

DWH Brief in Opposition Exhibit 4

Optional Plan Charter
of
City of Harrisburg

Effective January 1, 1970

Received 3-9-70

CITY OF HARRISBURG - OPTIONAL CHARTER

3-1-70.06 338

Approved November 4, 1969 - Effective January 1, 1970

ARTICLE III.
GENERAL POWERS
AND LIMITATIONS

A. Powers

Section 301. Upon the adoption by the qualified voters of any city of any of the optional plans of government set forth in this act, the city shall thereafter be governed by the plan adopted and by the provisions of this act common to optional plans and by all applicable provisions of general law, subject to the transitional provisions of Article VI. of this act, unless and until the city should adopt another form of government as provided by law. The plan adopted and the provisions of this act common to optional plans shall become the organic law of the city at the time fixed by this act. So far as they are consistent with the grant of powers and the limitations, restrictions and regulations hereinafter prescribed, they shall supersede any existing charter, and all acts and parts of acts, local, special or general, affecting the organization, government and powers of such city to the extent that they are inconsistent or in conflict therein. All existing acts or parts of acts and ordinances affecting the organization, government and powers of the city not inconsistent or in conflict with the organic law so adopted shall remain in full force until modified or repealed as provided by law.

Section 302. The city clerk of the city shall forthwith cause the new charter as approved by the qualified electors to be recorded in the ordinance book of the city. He shall also file a certified copy thereof in the office of the Secretary of the Commonwealth.

Section 303. Each city governed by an optional form of government

pursuant to this act shall, subject to the provisions of and limitations prescribed by this act, have full power to:

(1) Organize and regulate its internal affairs, and to establish, alter, and abolish offices, positions and employments and to define the functions, powers and duties thereof and fix their term, tenure and compensation;

(2) Adopt and enforce local police ordinances of all kinds and impose penalties of fine not exceeding three hundred dollars (\$300), or imprisonment for any term not exceeding ninety days, or both, for the violation thereof; to construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law, and to exercise all powers of local government in such manner as its governing body may determine;

(3) Sue and be sued, to have a corporate seal, to contract and be contracted with, to buy, sell, lease, hold and dispose of real and personal property, to appropriate and expend moneys, and to adopt, amend and repeal such ordinances and resolutions as may be required for the good government thereof;

(4) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law applicable to cities of the third class.

Section 304. The general grant of municipal power contained in this article is intended to confer the greatest power of local self-government consistent with the Constitution of this State. Any specific enumeration of municipal powers contained in this act or in any other law shall not be construed in any way to limit the general description of power contained in this article, and any such specifically enumerated municipal powers shall be construed as in addition and supplementary to the powers conferred in general terms by this article. All grants of municipal power to cities governed by an optional plan under

this act, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the city.

B. Limitations

Section 305. The charter of any city adopted in accordance with this act shall not give any power or authority to diminish any rights or privileges of any present city employe in his pension or retirement system. Terms of office of a mayor, treasurer, controller or members of council elected to or holding office prior to adoption of a charter shall not be terminated prior to the time for which elected. No city shall exercise any powers or authority beyond the city limits except such as are conferred by an act of the General Assembly, and no city shall engage in any proprietary or private business except as authorized by the General Assembly. Notwithstanding the grant of powers contained in this act, no city shall exercise powers contrary to or in limitation or enlargement of powers granted to the city by acts of the General Assembly which are:

- (1) Applicable to a class or classes of cities on the following subjects:
 - (i) Providing for the filing and collection of municipal and tax claims or liens and for the sale of real or personal property in satisfaction thereof.
 - (ii) Providing for the exercise of the power of eminent domain and the procedure for the condemnation of real or personal property.
 - (iii) Providing for the assessment of damages and benefits for property taken, injured or destroyed.
 - (iv) Providing methods for the incurring or increasing of indebtedness.
 - (v) Providing for the annexation or exclusion or detachment of territory.
 - (vi) Regulating public schools.
 - (vii) Providing for the personal registration of electors.
 - (viii) Limiting rates and fixing subjects of taxation.
 - (ix) Providing for the assessment of real or personal property and persons for taxation purposes, except that any city adopting one of the optional charter plans provided under this act which has not elected

to become subject to the provisions of the act of May 21, 1943 (P.L. 571), known as "The Fourth to Eighth Class County Assessment Law," may, by ordinance, provide for the hearing of appeals from assessments made by the city assessor and the revision thereof by an administrative agency rather than by council: Provided, That in so doing such city shall adhere to the requirements of general law regarding notice to taxables and the right of a person to appeal.

- (x) Relating to civil service.
- (xi) Relating to public health.
- (2) Applicable in every part of the Commonwealth.
- (3) Applicable to all the cities of the Commonwealth.

ARTICLE IV. MAYOR-COUNCIL PLAN A

A. Form of Government

Section 401. The form of government provided in this article shall be known as the "mayor-council plan A" and shall, together with Articles III. and VI., govern any city, the voters of which have adopted it pursuant to this act.

Section 402. Each city hereunder shall be governed by an elected council, an elected mayor, an elected treasurer and an elected controller and by such other officers and employes as may be duly appointed pursuant to this article, general law or ordinance.

B. Elected Officials

Section 403. The mayor, the treasurer and the controller shall be elected by the voters of the city at a regular municipal election, and shall serve for a term of four years beginning on the first Monday of January next following his election.

Section 404. The council shall consist of five members, unless pursuant to the authority granted under section 213 of this act, the city shall be governed by a council of seven or nine members. Members of the council shall be elected at large by the voters of the city at a regular municipal election and shall serve for a term of four years,

except as hereinafter provided for those first elected beginning on the first Monday of January next following their election.

Section 405. At the first municipal election following the adoption by a city of this plan, councilmen shall be elected and shall serve for the terms as provided in section 622 of this act.

Section 406. (a) If a vacancy exists in the city council, the city council shall, by a majority of its remaining members, fill such vacancy, within thirty days thereafter, by electing a qualified person to serve until that first Monday of January when his successor who shall have been elected by the qualified electors at the next municipal election, occurring at least thirty days after such vacancy exists, is duly sworn into office for the remainder of the term of the person originally elected to said office.

In case vacancies should exist whereby the offices of a majority or more members of the city council become vacant, the remaining members shall fill such vacancies, one at a time, giving each new appointee such reasonable notice of his appointment as will enable him to meet and act with the then qualified member or members of the city council in making further appointments until a bare majority of members of city council have been qualified, whereupon the said members shall fill the remaining vacancies at a meeting attended by the said majority members of city council, such appointees to receive a majority of the votes of the members present at any such meeting. The person or persons selected to fill such vacancy or vacancies shall hold their offices as herein provided.

If, by reason of a tie vote, or otherwise, such vacancy shall not have been filled by the remaining members of city council within the time as limited herein, the council of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person, for the portion of the unexpired term as above provided.

If, at any time, vacancies should occur or exist in the membership of all members of city council, the

court of common pleas shall appoint a city council, of persons properly qualified, who shall serve as herein provided.

(b) If a vacancy occurs in the office of mayor, city treasurer or city controller, the city council shall fill such vacancy, within thirty days thereafter, by choosing a mayor, a city treasurer or a city controller, as the case may be, to serve until his successor is elected by the qualified electors at the next municipal election, occurring at least two hundred days after such vacancy occurs, and is duly sworn into office. The person so elected shall serve from the first Monday of January next succeeding his election for the remainder of the term of the person originally elected to such office.

If, by reason of a tie vote or otherwise, a vacancy in the office of mayor, treasurer or controller shall not have been filled by council within the time as limited herein, the court of common pleas, upon petition of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person for the portion of the unexpired term as herein provided.

C. Council

Section 407. The legislative power of the city shall be exercised by the city council, except as may be otherwise provided by general law.

Section 408. On the first Monday of January following the regular municipal election, the members of council shall assemble at the usual place of meeting and organize and elect a president of the council from among its members, who shall preside at its meetings and perform such other duties as council may prescribe. In the absence of the president, the council shall elect a temporary presiding officer.

Section 409. In addition to the duties as such other powers and duties as may be conferred upon it by this charter or otherwise by general law, may require any city officer, in its discretion, to prepare and submit sworn statements regarding his official duties in the performance thereof, and may otherwise investigate the conduct of any

department office or agency of the city government.

Section 410. (a) The council shall appoint a city clerk, who shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this act requires, and perform such functions as may be required by law. The city clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.

(b) The council may provide for the manner of appointment of a city solicitor, any planning board, zoning board of adjustment or personnel board in the city, and may create commissions and other bodies with advisory powers.

D. Mayor and Administration

Section 411. The executive power of the city shall be exercised by the mayor.

Section 412. The mayor shall enforce the charter and ordinances of the city and all general laws applicable thereto. He shall, annually, report to the council and the public on the work of the previous year and on the condition and requirements of the city government and shall, from time to time, make such recommendations for action by the council as he may deem in the public interest. He shall supervise all of the departments of the city government, and shall require each department to make an annual and such other reports of its work as he may deem desirable.

Section 413. (a) Ordinances adopted by the council shall be published by the mayor and he shall, within ten days after receiving any ordinance, either approve the ordinance by affixing his signature thereto, or return it to the council by delivering it to the city clerk together with a statement setting forth his objections thereto or to any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the council within ten days after it has been presented to him, or unless council upon reconsideration thereof, on or

after the third day following its return by the mayor, shall by a vote of two-thirds of the members resolve to override the mayor's veto.

(b) The mayor may attend meetings of council and may take part in discussions of council but shall have no vote except in the case of a tie on the question of filling a vacancy in the council, in which case he may cast the deciding vote.

(c) All bonds, notes, contracts and written obligations of the city shall be executed on its behalf by the mayor and the controller.

Section 414. The mayor shall designate any department head, or the city clerk, to act as mayor whenever the mayor shall be prevented, by absence from the city, disability or other cause, from attending to the duties of his office. During such time the person so designated by the mayor shall possess all the rights, powers, and duties of mayor. Whenever the mayor shall have been unable to attend to the duties of his office for a period of sixty consecutive days for any of the above stated reasons, a member of council shall be appointed by the council as acting mayor, who shall succeed to all the rights, powers and duties of the mayor or the then acting mayor.

Section 415. (a) The city treasurer shall perform such functions and duties and have such powers relating to the collection, receiving, safe keeping and payment over of public moneys including city, county, institution district and school district taxes as provided by general law and shall have such other functions, powers and duties as may be assigned to him by council.

(b) The city may have departments of administration and shall have such other departments, not exceeding a total of nine, as council may establish by ordinance. All of the administrative functions, powers and duties of the city, other than those vested in the office of the city clerk, city treasurer and city controller, shall be allocated and assigned among and within such departments.

(c) Each department shall be headed by a director who shall be appointed by the mayor with the advice and consent of the council. Each department head shall serve

during the term of office of the mayor appointing him, and until the appointment and qualification of his successor. No member of city council shall head a department.

(d) The mayor may, in his discretion, remove any department head after notice and an opportunity to be heard. Prior to removing a department head, the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the twentieth day after the filing of such notice.

(e) Subject to the provisions of Article XLIV. of the act of June 23, 1931 (P.L. 932), known as the "Third Class City Code" and the provisions of the act of May 31, 1933 (P.L. 1108), entitled "An act providing for the appointment, promotion, reduction, removal and reinstatement of paid officers, firemen and employes of fire departments and of fire alarm operators and fire box inspectors in the bureaux of electricity in cities of the second and third class; defining the powers and duties of civil service commissions for such purposes; and fixing penalties", department heads shall appoint subordinate officers and employes within their respective departments and may, with approval of the mayor, remove such officers and employes.

Section 416. Where a department of administration is established, it shall be headed by a director who shall be known and designated as business administrator. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment he need not be a resident of the city or state, but during his term of office he must reside outside the city only with the approval of council. He 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.

E. Budget and Control

Section 417. The city budget shall be prepared by the mayor with the assistance of the business administrator or other officer designated by the mayor. Except for the budget for the first budget year after adoption of the Mayor-Council Plan A, the mayor shall, not later than the month of November, require all department heads to submit requests for appropriations for the ensuing budget year, and to appear before the mayor or the business administrator or other officer at public hearings, which shall be held during that month, on the various requests. In preparation of the budget for the first budget year after adoption of the Mayor-Council Plan A, such requests shall be made and such hearings shall be held in February of the first budget year.

Section 418. Except as hereafter provided for submission of the first recommended budget after adoption of the Mayor-Council Plan A, at the last stated meeting in November, the mayor shall submit to council his recommended budget in the form of an ordinance, together with such explanatory comment or statement as he may deem desirable. After adoption of the Mayor-Council Plan A, the first recommended budget together with the explanatory comment or statement, shall be submitted by the mayor in the form of an ordinance to council not later than the first day of March and shall be adopted by council not later than the first meeting in March of the first budget year, or, if the mayor elects to do so, he may recommend the amendment and adoption of the annual budget and the levy of the tax rate under sections 1809, 1810 and 1811 of the act of June 23, 1931 (P.L. 932), known as "The Third Class City Code", reenacted and amended June 28, 1951 (P.L. 662). The budget shall be in such form as is required the council for city budgets, and shall in addition have appended thereto a detailed analysis of the various items of ex-

penditure and revenue. Council may reduce any item or items in the mayor's budget by a vote of a majority of the council, but an increase in any item or items therein shall become effective only upon an affirmative vote of two-thirds of the members of council.

Council shall, upon passing the proposed budget ordinance on first reading, fix a date for adoption thereof, which shall except as otherwise provided be not later than the 31st day of December immediately following.

Section 419. The council shall, where practicable, provide for the maintenance of a system of work programs and quarterly allotments, for operation of the budget. It shall be the duty of the officer or department administering any such program to develop and report appropriate unit costs of budgeted expenditures.

Section 420. The council shall provide by ordinance for the exercise of a control function, in the management of the finances of the city, by the city controller. The control function shall include provision for an encumbrance system of budget operation, for expenditures only upon written requisition, for the pre-audit by the city controller of all claims and demands against the city prior to payment, and for the control of all payments out of any public funds by individual warrants for each payment to the official having custody thereof.

Section 421. The council may provide for annual post audits of all accounts by an outside certified public accountant to be appointed by council.

ARTICLE VI.

GENERAL PROVISIONS COMMON TO OPTIONAL PLANS

A. Officers and Employees

Section 601. No officer or employee elected or appointed in any city shall be interested, directly or indirectly, in any contract or job for work or materials or the profits thereof, to be furnished or performed for the city, and no such

officer or employe shall be interested, directly or indirectly, in any contract or job for work or materials or the profits thereof, to be furnished or performed for any person operating any interurban railway, street railway, bus line, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of such city.

Section 602. No officer or employe shall accept or receive, directly or indirectly, from any person operating within the territorial limits of a city any interurban railway, bus line, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange or other business using or operating under a public franchise, any frank, free pass, free ticket or free service, or accept or receive, directly or indirectly, from any person, any other service upon terms more favorable than is granted to the public generally, except that such prohibition of free transportation shall not apply to policemen or firemen in uniform. Nor shall any free service to the city officials heretofore provided by any franchise or ordinance be affected by this section.

Section 603. No candidate for office, appointment or employment and no officer, appointee or employe in any city shall, directly or indirectly, give or promise any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office or employment to which he may be or may have been elected or appointed.

Section 604. Any person convicted of a crime or offense involving moral turpitude shall be ineligible to assume any city office, position or employment in a city governed pursuant to this act, and upon conviction thereof, shall forfeit his office. Any person who shall violate any of the provisions of sections 601, 602 or 603 of this act shall be guilty of a misdemeanor in office, and upon conviction there-

of in a court of competent jurisdiction, shall forfeit his office.

Section 605. If any person hereafter elected or appointed to any office or position in a city governed under this act shall, after lawful notice or process, willfully refuse or fail to appear before any court, any legislative committee, or the Governor, or having appeared shall refuse to testify or to answer any question regarding the property, government or affairs of the city, or regarding his nomination, election, appointment or official conduct on the ground that his answer would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any such matter in relation to which he may be asked to testify, may be removed from office by the council of the city in its discretion. Any person removed from office pursuant to this section shall not thereafter be eligible for election or appointment to any office or employment in such city.

B. Legislation By Council

Section 606. The council shall, by ordinance or resolution, designate the time of holding regular meetings which shall be at least monthly. The mayor or the president of council, as the case may be, may and, upon written request of a majority of the members of the council, shall call a special meeting of the council. In the call, he shall designate the purpose of the special meeting and no other business shall be considered. All meetings of the council shall be open to the public. The city clerk shall keep a journal of its proceedings and record the minutes of every meeting.

Section 607. (a) Council shall determine its own rules of procedure, not inconsistent with ordinance or statute. A majority of the whole number of members of the council shall constitute a quorum, but no ordinance shall be adopted by the council without the affirmative vote of a majority of all the members of the council.

(b) Each ordinance or resolution shall be introduced in written or type-written form, and shall be read and considered as provided by gen-

eral law. The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered on the minutes. The minutes of each meeting shall be signed by the officer presiding at such meeting and by the city clerk.

(c) The compensation of the controller, treasurer and department heads shall be fixed by the council.

The compensation of the mayor and councilmen elected to their offices in the year prior to the transition year to the mayor-council plan A pursuant to this act shall be as follows:

1960 Population		
Cities of 75,000 to 124,999		
Mayor	Council	Pres. of Council
\$15,000	\$2,100	\$2,400

The compensation of the mayor, councilmen, controller and treasurer elected to their offices subsequent to the transition year to the mayor-council plan A pursuant to this act shall be fixed by ordinance of council finally passed or adopted at least two days prior to the last day fixed by law for candidates to withdraw their names from nominating petitions previous to the day of the municipal election. After such compensation is once fixed by ordinance only an increase or decrease thereof need be fixed by such ordinance.

Section 608. (a) Except as may otherwise be provided in this act all ordinances shall be adopted and published in the manner required by general law: Provided, however, That any ordinance may incorporate by reference any standard technical regulations or code, official or unofficial, which need not be so published whenever ten copies of said regulations or code have been placed on file in the office of the city clerk and in the office of the body or department charged with the enforcement of said ordinance for the examination of the public so long as said ordinance is in effect.

(b) No ordinance other than the local budget ordinance shall take effect less than twenty days after its final passage by council and approval by the mayor where such approval is required, unless the council shall adopt a resolution declaring an emergency and at least

two-thirds of all the members of the council vote in favor of such resolution.

Section 609. The city clerk shall record all ordinances and resolutions adopted by council and at the close of each year, with the advice and assistance of the city attorney, shall bind, compile or codify all the ordinances and resolutions, or true copies thereof, of the city which then remain in force and effect. He shall also properly index the record books, compilation or codification of ordinances and resolutions.

Section 610. No rule or regulation made by any department, officer, agency or authority of the city, except such as relates to the organization or internal management of the city government or a part thereof, shall take effect until it is filed either with the city clerk or in such other manner as may be provided by ordinance. The council shall provide for the prompt publication of such rules and regulations.

C. Transition To Optional Charter Plan

Section 620. (a) Whenever the electors of a city adopt any of the optional charter plans provided by this act at any election for that purpose, such city shall be governed under the provisions of such charter plan and this act from the first Monday in January following the next succeeding municipal election.

(b) Whenever the electors of a city vote to discontinue such optional plan at any election for that purpose, the city shall cease to be governed by the provisions of such charter plan and this act on the first Monday of January following the next succeeding municipal election.

Section 621. (a) The mayor, the members of council, the treasurer and the controller in office at the time of the adoption of any charter plan provided by this act shall continue in office until the expiration of their terms and shall receive the compensation provided by law at that time. Any such officer may, by writing filed with the city treasurer, direct that any portion of his compensation be returned to the city treasury.

(b) If an elected city treasurer or city controller is in office at the time of the adoption of an optional charter plan under the provisions of this act, a treasurer or controller, as the case may be, shall not be elected to take office until after the resignation, death, removal or expiration of the term of said treasurer or controller.

Section 622. (a) At the municipal election next succeeding the adoption of one of the optional charter plans provided for in this act, the number of councilmen prescribed by the terms of the charter less the number of councilmen then in office whose terms do not expire on the first Monday of January next following, shall be elected. For the purpose of this section, an existing mayor shall be considered as a member of council, and after the new charter plan goes into effect, his duties shall be only those of a member of council as prescribed by the new charter plan and a new mayor shall be elected at this election or appointed as provided by the plan adopted.

(b) At such election, if two, three or four councilmen are elected, they shall each serve for terms of four years. If five are elected, the four candidates receiving the highest number of votes shall serve for terms of four years, and the candidate receiving the next highest number of votes shall serve for a term of two years. If six or seven are elected, the five candidates receiving the highest number of votes shall serve for terms of four years, and the one or two candidates, as the case may be, receiving the next highest number of votes shall serve for a term of two years. Thereafter, all councilmen shall be elected for terms of four years.

(c) In the event of a vacancy occurring by reason of resignation, death or removal shall exist ninety days or more before such election, they shall be filled for the remainder of the term of the person originally elected to that office.

Section 623. Upon the effective date of an optional charter adopted pursuant to this act, all ordinances and resolutions of the city to the extent that they are not inconsistent with the provisions of this act shall

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remain in full force and effect until modified or repealed as provided by law.

Section 624. (a) On the effective date of an optional plan adopted pursuant to this act, all appointive offices then existing in such city shall be abolished and the terms of all appointed officers shall immediately cease and determine: Provided, That nothing in this section shall be construed to abolish the office or terminate the terms of office of any alderman or constable or of any official or employe now protected by any tenure of office or civil service law, or of any policeman or fireman, whether or not protected by a tenure of office law.

(b) Provision for officers and for

the organization and administration of the city government under the optional plan may be made by resolution pending the adoption of ordinances, but any such resolution shall expire not later than sixty days after the effective date of the optional plan.

Section 625. All actions and proceedings of a legislative, executive or judicial character, which are pending upon the effective date of an optional plan adopted pursuant to this act, may continue and the appropriate officer or employe under such optional plan shall be substituted for the officer or employe theretofore exercising or discharging the function, power or duty involved in such action or proceeding.

I hereby certify this to be a true and correct copy of the Optional Charter approved by the voters of the City of Harrisburg on the 4th day of November, 1969, to be effective on the 1st day of January, 1970.


City Clerk.


Dated:

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Secretary of the Commonwealth
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