

Appointed Officials

Charter Article Drafting Assumptions from Third Class City Code and Optional Plan B.

Solicitor:

Current Optional Plan B:

Council shall provide, by ordinance, for the manner of appointment and compensation of the city solicitor, which may be a law firm. The city solicitor shall have the direction and control of the legal matters of the city. Unless authorized by council, a department of the city **may not** employ or retain any additional counsel in any matter or cause.

Question	Yes/No	Notes:
The Solicitor is appointed at the organizational meeting of City		
for an indefinite term		
Council sets the compensation		
The Solicitor shall be a member of the Bar of the Supreme Court of Pennsylvania and experienced in municipal law.		
An individual or a firm may serve as Solicitor		
The Solicitor shall represent the City with the City as the client and serves as chief legal advisor to the Mayor, Council, and all City departments, offices, and agencies with the exception of the Zoning Hearing Board which shall have independent counsel.		
The Solicitor shall represent the City in all legal proceedings. The Solicitor shall perform any other duties prescribed by state law, by the Charter or by ordinance.		

Solicitor's Powers and Duties:

Current Optional Plan B:

1. Overseeing, as directed by resolution or ordinance, the preparation of all bonds, obligations, contracts, leases, conveyances and assurances to which the city or a municipal department is a party.
2. Overseeing litigation by or against the city or a municipal officer, in the municipal officer's official capacity, including:
 - a. filing of a municipal claim or lien; and
 - b. administrative practice.

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3. Performing any action incident to the office which the city solicitor may be lawfully authorized and required to do by the mayor or by any ordinance or resolution of council.
4. Performing duties as mayor and/or council directs.

Written opinions to be furnished. Opinions.--Subject to regulation by council, the city solicitor shall submit a written opinion on questions of law submitted by any of the following:

- (1) Council.
- (2) The mayor.
- (3) Any other elected city official.
- (4) Any appointed city official designated by council as authorized to request a written legal opinion.

Regulation. Council may provide for the regulation of the manner in which questions are presented to the city solicitor by any elected or appointed city official and may limit the questions submitted in the manner as council may direct.

Satisfaction of liens due city. Upon the payment of any lien or other debt of record due to the city to a city employee, city official or any other person authorized to receive the payment, the person who received the payment shall, as soon as practicable, notify the city solicitor. The city solicitor or the solicitor's designee, as soon as practicable, shall cause the satisfaction to be entered upon the proper record of the lien or debt of record.

Assistant solicitor. Council may appoint one or more assistant city solicitors to assist the city solicitor in the performance of all duties and shall provide for the compensation of assistant solicitors by resolution.

Special counsel. Council may retain special counsel for particular proceedings or matters of the city and shall provide for the compensation of special counsel by resolution.

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City Engineer:

The City has a Bureau of Engineering headed by the City Engineer. The Bureau performs several mandated functions including:

- 1. Maintenance of the Official City Plan,*
- 2. Assignment of street addresses,*
- 3. Preparation of Public Works construction plans and specifications,*
- 4. Review of subdivisions and land development plans as required by the Municipalities Planning Code (MPC).*

Current Optional Plan B:

Council shall provide for the manner of appointment and compensation of the city engineer. The city engineer shall be a **registered professional engineer** in this Commonwealth and **shall serve at the pleasure of council**. Nothing in this section shall be construed to prohibit council from designating an engineering firm of registered professional engineers from performing the duties and functions of the city engineer.

Control of engineering matters. The city engineer shall have the supervision, direction and control of the engineering matters of the city. Unless authorized by council, a department of the city **may not employ or retain** any additional engineers.

Question	Yes/No	Notes:
The Engineer is appointed at the organizational meeting of City		
for an indefinite term		
Council sets the compensation		
City Engineer shall be a registered professional engineer in the Commonwealth?		
An individual or a firm may serve as Engineer		
City Engineer supervises, directs and controls all engineering matters of the city. Unless authorized by council, a department of the city may not employ or retain any additional eng ineers.		

City Engineer Powers and Duties

Current Optional Plan B:

As authorized by council, engineering work undertaken by the city shall be performed or supervised by the city engineer or by another registered professional engineer employed by the city for a particular purpose.

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The duties of the city engineer may include all of the following:

- (1) Preparing plans, specifications and estimates and undertaking other engineering work relating to constructing, reconstructing, maintaining and repairing streets, pavements, sewers, bridges, culverts and other municipal improvements.
- (2) Making reports, giving estimates, supplying information and responding to questions concerning city engineering work to city officials and employees. Council may regulate the manner, number and method of making questions under this paragraph.
- (3) Conducting, supervising or directing surveys relating to city property and improvements authorized by law or as directed by council.
- (4) Preparing a topographical survey of the city or a general plan of city streets, marking the lines of streets, including streets already opened and streets intended to be opened for public use, as council may deem necessary.
- (5) Surveying, making a draft or plan of and laying out new or proposed streets, as council may deem necessary.
- (6) Reporting a grade for any proposed or new streets, as council may deem necessary.
- (7) Making reports, as deemed expedient by the city engineer or as council shall direct, of the surveys and plans of city streets in convenient locations without awaiting the completion of the entire survey.
- (8) Keeping and maintaining books and records and providing for certified copies of books and records, as provided by council or required by law.

Certifying commencement and completion of municipal improvements.

Within a reasonable time after the completion of any municipal improvement, the cost and expense of which, in whole or in part, is to be paid by the abutting property owner, the city engineer or employees designated by the city engineer shall:

- (1) certify the day or time of the completion of work;
- (2) file the certification under paragraph (1) with the city clerk, who shall maintain a centralized book or listing of certifications; and
- (3) provide notice of the filing to the city solicitor.

Evidence of completion. Information filed with the city clerk shall be conclusive evidence of the day or time when the improvement commenced and was completed.

Entering upon property for surveys. For the purposes of carrying out authorized surveys, laying out streets or other engineering work of the city, the city engineer or other persons engaged in city engineering work may enter upon any property occupied by any person within the city.

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Acting Mayor

Current Optional Plan B:

Section 3013. Mayor, departments and department heads

(a) Inability of executive to perform duties. – The executive (mayor) shall designate any department head to act as executive (mayor) whenever the executive (mayor) shall be prevented, by absence from the municipality, disability or other cause, from attending to the duties of his office. During such time the person so designated by the executive (mayor) shall possess all the rights, powers and duties of the executive (mayor). Whenever the executive (mayor) has been unable to attend to the duties of his office for a period of 60 consecutive days for any of the reasons stated in this subsection, a member of council shall be appointed by the council as acting executive (mayor), who shall succeed to all the rights, powers and duties of the executive (mayor) or the then acting executive (mayor), until he shall return or his disability ceases.

PEL: A designated department head serves as acting mayor during the mayor’s absence, and if the incapacity/absence lasts more than 60 days, council appoints one of its members to act as mayor until the mayor returns.

Question	Yes/No/ Other Response	Notes:
May the Mayor appoint a designated person to act as Mayor to perform mayoral duties in the absence of the Mayor?		
May the charter limit who is allowed to serve?		
Department heads eligible?		
Other appointed officials eligible?		
How long after the beginning of the Mayor’s term should the Charter require a designee to be named?		
Required notification to the council and city clerk by the mayor or if the mayor is incapacitated and unable to provide notification then the acting mayor shall provide notification of the designation within a specified number of days		
How long may the acting mayor assume the role of the mayor? For example, no more than 30 days, etc.		
Who shall be appointed acting mayor following the time limit set by the charter? A council member? Another eligible person?		
At what point has the mayor forfeited the office?		

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City Business Administrator

The Optional Plan B requires the creation of a department of administration and requires the head of that department be appointed by the Mayor and confirmed by Council. There are qualifications listed in the law for business administrator position.

Current Optional Plan B:

When a department of administration is established, it shall be headed by a director who shall be known and designated as business administrator.

Qualifications

Section 3014. They shall be chosen solely on the basis of their executive and administrative qualifications with special reference to their actual experience in, or their knowledge of, accepted practice in respect to the duties of the office as hereinafter set forth. At the time of appointment, they need not be a resident of the city or State, but during his tenure of office they may reside outside the city only with the approval of council.

The director shall have, exercise and discharge the functions, powers and duties of the department. The department, under the **direction and supervision of the mayor**, shall:

1. Assist in the preparation of the budget;
2. Administer a centralized purchasing system; and
3. Perform such other duties as council may prescribe.

There will be a department of administration headed by a business administrator.

Yes No

Business administrator appointed by mayor, approved by Council.

Yes No

Specific Qualifications listed in Charter? For example, “...executive and administrative qualifications with special reference to their actual experience in, or their knowledge of, accepted practices...”

Yes No

If yes, broad description of qualifications/experience. Yes No

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Other Department Heads

*The Optional Plan B allows for the creation by ordinance of departments but does not specify by name any particular department **except the department of Administration.***

Should Other specific Department heads be included in the charter? Yes ___ No ___

If no, should there be broad language similar to Section 3032 below?

Current Optional Plan B

Section 3032. Departments

The municipality shall have a department of administration and shall have such other departments as council may establish by ordinance. The administrative functions, powers and duties of the municipality, other than those vested in the office of the clerk, treasurer and controller, if provided for, shall be allocated and assigned among and within the departments except that the functions specified in section 3014 (relating to department of administration) shall be assigned to the department of administration.

Section 3033. Mandatory department of administration

Under Executive (Mayor) - Council Plan B a department of administration shall be established.

Is yes, what Departments – Public Safety, Public Works, Community Development, etc.

If yes, should there be qualifications?

Example: all heads of departments, offices, and agencies shall be selected solely on the basis of education, training, experience; and professional, executive, and administrative abilities; and such other qualifications as may be set forth in this Charter or the Administrative Code>

Appointment and Removal of Department Heads

Appointment of Department Heads

Current Optional Plan B

The Optional Plan B allows for the appointment of a department head by the Mayor to be confirmed by council.

Section 3032. Departments

The municipality shall have a department of administration and shall have such other **departments as council may establish by ordinance.** The administrative functions, powers and duties of the municipality, other than those vested in the office of the clerk, treasurer and controller, if provided for, shall be allocated and assigned among and within the departments except that the functions specified in section 3014 (relating to department of administration) shall be assigned to the department of administration.

Should the Mayor appoint and Council consent to the appointment of Department heads?

Yes ___ No ___