twenty dollars (\$20.00) per annuitant or beneficiary receiving benefits administered by the Board. The cost of making the valuations required by this section shall be part of the cost of the administration of the System and shall be paid from these fees. The City will not otherwise be directly charged for other services rendered in administering this plan.

(c) Additionally, the City shall pay the amount calculated as due and owing by the Board pursuant to Section 2-705.29.

(d) Additionally, until January 1, 1989 and such time after that until the members' accounts have been made whole, the City will pay monthly the amount of accumulated deductions the Board

certifies as transferable from the members' accounts to the annuity reserve account or as payable as lump sum payments resulting from the death or withdrawal of a member. This amount will include all contributions credited to members' accounts as a result of service prior to enrollment in the System and regular interest thereon. Such amount owed by the City shall be reduced by the amount of contributions made by the member, subsequent to enrollment in the System, plus interest and excess interest credited to the member's account for which actual funding exists, 2-117

plus payments made by the City representing contributions credited to the member's account for service prior to enrollment in the System, but for which no funds or actual payments were turned over to the System at the time of enrollment of the members. Any amounts not paid by the City to the System representing prior member contributions, and benefits deriving therefrom, shall not be the obligation of the Board. Only those funds actually received by the Board will be transferred to the annuity reserve account or paid as a lump sum. In the event the City fails to make the payments due under this section, the benefits which such payments are funding will be actuarially reduced.

(e) Prior to January 1, 1989 the Board will certify to the City as due and owing for each annuitant who retired after enrollment in the System the proportional amount of his or her annuity payment that is not funded by the member's accumulated deductions or municipal contributions made on account of the member. Upon receipt from the City of the amount so due, the Board will authorize the System to pay that month's benefit. No payments will be made until the full amount due that month has been received by the Board. Partial, incomplete or late payments by the City will result in a delay or reduction of benefits paid by the Board.

(f) On January 1, 1989 the Board shall determine the unfunded liability of all benefits under this chapter, including but not limited to liability for member contributions credited for service prior to enrollment in the System for which funds have not actually been received, and the municipal liability for prior service purchased and military service purchased by the members. The City shall have the option to spread payment of such unfunded liability over twenty-five (25) consecutive uniform annual installments paid quarterly. Payments made pursuant to this subsection shall be first credited to fully fund the members' accounts. In the event the City fails to make the payments due under this section, the benefits which such payments are funding will be actuarially reduced.

(g) The Board reserves the right to consolidate some or all of the various liabilities imposed upon the City into one statement of required contributions to actuarially fund the Plan, which statement can be expressed as a percentage of member compensation, or a sum definite, or a combination of the two. Partial payment of such a consolidated bill will be proportionally allocated to the several liabilities composing that bill, except the liability owed to members' accounts shall first be satisfied fully. All notices of liability will be provided to the City at least forty-five (45) days before the date they fall due. (Ord. 35-1984.)

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#### **2-705.48 ADVANCE PAYMENTS**

The Board will establish an advanced payments account in the System for the City to make payments in excess or in advance of those due pursuant to Section 2-705.47. Funds in the advanced payments account may be used by the City to satisfy any obligations it owes to the System up to the amount in the account. Advanced payments, once made, must be used to satisfy obligations of the City to the System. Upon the enrollment of Former Plan B Members and Former Plan A Members in the System, the City may place the assets of Plan B and Plan A (including member contributions made to Plan B and Plan A) in the advanced payment account. If the City wishes to so place Plan B and Plan A member contributions in the advanced payment accounts, it will be liable for the full funding of member contributions accounts in the System pursuant to Section 2-705.47. Payments, once earmarked and credited to a member's account in the System, may be used only to fund benefits due to that member. (Ord. 35-1984.)

#### **2-705.49 INTEREST AFTER TERMINATION**

Except for the accounts of vestees or when a member transfers membership due to portability, no interest or excess interest shall be credited to a member's account after termination of employment with the City that entitles him or her to membership in the System under this chapter. (Ord. 35-1984.)

#### **2-705.50 PRIOR SERVICE CREDITS**

(a) New Members shall receive no service credits for employment with the City prior to September 1, 1984, except as provided in the sections of this chapter pertaining to portability, return to service and purchase of prior service or military service credit.

(b) Former Plan A Members and Former Plan B Members shall be credited with the service and accumulated deductions to which they are properly entitled under the terms of Plan A and Plan B as of the date of their enrollment in the System, subject to the

terms of this chapter. (Ord. 35-1984.)

#### **2-705.51 FILING OF DOCUMENTS BY THE MEMBERS**

For the purposes of sections in this chapter requiring filing of documents by the member with the Board, the date of filing will be deemed to be the date postmarked if deposited and mailed by first-class or better service by the United States Postal Service. If delivered by any other means to the Board, 2-119

the date filed shall be the date it was received in the offices of the Board. A written or oral application or communication made by a member to the City shall not be deemed as filed with the Board until it has been received in the office of the Board. (Ord. 35-1984.)

#### **2-705.52 PAYMENT SCHEDULE**

(a) The amount due from a member for any purchase of service credit or payment of debt will be certified by the Board in conformity with methods of calculation approved by the actuary and may be paid in a lump sum within thirty (30) days after billing or through salary deductions amortized with regular interest through a repayment period of one (1) or two (2) but not more than three (3) years, with regular interest charged through the repayment period chosen by the member and approved by the Board.

(b) All retirement allowances and annuity payments due under this chapter shall be paid in twelve (12) uniform monthly installments payable on the last day of each calendar month. Benefits payable from Plan A that are being administered by the Board will be made on the last day of each month, beginning the first full calendar month after or beginning with the day the administration of those benefits is assumed by the Board. (Ord. 35-1984.)

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#### **2-705.53 EFFECTIVE DATE OF RETIREMENT**

A member eligible to receive a superannuation retirement allowance or an early retirement allowance or a disability retirement allowance shall file with the Board a written statement, duly attested, setting forth on what date he or she desires to be retired. Said application shall make the retirement allowance effective on the date so specified if such application was filed in the office of the Board before the date specified in the application and before the death of member, but the date so specified in the application shall not be more than ninety (90) days after the date of the filing. A member who files an annuity application ninety (90) days or less after terminating service shall have an effective retirement date of the date service was terminated. When a member files an annuity

application more than ninety (90) days after terminating service, the effective retirement date shall be when the application was filed. (Ord. 35-1984.)

#### **2-705.54 CERTIFICATION OF MEMBERSHIP**

Upon the enrollment of the Former Plan A Members and Former Plan B Members, the City will certify to the Board their names, addresses, Social Security numbers, sex, birth dates, dates of enrollment, service credits received, member contributions made, rates of contribution, eligibility for the additional service retirement allowances under Plan A, whether the member is a single, joint or dual coverage member, and any debts owed to Plan A or Plan B. (Ord. 35-1984.)

#### **2-705.55 EXEMPTION FROM ATTACHMENT OR EXECUTION, NON-ASSIGNABILITY**

The retirement allowance and the contributions of members to the fund and all contributions and interest, including excess interest, returned to the members under this chapter shall not be subject to attachment or execution and shall not be the subject of assignment or transfer except to a duly designated beneficiary. (Ord. 35-1984.)

#### **2-705.56 RETROACTIVITY AND CORRECTION OF ERRORS**

The Board retains the right to correct any errors in collection of contributions or payment of benefits and awarding of service credit or amount credited to the accumulated deduction accounts, excess interest accounts or other accounts, whether caused by mistakes of fact or law, regardless of the fault or lack thereof the members, the City or the Board, or whether the

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errors were made under this Chapter or Plan A or Plan B prior to enrollment in the System. (Ord. 35-1984.)

#### **2-705.57 PROCEDURE**

Matters of procedure and substance not covered in this chapter shall be as set forth in Act 15 of 1974, as it shall from time to time be amended. In all cases of conflict, Act 15 of 1974, as it may be amended, and the regulations promulgated thereunder, shall control over the terms of this chapter. All references to the Pennsylvania Municipal Retirement Law incorporate the regulations promulgated thereto and any amendments enacted subsequent to the execution of this Agreement. (Ord. 35-1984.)

#### **2-705.58 CONFIDENTIALITY OF RECORDS**

(a) The City agrees that all reports and documents relating to the Fund, which it may prepare and deliver hereunder, shall be confidential and shall become the property of Board and shall not be published, circulated, or used in any manner by the City without the prior written approval of Board.

(b) The City shall preserve all financial and accounting records pertaining or prepared pursuant to this chapter during the Agreement period, and any amendment thereof, for six (6) years from the termination date of the enrollment of the City in the System. During such period the Board, or any other department or representative of the Commonwealth of Pennsylvania, upon reasonable notice, shall have the right to audit such books and records for the purpose of verifying all of the salary and contribution payments, to the extent authorized and permitted by law. The City shall have the right to preserve all records and accounts in original form or on microfilm, magnetic tape, or any other similar process. (Ord. 35-1984.)

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## **CHAPTER 2-707**

### **POLICE RETIREMENT SYSTEM**

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## **CROSS REFERENCES**

Pennsylvania Municipal Retirement Law: see 53 P.S. §881.101



et seq.

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Part I - General Provisions

**2-707.1 DEFINITIONS**

The following terms used in this chapter shall have the meanings given to them in this section.

(a) "ENROLLMENT CONTRACT" means the agreement negotiated between the Pennsylvania Municipal Retirement Board and the City under Article IV of the Pennsylvania Municipal Retirement Law as amended and all amendments to said agreement. (Ord. 31-1985.)

(b) "PLAN A" means the pension plan established for the police officers of the City by Ordinance 94-1939 and closed to new members by Ordinance 16-1977, including all written or oral amendments establishing or modifying pension benefits or liabilities made by any means whatsoever, such as ordinance, regulation, resolution, decision, or decree of City Council; the Office of the Mayor; the Police Pension Commission; collective bargaining agreements; and custom, habit or practice.

(c) "PLAN B" means the pension plan established for the police officers of the City of Harrisburg by Ordinance 16-1977 which amended Plan A so as to provide for a new benefit structure for employees hired after August 15, 1977, including all written and oral amendments thereto establishing or modifying pension benefits or liabilities made by any means whatsoever, such as ordinance, regulation, resolution, decision, or decree of City Council; the Office of the Mayor; the Police Pension Commission; collective bargaining agreements; and custom, habit and practice. (Ord. 34-1984.)

(d) "ACCUMULATED DEDUCTIONS" means the total amount contributed by a member through deductions from compensation or through pickup contributions and paid over by the City or paid by the member or from any existing pension or retirement system or 2-125

plan directly into the System and credited to the member's account, together with regular interest thereon.

(e) "CREDITED SERVICE" means each day of active membership. Benefits, unless otherwise stated, shall be based on years, months and days of service, expressed as whole years and fractions thereof.

(f) "DESIGNATED BENEFICIARY" means the person or persons last designated in writing by the member and filed with the Board to receive benefits after the death of the member. If the designated beneficiary predeceases the member or no beneficiary was designated, then the member's estate will be deemed the designated beneficiary.

(g) "EXCESS INTEREST ACCOUNT" means the account to which

any excess investment earnings allocated by the Board and the City to a member is credited, plus regular interest credited on that amount by the Board.

(h) "EXCESS INVESTMENT EARNINGS" means the investment earnings on the fund in excess of that required for allocations to regular interest and expenses calculated according to the formula established by the Board.

(i) "FORMER PLAN A MEMBER" means: (1) a City police officer who is a member of Plan A on the date the members of Plan A are enrolled in the System; or (2) a municipal police officer hired after the enrollment of Plan A members in the System who has service under Plan A and who elects to purchase credit for that service. (Ord. 34-1984.)

(j) "FORMER PLAN B MEMBER" means: (1) a City police officer who is a member of Plan B on the date the members of Plan B are enrolled in the System; or (2) a municipal police officer hired after the enrollment of Plan B members in the system who has service under Plan B and who elects to purchase credit for that service; or (3) a municipal police officer who elects Former Plan B Member status pursuant to Section 2-707.12(d). (Ord. 31-1985.)

(k) "POLICE OFFICER" means a person holding a full-time position in the Police Bureau of the City who works for a stated salary or compensation.

(l) "NEW MEMBER" means: (1) a municipal police officer of the City hired on or after September 1, 1984 who is not a Former Plan A Member or a Former Plan B Member; or (2) a municipal police officer hired prior to September 1, 1984 who is not enrolled in Plan A or Plan B.

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(m) "PICKUP CONTRIBUTIONS" means member contributions which are made by the City on behalf of the City employees for current service. For federal income tax purposes, such contributions shall be made according to the Act of August 16, 1954, 68A Stat. 5, known as the Internal Revenue Code of 1954, as amended. For all other purposes pickup contributions shall be treated as contributions made by a member in the same manner and to the same extent as if they were not being picked up.

(n) "SURVIVOR ANNUITANT" means the person named by a member in writing filed with the Board under a joint and survivor annuity option to receive an annuity upon the death of such member.

(o) "VESTEE" means: (1) a Former Plan B Member or a New Member with ten (10) or more years of credited service; or (2) a Former Plan A Member with twenty (20) or more years of credited service prior to obtaining superannuation retirement age, who

terminates employment with the City and who does not withdraw his or her accumulated deductions or apply for or receive a benefit under this chapter. (Ord. 34-1984.)

**2-707.2 ELECTION TO JOIN STATE RETIREMENT SYSTEM;  
ENROLLMENT CONTRACT AND ASSUMPTION**

The City hereby elects to join the Pennsylvania Municipal Retirement System established by the Pennsylvania Municipal Retirement Law, Act 15 of 1974, as amended. The City hereby agrees to be bound by all the requirements and provisions of the said law and the amendments thereto and conditions of the enrollment contract. The enrollment contract is accepted and ratified by the City as setting forth the benefits and obligations of the police officers, the City and the Pennsylvania Municipal Retirement Board under the pension plans hereby elected by the City. The City hereby assumes all obligations, financial and otherwise, placed upon member municipalities by the Pennsylvania Municipal Retirement Law, regulations promulgated thereunder, the amendments thereto, and the terms of the enrollment contract. (Ord. 34-1984.)

**2-707.3 REPEAL OF PLAN B**

Plan B (Police) is hereby repealed. (Ord. 34-1984.)

**2-707.4 ENROLLMENT OF PLAN B POLICE OFFICERS**

All police officers of the City who are enrolled in Plan B are hereby enrolled in the Pennsylvania Municipal Retirement System with the obligations and benefits set forth in the 2-127

enrollment contract and the Pennsylvania Municipal Retirement Law and regulations promulgated thereunder and the amendments thereto. (Ord. 34-1984.)

**2-707.5 TRANSFER OF PLAN B ASSETS**

Pursuant to the terms and conditions of the enrollment contract, the City hereby transfers all assets of Plan B, including contributions made by the members, to the Pennsylvania Municipal Retirement System to be placed in the advanced payment account established by the Pennsylvania Municipal Retirement Board. Such transfer shall be effective September 1, 1984. (Ord. 34-1984.)

**2-707.6 TRANSFER OF PLAN A BENEFITS RECEIVED AS OF  
8-31-84**

The City hereby transfers the administration of all benefits of all members and beneficiaries of Plan A receiving benefits as of August 31, 1984 to the Pennsylvania Municipal Retirement Board pursuant to the terms and conditions of the enrollment contract. The City hereby transfers all of the assets set aside as an actuarial reserve of these members into the advanced payment account established pursuant to the enrollment contract. Such

pensioners and beneficiaries shall not be considered members of the Pennsylvania Municipal Retirement System. (Ord. 34-1984.)

**2-707.7 ENROLLMENT OF PLAN A POLICE OFFICERS**

On January 1, 1987 all police officers of the City who are enrolled in Plan A hereby shall be enrolled in the Pennsylvania Municipal Retirement System with the obligations and benefits set forth in the enrollment contract and the Pennsylvania Municipal Retirement Law and regulations promulgated thereunder and the amendments thereto. (Ord. 34-1984.)

**2-707.8 TRANSFER OF PLAN A ASSETS**

Pursuant to the enrollment contract, the City hereby transfers all assets of Plan A as of January 1, 1987, such transfer to be made on January 1, 1987 to the Pennsylvania Municipal Retirement System to be placed in the advanced payment account established by the Pennsylvania Municipal Retirement Board. (Ord. 34-1984.)

**2-707.9 TRANSFER OF PLAN A BENEFITS RECEIVED 9-1-84 TO 12-31-86**

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Pursuant to the enrollment contract, the City hereby transfers to the Pennsylvania Municipal Retirement Board on January 1, 1987 the administration of benefits of all members of Plan A, or their beneficiaries, who first began receiving payments between September 1, 1984 to December 31, 1986, inclusive, and all vested members of Plan A who have terminated employment with the City without receiving benefits. The City hereby transfers all of the assets set aside as an actuarial reserve of these annuitants, beneficiaries and vested members into the advanced payment account established pursuant to the enrollment contract. Such annuitants, vestees and beneficiaries shall not be enrolled in the Pennsylvania Municipal Retirement System. (Ord. 34-1984.)

**2-707.10 CITY GUARANTEE**

The City guarantees payment of all benefits which may be payable under this chapter, the enrollment contract, Plan A, or Plan B. (Ord. 34-1984.)

**2-707.11 EFFECTIVE DATE**

A duly certified copy of this chapter shall be filed with the Pennsylvania Municipal Retirement Board of the Commonwealth of Pennsylvania. This chapter electing membership for the City in the Pennsylvania Municipal Retirement System shall be effective September 1, 1984. (Ord. 34-1984.)

**2-707.12 COVERAGE**

(a) This chapter shall cover all New Employees and all annuitants and beneficiaries receiving benefits from Plan A on August 31, 1984. Current annuitants and beneficiaries of Plan A

shall have their existing benefits administered by the Board according to this Agreement. They shall not be deemed to be enrolled in the System. The probationary status of any new municipal police officer otherwise covered by this chapter shall not affect that police officer's eligibility for membership in the System.

(b) Upon the affirmative vote of seventy-five percent (75%) of all municipal police officers who are members of Plan B, all members of Plan B will be enrolled in the System and covered by the terms of this Agreement. After their enrollment they will have the benefits and obligations set forth in Sections 2-707.13 through 2-707.28 and 2-707.45 through 2-707.56 of this chapter.

(c) Upon the affirmative vote of seventy-five percent (75%) of the vestees and members of Plan A, but not before January 1, 1987, all Former Plan A members will be enrolled in the System.  
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Until the Former Plan A Members are enrolled in the System, they will continue to have their pension plan administered by the City. After their enrollment they will have the benefits set forth in Sections 2-707.1, 2-707.12 and 2-707.29 through 2-707.56 of this chapter, unless otherwise agreed by the City and the Board. (Ord. 34-1984.)

(d) Prior to January 1, 1987, a municipal police officer who is a member of Plan A shall have the right to become irrevocably subject to the benefits and obligations of this Agreement set forth in Sections 2-707.13 through 2-707.28 and 2-707.45 through 2-707.56 and shall in all respects be considered as if he or she is a Former Plan B Member.

(e) On or after January 1, 1987, a Former Plan A Member may irrevocably elect to become subject to the benefits and obligations of this Agreement set forth in Section 2-707.13 through 2-707.28 and 2-707.45 through 2-707.56 and shall in all respects be considered as if he or she is a Former Plan B Member.

(f) A municipal police officer electing to transfer accumulated service credits earned and contributions made pursuant to this subsection shall do so in writing to the City and the Pennsylvania Municipal Retirement System. A municipal police officer so electing may not revert to membership in Plan A or become a Former Plan A Member. (Ord. 31-1985.)

Part II - Plan B

### **2-707.13 TERMS AND CONDITIONS OF BENEFITS OF FORMER PLAN B MEMBERS AND NEW MEMBERS**

Each member shall contribute an amount equal to five percent (5%) of his or her compensation to fund the benefits under this Plan. Contributions shall be paid only on compensation which would be includable in a calculation of final salary. The

required member contributions shall be paid into the fund by the City either through payroll deductions or through pickup contributions in such manner and time as the Board may by rule and regulation determine. A member may not make additional voluntary contributions to increase his or her accumulated deductions or the size of any member's annuity to which he or she may be entitled. Each Member shall in addition contribute at a rate certified by the Board as sufficient to fund any purchase or reinstatement of credit or payment of debt. (Ord. 34-1984.)

#### **2-707.14 SUPERANNUATION RETIREMENT AGE**

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Superannuation retirement age shall be fifty-six (56) years of age. (Ord. 34-1984.)

#### **2-707.15 FINAL SALARY**

Final salary shall be determined by calculating the average annualized basic compensation rate, including longevity payments but excluding overtime pay, educational incentive payments, acting officer's pay, bonuses, payments in lieu of dependent's health insurance costs, severance pay and other special forms of compensation, for the highest consecutive five (5) of the ten (10) years prior to retirement. (Ord. 34-1984.)

#### **2-707.16 SUPERANNUATION RETIREMENT**

(a) A member who terminates service at or after superannuation retirement age shall receive a basic superannuation retirement allowance equal to two percent (2%) of the final salary of the member multiplied by the number of years of credited service of the member, not to exceed twenty-five (25) years, plus an additional retirement allowance equal to one and one-quarter percent (1.25%) of final salary for each complete year of credited service in excess of twenty-five (25) years.

(b) A vestee who attains superannuation retirement age may apply for a superannuation retirement allowance computed according to this Section. (Ord. 34-1984.)

#### **2-707.17 EARLY RETIREMENT**

An active member who attains fifty (50) years of age shall be eligible for an early retirement allowance. The early retirement allowance shall be a basic superannuation retirement allowance, based upon credited service at the time of the effective early retirement date, reduced by one-third of one percent (.33%) for each full month by which the early retirement date precedes his or her fifty-sixth (56th) birthday. (Ord. 34-1984.)

#### **2-707.18 VESTING**

At or after attaining superannuation retirement age or the minimum age required for an early retirement allowance, a vestee may apply for a superannuation retirement allowance or early

retirement allowance, as the case may be. A vestee shall have interest credited at the same rate as active members. (Ord. 34-1984.)

## **2-707.19 OPTIONS ON SUPERANNUATION OR EARLY RETIREMENT**

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(a) Each Former Plan B Member and each New Member may, within ninety (90) days of the date of enrollment or beginning of employment, as the case may be, file with the Board to waive the spouse's death benefit set forth in Section 2-707.21 of this Agreement and elect an Option set forth in this section. Such an election shall be irrevocable, whether or not an eligible spouse exists to receive a spouse's death benefit at the time it is due. A failure to file an election within ninety (90) days shall be deemed a retention of the spouse's death benefit and a waiver of the Options set forth in this section.

(b) A member who elects to be covered by an Option set forth in this section who dies in service or as a vestee and who is eligible for a superannuation or early retirement annuity shall be considered to have retired the day before his or her death under the provisions of Option 1. At the time of superannuation or early retirement, an eligible member may elect to receive his or her benefits in a retirement allowance payable throughout his or her life, which shall be known as a single life annuity. In the event of the death of an annuitant who has elected to receive the maximum single life annuity before he or she has received in annuity payments the full amount of the total accumulated deductions, not including the excess interest account, standing to his or her credit on the effective date of retirement, the balance shall be paid to his or her designated beneficiary. Alternatively, at retirement, the member may elect to receive the actuarial equivalent of his or her maximum single life annuity retirement allowance in a lesser allowance, payable throughout life with provisions that:

(1) Option 1. If he or she shall die before receiving in payments the present value of the retirement allowance calculated at the time of the retirement, the balance, if less than five thousand dollars (\$5,000.00), shall be paid in a lump sum to the legal representative, or to or in trust for the designated beneficiary. If the balance is five thousand dollars (\$5,000.00) or more, the designated beneficiary may elect by application duly acknowledged and filed with the Board to receive payment of such balance according to any one of the following provisions:

(A) a lump sum payment;

(B) an annuity having a present value equal to the balance payable;

(C) a lump sum payment and an annuity. Such annuity shall be of equivalent actuarial value to the balance payable less the amount 2-132

of the lump sum payment specified by the beneficiary.

(2) Option 2. Upon death, his or her retirement allowance shall be continued throughout the life of and paid to his or her survivor annuitant, if then living.

(3) Option 3. Upon death, one-half (1/2) of his or her retirement allowance shall be continued throughout the life of and paid to his or her survivor annuitant, if then living.

(c) Beneficiaries designated under Option 1, maximum single life annuity, may be changed by filing a new designation with the Board. Survivor annuitants named in Option 2 or Option 3 may not be changed. In the event a survivor annuitant predeceases a member, a substitute may not be named. (Ord. 34-1984.)

#### **2-707.20 DISABILITY RETIREMENT**

(a) An active member may, prior to reaching superannuation age, upon application or on application of one acting in his or her behalf, or upon application of a head of the department of the City in which such member is employed, be retired by the Board on a disability retirement allowance if the physician designated by the Board shall certify to the Board that the member is unable to engage in any gainful employment and that said member ought to be retired.

(b) A New Member or a Former Plan B Member who becomes disabled, whether such disability is or is not service-connected, shall be entitled to a disability retirement allowance if he or she has four (4) or more years of credited service. If the member has twenty-five (25) years or more of credited service, the allowance shall be a superannuation retirement allowance but without reduction for being under superannuation retirement age. If the member has less than twenty-five (25) years of credited service, the allowance shall be fifty percent (50%) of final salary.

(c) Any member entitled to retire for disability may, in lieu of such retirement, elect to retire under the superannuation or early retirement provisions of this Agreement, if he or she has met the age and service requirements of those provisions. Such a retirement shall be considered to be without voluntary action.



(d) The components of the disability retirement allowance received shall be as follows:

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(A) a member's annuity of actuarial value equal to his or her accumulated deductions, but not exceeding the amount of the disability retirement allowance;  
plus

(B) if the member's annuity in Subsection (A), above, is not equal to the disability retirement allowance, an additional annuity of actuarial value equal to the balance in his excess interest account, but such that the combined member's annuity shall not exceed the disability retirement allowance; plus

(C) if the combined annuity in Subsections (A) and (B), above, is not equal to the disability retirement allowance, a municipal annuity of actuarial value equal to the City contributions made on account of the member and, if necessary, the disability reserve supplement contributions made by the City sufficient to increase the disability retirement allowance to the amount allowed.

(e) Once every year the Board may require any disability annuitant, while still under superannuation retirement age, to undergo a medical examination by a physician designated by the Board. Should the physician report and certify to the Board that such disability annuitant is no longer physically or mentally incapacitated for the performance of duty and is able to engage in a gainful occupation, then his or her disability retirement allowance shall be discontinued. Should the disability retirement allowance be discontinued, other than for refusing to be examined, an early involuntary retirement allowance shall at that time be granted equal to the early involuntary allowance the member was eligible to receive at the time the disability annuity began. If the member was not eligible for early retirement and the member has received less in disability payments than the total amount of his accumulated deductions and excess interest at the time of retirement, then the member may receive the difference. The member may also elect to receive this difference in lieu of taking involuntary early retirement.

(f) Should a disability annuitant, while under superannuation retirement age, refuse to submit to at least one medical examination in any year by a physician designated by the Board, the disability retirement allowance shall be discontinued until the withdrawal of such refusal, and, should such refusal

continue for one (1) year, then all rights in and to any disability retirement allowance or for early involuntary retirement allowance provided for by this chapter shall be forfeited.

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(g) A discontinued disability annuitant may return to service within ninety (90) days of being discontinued. In such event, the member will be credited with the number of years of service he or she had at the time of disability retirement, and an amount will be transferred from the annuity reserve account to the member's accumulated deduction account equal to the present value of the member's annuity portion of his or her disability retirement allowance, and an amount will be transferred from the annuity reserve account to the member's excess interest account equal to the present value of the excess interest annuity portion of the disability retirement allowance.

(h) A discontinued disability annuitant who does not return to service within ninety (90) days, but who subsequently returns to service may elect within ninety (90) days of returning to service to restore credit for prior service by paying to the System the amount of benefits, including return of accumulated deductions, received from the System or the amount of accumulated deductions standing to his or her account on the date the disability annuity became effective, whichever is less.

Otherwise, he or she shall not be entitled to the credit earned prior to his or her disability retirement. This reinstatement of credit shall be according to the provisions of Section 2-707.24.

(i) Should a disability annuitant die, a monthly pension equal to fifty percent (50%) of the monthly pension benefit the disability annuitant was receiving shall be payable to the surviving spouse until the spouse's death, provided that such spouse had been married to the disability annuitant prior to the commencement of retirement benefit payments and at the time of the disability annuitant's death. If a spouse who is receiving a benefit under this subsection dies, payments will continue to be made to the guardian of, or for the benefit of, the member's surviving children under the age of eighteen (18) years. Each eligible child shall receive a proportional share of the benefits. Payment of each child's share shall cease upon that child attaining the age of eighteen (18) years. (Ord. 34-1984.)

#### **2-707.21 DEATH BENEFITS**

(a) If a member who did not elect to be covered by the retirement options set forth in Section 2-707.19 dies while employed by the Bureau of Police, a monthly pension equal to fifty percent (50%) of the monthly pension benefit the member would have received had he retired as of the date of death, shall

be payable to the surviving spouse until the spouse's death, computed on the assumption the member had completed at least fifteen (15) years of service and was at least age fifty-six (56).

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(1) If a member dies who did not elect to be covered by the retirement options set forth in Section 2-707.19 but who was receiving a superannuation or early retirement annuity, a monthly pension shall be payable to the surviving spouse, until the spouse's death, equal to fifty percent (50%) of the monthly pension benefit the member was receiving. Such benefit shall be payable only if the spouse was married to the member at the time benefits commenced and at the time of the member's death.

(2) If a spouse who is receiving a benefit under this section dies, payments will continue to be made to the guardian of, or for the benefit of, the member's surviving children under the age of eighteen (18) years. Each eligible child shall receive a proportional share of the benefits. Payment of each child's share shall cease upon that child attaining the age of eighteen (18) years.

(b) If a vestee dies after attaining the age that makes him or her eligible to immediately begin receiving a retirement allowance, such vestee shall be considered to have applied for a retirement allowance effective the day before death under the provisions of Option 1.

(c) Should a vestee die before becoming eligible for a retirement allowance, or should a member die while in service and before becoming eligible for any other benefits contained in this chapter, the full amount of the accumulated deductions plus the balance in the member's excess interest account, including interest credited to the date of death, standing to his or her credit shall be paid to the designated beneficiary. If, upon death, the member shall have less than one hundred dollars (\$100.00) in accumulated deductions with interest and excess interest standing to his or her credit and his or her estate is the designated beneficiary, the Board may, if no letters testamentary or of administration have been taken out on the estate within six (6) months after death, pay such accumulated deductions and excess interest on the claim of the undertaker, or to any person or municipality which shall have paid the claim of the undertaker. (Ord. 34-1984.)

## **2-707.22 WITHDRAWAL OF ACCUMULATED DEDUCTIONS**

(a) A member who no longer holds a position of employment with the City that entitles him or her to membership in the System under this chapter shall be entitled to withdraw his or 2-136

her total contributions, including interest and excess interest credited to such member's account, minus any amount owed to the System, regardless of the member's eligibility for any other benefit provided under this chapter.

(b) A member who withdraws his or her contributions does so in lieu of any other benefit to which he or she is entitled under this chapter. A member who elects to withdraw any contributions made under this chapter must withdraw all of them. The withdrawal of contributions shall be made by filing a written application with the Board. Upon the filing of the "Refund Application," the member shall lose all service credits for which the contributions being withdrawn were made. (Ord. 34-1984.)

## **2-707.23 MILITARY SERVICE**

(a) An active member with credit of not less than six (6) months service with the City who is inducted into active military service in times of war, armed conflict or national emergency shall be eligible for intervening military service credit during the continuance of such period of time, provided he or she has returned to City employment within six (6) months following separation from active military service and the contributions required by this Section are made.

(b) The City shall continue making current service municipal contributions on account of any member who is on intervening military City employment. Any active member desiring to purchase service toward an annuity for such intervening military service shall file with the Board an application to purchase such credit within ninety (90) days of returning to service. The contribution required for this purchase shall be computed by applying the contribution rate of the member to his or her compensation at the time of entry into active military service, multiplying the same by the number of years and fractional parts thereof of such service and adding regular interest from the date the employee returns to employment, which shall be within six (6) months, to the date of purchase.

(c) A member may also purchase credit for non-intervening active military service, for a period not in excess of five (5) years, provided that he or she has completed at least five (5) years of credited service for retirement purposes with the City subsequent to such active military service. Within ninety (90) days of enrollment in the System, all qualifying members shall file with the Board a notification of intent to purchase nonintervening

military service. A member who does not file such a notice shall not be eligible to purchase non-intervening military service credit. The Board shall inform each member who filed said notice of eligibility for non-intervening military service  
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when five (5) years of credited service with the City have been completed. A member shall have ninety (90) days after such notification to purchase non-intervening military service credit.

(d) A member who purchases credit for non-intervening military service shall make the payment for both the member's contributions and the municipal contributions.

(1) If the member's separation from active military service is prior to the date of the City's membership, it shall be treated, when credit is purchased, as prior service credit. However, payment for both the member's and the City's contributions shall be made by the member. The amount due for such purchase shall be computed by multiplying the sum of the basic contribution rate of the member and the current contribution rate of the City during its first year of entry into the System, based on the initial entry salary of the member, by the number of years, or fractional parts of a year, of service sought to be purchased together with regular interest from the date of employment of the member to the date of purchase.

(2) In the event the separation of the member from active military service occurred subsequent to the enrollment of the City in the System, the credit purchase for such non-intervening service shall be considered current service credit. The amount due by the member for such current service credit for non-intervening service shall be computed by multiplying his or her basic contribution rate, plus the normal rate of the member for current service in effect when the member entered the employ of the City, multiplied by the average annual rate of compensation over the first five (5) years of subsequent employment and multiplied again by the number of years, or fractional parts of a year, sought to be purchased, plus regular interest from the date of employment to the date of purchase.

(e) In all cases in which military service is to be purchased, the interest charged shall be regular interest in effect on the date that the application for such service is filed

with the Board.

(f) A request for purchase will be granted only if the applicant's discharge or separation from service was granted under other than dishonorable conditions. Proof of the nature of  
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the discharge or separation must accompany the application for credit for military service, whether intervening or nonintervening.

(g) Limitations shall be as follows:

(1) A member shall not be eligible for credit for nonintervening military service if such service entitles him or her to receive, now or in the future, or if he or she is receiving, a governmental pension based on such non-intervening military service, irrespective of the fact that such member may have actual military service in excess of the minimum amount necessary to qualify for such pension.

(2) Crediting for non-intervening military service shall also be unavailable to anyone who is in a reserve component of the Armed Forces or the National Guard of any state or territory, regardless when that person may actually be entitled to receive a federal pension based on such service.

(3) A member who is receiving disability compensation based on a service-connected injury or illness as a result of active military service shall be eligible for credit of non-intervening military service.

(4) In all cases, military service shall be limited to active military service rendered only to the Armed Forces of the United States.

(h) The provisions of this section shall apply regardless of when the creditable military service was rendered. (Ord. 34-1984.)

#### **2-707.24 REPURCHASE OF SERVICE CREDIT**

(a) A member who withdrew his or her contributions from the System or from Plan A or Plan B may, within ninety (90) days after return to service, or, in the case of a Former Plan A Member or Former Plan B Member, within ninety (90) days after enrollment in the System, by written application filed with the Board, elect to restore to the System the amount withdrawn plus regular interest from the date the withdrawal was made. Upon receipt of the application, the Board will certify to the member the amount due.

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(b) Upon receipt of payment, the Board will credit the member with the service previously withdrawn. Each continuous period of prior membership service for which repayment is made and service credit restored must be made in its entirety. However, in the event of two (2) or more discontinuous periods of membership in the System, the member may, at the member's option, choose not to restore one or more of them. The Board will bill the member separately for each period of service the member seeks to restore. A member who terminates service under the terms of this chapter, whether by death, retirement or taking a position with the City not covered by this chapter, prior to the receipt by the Board of any funds for the repayment of withdrawn contributions or to restore service credit, shall not receive any credit for the time sought to be purchased, regardless of any other written or oral agreement between the member and the Board to the contrary. In the event only partial payment has been made, the member will receive the credited service, but will be considered to owe a debt to the Board for the unpaid amount plus interest.

(c) Except when the estate of a deceased member or the guardian of an incompetent member completes partial payments, no one, including a beneficiary or survivor annuitant, can make payments to restore credit or purchase military time on behalf of the member, except the member himself or herself.

(d) Upon restoration of service credits, a member's annuity rights as they existed at the time of separation from service shall be restored, and his or her obligations as a member shall begin again. The rate of contribution of such returning member shall be the same as it was at the time of separation from service, unless there has been a change in benefits, in which case the contribution rate shall be the same as that paid by a New Member receiving like benefits. (Ord. 34-1984.)

#### **2-707.25 PURCHASE OF SERVICE FROM OTHER MUNICIPALITIES**

A member shall not be permitted to repurchase service withdrawn from other municipalities, except that payments which began during service with another municipality pursuant to Section 2-707.26 may be completed. (Ord. 34-1984.)

#### **2-707.26 PORTABILITY**

When a member leaves the employment of the City and enters service as a police officer of another municipality which enrolls its police officers in the Pennsylvania Municipal Retirement System under an Article III or IV benefit plan, such member's service credits will remain unimpaired. However, the City will pay the System any member contributions made prior to the enrollment in the System that have not been paid. The unpaid

municipal liability for prior service shall be prorated by the Board between the City and the subsequent employing municipality on an equitable basis. The member shall be liable for any debts owed under the the City's plan, but otherwise all future benefits and obligations shall be according to the benefit plan of the subsequent employing municipality. Likewise, any member who, prior to employment as a police officer of the City, was enrolled as a municipal police officer in an Article III or IV benefit plan in another municipality, shall retain his or her service credits. Such member shall be liable for any debts owed under the prior municipality plan but shall henceforth be covered by the terms of this chapter. Unpaid municipal liability will be prorated and prior service payments may continue. (Ord. 34-1984.)

#### **2-707.27 PURCHASE OF PRIOR SERVICE**

A New Member who was an employee of the City at the time the City enrolled in the System may elect, within ninety (90) days of the effective date of entry into the System, to purchase credit for prior service according to the rules and regulations of the Board. The City will make the necessary municipal contributions for such prior service. The member will make the member contributions. (Ord. 34-1984.)

#### **2-707.28 ADMINISTRATION OF CURRENT PLAN A BENEFITS AND ANNUITIES**

(a) The City will certify to the Board the names, addresses, Social Security numbers, sexes, birth dates, and benefits being received or to be received (including death benefits and beneficiaries) of all persons, trusts and estates receiving benefits from Plan A as of August 31, 1984. Upon the enrollment of the Former Plan A Members, the City will certify to the Board the names, addresses, Social Security numbers, sexes, birth dates and benefits being received or to be received (including death benefits and beneficiaries) of the vestees of Plan A and of all persons, trusts and estates who or which began to receive benefits from Plan A on or after September 1, 1984 and prior to January 1, 1987. The payment of benefits so certified will be administered by the Board according to the terms of this section.

(b) Prior to January 1, 1989 the Board will certify to the City as due and owing the amount of the benefits payable for each full month after the City has certified the list of Plan A annuitants and vestees. Upon receipt from the City of the amount so due, the Board will authorize the System to pay that month's benefits. No payments will be made until the full amount due that month has been received by the Board. Partial, incomplete



or late payments by the City will result in a delay in payment of the benefits being administered by the Board.

(c) As of January 1, 1989 the remaining total liability on these benefits will be calculated by the Board. The amount necessary to fully amortize this unfunded liability in twentyfive (25) consecutive annual installments, paid quarterly, will be certified to the City by the Board as part of the liability payments due from the City pursuant to Section 2-707.45. The City shall in all events guarantee payments under this section. In the event the City fails to make the necessary funding payments, the payment by the Board of the benefits so assumed shall cease. (Ord. 34-1984.)

Part III - Plan A

**2-707.29 TERMS AND CONDITIONS OF THE BENEFITS OF FORMER PLAN A MEMBERS AFTER THEIR JANUARY 1, 1987 ENROLLMENT**

Former Plan A Members will have the benefits set forth below after their enrollment in the System unless this chapter is amended prior to that date. (Ord. 34-1984.)

**2-707.30 MEMBER LIABILITY**

As set forth in Section 2-707.13, the contribution rate shall be five percent (5%) of compensation plus one dollar (\$1.00) per month. (Ord. 34-1984.)

**2-707.31 SUPERANNUATION RETIREMENT AGE**

Superannuation retirement age shall be fifty (50) years of age. No early retirement is available to Former Plan A Members. (Ord. 34-1984.)

**2-707.32 FINAL SALARY**

(a) Final salary shall be determined by calculating the annualized basic compensation rate, including longevity payments at the time an application for a benefit is filed with the Board or will be effective; or the average of the last five (5) years of basic compensation received, including longevity payments, whichever is higher.

(b) Shift differential pay, overtime pay, terminal leave pay, payments for off-duty schooling or drill or court time, clothing and equipment allowances, meal allowances, educational

incentive payments, acting officer's pay, bonuses, payments in lieu of dependent's health insurance costs, severance pay, and other special forms of compensation are excluded from final salary. (Ord. 34-1984.)

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**2-707.33 SUPERANNUATION RETIREMENT**

(a) A member who terminates services at or after attaining superannuation retirement age and who has a total of twenty (20)

years of credited service shall receive a basic superannuation retirement allowance of fifty percent (50%) of final salary.

(b) In addition to a basic superannuation retirement allowance, members with more than twenty (20) years of credited service shall receive an additional service retirement allowance. The additional service retirement allowance shall be equal to two and one-half percent (2 1/2%) of the basic superannuation retirement allowance multiplied by the number of whole years of total service credits beyond twenty (20) that were earned prior to reaching sixty-five (65) years of age. The additional service retirement allowance shall not exceed one hundred dollars (\$100.00) per month.

(c) A member who terminates service at or after attaining superannuation retirement age and who has less than twenty (20) years of credited service shall receive a reduced superannuation retirement allowance consisting of a basic superannuation retirement allowance multiplied by a fraction equal to the number of years of credited service divided by twenty (20).

(d) A vestee who attains superannuation retirement age may apply for a superannuation allowance computed according to Subsections (a) and (b), above, if he or she has twenty (20) or more years of credited service, or Subsection (c), if he or she has less than twenty (20) years of credited service. (Ord. 34-1984.)

#### **2-707.34 MINIMUM RETIREMENT ALLOWANCE**

Notwithstanding the provisions of Section 2-707.33, no superannuation retirement allowance based on twenty (20) years of credited service shall be less than four thousand dollars (\$4,000.00) per year, and no superannuation retirement allowance based on less than twenty (20) years of credited service shall be less than four thousand dollars (\$4,000.00) per year multiplied by a fraction equal to the number of years of credited service, divided by twenty (20). (Ord. 34-1984.)

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#### **2-707.35 VESTING**

As set forth in Section 2-707.18. (Ord. 34-1984.)

#### **2-707.36 OPTIONS ON SUPERANNUATION RETIREMENT**

(a) As set forth in Section 2-707.19, but only for members who, within ninety (90) days of the date of enrollment, file with the Board to waive the spouse's death benefit stated in Plan A and Section 2-707.39 and elect to have the Options set forth in Section 2-707.19. Such an election shall be irrevocable, whether or not an eligible spouse exists to receive a spouse's death benefit at the time it is due. Failure to file an election within ninety (90) days shall be deemed a retention of the spouse's death benefit and a waiver of the Options set forth in

Section 2-707.19.

(b) A member who elects to be covered by the Options set forth in Section 2-707.19 who dies in service or as a vestee, and who is eligible for a superannuation annuity, shall be considered to have retired the day before death under the provisions of Option 1. (Ord. 34-1984.)

**2-707.37 SPOUSE'S DEATH BENEFITS FOR MEMBERS NOT ELECTING SECTION 2-707.20 OPTIONS**

(a) The surviving spouse of a disability or superannuation annuitant who did not elect to be covered by Section 2-707.19 shall, during his or her lifetime or so long as he or she does not remarry, be entitled to receive a pension calculated at the rate of fifty percent (50%) of the retirement allowance the annuitant was receiving.

(b) The surviving spouse of a member who did not elect to be covered by Section 2-707.19 who dies in service, or as a vestee, at or after attaining fifty (50) years of age shall, during such surviving spouse's lifetime or so long as he or she does not remarry, be entitled to receive a pension calculated at the superannuation retirement allowance.

(c) If a surviving spouse receiving a benefit under this Section dies or remarries, or if no widow or widower survives, the children of the member under the age of eighteen (18) years shall receive the benefit to which the widow or widower was entitled. Each eligible child shall receive a proportional share of the benefits. Payment of each child's share shall cease upon that child attaining the age of eighteen (18) years. (Ord. 34-1984.)

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**2-707.38 DISABILITY RETIREMENT**

A member with fifteen (15) or more years of credited service is eligible for a disability retirement allowance as set forth in Section 2-707.20. A Former Plan A Member shall receive fifty percent (50%) of final salary if he or she has less than twenty (20) years of credited service, and a superannuation retirement allowance if he or she has twenty (20) or more years of credited service. Section 2-707.20(a) is not applicable to Former Plan A Members. (Ord. 34-1984.)

**2-707.39 DEATH BENEFITS**

As set forth in Section 2-707.21(c). (Ord. 34-1984.)

**2-707.40 WITHDRAWAL OF ACCUMULATED DEDUCTIONS**

As set forth in Section 2-707.22. (Ord. 34-1984.)

**2-707.41 MILITARY SERVICE**

As set forth in Section 2-707.23. (Ord. 34-1984.)

**2-707.42 REPURCHASE OF SERVICE CREDIT**

As set forth in Section 2-707.24. (Ord. 34-1984.)

## **2-707.43 PURCHASE OF SERVICE FROM OTHER MUNICIPALITIES**

As set forth in Section 2-707.25. (Ord. 34-1984.)

## **2-707.44 PORTABILITY**

As set forth in Section 2-707.26. (Ord. 34-1984.)

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Part IV - Administration

## **2-707.45 DETERMINATION OF CITY LIABILITY**

(a) The Board shall determine, from time to time, and the City shall pay, the amount which shall be contributed annually by the City as the normal cost for current service credits, including credit for intervening military service, of all members subsequent to the time they are enrolled in the System and the additional amount which shall be contributed annually by the City toward a reserve account for disability allowances payable to all enrolled members in order that all future service liability may be fully funded on an actuarial basis according to the normal methods and procedures used by the Board. In the event the City fails to make the payments due under this section, the benefit which such payments are funding will be actuarially reduced.

(b) The City shall also pay an annual administration assessment fee of twenty dollars (\$20.00) per member enrolled in the System and twenty dollars (\$20.00) per annuitant or beneficiary receiving benefits administered by the Board. The cost of making the valuations required by this section shall be part of the cost of the administration of the System and shall be paid from these fees. The City will not otherwise be directly charged for other services rendered in administering this plan.

(c) Additionally, the City shall pay the amount calculated as due and owing by the Board pursuant to Section 2-707.28 of this chapter.

(d) Additionally, until January 1, 1989 and such time after that until the members' accounts have been made whole, the City will pay monthly the amount of accumulated deductions the Board certifies as transferable from the members' accounts to the annuity reserve account or as payable as lump sum payments resulting from the death or withdrawal of a member. This amount will include all contributions credited to members' accounts as a result of service prior to enrollment in the System and regular interest thereon. Such amount owed by the City shall be reduced by the amount of contributions made by the member subsequent to enrollment in the System plus interest and excess interest credited to the member's account for which actual funding exists, plus payments made by the City representing contributions credited to the member's account for service prior to enrollment in the System but for which no funds or actual payments were turned over to the System at the time of enrollment of the

member. No funds in excess of those received will be transferred to the annuity reserve account or paid as a lump sum. In the event the City fails to make the payments due under this section, 2-147

the benefits which such payments are funding will be actuarially reduced.

(e) Prior to January 1, 1989 the Board will certify to the City, as due and owing; for each annuitant who retired after enrollment in the System, the proportional amount of his or her annuity payment not funded by the member's accumulated deductions or municipal contributions made on account of the member. Upon receipt from the City of the amount so due, the Board will authorize the System to pay that month's benefit. No payments will be made until the full amount due that month has been received by the Board. Partial, incomplete or late payments by the City will result in a delay or reduction of benefits paid by the Board.

(f) On January 1, 1989 the Board shall determine the unfunded liability of all benefits under this chapter, including but not limited to: liability for member contributions credited for service prior to enrollment in the System for which funds have not actually been received; the municipal liability for prior service purchased; and military service purchased by the members. The City shall have the option to spread payment of such unfunded liability over twenty-five (25) consecutive uniform annual installments paid quarterly. Payments made pursuant to this section shall be first credited to fully fund the members' accounts. In the event the City fails to make the payments due under this section, the benefits which such payments are funding will be actuarially reduced.

(g) The Board reserves the right to consolidate some or all of the various liabilities imposed upon the City into one bill which can be expressed as a percentage of member compensation, or a sum definite, or a combination of both. Partial payment of such a consolidated bill will be proportionally allocated to the several liabilities composing that bill, except the liability owed to members' accounts shall first be satisfied fully. (Ord. 34-1984.)

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#### **2-707.46 ADVANCED PAYMENTS**

The Board will establish an advanced payments account in the System for the City to make payments in excess or in advance of those due pursuant to Section 2-707.45. Funds in the advanced payments account may be used by the City to satisfy any obligations it owes to the System up to the amount in the account.

Advanced payments, once made, must be used to satisfy obligations

of the City to the System. Upon the enrollment of Former Plan B Members and Former Plan A Members in the System, the City may place the assets of Plan B and Plan A (including member contributions made to Plan B and Plan A) in the advanced payment account.

If the City wishes to so place Plan B and Plan A member contributions, it will be liable for fully funding member contributions accounts in the System pursuant to Section 2-707.45. Payments, once earmarked and credited to a member's account in the System, may be used only to fund benefits due to that member. (Ord. 34-1984.)

#### **2-707.47 INTEREST AFTER TERMINATION**

Except for the accounts of vestees, or when a member transfers his or her membership due to portability, no interest or excess interest shall be credited to a member's account after termination of employment with the City that entitles him or her to membership in the System under this chapter. (Ord. 34-1984.)

#### **2-707.48 PRIOR SERVICE CREDITS**

(a) New Members shall receive no service credits for employment with the City prior to September 1, 1984, except as provided in the sections of this chapter pertaining to portability, return to service and purchase of prior service or military service credit.

(b) Former Plan A Members and Former Plan B Members shall be credited with the service and accumulated deductions to which they are properly entitled under the terms of Plan A and Plan B as of the date of their enrollment in the System, subject to the terms of this Chapter. (Ord. 34-1984.)

#### **2-707.49 FILING OF DOCUMENTS BY THE MEMBERS**

For the purposes of the sections in this chapter requiring filing of documents by the member with the Board, the date of filing will be deemed to be the date postmarked, if deposited and mailed by first-class service or better by the United States Postal Service. If delivered by any other means to the Board, the date filed shall be the date received in the offices of the Board. A written or oral application or communication made by a member to the City shall not be deemed filed with the Board until it has been received in the office of the Board. (Ord. 34-1984.)

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#### **2-707.50 PAYMENT SCHEDULE**

(a) The amount due from a member for any purchase of service credit or payment of debt will be certified by the Board in conformity with methods of calculation approved by the actuary and may be paid in a lump sum within thirty (30) days after billing or through salary deductions amortized with regular interest through a repayment period of one (1) or two (2) but not more than three (3) years, with regular interest charged through

the repayment period chosen by the member and approved by the Board. (Ord. 34-1984.)

(b) All retirement allowances and annuity payments due under this chapter shall be paid in twelve (12) uniform monthly installments, payable on the last day of each calendar month. Benefits payable from Plan A administered by the Board will be made on the last day of each month, beginning the first full calendar month after or beginning with the day the administration of those benefits is assumed by the Board. (Ord. 31-1985.)

**2-707.51 EFFECTIVE DATE OF RETIREMENT**

A member eligible to receive a superannuation retirement allowance, an early retirement allowance or a disability retirement allowance shall file with the Board a written statement, duly attested, setting forth on what date he or she desires to be retired. Said application shall make the retirement allowance effective on the date so specified, if such application was filed in the office of the Board before the date specified in the application and before the death of the member, but the date so specified in the application shall not be more than ninety (90) days after the date of the filing. A member who files an annuity application ninety (90) days or less after terminating service shall have an effective retirement date of the date service was terminated. When a member files an annuity application more than ninety (90) days after terminating service, the effective retirement date shall be when the application was filed. (Ord. 34-1984.)

**2-707.52 CERTIFICATION OF MEMBERSHIP**

Upon the enrollment of the Former Plan A Members and Former Plan B Members, the City will certify to the Board their names, addresses, Social Security numbers, sexes, birth dates, dates of enrollment, service credits received, member contributions made, rates of contribution, and any debts owed to Plan A or Plan B. (Ord. 34-1984.)

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**2-707.53 EXEMPTION FROM ATTACHMENT OR EXECUTION;  
NON-ASSIGNABILITY**

The retirement allowance and the contributions of members to the fund, and all contributions and interest, including excess interest, returned to the members under this chapter shall not be subject to attachment or execution and shall not be the subject of assignment or transfer except to a duly designated beneficiary. (Ord. 34-1984.)

**2-707.54 RETROACTIVITY AND CORRECTION OF ERRORS**

The Board retains the right to correct any errors in collection of contributions or payment of benefits and awarding of service credit or amount credited to the accumulated deduction

accounts, excess interest accounts or other accounts, whether caused by mistakes of fact or law, regardless of the fault or lack thereof of the members, the City or Board or whether the errors were made under this chapter or Plan A or Plan B prior to enrollment in the System. (Ord. 34-1984.)

### **2-707.55 PROCEDURE**

Matters of procedure and substance not covered in this chapter shall be as set forth in Act 15 of 1974, as it shall from time to time be amended. In all cases of conflict, Act 15 of 1974, as it may be amended, and the regulations promulgated thereunder shall control over the terms of this chapter. All references to the Pennsylvania Municipal Retirement Law incorporate the regulations promulgated thereunder and any amendments enacted subsequent to the execution of this chapter. (Ord. 34-1984.)

### **2-707.56 CONFIDENTIALITY OF RECORDS**

(a) The City agrees that all reports and documents relating to the Fund which it may prepare and deliver hereunder shall be confidential and shall become the property of Board and shall not be published, circulated, or used in any manner by the City without the prior written approval of Board.

(b) The City shall preserve all financial and accounting records pertaining or prepared pursuant to this chapter during the Agreement period, and any amendment thereof, for six (6) years from the termination date of the enrollment of the City on the System. During such period the Board, or any other department or representative of the Commonwealth of Pennsylvania, upon reasonable notice, shall have the right to audit such books  
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and records for the purpose of verifying all of the salary and contribution payments, to the extent authorized and permitted by law. The City shall have the right to preserve all records and accounts in original form or on microfilm, magnetic tape, or any other similar process. (Ord. 34-1984.)  
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## **CHAPTER 2-709**

### **FIREFIGHTER RETIREMENT SYSTEM**

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Pennsylvania Municipal Retirement Law: see 53 P.S. §881.101  
et seq.

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## **PART I - GENERAL CONDITIONS**

### **2-709.1 DEFINITIONS**

The terms used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

- (a) "ENROLLMENT CONTRACT" or "AGREEMENT" means the agreement negotiated between the Pennsylvania Municipal Retirement Board and the City under the provisions of Article IV of the Pennsylvania Municipal Retirement Law, as amended.
- (b) "PLAN A" means the pension plan established for the firefighters of the City by Ordinance 171-1974 and closed to new members by Ordinance 17-1977, including all written or oral amendments establishing or modifying pension benefits or liabilities made by any means whatsoever, such as ordinance, regulation, resolution, decision, or decree of City Council; the Office of the Mayor; or the Firemen's Pension Board; collective bargaining agreements; and custom, habit and practice.
- (c) "PLAN B" means the pension plan established for the firefighters of the City by Ordinance 17-1977, which amended Plan A so as to provide for a new benefit structure for employees hired after August 15, 1977, including all written and oral amendments thereto establishing or modifying pension benefits or liabilities made by any means whatsoever, such as ordinance, regulation, resolution, decision, or decree of City Council; the

Office of the Mayor; the Firemen's Pension Board; collective bargaining agreements; and custom, habit and practice. (Ord. 33-1984.)

(d) "ACCUMULATED DEDUCTIONS" means the total amount contributed by a member through deductions from compensation paid or through pickup contributions and paid over by the City or paid by the member or from any existing pension or retirement system 2-155

or plan directly into the System and credited to the member's account, together with regular interest thereon.

(e) "CREDITED SERVICE" means each day of active membership. Benefits, unless otherwise stated, shall be based on years, months and days of service, expressed as whole years and fractions thereof.

(f) "DESIGNATED BENEFICIARY" means the person or persons last designated in writing by the member and filed with the Board to receive benefits after the death of the member. If the designated beneficiary predeceases the member, or no beneficiary was designated, then the member's estate will be deemed the designated beneficiary.

(g) "EXCESS INVESTMENT EARNINGS" means the investment earnings on the fund in excess of that required for allocation to regular interest and expenses, calculated according to the formula established by the Board.

(h) "EXCESS INTEREST ACCOUNT" means the account to which any excess investment earnings allocated by the Board and the City to a member is credited, plus regular interest credited on that amount by the Board.

(i) "FORMER PLAN A MEMBER" means: (1) a firefighter who is a member of Plan A on the date the members of Plan A are enrolled in the System; or (2) a municipal firefighter hired after the date the members of Plan A are enrolled in the System who has service under Plan A and who elects to purchase credit for that service.

(j) "FORMER PLAN B MEMBER" means: (1) a firefighter who is a member of Plan B on the date the members of Plan B are enrolled in the System; or (2) a municipal firefighter hired after the date the members of Plan B are enrolled in the System who has service under Plan B and who elects to purchase credit for that service.

(k) "MUNICIPAL FIREFIGHTER" means a person holding a fulltime position in the fire bureau of the City who works for a stated salary or compensation.

(l) "NEW MEMBER" means a firefighter hired on or after September 1, 1984 who is not a Former Plan A member or a Former Plan B Member, or a firefighter hired prior to September 1, 1984

who is not enrolled in Plan A or Plan B.

(m) "PICKUP CONTRIBUTIONS" means member contributions which are made by the City on behalf of City employees for current

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service. Such contributions shall be made according to the Act of August 16, 1954, 68A Stat. 5, known as the Internal Revenue Code of 1954, as amended, for federal income tax purposes. For all other purposes, pickup contributions shall be treated as contributions made by a member in the same manner and to the same extent as if they were not being picked up.

(n) "SURVIVOR ANNUITANT" means the person named by a member in writing filed with the Board under a joint and survivor annuity option to receive an annuity upon the death of such member.

(o) "VESTEE" means a Former Plan B Member or a New Member with ten (10) or more years of credited service, or a Former Plan A Member with twenty (20) or more years of credited service, prior to obtaining superannuation retirement age who terminates employment with the City and who does not withdraw his or her accumulated deductions or apply for or receive a benefit under this Agreement. (Ord. 33-1984.)

#### **2-709.2 ELECTION TO JOIN STATE RETIREMENT LAW; ENROLLMENT CONTRACT AND ASSUMPTION**

The City hereby elects to join the Pennsylvania Municipal Retirement System, established by the Pennsylvania Municipal Retirement Law, Act 15 of 1974, as amended. The City hereby agrees to be bound by all the requirements and provisions of the Pennsylvania Municipal Retirement Board and the terms and conditions of the enrollment contract. The enrollment contract is hereby accepted and ratified by the City as setting forth the benefits and obligations of the firefighters, the City and the Pennsylvania Municipal Retirement Board under the pension plans hereby elected by the City. The City hereby assumes all obligations, financial and otherwise, placed upon member municipalities by the Pennsylvania Municipal Retirement Law and regulations promulgated thereunder and the amendments thereto and the terms of the enrollment contract. (Ord. 33-1984.)

#### **2-709.3 REPEAL OF PLAN B**

Plan B (Fire) is hereby repealed. (Ord. 33-1984.)

#### **2-709.4 ENROLLMENT OF PLAN B FIREFIGHTERS**

All firefighters of the City who are enrolled in Plan B are hereby enrolled in the Pennsylvania Municipal Retirement System with the obligations and benefits set forth in the enrollment contract and the Pennsylvania Municipal Retirement Law and the regulations promulgated thereunder and the amendments thereto. (Ord. 33-1984.)

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**2-709.5 TRANSFER OF PLAN B ASSETS**

Pursuant to the terms and conditions of the enrollment contract, the City hereby transfers all assets of Plan B, including contributions made by the members, to the Pennsylvania Municipal Retirement System, to be placed in the advanced payment account established by the Pennsylvania Retirement Board. Such transfer shall be effective September 1, 1984. (Ord. 33-1984.)

**2-709.6 TRANSFER OF PLAN A BENEFITS RECEIVED AS OF 8-31-84**

The City hereby transfers the administration of all benefits of all members and beneficiaries of Plan A receiving benefits as of August 31, 1984 to the Pennsylvania Municipal Retirement Board, pursuant to the terms and conditions of the enrollment contract. The City hereby transfers all of the assets set aside as an actuarial reserve of these members into the advanced payment account established pursuant to the enrollment contract. Such pensioners and beneficiaries shall not be considered members of the Pennsylvania Municipal Retirement System. (Ord. 33-1984.)

**2-709.7 ENROLLMENT OF PLAN A FIREFIGHTERS**

On January 1, 1987 all firefighters of the City of Harrisburg who are enrolled in Plan A hereby shall be enrolled in the Pennsylvania Municipal Retirement System with the obligations and benefits set forth in the enrollment contract and the Pennsylvania Municipal Retirement Law and regulations promulgated thereunder and the amendments thereto. (Ord. 33-1984.)

**2-709.8 TRANSFER OF PLAN A ASSETS**

Pursuant to the enrollment contract, the City hereby transfers all assets of Plan A as of January 1, 1987 to the Pennsylvania Retirement System, to be placed in the advanced payment account established by the Pennsylvania Municipal Retirement Board. (Ord. 33-1984.)

**2-709.9 TRANSFER OF PLAN A BENEFITS RECEIVED 9-1-84 TO 12-31-86**

Pursuant to the enrollment contract, the City hereby transfers as of January 1, 1987 the administration of benefits of all members of Plan A or their beneficiaries who first began receiving payment between September 1, 1984 to December 31, 1986, inclusive, and all vested members of Plan A who have terminated employment with the City without receiving benefits to the

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Pennsylvania Municipal Retirement Board. The City shall also transfer all of the assets set aside as an actuarial reserve of these annuitants, beneficiaries and vested members into the advanced payment account established pursuant to the enrollment contract. Such annuitants, vestees and beneficiaries shall not

be enrolled in the Pennsylvania Municipal Retirement System.  
(Ord. 33-1984.)

**2-709.10 CITY GUARANTEE**

The City guarantees payment of all benefits which may be payable under this chapter, the enrollment contract, Plan A, or Plan B. (Ord. 33-1984.)

**2-709.11 EFFECTIVE DATE**

A duly certified copy of this chapter shall be filed with the Pennsylvania Municipal Retirement Board of the Commonwealth of Pennsylvania. This chapter electing membership for the City in the Pennsylvania Municipal Retirement System shall be effective the first day of September, 1984. (Ord. 33-1984.)

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**2-709.12 COVERAGE**

(a) This chapter shall cover all New Employees and all annuitants and beneficiaries receiving benefits from Plan A on August 31, 1984. Current annuitants and beneficiaries of Plan A shall have their existing benefits administered by the Board according to this chapter. They shall be deemed to be enrolled in the System. The probationary status of any new municipal firefighter otherwise covered by this Agreement shall not affect that firefighter's eligibility for membership in the System.

(b) Upon the affirmative vote of seventy-five percent (75%) of all firefighters who are members of Plan B, all members of Plan B will be enrolled in the System and covered by the terms of this chapter. After their enrollment they will have the benefits and obligations set forth in Sections 2-709.12 through 2-709.28 and 2-709.45 through 2-709.56 of this chapter.

(c) Upon the affirmative vote of seventy-five percent (75%) of the vestees and members of Plan A, but not before January 1, 1987, all Former Plan A Members will be enrolled in the System. Until the Former Plan A Members are enrolled in the System, they will continue to have their pension plan administered by the City. After enrollment they will have the benefits set forth in Sections 2-709.12, 2-709.13 and 2-709.29 through 2-709.56 of this chapter, unless otherwise agreed by the City and the Board. (Ord. 33-1984.)

Part II - Plan B

**2-709.13 TERMS AND CONDITIONS OF BENEFITS OF FORMER PLAN B MEMBERS AND NEW MEMBERS**

(a) Each member shall contribute an amount equal to five percent (5%) of his or her compensation, plus one dollar (\$1.00) per month, to fund the benefits under this plan. Contributions shall be paid only on compensation which would be includable in a calculation of final salary. The required member contributions shall be paid into the fund by the City either through payroll

deductions or through pickup contributions in such manner and time as the Board may by rule and regulation determine. A member may not make additional voluntary contributions to increase accumulated deductions or the size of any member's annuity to which he or she may be entitled.

(b) Each member shall, in addition, contribute at a rate certified by the Board as sufficient to fund any purchase or reinstatement of credit, or payment of debt. (Ord. 33-1984.)

#### **2-709.14 SUPERANNUATION RETIREMENT AGE** 2-160

Superannuation retirement age shall be fifty-six (56) years of age. (Ord. 33-1984.)

#### **2-709.15 FINAL SALARY**

Final salary shall be the average annualized basic compensation rate, including longevity payments, rank differential, premium pay as defined in the City's collective bargaining agreement with the union representing the firefighters, and incentive pay at the time an application for a benefit is filed with the Board, or the annual average compensation during the last five years, whichever is higher. Overtime pay, terminal leave pay, payments for off-duty schooling or drill or court time, clothing and equipment allowances, meal allowances, educational incentive payments, acting officer's pay, bonuses, payments in lieu of dependent's health insurance costs, severance pay, and other special forms of compensation are excluded from final salary. (Ord. 2-1996.)

#### **2-709.16 SUPERANNUATION RETIREMENT**

(a) A member who terminates service at or after superannuation retirement age shall receive a basic superannuation retirement allowance equal to two percent (2%) of the final salary of the member multiplied by the number of years of credited service of the member, not to exceed twenty-five (25) years, plus an additional retirement allowance equal to one and one-quarter percent (1.25%) of final salary for each complete year of credited service in excess of twenty-five (25) years.

(b) A vestee who attains superannuation retirement age may apply for a superannuation retirement allowance computed according to this section. (Ord. 33-1984.)

#### **2-709.17 EARLY RETIREMENT**

An active member who attains fifty (50) years of age shall be eligible for an early retirement allowance. The early retirement allowance shall be a basic superannuation retirement allowance, based upon credited service at the time of the effective early retirement date, reduced by one-third of one percent (1/3%) for each full month by which the early retirement date precedes his or her fifty-sixth (56th) birthday. (Ord. 33-

1984.)

### **2-709.18 VESTING**

At or after attaining superannuation retirement age, or the minimum age required for an early retirement allowance, a vestee

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may apply for a superannuation retirement allowance or early retirement allowance, as the case may be. A vestee will have interest credited at the same rate as active members. (Ord. 33-1984.)

### **2-709.19 OPTIONS ON SUPERANNUATION OR EARLY RETIREMENT**

(a) Each Former Plan B Member and each New Member may, within ninety (90) days of the date of enrollment or beginning of employment, as the case may be, file with the Board to waive the spouse's death benefit set forth in Section 2-709.21 of this chapter and elect an Option set forth in this section. Such an election shall be irrevocable, whether or not an eligible spouse exists to receive a spouse's death benefit at the time it is due. A failure to file an election within ninety (90) days shall be deemed a retention of the spouse's death benefit and a waiver of the Options set forth in this section.

(b) A member who elects to be covered by the Options set forth in this section who dies in service or as a vestee and who is eligible for a superannuation or early retirement annuity shall be considered to have retired the day before his or her death under the provisions of Option 1. At the time of superannuation or early retirement, an eligible member may elect to receive benefits in a retirement allowance payable throughout his or her life, which shall be known as a single life annuity. In the event of the death of an annuitant who has elected to receive the maximum single life annuity before receiving in annuity payments the full amount of the total accumulated deductions, not including the excess interest account, standing to his credit on the effective date of retirement, the balance shall be paid to the designated beneficiary. Alternatively, at retirement, the member may elect to receive the actuarial equivalent of his or her maximum single life annuity retirement allowance in a lesser allowance, payable throughout life with provisions that:

(1) Option 1. If the member shall die before receiving in payments the present value of his or her retirement allowance as it was at the time of retirement, the balance, if less than five thousand dollars (\$5,000.00), shall be paid in a lump sum to his or her legal representative, or to, or in trust for, his or her designated beneficiary. If the balance is five thousand



dollars (\$5,000.00) or more, the designated beneficiary may elect by application duly acknowledged and filed with the Board to receive payment of such balance according to any one of the following provisions:

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(A) a lump sum payment;

(B) an annuity having a present value equal to the balance payable; or

(C) a lump sum payment and an annuity. Such annuity shall be of equivalent actuarial value to the balance payable, less the amount of the lump sum payment specified by the beneficiary.

(2) Option 2. Upon death, the retirement allowance shall be continued throughout the life of and paid to the survivor annuitant, if then living.

(3) Option 3. Upon death, one-half (1/2) of the retirement allowance shall be continued throughout the life of and paid to the survivor annuitant, if then living.

(c) Beneficiaries designated under Option 1, maximum single life annuity, may be changed by filing a new designation with the Board. Survivor annuitants named in Option 2 or Option 3 may not be changed. In the event a survivor annuitant predeceases a member, a substitute may not be named. (Ord. 33-1984.)

#### **2-709.20 DISABILITY RETIREMENT**

(a) An active member may, prior to reaching superannuation age, upon application or on application of one acting in his or her behalf, or upon application of the head of a department of the City in which the member is employed, be retired by the Board on a disability retirement allowance if the physician designated by the Board shall certify to the Board that the member is unable to engage in any gainful employment and that said member ought to be retired.

(b) A New Member or a Former Plan B Member who becomes disabled, whether such disability is or is not service-connected, shall be entitled to a disability retirement allowance if he or she has four (4) or more years of credited service. If the member has twenty-five (25) years of credited service, the allowance shall be a superannuation retirement allowance, but without reduction for being under superannuation retirement age. If the member has less than twenty-five (25) years of credited service, the allowance shall be fifty percent (50%) of final salary.

(c) Any member entitled to retire for disability may, in

lieu of such retirement, if the age and service requirements have been met, elect to retire under the superannuation or early 2-163

retirement provisions of this chapter. Such a retirement shall be considered to be without the member's voluntary action.

(d) The components of the disability retirement allowance received shall be as follows:

(A) a member's annuity of actuarial value equal to his or her accumulated deductions, but not to exceed the amount of the disability retirement allowance; plus

(B) if the member's annuity under Subsection (A) hereof is not equal to the disability retirement allowance, an additional annuity of actuarial value equal to the balance in his or her excess interest account, but such that the combined member's annuity shall not exceed the disability retirement allowance; plus

(C) if the combined member's annuity under Subsections (A) and (B) is not equal to the disability retirement allowance, a municipal annuity of actuarial value equal to the City contributions made on account of the member and, if necessary, the disability reserve supplement contributions made by the City sufficient to increase the disability retirement allowance to the amount allowed.

(e) Once every year the Board may require any disability annuitant, while still under superannuation retirement age, to undergo a medical examination by a physician designated by the Board. Should the physician report and certify to the Board that such disability annuitant is no longer physically or mentally incapacitated for the performance of duty and is able to engage in a gainful occupation, then the disability retirement allowance shall be discontinued. Should the disability retirement allowance be discontinued other than for refusing to be examined, an early involuntary retirement allowance shall at that time be granted which shall be equal to the early involuntary allowance the member was eligible to receive at the time the disability annuity began. If the member was not eligible for early retirement and the member has received less in disability payment than the total amount of accumulated deductions and excess interest at the time of retirement, then the member may receive the difference. The member may also elect to receive this difference in lieu of taking involuntary early retirement.

(f) Should a disability annuitant, while under

superannuation retirement age, refuse to submit to at least one (1) medical examination in any year by a physician designated by the Board, the disability retirement allowance shall be discontinued until the withdrawal of such refusal. Should such refusal continue for one (1) year, then all rights in and to any 2-164

disability retirement allowance or for early involuntary retirement allowance provided for by this chapter shall be forfeited.

(g) A discontinued disability annuitant may return to service within ninety (90) days of being discontinued. In such event, the member will be credited with the number of years of service he or she had earned at the time of disability retirement, and an amount will be transferred from the annuity reserve account to the member's accumulated deduction account equal to the present value of the member's annuity portion of his or her disability retirement allowance, and an amount will be transferred from the annuity reserve account to the member's excess interest account equal to the present value of the excess interest annuity portion of his or her disability retirement allowance.

(h) A discontinued disability annuitant who does not return to service within ninety (90) days who subsequently returns to service may elect within ninety (90) days of returning to service to restore his or her credit for prior service by paying to the System the amount of benefits, including return of accumulated deductions, he or she received from the System or the amount of accumulated deductions standing to his or her account on the date the disability annuity became effective, whichever is less. Otherwise such member shall not be entitled to the credit earned prior to disability retirement. This reinstatement of credit shall be according to the provisions of Section 2-709.24. (Ord. 33-1984.)

(i) Should a disability annuitant die, a monthly pension shall be payable to the surviving spouse, until the spouse's death, equal to sixty percent (60%) of the monthly pension benefit the disability annuitant was receiving, provided that such spouse had been married to the disability annuitant prior to the commencement of retirement benefit payments and at the time of the disability annuitant's death. If a spouse who is receiving a benefit under this subsection dies, payments will continue to be made to the guardian of, or for the benefit of the member's dependent children according to the provisions of Section 2-709.21(a). (Ord. 3-1996.)

## **2-709.21 DEATH BENEFITS**

(a) If a member who did not elect to be covered by the retirement

options set forth in Section 2-709.19 dies while employed by the Bureau of Fire, a monthly pension shall be payable to the surviving spouse until the surviving spouse's death equal to sixty percent (60%) of the monthly pension benefit the member would have received had he or she retired as of the 2-165

date of death, computed on the assumption the member had completed at least fifteen (15) years of service and was at least age fifty-six (56).

(1) If a member dies who did not elect to be covered by the retirement options set forth in Section 2-709.19 but who was receiving a superannuation or early retirement annuity, a monthly pension shall be payable to the surviving spouse, until the surviving spouse's death, equal to sixty percent (60%) of the monthly pension benefit the member was receiving. Such benefit shall be payable only if the spouse was married to the member at the time benefits commenced and at the time of the member's death.

(2) Upon the death of the surviving spouse, or in the event there is no surviving spouse, the dependent children of the member shall receive the monthly pension that was or would have been paid to a surviving spouse. Said monthly pension benefit shall be divided equally among the dependent children. Each child's portion shall cease, and no further payment of that portion be made, upon the Board's determination that a child is no longer a dependent or would not be a dependent if the member were still alive.

(3) Whether or not a child is eligible for a benefit under this section shall be determined by the Board as of the death of the member or member's spouse, whichever is later. Continued eligibility is subject to such periodic review by the Board as it deems necessary. Children age eighteen (18) or older shall be presumed not to be dependent, which presumption may be rebutted.

(b) If a vestee dies after attaining the age that makes him or her eligible to immediately begin receiving a retirement allowance, such vestee shall be considered to have applied for a retirement allowance effective the day before death under the provisions of Option 1.

(c) Should a vestee die before becoming eligible for a retirement allowance, or should a member die while in service,

and before becoming eligible for any other benefits contained in this chapter, the full amount of the accumulated deductions plus the balance in the member's excess interest account, including interest credited to the date of death, standing to his or her credit shall be paid to the designated beneficiary. If, upon death, the member shall have less than one hundred dollars

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(\$100.00) in accumulated deductions with interest and excess interest standing to his or her credit, and his or her estate is the designated beneficiary, the Board may, if letters testamentary or of administration have not been taken out on the estate within six (6) months after death, pay such accumulated deductions and excess interest on the claim of the undertaker, or to any person or municipality which shall have paid the claim of the undertaker. (Ord. 3-1996.)

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#### **2-709.22 WITHDRAWAL OF ACCUMULATED DEDUCTIONS**

(a) A member who no longer holds a position of employment with the City that entitles him or her to membership in the System under this chapter shall be entitled to withdraw his or her total contributions, including interest and excess interest credited to such member's account, minus any amount owed to the System, regardless of the member's eligibility for any other benefit provided under this chapter.

(b) A member who withdraws his or her contributions does so in lieu of any other benefit to which he or she is entitled under this chapter. A member who elects to withdraw any contributions made under this chapter must withdraw all of them. The withdrawal of contributions shall be made by filing a written application with the Board. Upon the filing of the "Refund Application," the member shall lose all service credits for which the contributions being withdrawn were made. (Ord. 33-1984.)

#### **2-709.23 MILITARY SERVICE**

(a) An active member with credit of not less than six (6) months service with the City who is inducted into active military service in times of war, armed conflict or national emergency shall be eligible for intervening military service credit during the continuance of such period of time provided he or she has returned to City employment within six (6) months following separation from active military service and the contributions required by this section are made.

(b) The City shall continue making current service municipal contributions on account of any member who is on intervening military service. Any active member desiring to purchase service toward an annuity for such intervening military service shall file with the Board an application to purchase such

credit within ninety (90) days of returning to City employment. The contribution required for this purchase shall be computed by applying the contribution rate of the member to his or her compensation at the time of entry into active military service, multiplying the same by the number of years and fractional parts thereof of such service and adding regular interest from the date the employee returns to employment, which shall be within six (6) months, to the date of purchase.

(c) A member may also purchase credit for non-intervening active military service, for a period not in excess of five (5) years, provided that he or she has completed at least five (5) years of credited service for retirement purposes with the City subsequent to such active military service. Within ninety (90) days of enrollment in the System, all qualifying members shall

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file with the Board a notification of intent to purchase nonintervening military service credit. A member who does not file such a notice shall not be eligible to purchase non-intervening military service. The Board shall inform a member who filed said notice of eligibility for non-intervening military service when five (5) years of credited service with the City have been completed. A member shall have ninety (90) days after such notification to purchase non-intervening military service credit.

(d) A member who purchases credit for non-intervening military service shall make the payment for both the member's contributions and the municipal contributions.

(1) If the member's separation from active military service is prior to the date of the City's membership, it shall be treated, when credit is purchased, as prior service credit. However, payment for both the member's and the City's contributions shall be made by the member. The amount due for such purchase shall be computed by multiplying the sum of the basic contribution rate of the member and the current contribution rate of the City during its first year of entry into the System, based on the initial entry salary of the member, by the number of years, or fractional parts of a year, of service sought to be purchased together with regular interest from the date of employment of the member to the date of purchase.

(2) In the event the separation of the member from active military service occurred subsequent to the enrollment of the City in the System, the credit purchase for such non-intervening service shall be considered as current service credit. The amount

due by the member of such current service credit for non-intervening service shall be computed by multiplying his or her basic contribution rate, plus the normal contribution rate of the City for current service in effect when the member entered the employ of the City, by the average annual rate of compensation over the first five (5) years of subsequent employment and multiplied again by the number of years, or fractional parts of a year, sought to be purchased, plus regular interest from the date of employment to the date of purchase.

(e) In all cases in which military service is to be purchased, the interest charged shall be regular interest in effect on the date that the application for such service is filed with the Board.

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(f) A request for purchase will be granted only if the applicant's discharge or separation from service was granted under other than dishonorable conditions. Proof of the nature of the discharge or separation must accompany the application for credit for military service, whether intervening or nonintervening.

(g) Limitations shall be as follows:

(1) A member shall not be eligible for credit for nonintervening military service if such service entitles him or her to receive, now or in the future, or if he or she is receiving, a governmental pension based on such non-intervening military service, irrespective of the fact that such member may have actual military service in excess of the minimum amount necessary to qualify for such pension.

(2) Crediting for non-intervening military service shall also be unavailable to anyone who is in a reserve component of the Armed Forces or the National Guard of any state or territory, regardless when that person may actually be entitled to receive a federal pension based on such service.

(3) A member who is receiving disability compensation based on a service-connected injury or illness as a result of active military service shall be eligible for credit of non-intervening military service.

(4) In all cases, military service shall be limited to active military service rendered only to the Armed Forces of the United States.

(h) The provisions of this section shall apply regardless of when the creditable military service was rendered. (Ord. 33-1984.)

#### **2-709.24 REPURCHASE OF SERVICE CREDIT**

(a) A member who withdrew his or her contributions from the System or from Plan A or Plan B may, within ninety (90) days after return to service, or, in the case of a Former Plan A Member or Former Plan B Member, within ninety (90) days after enrollment in the System, by written application filed with the Board, elect to restore to the System the amount withdrawn plus 2-170

regular interest from the date the withdrawal was made. Upon receipt of the application, the Board will certify to the member the amount due.

(b) Upon receipt of payment, the Board will credit the member with the service previously withdrawn. Each continuous period of prior membership service for which repayment is made and service credit restored must be made in its entirety.

However, in the event of two (2) or more discontinuous periods of membership in the System, the member may, at the member's option, choose not to restore one (1) or more of them. The Board will bill the member separately for each period of service the member seeks to restore. A member who terminates service under the terms of this chapter, whether by death, retirement or taking a position with the City not covered by this chapter, prior to the receipt by the Board of any funds for the repayment of withdrawn contributions or to restore service credit, shall not receive any credit for the time sought to be purchased, regardless of any other written or oral agreement between the member and the Board to the contrary. In the event only partial payment has been made, the member will receive the credited service but will be considered to owe a debt to the Board for the unpaid amount plus interest.

(c) Except when the estate of a deceased member or the guardian of an incompetent member completes partial payments, no one, including a beneficiary or survivor annuitant, can make payments to restore credit or purchase military time, on behalf of the member, except the member himself.

(d) Upon restoration of service credits, a member's annuity rights as they existed at the time of separation from service shall be restored, and his or her obligations as a member shall begin again. The rate of contribution of such returning member shall be the same as it was at the time of separation from service, unless there has been a change in benefits, in which case the contributions rate shall be the same as that paid by a New Member receiving like benefits.



(e) An active member with twenty (20) or more years of credited service who was employed by the City and was a member of any pension plan maintained by the City for employees other than firefighters may, at the discretion of the member, purchase service time under those plans for credit towards the service increment allowed under the terms of this chapter. The cost to the member shall equal the member's contributions contributed to the other plans for the service to be purchased plus the normal contribution rate of the City at the time service is purchased multiplied the average annual salary received during the period sought to be purchased multiplied again by the number of years sought to be purchased, plus regular interest to the date of 2-171

purchase. The credit service time so purchased shall be used only to provide credit towards the service increment available under this chapter. (Ord. 33-1984.)

#### **2-709.25 PURCHASE OF SERVICE FROM OTHER MUNICIPALITIES**

A member shall not be permitted to repurchase service withdrawn from other municipalities, except that payments which began during service with another municipality pursuant to Section 2-709.26 may be completed. (Ord. 33-1984.)

#### **2-709.26 PORTABILITY**

When a member leaves the employment of the City and enters service as a firefighter of another municipality which enrolls its municipal firefighters in the Pennsylvania Municipal Retirement System under an Article III or IV benefit plan, such member's service credits will remain unimpaired. However, the City will pay the System any member contributions made prior to the enrollment in the System that have not been paid. The unpaid municipal liability for prior service shall be prorated by the Board between the City and the subsequent employing municipality on an equitable basis. The member shall be liable for any debts under the City's plan, but otherwise all future benefits and obligations shall be according to the benefit plan of the subsequent employing municipality. Likewise, any member who, prior to employment as a firefighter of the City, was enrolled as a municipal firefighter in an Article III or IV benefit plan in another municipality shall retain his or her service credits. Such member shall be liable for any debts owed under the prior municipality plan but shall henceforth be covered by the terms of this chapter. Unpaid municipal liability will be prorated, and prior service payments may continue. (Ord. 33-1984.)

#### **2-709.27 PURCHASE OF PRIOR SERVICE**

A New Member who was an employee of the City at the time the City enrolled in the System may elect within ninety (90) days of the effective date of entry into the System, to purchase credit

for prior service according to the rules and regulations of the Board. The City will make the necessary municipal contributions for such prior service. The member will make the member contributions. (Ord. 33-1984.)

### **2-709.28 ADMINISTRATION OF CURRENT PLAN A BENEFITS AND ANNUITIES**

(a) The City will certify to the Board the names, addresses, Social Security numbers, sexes, birth dates, and 2-172

benefits being received or to be received (including death benefits and beneficiaries) of all persons, trusts and estates receiving benefits from Plan A as of August 31, 1984. Upon the enrollment of the Former Plan A Members, the City will certify to the Board the names, addresses, Social Security numbers, sexes, birth dates and benefits being received and or to be received (including death benefits and beneficiaries) of the vestees of Plan A and of all persons, trusts and estates who began to receive benefits from Plan A on or after September 1, 1984 and prior to January 1, 1987. The payment of benefits so certified will be administered by the Board according to the terms of this section.

(b) Prior to January 1, 1989 the Board will certify to the City as due and owing the amount of the benefits payable for each full month after the City has certified the list of Plan A annuitants and vestees. Upon receipt from the City of the amount so due, the Board will authorize the System to pay that month's benefits. No payments will be made until the full amount due that month has been received by the Board. Partial, incomplete or late payments by the City will result in a delay in payment of the benefits being administered by the Board.

(c) As of January 1, 1989 the remaining total liability on these benefits will be calculated by the Board. The amount necessary to fully amortize this unfunded liability in twentyfive (25) consecutive annual installments, paid quarterly, will be certified to the City by the Board as part of the liability payments due from the City pursuant to Section 2-709.45. The City shall in all events guarantee payments under this Section. In the event the City fails to make the necessary funding payments, the payment by the Board of the benefits so assumed shall cease. (Ord. 33-1984.)

Part III - Plan A

### **2-709.29 TERMS AND CONDITIONS OF THE BENEFITS FORMER PLAN A MEMBERS AFTER THEIR JANUARY 1, 1987 ENROLLMENT**

The Former Plan A Members will have the benefits set forth in Subsections 2-709.30 through 2-709.56 after their enrollment

in the System, unless this chapter is amended prior to that date.  
(Ord. 33-1984.)

### **2-709.30 MEMBER LIABILITY**

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As set forth in Section 2-709.13(a), the contribution rate shall be five percent (5%) of compensation, plus one dollar (\$1.00) per month. (Ord. 33-1984.)

### **2-709.31 SUPERANNUATION RETIREMENT AGE**

Superannuation retirement age shall be fifty (50) years of age. No early retirement is available to Former Plan A Members.  
(Ord. 33-1984.)

### **2-709.32 FINAL SALARY**

(a) Final salary shall be determined by calculating the annualized basic compensation rate, including longevity payment, rank differential, premium pay as defined in the City's collective bargaining agreement with the firefighters, and incentive pay at the time an application for a benefit is filed with the Board.

(b) Overtime pay, terminal leave pay, payments for off-duty schooling or drill or court time, clothing and equipment allowances, meal allowances, educational incentive payments, acting officer's pay, bonuses, payments in lieu of dependent's health insurance costs, severance pay, and other special forms of compensation are excluded from final salary. (Ord. 8-1992.)

### **2-709.33 SUPERANNUATION RETIREMENT**

(a) A member who terminates service at or after attaining superannuation retirement age and who has a total of twenty (20) years of credited service shall receive a basic superannuation retirement allowance of fifty percent (50%) of final salary.

(b) A member who terminates service at or after attaining superannuation retirement age shall receive an additional service retirement allowance equal to one and one-quarter percent (1.25%) of final salary multiplied by the number of whole years of total service credits beyond twenty (20). The additional service retirement allowance shall not exceed one thousand two hundred dollars (\$1,200.00) per year.

(c) A member who terminates service at or after attaining superannuation retirement age and who has less than twenty (20) years of credited service shall receive a reduced superannuation retirement allowance consisting of a basic superannuation retirement allowance multiplied by a fraction equal to the number of years of credited service divided by twenty (20).

(d) A vestee who attains superannuation retirement age may apply for a superannuation allowance computed according to  
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Subsections (a) and (b) hereof if he or she has twenty (20) or

more years of credited service, or Subsection (c) if he or she has less than twenty (20) years of credited service. (Ord. 3-1996.)

#### **2-709.34 MINIMUM RETIREMENT ALLOWANCE**

Notwithstanding the provisions of Section 2-709.33, no superannuation retirement allowance based on twenty (20) years of credited service shall be less than four thousand dollars (\$4,000.00) per year, and no superannuation retirement allowance based on less than twenty (20) years of credited service shall be less than four thousand dollars (\$4,000.00) per year multiplied by a fraction equal to the number of years of credited service divided by twenty (20). (Ord. 33-1984.)

#### **2-709.35 VESTING**

As set forth in Section 2-709.18. (Ord. 33-1984.)

#### **2-709.36 OPTIONS ON SUPERANNUATION RETIREMENT**

(a) As set forth in Section 2-709.19, but only for members who, within ninety (90) days of the date of enrollment, file with the Board to waive the spouse's death benefit stated in Plan A and Section 2-709.37 of this chapter and elect to have the options set forth in Section 2-709.19 of this chapter. Such an election shall be irrevocable, whether or not an eligible spouse exists to receive a spouse's death benefit at the time it is due. A failure to file an election within ninety (90) days shall be deemed a retention of the spouse's death benefit and a waiver of the Options set forth in Section 2-709.19.

(b) A member who elects to be covered by the Options set forth in Section 2-709.19 who dies in service or as a vestee and who is eligible for a superannuation annuity shall be considered to have retired the day before his death under the provisions of Option 1. (Ord. 33-1984.)

#### **2-709.37 SPOUSE'S DEATH BENEFITS FOR MEMBERS NOT ELECTING SECTION 2-709.19 OPTIONS**

(a) The spouse of a disability or superannuation annuitant who did not elect to be covered by Section 2-709.19 shall, during the spouse's lifetime, be entitled to receive a pension calculated at the rate of one hundred percent (100%) of the retirement allowance the annuitant was receiving.

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(b) The spouse of a member who did not elect to be covered by Section 2-709.19 and who dies in service or as a vestee shall, during the spouse's lifetime, be entitled to receive a pension calculated at the rate of fifty percent (50%) of member's final salary.

(c) If a spouse receiving a benefit under this section dies, or if no spouse survives, the children of the member under the age of eighteen (18) years shall receive the benefit to which

the surviving spouse was entitled. Each eligible child shall receive a proportional share of the benefits. Payment of each child's share shall cease upon that child attaining the age of eighteen (18) years. (Ord. 3-1996.)

#### **2-709.38 DISABILITY RETIREMENT**

(a) A member with fifteen (15) or more years of credited service is eligible for a disability retirement allowance as set forth in Section 2-709.20. A Former Plan A Member shall receive fifty percent (50%) of final salary, if he or she has less than twenty (20) years of credited service, and a superannuation retirement allowance if he or she has twenty (20) or more years of credited service. In no event shall the disability retirement allowance be less than four thousand dollars (\$4,000.00) per year.

(b) Section 2-709.20(a) is not applicable to Former Plan A Members. The spouse's death benefit set forth in Section 2-709.20(h) shall be equal to one hundred percent (100%) of the disability annuitant's pension rather than fifty percent (50%). (Ord. 33-1984.)

#### **2-709.39 DEATH BENEFITS**

As set forth in Section 2-709.21(c). (Ord. 33-1984.)

#### **2-709.40 WITHDRAWAL OF ACCUMULATED DEDUCTIONS**

As set forth in Section 2-709.22. (Ord. 33-1984.)

#### **2-709.41 MILITARY SERVICE**

As set forth in Section 2-709.23. (Ord. 33-1984.)

#### **2-709.42 REPURCHASE OF SERVICE CREDIT**

As set forth in Section 2-709.24. (Ord. 33-1984.)

#### **2-709.43 PURCHASE OF SERVICE FROM OTHER MUNICIPALITIES**

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As set forth in Section 2-709.25. (Ord. 33-1984.)

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#### **2-709.44 PORTABILITY**

As set forth in Section 2-709.26. (Ord. 33-1984.)

Part IV - Administration

#### **2-709.45 DETERMINATION OF CITY LIABILITY**

(a) The Board shall determine, from time to time, and the City shall pay, the amount which shall be contributed annually by the City as the normal cost for current service credits, including credit for intervening military service, of all members subsequent to the time they are enrolled in the System, and the additional amount which shall be contributed annually by the City toward a reserve account for disability allowances payable to all enrolled members, in order that all future service liability may be fully funded on an actuarial basis, according to the normal methods and procedures used by the Board. In the event the City fails to make the payments due under this section, the benefit

which such payments are funding will be actuarially reduced.

(b) The City shall also pay an annual administration assessment fee of twenty dollars (\$20.00) per member enrolled in the System and twenty dollars (\$20.00) per annuitant or beneficiary receiving benefits administered by the Board. The cost of making the valuations required by this section shall be part of the cost of the administration of the System and shall be paid from these fees. The City will not otherwise be directly charged for other services rendered in administering this plan.

(c) Additionally, the City shall pay the amount calculated as due and owing by the Board pursuant to Section 2-709.28 of this chapter.

(d) Additionally, until January 1, 1989, and such time after that until the members' accounts have been made whole, the City will pay monthly the amount of accumulated deductions the Board certifies as transferable from the member's accounts to the annuity reserve account or as payable as lump sum payments resulting from the death or withdrawal of a member. This amount will include all contributions credited to members' accounts as a result of service prior to enrollment in the System and regular interest thereon. Such amount owed by the City shall be reduced by the amount of contributions made by the member subsequent to his or her enrollment in the System plus interest and excess interest credited to the member's account for which actual funding exists, plus payments made by the City representing contributions credited to the member's account for service prior to enrollment in the System but for which no funds or actual

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payments were turned over to the System at the time of enrollment of the member. No funds in excess of those received will be transferred to the annuity reserve account or paid as a lump sum. In the event the City fails to make the payments due under this section, the benefits which such payments are funding will be actuarially reduced.

(e) Prior to January 1, 1989 the Board will certify to the City as due and owing, for each annuitant who retired after enrollment in the System, the proportional amount of his or her annuity payment that is not funded by the member's accumulated deductions or municipal contributions made on account of the member. Upon receipt from the City of the amount so due, the Board will authorize the System to pay that month's benefits. No payments will be made until the full amount due that month has been received by the Board. Partial, incomplete or late payments by the City will result in a delay or reduction of benefits paid by the Board.

(f) On January 1, 1989 the Board shall determine the

unfunded liability of all benefits under this chapter, including but not limited to liability for member contributions credited for service prior to enrollment in the System for which funds have not actually been received and the municipal liability for prior service and military service purchased by the members. The City shall have the option to spread payment of such unfunded liability over twenty-five (25) consecutive uniform annual installments paid quarterly. Payments made pursuant to this section shall be first credited to fully fund the members' accounts. In the event the City fails to make the payments due under this section, the benefits which such payments are funding will be actuarially reduced.

(g) The Board reserves the right to consolidate some or all the various liabilities imposed upon the City into one (1) bill which can be expressed as a percentage of member compensation or a sum definite or a combination thereof. Partial payment of such a consolidated bill will be proportionally allocated to the several liabilities composing that bill, except the liability owed to members' accounts shall first be satisfied fully. (Ord. 33-1984.)

#### **2-709.46 ADVANCED PAYMENTS**

The Board will establish an advanced payments account in the System for the City to make payments in excess or in advance of those due pursuant to Section 2-709.45. Funds in the advanced payments account may be used by the City to satisfy any obligations it owes to the System up to the amount in the account.

Advanced payments, once made, must be used to satisfy obligations 2-179

of the City to the System. Upon the enrollment of Former Plan B Members and Former Plan A Members in the System, the City may place the assets of Plan B and Plan A (including member contributions made to Plan B and Plan A) in the advanced payment account.

If the City wishes to so place Plan B and Plan A member contributions in the advanced payments account, it will be liable for fully funding member contributions accounts in the System pursuant to Section 2-709.45. Payments, once earmarked and credited to a member's account in the System, may be used only to fund benefits due to that member. (Ord. 33-1984.)

#### **2-709.47 INTEREST AFTER TERMINATION**

Except for the accounts of vestees or when a member transfers his or her membership due to portability, no interest or excess interest shall be credited to a member's account after termination of employment with the City that entitles him or her to membership in the System under this chapter. (Ord. 33-1984.)

#### **2-709.48 PRIOR SERVICE CREDITS**

(a) New Members shall receive no service credits for

employment with the City prior to September 1, 1984, except as provided in the sections of this chapter pertaining to portability, return to service and purchase of prior service or military service credit.

(b) Former Plan A Members and Former Plan B Members shall be credited with the service and accumulated deductions to which they are properly entitled under the terms of Plan A and Plan B as of the date of their enrollment in the System, subject to the terms of this chapter. (Ord. 33-1984.)

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#### **2-709.49 FILING OF DOCUMENTS BY THE MEMBERS**

For the purposes of the sections in this chapter requiring filing of documents by the member with the Board, the date of filing will be deemed to be the date postmarked if deposited and mailed by first-class service or better by the United States Postal Service. If delivered by any other means to the Board, the date filed shall be the date received in the offices of the Board. A written or oral application or communication made by a member to the City shall not be deemed filed with the Board until it has been received in the office of the Board. (Ord. 33-1984.)

#### **2-709.50 PAYMENT SCHEDULE**

(a) The amount due from a member for any purchase of service credit or payment of debt will be certified by the Board in conformity with methods of calculation approved by the actuary and may be paid in a lump sum within thirty (30) days after billing, or through salary deductions amortized with regular interest through a repayment period of one (1), two (2), but not more than three (3) years, with regular interest charged through the repayment period chosen by the member and approved by the Board.

(b) All retirement allowances and annuity payments due under this chapter shall be paid in twelve (12) uniform monthly installments, payable on the last day of each calendar month. Benefits payable from Plan A administered by the Board will be made on the last day of each month, beginning the first full calendar month after or beginning with the day the administration of those benefits is assumed by the Board. (Ord. 33-1984.)

#### **2-709.51 EFFECTIVE DATE OF RETIREMENT**

A member eligible to receive a superannuation retirement allowance, an early retirement allowance or a disability retirement allowance shall file with the Board a written statement, duly attested, setting forth on what date he or she desires to be retired. Said application shall make the retirement allowance effective on the date so specified, if such application was filed in the office of the Board before the date specified in the application and before the death of the member,



but the date so specified in the application shall not be more than ninety (90) days after the date of the filing. A member who files an annuity application ninety (90) days or less after terminating service shall have an effective retirement date of the date service was terminated. When a member files an annuity application more than ninety (90) days after terminating service, the effective retirement date shall be when the application was filed. (Ord. 33-1984.)

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#### **2-709.52 CERTIFICATION OF MEMBERSHIP**

Upon the enrollment of the Former Plan A Members and Former Plan B Members, the City will certify to the Board their names, addresses, Social Security numbers, sexes, birth dates, dates of enrollment, service credits received, member contributions made, rates of contribution, and any debts owed to Plan A or Plan B. (Ord. 33-1984.)

#### **2-709.53 EXEMPTION FROM ATTACHMENT OR EXECUTION, NON-ASSIGNABILITY**

The retirement allowance and the contributions of members to the fund, and all contributions and interest, including excess interest, returned to the members under this chapter shall not be subject to attachment or execution and shall not be the subject of assignment or transfer except to a duly designated beneficiary. (Ord. 33-1984.)

#### **2-709.54 RETROACTIVITY AND CORRECTION OF ERRORS**

The Board retains the right to correct any errors in collection of contributions or payment of benefits, and awarding of service credit or amount credited to the accumulated deduction accounts, excess interest accounts or other accounts, whether caused by mistakes of fact or law, regardless of the fault or lack thereof of the members, the City or Board, whether the errors were made under this chapter or Plan A or Plan B prior to enrollment in the System. (Ord. 33-1984.)

#### **2-709.55 PROCEDURE**

Matters of procedure and substance not covered in this Agreement shall be as set forth in Act 15 of 1974, as it shall from time to time be amended. In all cases of conflict, Act 15 of 1974, as it may be amended and the regulations promulgated thereunder, shall control over the terms of this chapter. All references to the Pennsylvania Municipal Retirement Law incorporate the regulations promulgated thereunder and any amendments enacted subsequent to the execution of this chapter. (Ord. 33-1984.)

#### **2-709.56 CONFIDENTIALITY OF RECORDS**

(a) The City agrees that all reports and documents relating to the Fund which it may prepare and deliver hereunder shall be

confidential and shall become the property of Board and shall not  
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be published, circulated, or used in any manner by the City  
without the prior written approval of Board.

(b) The City shall preserve all financial and accounting  
records pertaining or prepared pursuant to this chapter during  
the Agreement period, and any amendment thereof, for six (6)  
years from the termination date of the enrollment of the City in  
the System. During such period the Board, or any other  
department or representative of the Commonwealth of Pennsylvania,  
upon reasonable notice, shall have the right to audit such books  
and records for the purpose of verifying all of the salary and  
contribution payments, to the extent authorized and permitted by  
law. The City shall have the right to preserve all records and  
accounts in original form or on microfilm, magnetic tape, or any  
other similar process. (Ord. 33-1984.)

## **CHAPTER 2-711**

### **RESIDENCY**

#### **EMPLOYEES NOT COVERED BY ACTS 111 AND 195**

Section 2-711.1 Definitions

Section 2-711.2 Residency Required

Section 2-711.3 Continued Residence Required

Section 2-711.4 Residency of Existing Nonresident Employees

Section 2-711.5 Residence Certification

Section 2-711.6 Exceptions

#### **MANAGEMENT LEVEL EMPLOYEES UNDER ACTS 111 AND 195**

Section 2-711.11 Definitions

Section 2-711.12 Residency Required

Section 2-711.13 Continued Residence Required

Section 2-711.14 Proof of Residence

### **CROSS REFERENCES**

Collective bargaining by policemen or firemen: see Act 111  
of 1986 (43 P.S. §217.1 et seq.)

Employee provisions; see 3rd Class Code §901 et seq. (53  
P.S. §35901 et seq.)

Employment generally: see Chapter 2-703

Public Employee Relations Act: see Act 195 of 1970 (43 P.S.  
§1101.101 et seq.)

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Employees Not Covered by Acts 111 and 195

#### **2-711.1 DEFINITIONS**

(a) "EMPLOYEE" means any person not covered by Act 111 of 1968 or Act 195 of 1970 who is  
employed or appointed to any position of employment within the City, whether such employment be full  
or part-time, provided such person receives financial compensation from the City subject to withholding  
taxes by the state or federal government.

(b) "RESIDENCE" means the permanent home of the employee accompanied by the intention to live there continuously and indefinitely. This term precludes an employee maintaining a residence within the City limits while he or she continues to maintain his or her family elsewhere, unless the employee no longer resides with his or her family by reason of separation arising out of marital difficulties or divorce.

(c) "TERMINATION" means the voluntary and absolute end of employment, as effectuated by operation of law, precluding the subsequent re-hiring or re-positioning of a former employee until such person maintains a permanent residence in the City. (Ord.14-1982.)

### **2-711.2 RESIDENCY REQUIRED**

All persons who are or shall become employees of the City after June 29, 1982 shall be or shall become residents of the City within a period of one (1) year from the date of employment. Failure to do so shall be determined to be a voluntary termination of employment, and the employee shall be terminated as provided by law by the appropriate party. (Ord. 15-1982.)

### **2-711.3 CONTINUED RESIDENCE REQUIRED**

All employees, once their residence in the City is established, are required to maintain such status as residents during their employment. Failure to do so shall be deemed voluntary termination of employment, and such employees shall be terminated as provided by law by the appropriate City officials. (Ord. 14-1982.)

### **2-711.4 RESIDENCY OF EXISTING NONRESIDENT EMPLOYEES**

All employees who, as of June 29, 1982, did not reside within the limits of the City may continue to reside at said address. If, however, such employee should thereafter change his or her residence, he or she must establish the new residence within the City. Failure to do so shall be deemed a voluntary termination of employment by the employee. (Ord. 14-1982.)

### **2-711.5 RESIDENCE CERTIFICATION**

Annually, in July, every employee of the City shall file with the City Controller a certificate stating the employee's name and place of residence. Such Residence Certificate shall be signed under penalty of unsworn falsification to authorities. The City Controller may also, from time to time, require proof of the bona fide residence of any employee to determine said employee's eligibility to receive financial compensation from the City. Furthermore, when an employee fails to comply with the provisions of this chapter, the City Controller shall initiate that procedure necessary to effect the immediate termination of said employee. (Ord. 14-1982.)

### **2-711.6 EXCEPTIONS**

Those employees whose work stations are located more than fifteen (15) miles beyond the City limits shall be exempted from provisions of this chapter. (Ord. 14-1982.) Management Level Employees Under Act 111 and 195

### **2-711.11 DEFINITIONS**

(a) "EMPLOYEE" means any person appointed to any position of employment by the City which is designated as management-level under contract terms governed by Pennsylvania Acts 195 of 1970 and 111 of 1968, whether such employment be full or permanent part-time, and provided such person receives financial compensation from the City subject to withholding taxes by the state or federal government.

(b) "RESIDENCE" means the permanent home of the employee accompanied by the intention to live there continuously and indefinitely. This term precludes an employee maintaining a residence within the City limits while he or she continues to maintain his or her family elsewhere, unless the employee no longer resides with his or her family by reason of marital separation or divorce. (Ord. 15-1982.)

### **2-711.12 RESIDENCY REQUIRED**

All persons who are or shall become employees of the City after June 29, 1982 shall be or shall become residents of the City within a period of one (1) year from the date of employment. Failure to do so shall be determined to be voluntary termination of employment, and employees shall be terminated as provided by law by the appropriate party. (Ord. 15-1982.)

### **2-711.13 CONTINUED RESIDENCE REQUIRED**

All employees, once their residence in the City is established, are required to maintain such status as residents during their employment. Failure to do so shall be deemed voluntary termination of employment, and such employees shall be terminated as provided by law by the appropriate City official. (Ord. 15-1982.)

### **2-711.14 PROOF OF RESIDENCE**

At the time of employment by the City, each person hired after the effective date of this chapter shall file with the City Controller a certificate stating the employee's name and place of residence and attesting to the employee's intention to abide by all provisions of this chapter. Such a certificate shall be signed under penalty of unsworn falsification to authorities. The City Controller may, from time to time, require proof of the bona fide residence of any employee of the City hired after the effective date of this chapter, to determine said employee's eligibility to receive financial compensation from the City. Furthermore, where an employee fails to comply with the provisions of this chapter, the City Controller, by operation of law, will be required to initiate that procedure necessary to consummate the immediate termination of said employee. (Ord. 15-1982.)

## **CHAPTER 2-901**

### **MINORITY PARTICIPATION IN CITY CONTRACTS**

Section 2-901.1 Definitions

Section 2-901.2 Application

Section 2-901.3 Contract Compliance Officer; Appointment and Duties

Section 2-901.4 Departmental Compliance

Section 2-901.99 Penalty

### **CROSS REFERENCES**

Contracts: see Chapter 2-303 and Section 2-307.5

Discrimination: see Title Four and the Pennsylvania Human Relations Act (43 P.S. §4653, 4654)

Unlawful employment practices: see 43 P.S. §955

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### **2-901.1 DEFINITIONS**

(a) "BONA FIDE MINORITY BUSINESS ENTERPRISE" means a sole proprietorship, partnership, joint venture, corporation, or entity owned and controlled by minority group powers:

(A) to which access to City contracting opportunities has heretofore been impaired by the effects of past discrimination; and

(B) wherein at least fifty-one percent (51%) is owned by minority group members or women and no part of its ownership, operation or control is in the hands of the respective prime contractor of the relevant City contract; and

(C) wherein minority group members or women share in the risks and profits of the enterprise to the extent of their individual holdings; and

(D) wherein minority group members' or women's participation in the business is active, as opposed to passive, and such participation is not dependent on the consent of non-minority group or primarily male members who may also have holdings in the business enterprise; and

(E) wherein the business enterprise has experience in the area to which it claims expertise; and  
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(F) wherein business enterprise was not organized solely to meet these requirements.

(b) "CONTRACT" means contract in its ordinary and usual definition but not including agreements made with other governmental agencies, associates of governmental agencies or governmental officials, or with particular officers or employees of such agencies, for services related to their official positions of employment.

(c) "MINORITY" means African Americans, Hispanic Americans, Asian Americans, Native Americans, American Aleuts, and other minorities as recognized by federal regulations. (Ord. 7-1983.)

#### **2-901.2 APPLICATION**

This chapter shall apply to all contracts and contracting agencies of the City and to contractors and subcontractors who perform City contracts. (Ord. 7-1983.)

#### **2-901.3 CONTRACT COMPLIANCE OFFICER; APPOINTMENT AND DUTIES**

The Business Administrator, within thirty (30) days of the enactment of this chapter, shall appoint, with the approval of the Mayor, a Contract Compliance Officer whose authority and responsibility shall be to:

(1) Ascertain, within ninety (90) days of the enactment of this ordinance, the total number of minority and womenowned businesses in the Harrisburg Standard Metropolitan Statistical Area qualified to perform various City contracts.

(2) Establish, within ninety (90) days of the enactment of this ordinance, minimum target goals within each department for bona fide minority or women-owned business participation to meet City goals as follows:

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Business Enterprise (Percent)

Minority Women

(A) Public works construction. 15 2

Including but limited to, construction or demolition work performed by contractor(s) on City streets, buildings, parks and federally-funded construction and/or demolition projects, with equipment, materials, supplies and manpower provided by the contractor.

Business Enterprise (Percent)

Minority Women

(B) Equipment purchase and/or rental. 5 2

Including, but not limited to, automobiles, trucks, road equipment, office equipment e.g., photocopiers, computers, calculators and building maintenance equipment, etc.) (e.g., vacuum cleaners, polishers, etc). Equipment shall be construed to mean City property containing movable parts or depreciable office equipment or furniture over one hundred dollars (\$100.00).

(C) Materials and supplies. 10 5

Including, but not limited to, consumable office supplies, road materials, fuels, and materials for operating use of the City such as uniforms, grass seed, trees, hand tools and office equipment under one hundred dollars (\$100.00).

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(D) Services. Including, but 15 5 not limited to, janitorial

services, painting contracts, drapery cleaning, equipment or furniture repairs, and all physical services performed by other than City employees.

(E) Professional services. 15 5

Including, but not limited to, legal services, medical services, engineering and consulting services, etc.

(3) Devise, within ninety (90) days of the enactment of this section, with the Bureau of Purchasing, appropriate policies, regulations and procedures for insuring the participation of bona fide minority or women-owned businesses in various City contracts.

(4) Devise and implement appropriate procedures for monitoring and enforcing compliance with these goals, including a process by which minority and women-owned businesses are certified as bona fide minority and women-owned businesses.

(5) Submit a written semi-annual report to the Mayor and City Council indicating the progress made toward achieving the goals established above. Said report shall include, but not be limited to, a summary of departmental and City contracts let during the relevant periods, and the extent and percentage of minority or women participation, and recommendations as to appropriate future goals. (Ord. 7-1983.)

#### **2-901.4 DEPARTMENTAL COMPLIANCE**

Each Department Director shall, by February 15th of each year, file a report with the Mayor listing goals and objectives of the respective department in terms of purchasing from minority and women-owned businesses for the calendar year. (Ord. 7-1983.)

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#### **2-901.99 PENALTY**

Any person who violates the provisions of this chapter shall be subject to the General Code Penalty, Section 1-301.99, of these Codified Ordinances.

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### **CHAPTER 2-903**

#### **AFFIRMATIVE ACTION COOPERATION PLAN**

Section 2-903.1 Adoption of Plan

Section 2-903.2 Purpose

Section 2-903.3 Projects Covered

Section 2-903.4 Parties

Section 2-903.5 Definitions

Section 2-903.6 Review Committee and Coordinator  
Section 2-903.7 Minorities and Woman Participation Goals  
Section 2-903.8 Development Agreement Provisions  
Section 2-903.9 Minority Interest in Developer Entity  
Section 2-903.10 Equity Capital Participation  
Section 2-903.11 Professional Services  
Section 2-903.12 Construction Work Force  
Section 2-903.13 Permanent Jobs  
Section 2-903.14 Construction Contracts  
Section 2-903.15 Amendments  
Section 2-903.16 Non-Collusion

## **CROSS REFERENCES**

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### **2-903.1 ADOPTION**

As of July 10, 1990 the City of Harrisburg, the Redevelopment Authority of the City of Harrisburg, and Harristown Development Corporation (HDC), with the Mayor and City Council as additional parties, entered into an Affirmative Action Cooperation Agreement, Phase II, for Development Projects within the City of Harrisburg. This Plan shall expire January 6, 2001, unless the parties extend the same. (Ord. 22-1995.)

### **2-903.2 PURPOSE**

(a) This Plan was established to require and to assist developers who will perform under its terms to act affirmatively to provide opportunities for participation in development projects to members of certain racial and ethnic minority groups and to women.

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(b) This Plan is meant to bring consistency and continuity to affirmative action goals so that the development community will not be faced with unpredictable or capricious requirements when contemplating projects in the City.

(c) This Plan is based on recognition that members of certain minority groups and women long were denied equal opportunity. Even though such denial is now prohibited by law, its legacy lives on. Minorities and women attempting to compete for business opportunities and in the work force face easily recognized de facto disadvantages planted deep in generations of systematic exclusion. This is inherently unfair, and this Plan is not intended to ameliorate such institutionalized inequality; it is not intended to provide minorities and women with advantages not already available under the system to other classes of persons. This Plan is intended to be narrowly tailored to meet the particular requirements of this community. (Ord. 22-1995.)

### **2-903.3 PROJECTS COVERED**



(a) Adherence to this Plan shall be a condition of any development project in the City which has an estimated construction value of One Million Dollars or more and which involves any of the following:

(1) A redevelopment contract entered into by the Redevelopment Authority pursuant to the Urban Redevelopment Law; or

(2) Financial participation or assistance by the City, the Redevelopment Authority, or HDC, using their own funds or real property, or using funds obtained by or through any of them from the United States Government or the Commonwealth of Pennsylvania or any agency or authority of either; or,

(3) Proceeds of bonds or loans for which the City, the Redevelopment Authority, or HDC is issuer, borrower, or guarantor.

(b) A contract or agreement providing for any of the above transactions, and to which the City, the Redevelopment Authority, or HDC is a party, is referred to in this Plan as a "Development Agreement." (Ord. 22-1995.)

#### **2-903.4 PARTIES**

(a) The City, the Redevelopment Authority, and HDC are referred to in this Plan as "the Cooperating Parties."  
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(b) A Cooperating Party which enters into a Development Agreement with a developer is referred to for purposes of administering this Plan as "the Managing Cooperating Party."

(c) When more than one Cooperating Party enters into a single Development Agreement, or when a project involves two or more Development Agreements entered into by more than one Cooperating Party, the Development Agreement or Agreements shall be written so that contractual responsibility for the provisions of this Plan lies with a single Managing Cooperating Party.

(d) The Managing Cooperating Party shall be determined as follows:

(1) If the Development Agreement is a redevelopment contract and the project does not also involve a Development Agreement with the City, the Redevelopment Authority shall be the Managing Cooperating Party.

(2) If a project involves a Development Agreement with the City, irrespective of whether it also involves a Development Agreement with any other Cooperating Party, the City shall be the Managing Cooperating Party.

(3) If a project involves a Development Agreement with HDC, but with no other Cooperating Party, HDC shall be the Managing Cooperating Party.

(Ord. 22-1995.)

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### **2-903.5 DEFINITIONS**

(a) "MINORITY" or "MINORITIES" means a member or members, of either sex, of the racial or ethnic groups commonly recognized as African Americans, Hispanic Americans, Native Americans, Puerto Ricans, Asian-Pacific Americans, Asian-Indian Americans and any other groups or persons required to be included by a federal law or regulation applicable to a particular project.

(b) "MINORITY BUSINESS ENTERPRISE" or "MBE" means a for-profit entity, at least fifty-one percent (51%) of which is owned, controlled, and operated by one or more minorities.

(c) "WOMAN BUSINESS ENTERPRISE" or "WBE" means a for-profit entity at least fifty-one percent (51%) of which is owned, controlled, and operated by one or more women of any racial or ethnic background.

(d) "OWNED," as used in the above Subparagraph (b) and (c), means being entitled to profits and losses equal to the percentage of such ownership interest.

(e) "CONTROLLED," as used in the above Subparagraphs (b) and (c), means having and exercising on a regular basis the power to make policy decisions for the entity.

(f) "OPERATED," as used in the above Subparagraphs (b) and (c), means being actively involved in the day-to-day management of the entity.

(g) "DEVELOPMENT PROJECT" means a physical improvement project, sponsored by one of the cooperating parties, which involves assistance specified in Section 2-903.3 above. Examples includes but are not limited to office buildings, residential townhouses, storage facilities, and retailing centers.

"DEVELOPMENT PROJECT" does not include normal procurement activities conducted by one of the "Cooperating Parties" in the normal course of its operations. Examples of procurement not covered by this Plan include but are not limited to the purchase of computer equipment for use solely by one of the Cooperating Parties, purchase of supplies, maintenance contracts, purchase of vehicles, street repaving and other conventional public works projects. (Ord. 22-1995.)

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### **2-903.6 REVIEW COMMITTEE AND COORDINATOR**

(a) The Cooperating Parties shall establish and maintain the Review Committee, which shall have the responsibilities set forth in this Plan. No Cooperating Party shall enter into any

Development Agreement without prior approval by majority vote of the Review Committee of all of the affirmative action and minority and women participation provisions of such agreement, such provisions to be submitted in writing to the members of the Review Committee at least five (5) business days before any meeting at which such approval is sought. Wherever in this Plan there is provision for recommendation, comment or approval by the Review Committee, such recommendation, comment or approval shall be by majority vote of the Review Committee and such recommendation, comment or approval shall be binding upon the Developer, as hereinafter defined, and upon all of the Cooperating Parties.

(b) The Review Committee shall have either three (3) or four (4) members, depending on the location of the Development Project.

(1) For Development Projects located within the limits of the Harristown Urban Renewal Area, the Review Committee shall have four (4) members, who shall be the Mayor or designee; the President of City Council or designee; the Chairman of the Redevelopment Authority or designee; and the President of Harristown Development Corporation or designee.

(2) For Development Projects located within the corporate limits of the City but outside of the Harristown Urban Renewal Area, the Review Committee shall have three (3) members, who shall be the Mayor or designee; the President of City Council or designee; and the Chairman of the Redevelopment Authority or designee.

(Ord. 33-1995.)

(c) The Review Committee by majority vote may invite a representative of any bona fide organization with an interest in a particular development project under consideration to serve on the Review Committee with respect to that particular project. The representative may not be from any developer who competed for designation on the project in question nor may the representative be a contractor or professional who has competed for business on the project in question.

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(d) The Director of the Department of Building and Housing Development ("DBHD") (or any successor City department) or his or her designee shall be the Coordinator of the Review Committee and in this capacity will carry out the duties provided for this Plan. Staff required to assist in carrying out such duties shall be provided by the Department.

(e) The Review Committee shall establish a schedule of regular meetings which shall be at least monthly. Special meetings shall be held as required elsewhere in this Plan and at the request of the Coordinator or of any member. No meeting of the Review Committee shall be held without at least five (5) days written notice to each member and interested parties.

(f) The Coordinator shall maintain through DBHD's a register of qualified minority business enterprises and women business enterprises interested in and able to do business in the City. Any developer acting pursuant to this Plan shall be entitled to the use of the register which shall be maintained in a professional manner so that it is current and reliable at all times. The Cooperating Parties shall encourage all minority business enterprises and women business enterprises to be certified by the City.

(g) The Coordinator shall maintain a registry of all additional parties interested in affirmative action issues related to the Agreement. The Coordinator shall distribute notices of Review Committee meetings to all additional parties so registered with the Coordinator.

(h) The Coordinator shall prepare an annual report on this Agreement. Said report shall describe the affirmative action results of projects covered by this Agreement. The annual reports shall be approved by the Review Committee prior to distribution. The annual reports shall be due by January 31, of each year for the previous calendar year, with the first annual report due by January 31, 1991. (Ord. 22-1995.)

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### **2-903.7 MINORITIES AND WOMAN PARTICIPATION GOALS**

Pursuant to the purposes of this plan, the consensus of the community resulted in agreement on the establishment of the following goals for participation by minorities and women in projects subject to this Plan:

(1) The Developer Entity---At least twenty-five percent (25%) (of which up to five percent (5%) may be a non-minority woman or women) of the interest in the developer entity, whether a corporation or the general partners in a joint venture, but not including the limited partners in a limited partnership, (hereinafter, the "Developer"), shall be owned by a minority or minorities or a minority business enterprise or enterprises. The Review Committee may recommend exceptions to the twenty-five percent (25%) minimum requirement of this provision when it believes such exception is in the best interests

of the City and its residents or when the Developer has been unable to secure participation of minorities or women, or in the instance of an exclusively family-held developer entity whose principals are solely persons related by blood or marriage. No exception shall be granted unless first requested by the developer entity.

(2) Equity Participation---If the financing of a project includes investment by limited partners or other investor equity, the Developer or its syndicator shall act as provided for hereunder, to offer opportunities to minorities for participation in at least twenty-five percent (25%) of such equity formation. The Review Committee may recommend exceptions to the twentyfive percent (25%) minimum requirement of this provision when it believes such exception is in the best interests of the City and its residents or when the Developer Entity has been unable to secure such equity participation of minority investors.

(3) Professional Services---The Developer shall as provided for hereunder, contract with minorities or minority business enterprises for at least fifteen percent (15%), and with women or woman business enterprises for at least five percent (5%), of the total dollar value of professional services associated with the project.

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"Professional Services" shall include but not be limited to design, engineering, legal, accounting, consulting, and insurance brokering services. The Review Committee may recommend exceptions to the fifteen percent (15%) and five percent (5%) minimum requirements of this provision if it believes such exceptions are in the best interests of the City and its residents.

(4) Construction Work Force---The Developer shall act with its general contractor or construction manager, as provided for hereunder, so that of the total construction jobs for the project, at least twenty-five percent (25%), will be filled by minorities and at least five percent (5%) by women. The Review Committee may recommend exceptions to this Subparagraph (4) based on opportunities being created for minorities or

women in any apprenticeship program registered with the Pennsylvania Department of Labor and Industry.

(5) Permanent Jobs---The Developer shall act as provided for hereunder, so that of the permanent (i.e., non-construction) jobs resulting from the project and under the control of a project operator or manager performing under a contract with the Developer, initially and for at least the first five (5) years of the project's operation at least fifty percent (50%) of such jobs will be filled by residents of the City, one-half of said fifty percent (50%) to be minorities.

(6) Construction Contracts---The Developer shall act as provided for hereunder, so that of the Total Applicable Dollar Value of Construction contracts for the projects, as defined hereunder, at least twenty-five percent (25%) will be awarded to minority business enterprises and at least five percent (5%) to women business enterprises. (Ord. 22-1995.)

#### **2-903.8 DEVELOPMENT AGREEMENT PROVISIONS**

(a) A "Development Agreement" is any redevelopment contract or any agreement involving financial participation or assistance as set forth in Section 2-903.3 to which any of the Cooperating Parties is a party with a Developer with respect to a project subject to this Plan.

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(b) This Plan shall be made a part of any Development Agreement and attached hereto as an exhibit.

(c) Any Development Agreement shall include provisions that performance by the Developer under this Plan is of the essence of such Development Agreement.

(d) Any Development Agreement shall require the Developer to include this Plan within the terms and conditions of the Developer's contract with any general contractor (or with each trade contractor if there is no general contractor) and with any construction manager. Such contracts entered into by a Developer shall require the contractor or construction manager to carry out the provisions of this Plan with respect to construction contracts and the construction work force, and such contractors shall give the Developer the right, upon five-days notice, to stop the work of any contractor, subcontractor, or construction manager who is in violation of the provisions of this Plan. With respect to the construction work force provisions herein, each contractor of the Developer shall be required to legally bind

each subcontractor to perform hereunder.

(e) Any Development Agreement shall include a provision under which the Developer and the Cooperating Party agree that, in the event of a default by the Developer or a default by its contractor, subcontractor or construction manager with respect to the construction work force provisions of this Plan, the Cooperating Party will not have an adequate remedy at law, the Cooperating Party specifically shall have the right to seek injunctive relief in the event of such default. (Ord. 22-1995.)

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### **2-903.9 MINORITY INTEREST IN DEVELOPER ENTITY**

No Cooperating Party shall enter into any Development Agreement with a Developer, or into any agreement requiring that it enter into a Development Agreement with a Developer, until such Developer provides a copy of an executed and legally binding partnership agreement (or other appropriate written evidence if the Developer is other than a partnership) demonstrating that an interest of at least twenty-five percent (25%) (of which up to five percent (5%) may be a non-minority woman or women) of the Developer is owned by a minority or minorities or minority business enterprise or enterprises. Such partnership agreement or other written evidence shall contain a provision that no prior subsequent agreement which required the minority to sell, transfer, or otherwise relinquish its interest shall be enforceable to the extent such would diminish the minority's percentage interest in the Developer. (Ord. 22-1995.)

### **2-903.10 EQUITY CAPITAL PARTICIPATION**

(a) If a Developer has arranged for equity capital formation for a project prior to entering into a Development Agreement with any Cooperating Party, said Cooperating Party shall not execute the Development Agreement before reviewing written evidence that the Developer or its syndicator reasonably has complied, to the satisfaction of said Cooperating Party, with the obligation under this Plan to act affirmatively to offer at least twenty-five percent (25%) of such equity capital participation to minorities.

(b) If a Developer proposes to arrange for equity capital formation for a project after entering into a Development Agreement with any Cooperating Agreement before reviewing a written program of the Developer or its syndicator, which program, to the satisfaction of said Cooperating Party, reasonably shall comply with the obligation under this Plan to act affirmatively to offer at least twenty-five percent (25%) of such equity capital participation to minorities.

(c) In the event equity capital formation is to occur following the execution of a Development Agreement, such

agreement shall require that the Developer submit a written report to the Cooperating Party of the results of the Developer's equity participation affirmative action program. (Ord. 22-1995.)

### **2-903.11 PROFESSIONAL SERVICES**

(a) Prior to entering into a Development Agreement, any Cooperating Party shall require the Developer to submit a written 2-202

schedule with respect to professional services associated with the project.

(b) Such schedule of professional services shall include:

(1) A list of professional services expected to be used for the project, with the estimated dollar value of each such service.

(2) Disclosure of professionals who already have performed services for the project or who have been engaged to do so.

(3) The Developer's program, shown by type and dollar value, to meet the affirmative action goals for professional services established in this Plan.

(c) The Development Agreement shall include a requirement that the Developer submit to the Cooperating Party a written report of the results of the Developer's affirmative action program with respect to professional services. (Ord. 22-1995.)

### **2-903.12 CONSTRUCTION WORK FORCE**

(a) At least thirty (30) days prior to the commencement of construction, the Developer will submit in writing to the Coordinator the Developer's affirmative action program with respect to the construction work force (the "Work Force Program").

(b) The Work Force Program shall set forth in detail estimated construction work force requirements for the project and shall include the following:

(1) Notice of the date on which the Developer intends to commence construction.

(2) A schedule of periods from the commencement date of construction to the issuance by the architect of a certificate of substantial completion (the "Construction Period"), in which is estimated the number of journeymen and apprentice jobs to be required in each trade for such periods.

(3) An estimate of the number of minorities and women to be employed as journeymen and apprentices in each trade for such periods.

(4) Calculations demonstrating that the proposed jobs for minorities and women can reasonably be

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expected to amount to twenty-five percent (25%), respectively, of the project's total personweeks of work during the Construction Period.

(5) An explanation of the efforts and arrangements which have been and will be made by the Developer's contractor or construction manager to assure the availability of minorities and women to meet the job estimates for each trade.

(6) The form of the Weekly Work Force Report which the Developer will submit during the Construction Period as provided for below.

(c) Within two (2) business days of receipt of the Developer's Work Force Program, the Coordinator will provide copies thereof to the members of the Review Committee, together with written notice of a meeting of the Committee for the purpose of reviewing the Work Force Program. Notice of said meeting shall be given also to the Developer and its contractor or construction manager. The meeting shall be no earlier than five (5) business days and no later than ten (10) business days from the time of the notice.

(d) Following the meeting provided for in the above paragraph (c) and any subsequent meetings the Review Committee believes advisable, but, in any event, no later than twenty (20) days before the date the Developer has set in its notice for the commencement of construction, the Coordinator will provide the Developer and its contractor or construction manager with written comments of the Review Committee with respect to the adequacy and feasibility of the Work Force Program. A copy of said written comments shall be sent by the Coordinator to the Managing Cooperating Party. The Developer shall provide to the Coordinator a written response to such comments within five (5) business days of receipt of such comments, and the Coordinator shall promptly deliver copies of such response to the members of the Review Committee and to the Managing Cooperating Party.

(e) If at any time after the meeting provided for in the above Subsection (c) and prior to the substantial completion of construction, the Review Committee believes that the Work Force Program is infeasible or that it is not likely to result in the Developer successfully meeting the goals set forth herein or that implementation of the Work Force Program is inadequate, the Committee may direct the Coordinator to arrange for a public hearing with respect thereto; such public hearing is to be held in the Rev. Dr. Martin L. King, Jr., City Government Center after at least five (5) days notice concurrent with five (5) days written notice to the Developer, whose representative along with

that of the contractor or construction manager shall be provided an opportunity at such public hearing to explain their position, including any changes which they may be prepared to make as a result of such public hearing.

(f) Each Tuesday (or a Wednesday following a Tuesday which is a legal holiday) during the Construction Period, the Developer's contractor or construction manager shall submit to the Coordinator a written report concerning the work force for the previous calendar week (the "Weekly Work Force Report"). The Weekly Work Force Report shall clearly set forth:

- (1) The name of each contractor and subcontractor working at the project site during the week.
- (2) The number of journeymen by trade and the number of apprentices by trade employed at the project by each contractor and subcontractor.
- (3) The number of those enumerated in the above (2) who are minorities and the number who are women.
- (4) A copy of any report showing dollars of wages paid for (2) and (3) when such report is required for the project by any federal agency.
- (5) Cumulative totals for the Construction Period to date of the number of journeymen and apprentice personweeks by trade and the number and percentage thereof which have been filled by minorities and women, respectively.
- (6) If appropriate, an explanation of how the Work Force Program is being amended so it reasonably can be expected that minorities and women by the end of the Construction period will have been utilized for twenty-five percent (25%) and five percent (5%), respectively, of the total personweeks of work.

(g) The Coordinator or representatives of the Coordinator shall have the right throughout the Construction Period to inspect the project during working hours for the purpose of monitoring the Work Force Program.

(h) During the Construction Period the Coordinator shall keep the members of the Review Committee and the Cooperating Party informed with respect to compliance with the Work Force Program.

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(i) During the Construction Period and for a period of one (1) year thereafter the Review Committee and the Cooperating Party each shall have the right upon reasonable notice to audit the payroll records of any contractor, subcontractor, or construction manager for the purpose of determining compliance

with the Work Force Program, and such contractor, subcontractor, or construction manager shall cooperate with such audit.

(j) If a response to a Developer or its contractor is required hereunder from the Coordinator, the Review Committee, or a Managing Cooperating Party and such response is not made by an established deadline, such failure to respond will be deemed approval. (Ord. 22-1995.)

### **2-903.13 PERMANENT JOBS**

(a) At least thirty (30) days before the Developer or a project operator or manager performing under and agreement with the Developer begins to accept applications for employment or employs any person for the permanent (i.e., non-construction) work force for the project, the Developer shall submit in writing to the Managing Cooperating Party the Developer's affirmative action program with respect to permanent jobs (the "Permanent Jobs Program").

(b) The Permanent Jobs Program shall set forth in detail the following:

(1) The estimated number, type, and pay scale of the permanent jobs to be filled during the first five years of the project's operation (the Operating Period).

(2) The affirmative action procedures and timetable which will be utilized with respect to advertising, recruitment, interviewing, and training so that it can reasonably be expected that a minimum of fifty percent (50%) of the permanent jobs at all levels of the operation will be filled by residents of the City of Harrisburg and that a minimum of one-half thereof will be minorities.

(c) Within twelve (12) days of receipt of the Permanent Jobs Program, the Managing Cooperating Party shall provide the Developer with written comments with respect to the adequacy and feasibility thereof. The Developer shall respond in writing to the Cooperating Party within five (5) business days after receipt of such comments.

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(d) If, at any time after that provided in Subsection (c) for the Developer's response and prior to the expiration of the Operating Period the Managing Cooperating Party believes that the Permanent Jobs Program is infeasible or it is not likely to result in the Developer successfully meeting the goals set forth herein or that the implementation of the Permanent Jobs Program is inadequate, the Management Cooperating Party may arrange for a public hearing with respect thereto; such public hearing is to be

held in the Rev. Dr. Martin L. King, Jr., City Government Center at least five (5) days public notice concurrent with five (5) days written notice to the Developer whose representatives along with those of the Developer's project operator or manager shall be provided an opportunity at such public hearing to explain their position.

(e) Within 10 days of the commencement of operation of the project and semi-annually by January 30 and July 30 during the Operating Period, the Developer or the project operator or manager on behalf of the Developer shall submit to the Managing Cooperating Party a written report of the following:

(1) The number of employees by job type and pay scale employed at the project by the Developer and by any project operator or manager performing under a contract with the Developer.

(2) The number of those enumerated in the above (1) who are residents of the City and the number who are minorities.

(3) To the extent that at least fifty percent (50%) of the work force are not residents of the City, or one-half of such are not minorities, a detailed explanation of the actions which will be taken to bring the work force into compliance with said goals.

(f) During the Operating Period and for a period of one (1) year thereafter the Cooperating Party shall have the right upon reasonable notice to audit the payroll records of the Developer or of any project operator or manager performing under contract with the Developer for the purpose of determining compliance with the City-resident and minority employment goals hereunder, and the Developer and any such operator or manager shall cooperate with such audit. (Ord. 22-1995.)

#### **2-903.14 CONSTRUCTION CONTRACTS**

(a) At least thirty (30) days prior to the issuance of any bidding documents (or, as applicable, thirty (30) days prior to issuance of letters of intent or commitment to any contractor or

2-207 subcontractor) the Developer shall submit in writing to the Coordinator the Developer's affirmative action program with respect to construction contracts (the "Construction Contract Program").

(b) The Construction Contract Program shall set forth the following in detail:

(1) The estimated dates on which the Developer expects each package of bidding documents to be issued and the estimated dates on which he expects contracts

for each trade package to be awarded.

(2) The estimated dollar value of each trade package and the resulting estimated total construction cost of the project.

(3) A detailed calculation of the estimated Total Applicable Dollar Value of Construction Contracts, which shall be the estimated total construction cost of the project less the estimated value of any contracts with respect to elevators and escalators.

(4) The estimated dollar value of any portion of any trade packages, whether contracts or subcontracts or parts thereof, expected to be awarded to Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs), respectively, so that the estimated total value of what is expected to be awarded to MBEs and WBEs, respectively, equals no less than twenty-five percent (25%) and no less than five percent (5%), respectively, of the estimated total applicable value of construction contracts.

(5) A detailed plan (including but not necessarily limited to methods of advertising, bidder identification and pre-qualification assistance; and proposed use of set-asides, partial set-asides and sub-subcontracts) under which the Developer and its contractor or construction manager intend to act affirmatively to meet the goals established herein for MBE and WBE construction-contract participation. The detailed plan is to be such that it reasonably can be expected to result in at least the minimum goals being met.

(c) Within two (2) business days of receipt of the Developer's Construction Contract Program, the Coordinator will 2-208

provide copies thereof to the members of the Review Committee, together with written notice of a meeting of the Committee for the purpose of reviewing the Construction Contract Program and the Work Force Program. Notice of said meeting shall be given also to the Developer and its contractor or construction manager. The meeting shall be no earlier than five (5) business days and not later than ten (10) business days from the time of the notice.

(d) Following the meeting provided for in Subsection (c) and any subsequent meetings the Review Committee believes advisable, but, in any event, no later than 20 days before the

date the Developer has set in its notice for the issuance of the first bidding documents, the Coordinator shall provide the Developer and its contractor or construction manager with the written comments of the Review Committee with respect to the adequacy and feasibility of the Construction Contract Program. A copy of said written comments will be sent by the Coordinator to the Managing Cooperating Party. The Developer shall provide to the Coordinator a written response to such comments within five (5) business days of receipt of such comments, and the Coordinator shall promptly deliver copies of such response to the members of the Review Committee and to the Managing Cooperating Party.

(e) If, at any time after the meeting provided for in Subsection (c) and prior to the end of the Bidding and Contract Award Period, the Review Committee believes that the Construction Contract Program is infeasible or is not likely to result in successfully meeting the goals set forth herein or that implementation of the Construction Contract Program is inadequate, the Committee may direct the Coordinator to arrange for a public hearing with respect thereto; such public hearing to be held in the Rev. Dr. Martin L. King, Jr., City Government Center after at least five (5) days public notice concurrent with five (5) days written notice to the Developer, whose representatives along with those of the contractor or construction manager shall be provided an opportunity to explain at such public hearing their position, including any changes which they may be prepared to make.

(f) Each Tuesday (or a Wednesday following a Tuesday which is a legal holiday) during the contract award period, the Developer's contractor or construction manager on behalf of the Developer shall submit to the Coordinator a written report of contracts awarded (and bidding documents issued, if any) during the previous week. Included in each such report shall be:

(1) The names of all contractors and subcontractors who were awarded contracts during the week and the value of each contract awarded.

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(2) Identification of those enumerated in the above Subsection (1) who are MBEs and those who are WBEs.

(3) A comparison of the value of contracts awarded to minority and women business enterprises during the week with what had been anticipated in the Contract Award Program for those trade packages.

(4) Cumulative totals by dollar volume and percentage for the project to date of the total applicable

value of construction contracts and of the total value of contracts awarded to MBEs and WBEs, respectively.

(5) To the extent that the value of contracts awarded to date to MBEs and WBEs, respectively, is inconsistent with what had been anticipated in the Construction Contract Program, an explanation of how the Construction Award Program is being amended so it reasonably can be expected that by the end of the Bidding and Construction Period the total value of contracts awarded to MBEs and WBEs, respectively, will be in compliance with the minimum goals hereunder.

(6) Listing of all bidding document packages released during the previous week and a list of all contractors and subcontractors to who they were released, including identification of all MBEs and WBEs included therein.

(g) During the contract award period the Coordinator shall keep the Review Committee and the Managing Cooperating Party informed of the monitoring of the bidding and contract-award activity.

(h) During the contract award period and for a period of one (1) year after completion of construction of the project, the Review Committee and the Managing Cooperating Party each shall have the right upon reasonable notice to audit the records of the Developer and of any contractor, subcontractor, or construction manager for the purpose of determining compliance with the Construction Contract program, and the Developer and any such contractor, subcontractor, or construction manager shall cooperate with such audit.

(i) In calculating the percentage of contract value awarded to MBEs and WBEs, the dollar volume of such contracts awarded to 2-210

MBEs and WBEs with permanent places of business in the City of Harrisburg shall be counted at 125 percent of the actual value of such contracts.

(j) In calculating the percentage of contract value awarded to MBEs and WBEs, the dollar volume of contracts awarded to MBEs and WBEs suppliers shall be counted at five percent (5%) of the amount of the contract. A supplier is defined as a business which delivers materials to the work site but does not supervise or employ its own on-site labor to install the supplies delivered.

(k) If a response to a Developer or its contractor is required hereunder from the Coordinator, the Review Committee, or

Managing Cooperating Party and such response is not made by an established deadline, such failure to respond will be deemed approval. (Ord. 22-1995.)

**2-903.15 AMENDMENTS**

This Agreement may be amended or modified from time to time upon agreement of all parties hereto, provided first however that a public hearing be held and public notice be distributed to all interested parties and the public hearing be advertised thirty (30) days prior to any effective date of such amendment or modification. (Ord. 22-1995.)

**2-903.16 NON-COLLUSION**

The intent of this Agreement is to affirmatively address economic opportunities for minorities, women and disadvantage persons. Further, a specific goal of this Agreement is to stimulate the start-up and expansion of minority and women-owned business enterprises, particularly within the City. Nothing in this Agreement or its intent or goals shall grant to any person, business, organization or entity the right or advantage to gain a monopoly over minority and women-owned business activities encouraged by this Agreement. Further, nothing in this Agreement should be construed as encouraging or providing for any contacting or other business activity involving minority or women-owned businesses which would be anything less than cost and quality competitive. Conversely, inherent in this Agreement is the expectation that Developers and others whose projects are covered by the provisions of this Agreement shall meet both the letter and the spirit of such affirmative action. In addition to the penalties set forth in this Agreement for intentional failure to comply, the parties reserve the right to initiate appropriate investigation and other actions, as provided under Federal or other laws, when and if it is determined that deliberate actions or omissions have occurred, either related to a specific project

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