

GENERAL PROVISIONS

Chapter 1

GENERAL PROVISIONS

ARTICLE I Adoption of Code

- § 1-1. Adoption of Code.
- § 1-2. When effective.
- § 1-3. Repeal of ordinances not contained in Code.
- § 1-4. Ordinances saved from repeal; matters not affected by repeal.
- § 1-5. Inclusion of new legislation prior to adoption of Code.
- § 1-6. Changes in previously adopted ordinances.
- § 1-7. Copy of Code on file.
- § 1-8. Amendments to Code.
- § 1-9. Code book to be kept up-to-date.
- § 1-10. Sale of Code book; supplements provided.
- § 1-11. Publication; filing.
- § 1-12. Severability of Code provisions.
- § 1-13. Severability of ordinance provisions.
- § 1-14. Altering or tampering with Code; penalties for violation.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 5-5-81 as Ord. No. 81-3. Amendments noted where applicable.]

ARTICLE I
Adoption of Code
[Adopted 5-5-81 as Ord. No. 81-3]

Be it ordained and enacted by the Council of the Borough of Mahanoy City, County of Schuylkill, Commonwealth of Pennsylvania, and it is enacted and ordained as follows:

§ 1-1. Adoption of Code.

The codification of a complete body of ordinances for the Borough of Mahanoy City, County of Schuylkill, Commonwealth of Pennsylvania, revised, codified and consolidated into titles, chapters and sections by General Code Publishers Corp. and consisting of Chapters 1 through 184, together with an Index, is hereby approved, adopted, ordained and enacted as the "Code of the Borough of Mahanoy City," hereinafter known and referred to as the "Code," pursuant to Section 1008(b) of the Borough Code, 53 P.S. § 46008(b).

§ 1-2. When effective.

All provisions of the Code shall be in full force and effect on and after May 5, 1981.

§ 1-3. Repeal of ordinances not contained in Code.

All ordinances or parts of ordinances of a general and permanent nature adopted by the Borough of Mahanoy City and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this ordinance, except as hereinafter provided.

§ 1-4. Ordinances saved from repeal; matters not affected by repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-3 of this ordinance shall not affect the

following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to July 8, 1980.
- B. Any right or liability established, accrued or incurred under any legislative provision of the borough prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the borough, or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision of the borough.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the borough.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing of name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place.
- G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the borough or other instruments or evidence of the borough's indebtedness.
- H. Any ordinance authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- I. Any ordinance annexing land to the borough.
- J. Any ordinance designating the boundaries of water districts.
- K. The levy or imposition of taxes, special assessments or charges.

- L. The dedication of property.
- M. Any currently effective ordinance or resolution establishing the salaries or compensation of officers and employees of the borough.
- N. The currently effective Zoning Ordinance of the borough and all amendments thereto.
- O. The currently effective Subdivision of Land Ordinance of the borough and all amendments thereto.

§ 1-5. Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-4A and/or the date of adoption of this ordinance are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such legislation shall be temporarily placed in the Code until printed supplements are included.

§ 1-6. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances of the Borough of Mahanoy City for adoption and revision as part of the Code, certain grammatical changes and other minor changes were made in one (1) or more of said ordinances. It is the intention of the Borough Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. Certain changes of a substantive nature have been made to various ordinances found within the Code, and certain new materials have been added to the Code. These changes and additions have been made to bring the provisions of the Code into conformity with the desired policies of the Borough Council, and it is the intent of the Borough Council that all such changes and additions be adopted as part of the Code as if the ordinances so changed or added had been previously formally amended or adopted to read

as such. Such changes and additions are cited within the historical statements by the terms "amended at time of adoption of Code" or "adopted at time of adoption of Code." These changes and additions are further detailed as follows.¹

§ 1-7. Copy of Code on file.

A copy of the Code in a post-bound volume has been filed in the office of the Borough Secretary and shall remain there for use and examination by the public until final action is taken on this ordinance. If this ordinance shall be adopted, such copy shall be certified to by the Borough Secretary, as provided by law, and such certified copy shall remain on file in the office of the Borough Secretary, available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-8. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Borough Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code, as amendments and supplements thereto.

§ 1-9. Code book to be kept up-to-date.

It shall be the duty of the Borough Secretary or someone authorized and directed by the Secretary to keep up-to-date the

¹ Editor's Note: Pursuant to § 1-6B, the following sections, Articles and chapters of the Code were amended or added. A complete description of these amendments and additions is on file in the office of the Borough Secretary: §§ 15-1, 24-3B, 64-4, 72-1, 72-2, 75-3, 80-2, 83-4, 88-1, 88-5A, 91-3, 93-7, 99-1, 99-2, 102-1, 102-16, 105-3, 105-6, 105-7, 108-4, 108-6, 108-9, 116-4, 116-6, 116-10, 121-1, 136-1, 136-2, 143-12, 146-1, 146-2, 149-3, 154-3, 163-2, 163-3, 166-4, 166-14, 166-17, 166-19, 171-29, 171-32, 171-33, 171-34, 171-37, 171-39, 171-41, 171-42, 171-50, 171-51, 174-2, 174-3 and 184-5; Chapters 34, 37, 96, 113, 128, 131 and 179; and Ch. 166, Article V.

certified copy of the book containing the Code required to be filed in the office of the Secretary for the use of the public. All changes in said Code and all ordinances adopted by the Borough Council subsequent to the effective date of this codification, which the Council shall adopt specifically as part of the Code, shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-10. Sale of Code book; supplements provided.

Copies of the book containing the Code may be purchased from the Borough Secretary upon the payment of a fee to be set by resolution of the Borough Council, which may also arrange, by resolution, for procedures for the periodic supplementation thereof.

§ 1-11. Publication; filing.

The Borough Secretary, pursuant to law, shall cause to be published, in the manner required, a notice of the adoption of this ordinance adopting the Code in a newspaper of general circulation in the borough. Sufficient copies of the Code shall be maintained in the office of the Borough Secretary for inspection by the public at all times during regular office hours. The enactment and application of this ordinance adopting the Code, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-12. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

§ 1-13. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

§ 1-14. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the borough to be misrepresented thereby. Anyone violating this section of this ordinance shall be subject, upon conviction, to a fine of not more than three hundred dollars (\$300.) and costs of prosecution and, upon default in payment of the fine and costs, to imprisonment in the county jail for not more than thirty (30) days.

Chapter 2

AUDITOR, BOROUGH

§ 2-1. Appointment.

§ 2-2. Compensation.

§ 2-3. Powers and duties.

§ 2-4. Abolishment of elected auditors.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 2-7-89 as Ord. No. 89-1, approved 2-7-89. Amendments noted where applicable.]

GENERAL REFERENCES

Salaries and compensation — See Ch. 48.

§ 2-1. Appointment.

The Borough Council is hereby authorized to appoint an independent Borough Auditor who shall be a certified public accountant and registered in Pennsylvania, a firm of certified public accountants so registered or a competent public accountant or a competent firm of public accountants.

§ 2-2. Compensation.

Payment for services rendered by the Borough Auditor appointed shall be fixed by Council.

§ 2-3. Powers and duties.

The Borough Auditor shall be appointed annually to make an independent examination of the accounting records of the borough for the fiscal year for which the Auditor is appointed and shall also perform the other duties and exercise the powers conferred upon him by Article XI, Subdivision (k),¹ of the Borough Code as set forth in 53 P.S. § 46005(7) of the Borough Code.

§ 2-4. Abolishment of elected auditors.

The offices of Borough Auditor for the Borough of Mahanoy City, Schuylkill County, Pennsylvania, are hereby abolished.

¹ Editor's Note: See 53 P.S. § 46196 et seq.

Chapter 7**DRUG TASK FORCE**

- § 7-1. **Participation.**
- § 7-2. **Intergovernmental cooperation.**
- § 7-3. **Police services.**
- § 7-4. **Procedures.**
- § 7-5. **Term.**
- § 7-6. **Purpose and objectives.**
- § 7-7. **Funds.**
- § 7-8. **Organizational structure.**
- § 7-9. **Property.**
- § 7-10. **Municipal employees.**

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 7-10-2007 by Ord. No. 2007-1, approved 7-10-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 37.

§ 7-1. Participation.

The Borough of Mahanoy City has evidenced its intent to participate in the Drug Task Force activities in cooperation with the Schuylkill County District Attorney's Office designed to interdict the illegal trafficking of narcotics and other illegal drugs within its municipal boundaries as well as within the boundaries of nearby communities.

§ 7-2. Intergovernmental cooperation.

This agreement may include intergovernmental cooperation activities with adjacent and nearby municipal governments as part of a regional effort to interdict illegal drug activities.

§ 7-3. Police services.

The Borough of Mahanoy City shall utilize the services of its police force, full-time and part-time, under the conditions set forth in the agreement and in compliance with the Municipal Police Jurisdiction Act, 42 Pa.C.S.A. § 8953.

§ 7-4. Procedures.

The Borough of Mahanoy City shall establish, pursuant to the terms of the agreement which is attached hereto and incorporated as a part of this chapter,¹ appropriate procedures to comply with all relevant provisions of the agreement and relevant regulations, direction, and guidance from the Schuylkill County District Attorney's Office.

§ 7-5. Term.

The term of the agreement shall commence upon the effective date of this chapter and may be terminated at any time upon 30 days' written notice.

§ 7-6. Purpose and objectives.

The purpose and objectives of the agreement include region-wide coordination of municipal police activities in an effort to combat illegal narcotics and drug trafficking.

¹ Editor's Note: Said agreement is on file in the Borough offices.

§ 7-7. Funds.

The agreement shall be financed with the assistance of funds supplied by the Office of the Attorney General of the Commonwealth of Pennsylvania and the Schuylkill County District Attorney's Office.

§ 7-8. Organizational structure.

The organizational structure necessary to implement the terms of this agreement shall be covered by directives, procedures, and guidance from the Schuylkill County District Attorney's Office.

§ 7-9. Property.

All property, real or personal, acquired, managed, or disposed of pursuant to this agreement shall be in accordance with both the terms of the agreement as well as the directives, procedures, and guidance of the Schuylkill County District Attorney's Office.

§ 7-10. Municipal employees.

The municipality shall retain responsibility for the management, control and direction of its employees with assistance, financial or otherwise, from the Schuylkill County District Attorney's Office.

Chapter 10

ENGINEER, BOROUGH

§ 10-1. Appointment on per diem basis.

§ 10-2. Provision for compensation.

§ 10-3. Duties and powers.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 3-3-36 as Ord. No. 188, approved 3-3-36. Amendments noted where applicable.]

§ 10-1. Appointment on per diem basis.

The appointment to the office of Borough Engineer shall be made by Council only on a per diem basis.

§ 10-2. Provision for compensation.

Payment for services rendered by the Borough Engineer appointed shall be fixed by Council on a per diem basis at the time of said appointment.

§ 10-3. Duties and powers.

The duties and powers of said Borough Engineer shall be only those that are delegated and prescribed to said office by Council at the time of said appointment and shall be divested at the termination of said appointment.

FIRE DEPARTMENT

[^LPage 1

Chapter 15

FIRE DEPARTMENT

ARTICLE I
Officers and Operation

- § 15-1. Selection of Fire Chief.
- § 15-2. Assumption of duties by Chief.
- § 15-3. Election of Assistant Chiefs.
- § 15-4. Assumption of duties by Assistant Chiefs.
- § 15-5. Removal of Fire Chief; hearing.
- § 15-6. General duties of Fire Chief.
- § 15-7. Duties of Chief at fires.
- § 15-8. Service at fires.
- § 15-9. Disobedience of fire companies.
- § 15-10. Chain of command.
- § 15-11. Rotation of Assistant Chiefs.
- § 15-12. Reports of disobedience; trial.
- § 15-13. Absence of Fire Chief.
- § 15-14. Compensation of officers.
- § 15-15. When effective.

ARTICLE II
Fire Patrolmen

- § 15-16. Annual appointment.

ARTICLE III
Extended Duties of Volunteers

§ 15-17. Volunteers, authorized to perform additional duties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 37.

ARTICLE I
Officers and Operation
[Adopted 12-2-1969 by Ord. No. 363, approved 12-2-1969]

§ 15-1. Selection of Fire Chief. [Amended 5-5-1981 by Ord. No. 81-3]

A Fire Chief shall be elected every five years by the Board of Fire Trustees and submitted to Borough Council for approval, said Board representing the five fire companies of the Borough of Mahanoy City. The Borough Council shall have the power to appoint the Fire Chief.

§ 15-2. Assumption of duties by Chief.

When the Borough Council shall confirm the election aforesaid, the person whose election is so confirmed shall act as and be the Fire Chief.

§ 15-3. Election of Assistant Chiefs.

Five Assistant Chiefs shall be elected annually, each fire company to elect one from among its own members, to be

designated as the First, Second, Third, Fourth and Fifth Assistant Chiefs.

§ 15-4. Assumption of duties by Assistant Chiefs.

When the Borough Council shall confirm the election of said Assistant Chiefs, the persons whose elections are so confirmed shall act as and be the Assistant Chiefs.

§ 15-5. Removal of Fire Chief; hearing.

The said Chief shall be elected every five years and may be removed from office by the action of the Board of Fire Trustees, after due hearing, for such causes as nonperformance of his duties, malfeasance detrimental to the duties of his office, dereliction of his duties, or for any other cause so deemed serious enough by the Board of Fire Trustees and the Fire and Water Committee of Borough Council. If after due hearing he is removed from office, his successor shall be duly elected immediately upon his removal and the successor's name shall be submitted for confirmation to Borough Council.

§ 15-6. General duties of Fire Chief.

It shall be the duty of the Fire Chief to procure efficient and united action of the fire companies for the speedy subduing of fires; to see that the rules and regulations of the Borough concerning fire companies are properly enforced; to inspect all fire apparatus at least once a month and all fire hydrants at least semiannually and report immediately all defects in the same to the Chairman of the Fire and Water Committee; to prevent companies from going into service when, in his judgment, they are not needed; to prevent the unnecessary use of water and destruction of property; and to be present at all fires.

§ 15-7. Duties of Chief at fires.

The Fire Chief shall have power to direct the several fire companies at all fires; to eject, dismiss or suspend from service at any fire any Assistant Chief or any member of a fire company for disobedience of his orders at a fire; to enter any premises for the purposes of investigating the cause of or subduing a fire; to call to his assistance the police force of the Borough or any citizen to maintain peace or protect property at a fire; to prosecute in behalf of the Borough any person for interfering with the fire companies at a fire or for interfering with the fire hydrants or with any of the apparatus.

§ 15-8. Service at fires.

The Assistant Chiefs, fire patrolmen and fire companies and firemen shall be subject to the authority and direction of the Fire Chief at a fire. The Assistant Chiefs shall assist the Fire Chief in the performance of his duties and shall have the power to eject, dismiss or suspend from service at a fire any member of their respective companies for disobedience to their commands at a fire.

§ 15-9. Disobedience of fire companies.

If any fire company shall refuse to obey the orders or directions of the Fire Chief or any of the Assistant Fire chiefs acting in the place of the Fire Chief during the latter's absence, the Fire Chief or such Assistant Fire Chief may fine such company not less than \$10 nor more than \$50 and report to the Board of Fire Trustees the cause and circumstances for and under which the fine was imposed, which fine shall be deposited in the treasury of the Board of Fire Trustees. From a fine of \$10, there shall be no appeal. From a fine of more than \$10, the company fined may appeal in writing to the Board of Fire Trustees, which Board shall convene in extra session within one week thereafter and give a fair and impartial hearing to the company, and after hearing, the decision of the Board of Fire

Trustees, remitting the fine or refusing to remit the same, shall be final.

§ 15-10. Chain of command.

The First Assistant Chief shall, in the absence of the Fire Chief, have all the powers and perform all the duties of the Fire Chief; and in the absence of the Fire Chief and the First Assistant Chief, the Second Assistant Chief; and in the absence of the Fire Chief and the First Assistant and Second Assistant Chiefs, the Third Assistant Chief; in the absence of the Fire Chief and the First Assistant, Second Assistant and Third Assistant Chiefs, the Fourth Assistant; and in the absence of the Fire Chief, First Assistant, Second Assistant, Third Assistant and Fourth Assistant, the Fifth Assistant Fire Chief shall perform all the duties and have all the powers of the Fire Chief.

§ 15-11. Rotation of Assistant Chiefs.

The Assistant Chief from the company of which the Fire Chief is a member shall be designated as the Fifth Assistant Chief. The rotation of Assistants shall proceed in the following order: Humane, No. 1; Citizens, No. 2; Washington Hook and Ladder, No. 3; Good American, No. 4; and West End, No. 5. Thus, as an example, if the Chief were from the Good American, the First Assistant would be from the West End and the Second Assistant would be from the Humane, etc. Each succeeding year the Assistants as elected by their respective companies would advance one rank in status.

§ 15-12. Reports of disobedience; trial.

The Fire Chief or any Assistant Chief acting in his absence shall report any disobedience of a fireman or firemen to his orders at a fire and all other misconduct of a fireman or firemen to his orders at a fire and all other misconduct of a fireman or firemen at a fire to the Board of Fire Trustees. Said Board shall

investigate the case and give the accused party or parties a fair trial, and if the accused he found guilty by the Board, said fireman or firemen shall be reported to the fire company or companies of which said party or parties is or are members, there to be dealt with according to the constitution and bylaws of said company or companies.

§ 15-13. Absence of Fire Chief.

If the Fire Chief desires to be absent, he shall notify the First Assistant Fire Chief of the time and duration of his proposed absence.

§ 15-14. Compensation of officers. [Amended 5-3-1983 by Ord. No. 83-4, approved 5-3-1983]

The Fire Chief, First Assistant Fire Chief, Second Assistant Fire Chief, Third Assistant Fire Chief, Fourth Assistant Fire Chief and Fifth Assistant Fire Chief shall receive such yearly salaries from the Borough, which salaries shall be established by resolution of the Borough Council.

§ 15-15. When effective.

This system shall become effective as of the first Council meeting in June 1970.

ARTICLE II

Fire Patrolmen

[Adopted 5-5-1908 by Ord. No. 77, approved 5-6-1908]

§ 15-16. Annual appointment.

Annually at the first meeting of each newly organized Council, the Borough Council shall appoint 24 fire patrolmen, to be selected from the members of the Fire Department of the Borough; and the persons so appointed shall be notified by the

Secretary of Council of their appointment and of the time and place of taking the oath at least five days before the time so fixed for that purpose.

ARTICLE III

Extended Duties of Volunteers

**[Adopted 12-14-2004 by Ord. No. 2004-7,
approved 12-14-2004]**

§ 15-17. Volunteers, authorized to perform additional duties.

The Borough's volunteer fire departments and volunteer fire police and their membership are authorized by the Borough Council to perform the following duties in addition to the normal fire fighting, rescue and emergency medical duties:

- A. Participation in drills, practices, training sessions and pre-fire planning activities authorized by the Fire Chiefs and supervised by a qualified instructor, or a Fire Department or Fire Police Officer.
- B. Participation in community celebrations, ceremonial observances and funerals for deceased fire fighters or fire police or other public figures where such attendance is deemed appropriate by the Fire Chiefs. Participation outside of Schuylkill County must have prior approval of the Borough, however, participation outside of the Borough only requires that the Borough be notified of the participation.
- C. Performing duties necessary to prepare the fire station for use as a distribution center or a polling place for the primary and general elections. This is extended to include like services performed at other Borough or School District buildings.
- D. Preparation for and responsible participation in parades, providing that attendance has the prior approval of the Fire Chief, the Fire Department or Fire Police. Participation outside of Schuylkill County must have

prior approval of the Borough, however, participation outside of the Borough only requires that the Borough be notified of the participation.

- E. Any public service functions performed for the welfare of the community, including recovery of animals, as long as these activities are responsibly supervised and are sanctioned by the Fire Department or Fire Police.
- F. Any and all public safety activities undertaken by the Fire Department or Fire Police members to render care to the injured, prevent loss of life, provide comfort and security to victims, and limit or prevent damage to or loss of property as circumstances may dictate.
- G. Rendering assistance to police officers where such aid is specifically requested or is done without request to protect the public welfare from imminent danger, including fire and police duties.
- H. Participation in fire prevention activities, conducting building inspections, post-fire investigations, bomb searches, evacuation drills, and fire lane enforcement.
- I. Participating in public programs to promote health and safety, to enlist new members or solicit community support or conduct fund-raising activities, so long as no compensation is being paid to the member while engaged in the fund-raising activity; 100% of the proceeds go to the Fire Department or Fire Police; and so long as each activity is sanctioned by the Fire Department or Fire Police.
- J. While safely and responsibly performing maintenance and remodeling work on the Fire Department or Fire Police vehicles, buildings, grounds or equipment.
- K. Such other duties necessary for the efficient operation of the volunteer services as may, from time to time, be assigned by the Borough Council and the officers of the Fire Department or Fire Police and as may be defined within the constitution and bylaws of the volunteer fire departments or volunteer fire police.

Chapter 24**MANAGER, BOROUGH**

§ 24-1. **Office created.**

§ 24-2. **(Reserved)**

§ 24-3. **Qualifications; residence; resignation.**

§ 24-4. **(Reserved)**

§ 24-5. **Compensation.**

§ 24-6. **Powers and duties.**

§ 24-7. **Delegation of powers by Mayor.**

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 8-6-1968 by Ord. No. 359, approved 8-6-1968. Amendments noted where applicable.]

§ 24-1. **Office created.**

The office of Borough Manager is hereby created by the Borough of Mahanoy City.

§ 24-2. **(Reserved)**¹

§ 24-3. **Qualifications; residence; resignation.**

A. The Manager shall be chosen solely on the basis of his executive and administrative abilities, with special reference to his actual experience in or his knowledge of

¹ Editor's Note: Former § 24-2, Appointment and removal, was repealed 1-11-2005 by Ord. No. 1-2005, approved 1-11-2005.

accepted practices in respect to the duties of his office as herein outlined. The Manager need not be a resident of the Borough or of the State of Pennsylvania at the time of his appointment, but as soon as possible thereafter he shall become and during his tenure shall remain a resident of the Borough.

- B. The Manager shall give the Borough Council 30 days' written notice of an intention on his part to resign, and his failure to provide such written notice to the Council shall result in the forfeiture of one month's salary. **[Added 5-5-1981 by Ord. No. 81-3]**

§ 24-4. (Reserved)²

§ 24-5. Compensation. [Amended 1-11-2005 by Ord. No. 2005-1, approved 1-11-2005]

The salary of the Borough Manager shall be fixed from time to time by resolution.

§ 24-6. Powers and duties.

- A. The Manager shall be the chief administrative officer of the Borough and he shall be responsible to the Council as a whole for the proper and efficient administration of the affairs of the Borough. His powers and duties shall relate to the general management of all Borough business not expressly by statute imposed or conferred upon other Borough officers.
- B. Subject to recall by ordinance of Council, the powers and duties of the Borough Manager shall include the following:

² Editor's Note: Former § 24-4, Bond required, was repealed 1-11-2005 by Ord. No. 1-2005, approved 1-11-2005.

- (1) He shall supervise and be responsible for the activities of all municipal departments.
- (2) (Reserved)³
- (3) He shall prepare and submit to Council before the close of the fiscal year, or on such alternate date as Council shall determine, a budget for the next fiscal year and an explanatory budget message. In preparing the budget, the Manager or an officer designated by him shall obtain from the head of each department, agency, board or officer estimates of revenues and expenditures and other supporting data as he requests. The Manager shall review such estimates and may revise them before submitting the budget to the Council.
- (4) He shall be responsible for the administration of the budget after its adoption by the Council.
- (5) He shall hold such other municipal offices or head one or more of the municipal departments as the Council from time to time directs.
- (6) He shall attend all meetings of Council and its committees, with the right to take part in the discussion, and he shall receive notice of all special meetings of Council or its committees.
- (7) He shall prepare the agenda for each meeting of Council and supply facts pertinent thereto.
- (8) He shall keep the Council informed as to the conduct of Borough affairs; submit periodic reports on the condition of the Borough finances and such other reports as the Council requests; and make such recommendations to the Council as he deems necessary.

³ Editor's Note: Former § 24-6B(2), regarding the hiring, suspending and discharging of all employees under the Borough Manager's supervision, was repealed 1-11-2005 by Ord. No. 1-2005, approved 1-11-2005.

- (9) He shall submit to Council, as soon as possible after the close of the fiscal year, a complete report on the financial and administrative activities of the Borough for the preceding year.
 - (10) He shall see that the provisions of all franchises, leases, permits and privileges granted by the Borough are observed.
 - (11) He may employ, by and with the approval of Council, experts and consultants to perform work and to advise in connection with any of the functions of the Borough.
 - (12) He shall attend to the letting of contracts in due form of law, and he shall supervise the performance and faithful execution of the same except insofar as such duties are expressly imposed upon some other Borough officer by statute.
 - (13) He shall see that all money owed the Borough is promptly paid and that proper proceedings are taken for the security and collection of all the Borough's claims.
 - (14) He shall be the Purchasing Officer of the Borough and he shall purchase, in accordance with the provisions of the Borough Code, all supplies and equipment for the various agencies, boards, departments and other offices of the Borough. He shall keep an account of all purchases and shall, from time to time or when directed by Council, make a full written report thereof. He shall also issue rules and regulations, subject to the approval of Council, governing the requisition and purchasing of all municipal supplies and equipment.
- C. All complaints regarding services or personnel of the Borough shall be referred to the office of the Manager. He or an officer designated by him shall investigate and dispose of such complaints, and the Manager shall report thereon to Council.

§ 24-7. Delegation of powers by Mayor.

The Mayor is hereby authorized to delegate to the Borough Manager, subject to recall by written notification at any time, any of his nonlegislative and nonjudicial powers and duties.⁴

⁴ Editor's Note: Former § 24-8, Limitation on Council's powers, and § 24-9, Disability or absence of Manager, which sections immediately followed this section, were repealed 1-11-2005 by Ord. No. 2005-1, approved 1-11-2005.

MUNICIPAL AUTHORITIES

Chapter 28

MUNICIPAL AUTHORITIES

ARTICLE I

Mahanoy City Municipal Authority

- § 28-1. Legislative declaration.
- § 28-2. Articles of Incorporation.
- § 28-3. Publication of notice.
- § 28-4. Filing of Articles of Incorporation.
- § 28-5. First members of Board.
- § 28-6. Statement of necessity.

ARTICLE II

Sewer Authority

- § 28-7. Legislative declaration.
- § 28-8. Articles of Incorporation.
- § 28-9. Publication of notice.
- § 28-10. Filing of Articles of Incorporation.
- § 28-11. First members of Board.
- § 28-12. Statement of necessity.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City: Art. I, 12-8-64 as Ord. No. 325, approved 12-8-74; Art. II, 5-13-86 as Ord. No. 86-1, approved 5-13-86. Amendments noted where applicable.]

GENERAL REFERENCES

Sewers — See Ch. 159.

ARTICLE I

Mahanoy City Municipal Authority

[Adopted 12-8-64 as Ord. No. 325, approved 12-8-64]

§ 28-1. Legislative declaration.

The Council of this borough signifies its intention and desire to organize an authority under provisions of the Act of May 2, 1945, P.L. 382, known as the "Municipality Authorities Act of 1945," as amended and supplemented (the "Authorities Act"),¹ for the purpose of exercising any and all powers conferred by the Authorities Act.

§ 28-2. Articles of Incorporation.

The Mayor, President of Council and Secretary, respectively, of this borough are authorized and directed to execute, in behalf of this borough, Articles of Incorporation for such Authority in substantially the following form.²

§ 28-3. Publication of notice.

The Mayor, President of Council and Secretary, respectively, of this borough are authorized and directed to cause notice of the substance of this Article, including the substance of the foregoing Articles of Incorporation, and of the proposed filing of such Articles of Incorporation, to be published as required by the Authorities Act.

§ 28-4. Filing of Articles of Incorporation.

The Mayor, President of Council and Secretary, respectively, of this borough are authorized and directed to cause such Articles of Incorporation, together with necessary proofs of publication, to be filed with the Secretary of the Commonwealth of Pennsylvania,

¹ Editor's Note: See 53 P.S. § 301 et seq.

² Editor's Note: A copy of the Articles of Incorporation is on file in the office of the Borough Secretary. Ord. No. 399 adopted and approved on June 5, 1979, amended Paragraph 7 of the Articles of Incorporation to read:

"The term of existence of the Authority shall extend from its date of incorporation until May 1, 2029."

NONUNIF. EMPLOYEES PENSION PLAN

Chapter 31

NONUNIFORMED EMPLOYEES PENSION PLAN

**ARTICLE I
Word Usage**

§ 31-1. Definitions.

**ARTICLE II
Mahanoy City Borough Defined Contribution
Pension Plan**

- § 31-2. Plan established.**
- § 31-3. Effective date of plan.**
- § 31-4. Membership in plan.**
- § 31-5. Conditions for reentering plan.**
- § 31-6. Certain discontinuances or breaks in service.**
- § 31-7. Funding of the plan.**
- § 31-8. Vesting.**
- § 31-9. Retirement benefits.**
- § 31-10. Death benefits.**
- § 31-11. Disability benefits.**
- § 31-12. Termination of participation in plan.**
- § 31-13. Criminal acts.**
- § 31-14. Rights of borough to discontinue or amend.**
- § 31-15. Distribution upon termination.**

MAHANAY CITY CODE

ARTICLE III General Provisions

- § 31-16. Intent and interpretation.
- § 31-17. Construal of provisions.
- § 31-18. Severability.
- § 31-19. When effective.

ARTICLE IV Specific Plan Provisions

- § 31-20. Probationary period; entitlement to benefits; credits.
- § 31-21. Disputes; hearings.
- § 31-22. Incorporation of other documents.
- § 31-23. Administration.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 5-14-1996 as Ord. No. 96-4, approved 5-14-1996. Amendments noted where applicable.]

GENERAL REFERENCES

- Police pension fund — See Ch. 40.
- Salaries and compensation — See Ch. 48.
- Social security — See Ch. 50.

ARTICLE I
Word Usage

§ 31-1. Definitions.

- A. The following terms, wherever used or referred to in this chapter, shall have the following meanings, except in those instances where the context indicates otherwise:

ANNIVERSARY DATE — The first day of each year, including the year in which this plan is effective as set forth in the plan documents.

BOROUGH OF MAHANOEY CITY — The Borough of Mahanoy City, Schuylkill County, Pennsylvania.

EMPLOYEE — A full-time employee of the Borough of Mahanoy City, except members of the police force. A full-time employee is an employee who customarily works at least 35 hours in a week and 40 weeks in a year.

GROSS WAGES — Every form of remuneration payable for a given period to an individual for personal services, including salaries, commissions, vacation pay, sick pay, personal leave pay, dismissal wages and bonuses received from the Borough of Mahanoy City. **[Added 11-14-2000 by Ord. No. 2000-6, approved 11-14-2000]**

PARTICIPANT — Any employee, as defined herein.

PAST SERVICE — Those years or months which a participant actually worked in service to the borough prior to the effective date.

PLAN — The Borough of Mahanoy City Defined Contribution Pension Plan established by this chapter and the Mahanoy City Borough Pension Trust effective July 1, 1984, and as amended thereafter by the Borough of Mahanoy City.

PLAN DOCUMENT — The law, ordinances, resolutions or related documents which govern the various aspects of

the retirement coverage provided by a municipality to its employees, including vesting periodic retirement payments and benefits, administration and funding.

SERVICE TO THE BOROUGH — Employment by the borough, including leaves of absence granted by the Borough Council as defined in the plan documents.

TRUSTEE — The Borough Council of the Borough of Mahanoy City or its designated agent.

- B. All other definitions shall have their ordinary meanings except that the definitions contained in the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. § 895.102, shall apply unless the context clearly provides a different meaning.

ARTICLE II

Mahanoy City Borough Defined Contribution Pension Plan

§ 31-2. Plan established.

There is hereby established and confirmed the Mahanoy City Borough Defined Contribution Pension Plan, hereinafter referred to collectively with prior pension plans, effective July 1, 1984, and thereafter amended as “the plan.”

§ 31-3. Effective date of plan.

The plan is effective July 1, 1984. This chapter hereby ratifies and confirms all resolutions, actions and agreements made by the borough with respect to the plan prior to the adoption date of this chapter.

§ 31-4. Membership in plan.

All present full-time nonuniformed employees of the borough, specifically excepting police officers, are eligible for membership

§ 31-4 NONUNIF. EMPLOYEES PENSION PLAN § 31-7

and shall become members of the plan. All future full-time employees, except police officers, are eligible for membership and shall become members of the plan on the anniversary date next following their date of employment. All nonuniformed employees of the Borough eligible under the plan documents shall also be included as members.

§ 31-5. Conditions for reentering plan.

Except as provided in § 31-6, any employee who leaves the service of the Borough before retirement under this plan must qualify as a member upon reentering service of the Borough as if he had not previously been an employee.

§ 31-6. Certain discontinuances or breaks in service.

The Borough, through action of the Borough Council, may excuse any discontinuance or break in service not exceeding a period of six months. The time elapsed during any separation in service shall not be included in any computation of length of service.

§ 31-7. Funding of the plan. [Amended 12-12-1996 by Ord. No. 96-9, approved 12-12-1996; 11-14-2000 by Ord. No. 2000-6, approved 11-14-2000; 8-9-2005 by Ord. No. 2005-6, approved 8-9-2005]

- A. The plan shall be financed by periodic payments made by the Borough in the amount of 6.00% for the year 2002; 8.00% for the year 2003; 8.00% for the year 2004 and 10.00% for the year 2005 and thereafter unless amended by further act of the Borough Council of the Borough of Mahanoy City of each participant's gross wages for each pay period. Such payment shall be made from the general revenues of the Borough, and no special tax shall be levied to pay such contributions. The trustee shall invest and reinvest the principal and income in such

securities as the trustee shall deem advisable. Upon recommendation of the actuary or plan administrator, the percentage may be changed by the Borough by resolution adopted by the Borough Council. The mechanism for this funding may be adopted in written procedures by the Borough.

- B. Any further amendments of this section modifying the periodic payments made by the Borough Council of the Borough of Mahanoy City shall be by way of resolution fully enacted and adopted, rather than by way of ordinance.

§ 31-8. Vesting. [Amended 12-12-1996 by Ord. No. 96-9, approved 12-12-1996]

A participant shall have an immediate one-hundred-percent vested interest in the contributions made on his behalf by the Borough.

§ 31-9. Retirement benefits. [Amended 12-12-1996 by Ord. No. 96-9, approved 12-12-1996]

Upon retirement a participant shall receive as a retirement benefit an amount equal to the total of all the employer contributions to the plan, together with all earnings thereon as shown in the participant's account balance at the date of retirement; provided, however, that no retirement shall be paid until actual retirement. In no event shall any benefits be paid in excess of those provided by law.

§ 31-10. Death benefits. [Amended 12-12-1996 by Ord. No. 96-9, approved 12-12-1996]

If a participant dies while an employee of the Borough, his or her beneficiary shall be entitled to receive the value of the participant's account, which shall be equal to the total of all the employer contributions to the plan, together with all earnings

§ 31-10 NONUNIF. EMPLOYEES PENSION PLAN § 31-11

thereon as shown in the participant's account balance at the date of death. Each participant may designate a beneficiary or beneficiaries for any death benefits at the time the participant enters the plan and may change said designation from time to time accordingly. In the absence of the designation of the beneficiary, any death benefits payable shall be paid to the participant's estate.

§ 31-11. Disability benefits. [Amended 12-12-1996 by Ord. No. 96-9, approved 12-12-1996]

If a participant becomes totally disabled, he shall be entitled to receive the value of his account at the time of disability. The Borough reserves the right to have disability determined through an examination or examinations of the participant by a physician of the Borough's choice, both initially and from time to time thereafter as determined reasonable or necessary by the Borough to ensure the participant is eligible for disability benefits.

(Cont'd on page 3107)

§ 31-12 NONUNIF. EMPLOYEES PENSION PLAN § 31-14

§ 31-12. Termination of participation in plan. [Amended 12-12-1996 by Ord. No. 96-9, approved 12-12-1996]

Cessation of a participant's employment by the borough prior to the normal retirement date for a reason other than death or total disability shall terminate the participant's membership in the plan. Forfeitures of any amounts contributed by the borough shall not act to increase the interest of the remaining participants, but shall be credited toward the current or succeeding year's contribution by the borough.

§ 31-13. Criminal acts. [Added 12-12-1996 by Ord. No. 96-9,¹ approved 12-12-1996]

Nothing in this article shall prevent the forfeiture of benefits for any participant discharged for criminal activity or serious willful misconduct as permitted by law.

§ 31-14. Rights of borough to discontinue or amend. [Amended 12-12-1996 by Ord. No. 96-9, approved 12-12-1996]

It is the expectation of the borough that it will continue the plan indefinitely and make the required payments of its contribution hereunder, but the continuance of the plan is not assumed as a contractual obligation of the borough by this chapter, and the right is reserved by the borough at any time to alter, reduce or discontinue its contributions hereunder. The borough may by ordinance or resolution amend the provisions of this chapter. The borough may also establish written procedures in order to provide a mechanism to implement the provisions of this article.

¹ Editor's Note: This ordinance also repealed former § 31-13, Benefits to former employees.

§ 31-15. Distribution upon termination.

Upon termination of the plan or upon complete discontinuance of contributions by the borough, the plan shall be distributed as follows:

- A. First: all retirement, death and disability benefits then payable shall be paid to participants entitled thereto.
- B. Second: benefits shall be paid to all participants under § 31-10 as though they had retired with full vested benefits immediately prior to termination of the plan.
- C. Third: all remaining funds shall be paid unto the borough general fund, subject to any other reimbursement obligations.

ARTICLE III
General Provisions

§ 31-16. Intent and interpretation.

The defined contribution pension plan is created for the exclusive benefit of the employees and shall be interpreted in a manner consistent with its being employee's trusts.

§ 31-17. Construal of provisions.

The municipal plan and the employees plan are not to be construed as creating or changing any contract of employment between the employer and its employees and the employer retains the right to deal with its employees and to terminate their employment at any time to the same extent that these plans had not been created. Nothing in these plans shall be construed as limiting the right of employer to change the compensation, salary or remuneration of any employee at any time.

§ 31-18 NONUNIF. EMPLOYEES PENSION PLAN § 31-21

§ 31-18. Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed separate, distinct and independent provisions, and such holdings shall not affect the validity of the remaining portions hereof.

§ 31-19. When effective.

This chapter shall become effective upon adoption.

ARTICLE IV
Specific Plan Provisions

§ 31-20. Probationary period; entitlement to benefits; credits.

It is hereby noted that during an employee's probationary period no contributions shall be made on behalf of the employee by the borough. If the employee is not discharged prior to the conclusion of the probationary period, the borough shall begin the required contributions commencing with the first appropriate date following the end of the probationary period. An employee shall be entitled to full benefits only after the requisite years of service with the borough as established by the plan documents and attaining the age of sixty-five (65) years. A participant may be able to obtain credit for additional time of service by foregoing paid vacation or sick time to the extent that such remains unpaid and that such a credit does not make the fund actuarially unsound.

§ 31-21. Disputes; hearings.

In the event that there is a dispute under this contract, a participant shall be entitled to a hearing before Borough Council upon a written application made to the Council. Such

hearing shall be held within thirty (30) days of the written request and may be continued by the Borough Council for good cause shown.

§ 31-22. Incorporation of other documents.

This chapter incorporates by reference certain other agreements, accounts, studies and the like adopted by and made effective on July 1, 1984, by the Borough of Mahanoy City that further defined the obligations of the borough and its duly appointed representatives, agents and actuaries.

§ 31-23. Administration. [Amended 12-12-1996 by Ord. No. 96-9, approved 12-12-1996]

The Borough Council may contract with a Plan Administrator or insurance company, or both, in order to better provide for the proper administration of the plan. All expenses necessary and reasonable to administer the plan shall be paid out of plan assets.

Chapter 34

PLANNING COMMISSION

§ 34-1. Establishment.

§ 34-2. Membership; appointment; compensation.

§ 34-3. Terms of office.

§ 34-4. Organization.

§ 34-5. Powers and duties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

The Subdivision of Land Ordinance and the Zoning Ordinance are on file in the office of the Borough Secretary.

§ 34-1. Establishment.

Pursuant to Act No. 247 of 1968, known as the "Pennsylvania Municipalities Planning Code," as amended, supplemented and in effect,¹ there shall be a Planning Commission in and for the Borough of Mahanoy City.

§ 34-2. Membership; appointment; compensation.

The Planning Commission shall consist of five (5) members who shall be appointed by the Borough Council and shall serve without compensation, except that they shall be reimbursed for expenses incurred in carrying out their Commission duties.

¹ Editor's Note: See 53 P.S. § 10201 et seq. for provisions of the Planning Code pertaining to Planning Agencies.

§ 34-3. Terms of office.

The term of each member of the Planning Commission shall be for four (4) years or until his successor is appointed and qualified; provided, however, that the members of the Planning Commission as it exists at the time of the adoption of this chapter shall continue as the members of the Planning Commission established by this chapter. Subsequent terms of office shall be so arranged that no more than two (2) members shall be reappointed or replaced during any future calendar year.

§ 34-4. Organization.

The Commission shall elect its own Chairman and Vice Chairman and shall create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The Commission may make and alter bylaws and rules and regulations to govern its procedures, consistent with the ordinances of the municipality and the laws of the commonwealth. The Commission shall keep a full record of its business and shall annually make a written report, by March 1 of each year, of its activities to the Borough Council. Interim reports may be made as often as may be necessary or as requested by the Borough Council.

§ 34-5. Powers and duties.

The Commission shall have the right to exercise all of the powers and rights conferred by the Act of Assembly under which it is established and shall perform all of the mandatory duties imposed by said Act of Assembly.

POLICE DEPARTMENT

Chapter 37

POLICE DEPARTMENT

ARTICLE I
General Provisions

- § 37-1. Department established; personnel classifications.
- § 37-2. Number of employees; compensation.
- § 37-3. Special policemen.

ARTICLE II
Intergovernmental Cooperation

- § 37-4. Agreement established.
- § 37-5. Duration.
- § 37-6. Purpose.
- § 37-7. Responsibility for expenses.
- § 37-8. Other structure or property unnecessary.
- § 37-9. Conditions for effectiveness.
- § 37-10. Authority.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City: Art. I, at time of adoption of Code 5-5-1981 by Ord. No. 81-3, approved 5-5-1981 (see Ch. 1, General Provisions, Art. I); Art. II, 7-10-1990 as Ord. No. 90-4, approved 5-5-1981. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 15.
Police Pension Fund — See Ch. 40.

ARTICLE I

General Provisions

[Adopted 5-5-1981 by Ord. No. 81-3]

§ 37-1. Department established; personnel classifications.

A Police Department is hereby established in and for the Borough of Mahanoy City, Pennsylvania, and there is also established the rank of Chief of Police. The Chief of Police shall be the chief executive of the Police Department. There may also be established subordinate positions such as Sergeant and patrolman or such other positions as Council may specify and fill by appointment.

§ 37-2. Number of employees; compensation.

The number of persons to serve on a full-time and/or part-time basis and compensation and benefits of such shall be determined by Borough Council from time to time by resolution.

§ 37-3. Special policemen.

Nothing herein contained shall affect the authority of the Mayor to appoint special policemen during emergencies.

ARTICLE II

Intergovernmental Cooperation

[Adopted 7-10-1990 as Ord. No. 90-4]

§ 37-4. Agreement established.

The Borough of Mahanoy City shall enter into an intergovernmental police cooperation agreement (agreement) with the other municipalities executing the mutual agreement under the terms of which the police officers of each municipality are granted authority to officially act as police officers of the other municipality, subject to the terms of the agreement, when performing duties in other municipalities and establishing procedures for the Police Department of each municipality to render aid and assistance to one another, such

agreement to conform substantially to the agreement attached to and made a part of this chapter as Exhibit A.¹

§ 37-5. Duration.

The duration of the agreement shall be indefinite, subject to termination by either municipality as provided in the agreement.

§ 37-6. Purpose.

The purpose and objective of the agreement is to foster improved governmental cooperation between the Borough of Mahanoy City and other municipalities executing the mutual agreement to improve law enforcement in the County of Schuylkill by providing police officers with the authority to exercise official duties in the other municipality, thereby alleviating problems of arrests being determined improper or unlawful by reason of jurisdictional or boundary issues.

§ 37-7. Responsibility for expenses.

Each municipality shall be responsible for all expenses incurred by reason of action taken by its police pursuant to the agreement, no other financing being necessary or required to effect its purpose.

§ 37-8. Other structure or property unnecessary.

No additional organizational structure will be necessary to implement the agreement, nor will any property, real or personal be acquired, managed or disposed of, in order to effect the purpose of the agreement.

§ 37-9. Conditions for effectiveness.

The effectiveness of this chapter is conditioned upon the other municipalities to the agreement executing the aforesaid agreement and enacting an ordinance implementing the agreement.

¹ Editor's Note: This agreement is on file in the office of the Borough Secretary.

§ 37-10. Authority.

This action is taken pursuant to the authority granted the Borough of Mahanoy City by the Intergovernmental Cooperation Act, 1972, July 12, No. 180 § 1 et. seq., 53 P.S. § 481 et. seq., as amended.

Chapter 40

POLICE PENSION FUND

ARTICLE I Establishment

§ 40-1. **Fund established.**

ARTICLE II Effect

§ 40-2. **Effect of chapter.**

ARTICLE III Police Pension Committee

§ 40-3. **Membership.**

§ 40-4. **Actions by Committee.**

§ 40-5. **Records; meetings; report.**

§ 40-6. **Expenses; special assistants.**

§ 40-7. **Nonliability of members; indemnification.**

§ 40-8. **Investments.**

ARTICLE IV Requirements for Retirement and Benefits

§ 40-9. **Retirement generally.**

§ 40-10. **Optional retirement for certain participants.**

§ 40-11. **Mandatory retirement age.**

§ 40-12. **Service as police reserve.**

§ 40-13. **Normal retirement benefits.**

- § 40-14. **Death prior to retirement.**
- § 40-15. **Death after retirement.**
- § 40-16. **Disability benefits.**
- § 40-17. **Designation of beneficiaries.**
- § 40-18. **Actuarially equivalent benefits.**
- § 40-19. **Deferred retirement.**
- § 40-20. **Benefits not subject to transfer or attachment.**
- § 40-21. **Vesting of benefits.**

ARTICLE V
Contributions of Participants

- § 40-22. **Use of funds from commonwealth; members contributions.**

ARTICLE VI
Termination of Employment

- § 40-23. **Refund of contributions; return to service.**
- § 40-23.1. **Vesting of benefits.**
- § 40-23.2. **Determination of allowance.**

ARTICLE VII
Military Service

- § 40-24. **Credit for certain service.**

ARTICLE VIII
Cost-of-Living Increase

- § 40-25. **Legislative authorization.**
- § 40-26. **Determination of increase.**

POLICE PENSION FUND

ARTICLE IX Amendments

§ 40-27. **Scope of amendments authorized.**

ARTICLE X Applicability and Interpretation

§ 40-28. **Persons to whom applicable.**

§ 40-29. **Adherence to laws of commonwealth.**

ARTICLE XI Miscellaneous Benefits

§ 40-30. **Length-of-service increment benefit.**

§ 40-31. **Purchase of nonintervening military service.**

§ 40-32. **Early retirement benefit.**

ARTICLE XII Entitlement to Funds

§ 40-33. **Dispersion of payment for retirement at time of death.**

§ 40-34. **Full repayment of invested funds.**

§ 40-35. **Permanent service injury.**

§ 40-36. **Death in service.**

§ 40-37. **Reduction or elimination of payments.**

§ 40-38. **Definitions.**

§ 40-39. **Effective date for surviving spouses.**

§ 40-40. **Modification of chapter provisions.**

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 11-8-1978 by Ord. No. 395, approved 11-8-1978. Amendments noted where applicable.]

GENERAL REFERENCES

Police Department --- See Ch. 37.

Social security --- See Ch. 50.

ARTICLE I Establishment

§ 40-1. Fund established.

The Borough of Mahanoy City does establish a Police Pension Fund to be maintained by a charge against each member of the police force, by annual appropriations made by said borough if budgeted for same, by payments made by the State Treasurer to the Municipal Treasurer from money received from taxes paid upon premiums by foreign casualty insurance companies for the purpose of pension retirement for policemen, and by gifts, grants, devises or bequests granted to the Pension Fund. Such fund shall be under the direction of the Police Pension Committee and be applied under such direction and regulations as Council of the borough may, by ordinance or resolution, prescribe for the benefit of such members of the police force as shall receive honorable discharge therefrom by reason of age and service or disability and the families of such as may be killed in service. All such pensions as shall be allowed to those who are retired by reason of disabilities shall be in conformity with a uniform scale.

ARTICLE II
Effect

§ 40-2. Effect of chapter.

This chapter hereby repeals Ordinance No. 285 and codifies all prior and existing ordinances and resolutions relating to the Police Pension Fund or Annuities (police) of the borough, so that henceforth all rights, pensions or annuities for full-time members of the police force shall be governed by this chapter. All ordinances inconsistent herewith are herein repealed.

ARTICLE III
Police Pension Committee

§ 40-3. Membership.

The Police Pension Fund shall be administrated by the Police Pension Committee, which shall consist of five members, three by virtue of their office in Borough Council, as follows: President of Council, Chairman of the Police and Light Committee and Chairman of Finance Committee. The fourth and fifth members shall be active policemen currently serving on the police force, elected by a majority vote on January 1 of each year.

§ 40-4. Actions by Committee.

The Committee shall act by such procedure as it shall establish, provided that all decisions shall be by majority vote of the entire Committee and in accordance with Act 600. The Committee may authorize two of its members to execute any documents on its behalf.

§ 40-5. Records; meetings; report. [Amended 7-9-1996 by Ord. No. 96-6, approved 7-9-1996]

The Committee shall keep records of its proceedings and acts and shall keep books of accounts and such other data as shall

be necessary for proper administration of the Pension Fund. There shall be at least one meeting each year of the Committee, and additional meetings may be called by the Committee Chairperson or any two members of the Police Pension Committee. Reports of the said meetings shall be made to the Borough Council at its next ensuing borough meeting.

§ 40-6. Expenses; special assistants. [Amended 4-7-1987 by Ord. No. 87-3; approved 4-7-1987]

The members of the Committee shall serve without compensation for their services but shall receive reasonable expenses incurred. All specialists, including actuaries, accountants, legal counsel and others, shall be compensated from the Police Pension Fund. In addition, all expenses authorized by Act 205 shall be paid by the Police Pension Fund.

§ 40-7. Nonliability of members; indemnification.

No member of the Committee shall incur any liability for any action or failure to act, excepting only liability for willful misconduct. The borough shall indemnify each member of the Committee against any and all claims, loss and liability arising from any action or failure to act, except willful misconduct.

§ 40-8. Investments.

All investments by the Committee of the assets of the Police Pension Fund shall comply with the Fiduciaries Investment Act of 1949, as amended.¹

1. Editor's Note: See 20 Pa.C.S.A. § 7301 et seq.

ARTICLE IV
Requirements for Retirement and Benefits

§ 40-9. Retirement generally.

Each participant in the Pension Fund may retire from active duty, provided that:

- A. He/she has completed 25 years of service in the aggregate with the borough; and
- B. He/she has attained the age of 55 years. But if the actuarial study of the Pension Fund shows that such reduction in the age for retirement eligibility will not adversely affect the actuarial soundness of the fund, then the age may be 50 years.

§ 40-10. Optional retirement for certain participants.

- A. If there is any participant in the fund who was a member of the police force of the borough prior to December 2, 1965, he may retire, at his option, provided that:
 - (1) He/she has completed 20 years of service in the aggregate with the borough; and
 - (2) He/she has attained the age of 60 years.
- B. But if the borough had a Pension Fund Ordinance or Resolution prior to December 21, 1965, and such ordinance or resolution provided for an age of 55 and 20 years of service in the aggregate with the borough, then such age shall be that which is required for a member hired prior to that date; conditioned, however, that such retirement will not adversely affect the actuarial soundness of the fund.

§ 40-11. Mandatory retirement age.

Every participant shall retire at the age of 65 years.

§ 40-12. Service as police reserve.

Every participant shall be subject to service from time to time as a police reserve in cases of riot, tumult or the preservation of the public peace until such time as he/she shall be unfit for such service, when he/she shall be finally discharged by reason of age or disability. This clause shall not affect the purpose of § 40-11 to require retirement at age 65, nor shall § 40-11 bar any participant from service as a police reserve.

§ 40-13. Normal retirement benefits.

- A. Each participant who shall complete the age and service eligibility requirements as set out in these sections shall receive a pension for life payable in equal monthly installments in an amount equal to 1/2 of the participant's average monthly salary based on his/her last 36 months of salary, or that percentage and based on that number of months as shall be prescribed by statute of the commonwealth subsequent to the adoption of this chapter.
- B. Such pension benefits for any month shall be computed as the sum of:
- (1) Any pension benefits from a pension plan heretofore established by a private organization or association for the members of the police force, but only to the extent that this commonwealth or any of its municipalities shall have contributed to such pension plan moneys raised by taxation;
 - (2) Primary benefits under federal social security laws for which the officer may be eligible because of age; and
 - (3) Benefits from the Police Pension Fund established pursuant to this chapter to the extent necessary to bring the total benefits in any month up to 1/2 the aforesaid average monthly compensation.

§ 40-14. Death prior to retirement. [Amended 3-11-1997 by Ord. No. 97-1, approved 3-11-1997]

If a member is neither receiving benefits nor is entitled to receive benefits at the time of death, beneficiaries shall be treated pursuant to the language set forth in § 40-23 of this chapter.

§ 40-15. Death after retirement.

- A. If the participant shall die after retirement or after completing the requirements for eligibility, the widow of such participant shall receive for life or until such time as she shall remarry a pension equal to 1/2 the pension the participant was receiving or eligible to receive at the time of his/her death.
- B. If the member's wife dies or remarries, the child or children of the deceased participant shall share equally in a pension equal to 1/2 the pension the participant was receiving or was eligible to receive at the time of his death until each reach the age of 18 years.

§ 40-16. Disability benefits. [Amended 9-14-1993 by Ord. No. 93-3, approved 9-14-1993; 12-28-2010 by Ord. No. 2010-1,² approved 12-28-2010]

If any participant is permanently injured in service, upon the representation and certification of a physician designated by the Committee that such injury is permanent and service-connected, then such member is entitled to a pension in an amount equal to a pension for life payable in equal monthly installments calculated at a rate of no less than 50% of the member's salary at the time the disability was incurred, provided that any member who receives benefits for the same injuries under the Social Security Act (49 Stat. 620, 42 U.S.C.

2. Editor's Note: This ordinance stated that it would be effective as of 10-9-2009.

§ 301 et seq.) shall have his or her disability benefit offset or reduced by the amount of such benefit.

§ 40-17. Designation of beneficiaries.

Each participant shall have the right to name the beneficiary or beneficiaries entitled to receive benefits from the Pension Fund, and the Committee shall prescribe the method for changing the beneficiary or beneficiaries.

§ 40-18. Actuarially equivalent benefits. [Amended 3-11-1997 by Ord. No. 97-1, approved 3-11-1997]

No actuarially equivalent benefits or retirement benefits other than those provided by Act 600³ shall be provided by this article for any member or participant in the plan.

§ 40-19. Deferred retirement.

A participant's retirement benefits shall be deferred in the event he/she continues police employment with the borough after attaining normal retirement date.

§ 40-20. Benefits not subject to transfer or attachment.

No benefit under the plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge. Nor shall any benefits be in any manner liable on subject to garnishment, attachment, execution, levy or legal process.

§ 40-21. Vesting of benefits.

All benefits granted herein shall vest in the participant upon completion of the requirements for eligibility, and his/her

3. Editor's Note: See 53 P.S. § 767 et seq.

benefits shall continue in the amount and in the form in which he/she first became entitled to them.

ARTICLE V
Contributions of Participants

§ 40-22. Use of funds from commonwealth; members contributions.

- A. The Borough Council agrees to contribute the payments made by the Commonwealth Treasurer to the Treasurer of this municipality from the moneys received from taxes paid upon premiums by foreign casualty insurance companies for purposes of pension, retirement, death or disability benefits for policemen, which shall be used as follows:
- (1) To reduce the unfunded liability, or, after such liability has been funded;
 - (2) To apply same against the annual obligation of the municipality for future service costs, or, to the extent that the payment may be in excess of such obligation;
 - (3) To reduce the member's contribution.

It shall be the duty of the Borough Council to apply such payments as set forth herein.

- B. Each year an actuarial study shall be made to determine the contributions to be made to the plan so as to maintain the plan on an actuarially sound basis. From the results of the actuarial study, the Council shall, by ordinance or resolution, determine the amount to be contributed by the participants and the borough, if any. However, in no event shall a participant be required to contribute an amount in excess of 8%.

- C. The maintenance of the actuarial soundness shall be the responsibility of this municipality.

ARTICLE VI
Termination of Employment

§ 40-23. Refund of contributions; return to service.

- A. Any member of the police force who, for any reason whatsoever, shall be ineligible to receive a pension after having contributed any moneys to the Police Pension Fund, shall be entitled to a refund of all such moneys paid by him into said fund within 60 days upon discontinuance of his employment with the borough police force, plus interest earned by such moneys while in the Police Pension Fund as determined by the actuary.
- B. If such discontinuance is due to non-service-connected disability or nonservice death, such moneys shall be paid to the police officer, or in case of death, to a designated beneficiary, or in absence thereof, to his estate.
- C. If a member shall subsequently return to service and return the contributions to the fund which were refunded to him upon termination, he/she shall be entitled to credit for the prior years of service to the extent of the return of contributions. Nothing in this section shall be construed to allow credit for service not actually given to this borough, except as specifically provided in Article VII.

§ 40-23.1. Vesting of benefits. [Added 8-4-1981 by Ord. No. 81-6, approved 8-4-1981]

In the event that it is actuarially sound to do so, a police officer who, before completing superannuation retirement age and service requirements but after having completed 12 years of total service, for any reason ceases to be employed as a full-time police officer by the Borough of Mahanoy City shall be entitled to vesting of 100% of his retirement benefits pursuant

to the formula set forth in § 40-23.2 hereof by filing with the Secretary of the Borough of Mahanoy City, within 90 days of the date he ceases to be a full-time police officer, a written notice of his intention to vest.

§ 40-23.2. Determination of allowance. [Added 8-4-1981 by Ord. No. 81-6, approved 8-4-1981]

Upon reaching the date which would have been his superannuation retirement date if he had continued to be employed as a full-time police officer, said police officer shall be paid a partial superannuation retirement allowance determined by applying the percentage his years of service bears to the years of service which had been rendered had he continued to work until his superannuation retirement date to the gross pension, using, however, the monthly average during the appropriate period prior to his termination of employment, pursuant to the formula set forth in 53 P.S. § 771, as amended January 1, 1980.

ARTICLE VII
Military Service

§ 40-24. Credit for certain service.

Any member of the police force who has been a legally appointed employee of this borough for a period of at least six months and thereafter shall enter into military service of the United States as a result of the military draft or in time of a national emergency shall have credited to his employment record for pension or retirement benefits all the time spent by him/her in such military service if such person returns to his police employment with this borough within six months after his separation from the service.

ARTICLE VIII
Cost-of-Living Increase

§ 40-25. Legislative authorization.

The Legislature of the Commonwealth of Pennsylvania did, by Act 61 adopted April 11, 1974,⁴ provide for a cost-of-living increase in Police Pension Fund benefits, and it is the desire of this borough to make such provisions applicable to all present and future participants and/or beneficiaries of said fund.

§ 40-26. Determination of increase.

Benefits now and hereafter payable under this Police Pension Fund shall include a cost-of-living increase, which cost-of-living increase shall be equal to but not exceed the percentage increase in the consumer index applicable to Schuylkill County from the year in which the police member participant last worked; provided that in no case shall the total police pension benefits exceed 75% of the salary for computing retirement benefits, and provided further that the total cost-of-living increase shall not exceed 30%. No cost-of-living increase shall be granted without first demonstrating actuarially that the actuarial soundness of the Police Pension Fund shall not be impaired.

ARTICLE IX
Amendments

§ 40-27. Scope of amendments authorized.

The Borough Council reserves the right to amend at any time, in whole or in part, any or all provisions of this fund. However, no such amendment shall authorize or permit any part of the fund to be used or diverted to purposes other than for the exclusive benefit of the participants, their beneficiaries or their estates. Nor shall any amendment divest a participant of

4. Editor's Note: See 53 P.S. § 771.

benefits vested by this chapter. All such amendments shall comply with the applicable statutes of the commonwealth, including but not limited to the Act of May 29, 1956, P.L. (1955) 1804, as amended, 53 P.S. 767 et seq.

ARTICLE X

Applicability and Interpretation

§ 40-28. Persons to whom applicable.

The Police Pension Fund shall apply to existing and future full-time or regular members of the police force of the borough who work for a stated salary or compensation. It does not apply to part-time or special policemen.

§ 40-29. Adherence to laws of commonwealth.

The plan shall be construed according to the laws of the Commonwealth of Pennsylvania, and all provisions hereof shall be administered according to the laws of this commonwealth.

ARTICLE XI

Miscellaneous Benefits

[Added 11-14-2000 by Ord. No. 2000-5, approved
11-14-2000]

§ 40-30. Length-of-service increment benefit.

In addition to the normal retirement benefit provided for in § 40-13 of this chapter and the disability benefit provided for in § 40-16 of this chapter, and subject to those limitations imposed by the statutes of the Commonwealth of Pennsylvania, those participants with at least 26 years of service as a member of the Police Department shall receive an additional \$100 per month in benefits as a length-of-service increment.

§ 40-31. Purchase of nonintervening military service.

- A. A service credit shall be provided for each year of military service or fraction thereof, not to exceed five years, to any member of the police force who was not employed by the political subdivision prior to such military service. The amount due for the purchase of credit for military service, other than intervening military service, shall be computed by applying the average normal cost rate for the Borough of Mahanoy City Police Pension Plan, as certified by the Public Employee Retirement Commission, but not to exceed 10%, to the member's average annual rate of compensation over the first three years of municipal service and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with interest at the rate of 4 ³/₄% compounded annually from the date of initial entry of municipal service to the date of payment. The amount due shall be paid for and be the responsibility of the member exercising the right contained herein.
- B. Any member of the police force shall be eligible to receive service credit for intervening or nonintervening military service as provided herein, provided that the member is not entitled to receive, eligible to receive now or in the future or is receiving retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency with the exception of a member eligible to receive or receiving military retirement pay earned by a combination of active duty and nonactive duty with a reserve or national guard component of the armed forces, which retirement pay is payable only upon the attainment of a specified age and period of service under 10 U.S.C. § 67 (relating to retired pay for nonregular services.)

§ 40-32. Early retirement benefit.

The early retirement benefit shall be provided to a member of the police force with 20 or more years of service who terminates

employment prior to the completion of superannuation retirement age and service requirements and who files a written application for an early retirement benefit with the governing body of the municipality or regional Police Department. The early retirement benefit shall become effective as of the date the application is filed with the governing body or the date designated on the application, whichever is later, and shall be the actuarial equivalent of a partial superannuation retirement benefit calculated as follows:

- A. A partial superannuation retirement benefit shall be determined by applying the percentage that the member's years of service bear to the years of service that the member would have rendered had the member continued to be employed until his superannuation retirement date to the gross pension amount calculated using the monthly average salary during the appropriate period prior to his termination of employment.
- B. The actuarial equivalent of the partial superannuation retirement benefit shall be determined by actuarially reducing the partial superannuation retirement benefit to reflect that it will commence on the effective date of the early retirement rather than on the date on which the member would have completed superannuation age and service requirements. The actuarial reduction shall be calculated using the actuarial assumptions reported in the last actuarial valuation report filed with the Public Employee Retirement Commission under the Act of December 18, 1984 (P.L. 1005, No. 205), known as the "Municipal Pension Plan Funding Standard and Recovery Act."⁵

5. Editor's Note: See 53 P.S. § 895.101 et seq.

ARTICLE XII

Entitlement to Funds

[Added 8-13-2002 by Ord. No. 2002-5, approved 8-13-2002]

§ 40-33. Dispersion of payment for retirement at time of death.

The surviving spouse of a member of the police force or a member who retires on pension who dies, or if no spouse survives, or if he or she survives and subsequently dies, then the child or children, under the age of 18 years or, if attending college, under or attaining the age of 23 years, of a member of the police force, or a member who retires on pension who dies, shall, during his or her lifetime, in the case of a surviving spouse, or until reaching the age of 18 years, or if attending college, under or attaining the age of 23 years, in the case of a child or children, be entitled to receive a pension calculated at no less than 50% of the pension the member was receiving or would have been receiving had he or she been retired at the time of death.

§ 40-34. Full repayment of invested funds.

The surviving spouse of a member of the police force who dies before his or her pension has vested, or if no spouse survives, or if he or she survives and subsequently dies, the child or children under the age of 18 years, or if attending college, under or attaining the age of 23 years, of the member of the police force shall be entitled to receive repayment of all money which the member invested in the pension fund plus interest or other increases in value of the member's investment in the pension fund, unless the member has designated another beneficiary for this purpose.

§ 40-35. Permanent service injury.

Any member of the police force who suffers a permanent injury incurred in service shall receive a pension calculated at a rate of no less than 50% of the member's salary at the time the

disability was incurred, provided that any member who receives benefits for the same injuries under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) shall have his or her disability benefit offset or reduced by the amount of such benefit.

§ 40-36. Death in service.

The surviving spouse of a member of the police force who is killed in service, or if no spouse survives, or if he or she survives and subsequently dies, the child or children under the age of 18 years, or if attending college, under or attaining the age of 23 years, of the member of the police force shall be entitled to receive a pension calculated at 100% of the member's salary at the time of death.⁶

§ 40-37. Reduction or elimination of payments.

The governing body of the Borough of Mahanoy City may, on an annual basis, by ordinance or resolution, reduce or eliminate payments into the fund by members without the necessity of conducting an actuarial study.

§ 40-38. Definitions.

For purposes of this article, the phrase "attending college" shall mean the eligible children are registered at an accredited institution of higher learning and are carrying a minimum course load of seven credit hours per semester.

6. Editor's Note: Ordinance No. 2010-1, adopted 12-28-2010, provided that, effective with respect to a death occurring on or after October 9, 2009, the service-connected death benefit set forth in the Borough of Mahanoy City Police Pension Plan would no longer be payable under the terms of the Borough of Mahanoy City Police Pension Plan and said benefit would be paid by the Commonwealth of Pennsylvania pursuant to Act 51 of 2009, which amends the Act of June 24, 1976 (P.L. 424, No. 101), known as the "Emergency and Law Enforcement Personnel Death Benefits Act." See 53 P.S. § 891 et seq.

§ 40-39. Effective date for surviving spouses.

Insofar as these amendments affect the benefits available to surviving spouses, the amendments shall apply to surviving spouses whose spouse died on or before April 17, 2002, and who were not remarried as of that date.

§ 40-40. Modification of chapter provisions.

Nothing herein shall be deemed to amend, change, or repeal any of the provisions of Chapter 40 of the Code of the Borough of Mahanoy City, except for the provisions of Chapter 40 which are contrary to the requirements of Act 30 of 2002, and to the specific provisions of this ordinance.

Chapter 45

RECREATION BOARD

- § 45-1. Board created; purpose.
- § 45-2. Membership; terms of office; vacancies.
- § 45-3. Oath or affirmation.
- § 45-4. Organization of Board.
- § 45-5. Management of affairs.
- § 45-6. Solicitor for Board.
- § 45-7. Powers.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 8-4-70 as Ord. No. 366, approved 8-4-70. Amendments noted where applicable.]

- § 45-1. Board created; purpose.

In order to properly supervise, conduct, maintain, plan and operate recreational areas, parks, buildings and places (names of which are not all-inclusive) within the Borough of Mahanoy City and on premises or places owned by the Borough of Mahanoy City outside of its borough limits and, in concert or cooperation with township authorities, on premises and places owned by said townships, there is hereby created in the Borough of Mahanoy City a Recreation Board.

- § 45-2. Membership; terms of office; vacancies. [Amended 4-14-1992 by Ord. No. 92-4, approved 4-14-1992]

The Recreation Board of the Borough of Mahanoy City shall consist of nine (9) members, plus the members of the Borough Council's

Recreation Committee. Six (6) members of the Board shall be qualified electors of the Borough of Mahanoy City. Three (3) members of the Board shall be qualified electors of Schuylkill County and may but shall not be required to be residents of the Borough of Mahanoy City. All members are to be appointed by the Borough Council of Mahanoy City. The reorganization of the Recreation Board shall be composed of the aforementioned nine (9) members, plus members of the Borough Council's Recreation Committee. The nine (9) non-Council members shall be appointed as follows: two (2) members shall be appointed for five-year terms; two (2) members shall be appointed for four-year terms; two (2) members shall be appointed for three-year terms; two (2) members shall be appointed for two-year terms; and one (1) member shall be appointed for a one-year term. Thereafter, as the terms expire, the Borough Council shall fill each of the vacancies on the Board for a period of five (5) years. In the event of a vacancy occasioned by death, resignation, moving out of the borough or other cause, said vacancy shall be filled by the Borough Council for the remaining period of the original appointment.

§ 45-3. Oath or affirmation.

Each member of the Recreation Board, before entering upon the discharge of the duties of his office, shall take an oath or affirmation of allegiance to the United States and the Commonwealth of Pennsylvania and to perform his official duties with fidelity.

§ 45-4. Organization of Board. [Amended 4-14-1992 by Ord. No. 92-4, approved 4-14-1992]

The Recreation Board first appointed shall organize within twenty (20) days of its appointment. The Chairman of the Board shall be the Chairman of Borough Council's Recreation Committee. The Board shall elect one (1) of its members as Secretary and select all other necessary officers to serve for a period of one (1) year.

§ 45-5. Management of affairs. [Amended 4-14-1992 by Ord. No. 92-4, approved 4-14-1992]

The Borough Manager of the Borough of Mahanoy City shall manage the daily affairs of the Recreation Board. He/she shall then report directly to the Chairman of the Recreation Board.

§ 45-6. Solicitor for Board.

The Recreation Board shall elect the Solicitor of the Borough of Mahanoy City to act as Solicitor to the Board.

§ 45-7. Powers.

The Recreation Board shall have the power to adopt rules and regulations for the conduct of all business within its jurisdiction.

SALARIES AND COMPENSATION

Chapter 48

SALARIES AND COMPENSATION

[Any currently effective ordinance or resolution establishing the salaries or rates of compensation of officers or employees of the borough is on file in the office of the Borough Secretary.]

SHADE TREE COMMISSION

Chapter 49

SHADE TREE COMMISSION

- § 49-1. Definitions.
- § 49-2. Commission created.
- § 49-3. Terms of office.
- § 49-4. Compensation.
- § 49-5. Duties and responsibilities.
- § 49-6. Administration; quorum.
- § 49-7. Authorized species of street trees.
- § 49-8. Planting requirements.
- § 49-9. Care of public trees.
- § 49-10. Topping prohibited; exceptions.
- § 49-11. Pruning and corner clearance.
- § 49-12. Removal of dead or diseased trees by borough.
- § 49-13. Removal of stumps.
- § 49-14. Unlawful interference.
- § 49-15. License and bond required for arborists.
- § 49-16. Review of Commission by Borough Council; appeal.
- § 49-17. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 11-12-1991 as Ord. No. 91-5, approved 11-12-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 166.

§ 49-1. Definitions.

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

PARK TREES — Trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the borough or to which the public has free access as a park.

STREET TREES — Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the borough.

§ 49-2. Commission created.

There is hereby created and established a Borough Tree Commission for the Borough of Mahanoy City, Pennsylvania, which shall consist of three (3) members, citizens and residents of this borough, who shall be appointed by the Borough Council.

§ 49-3. Terms of office.

The terms of the three (3) persons to be appointed by the Borough Council shall be as follows: one (1) shall be appointed to the Commission for a term of three (3) years, a second for a term of four (4) years and the third for a term of five (5) years. Each appointee thereafter shall be appointed for a term of five (5) years.

§ 49-4. Compensation.

Members of the Commission shall serve without compensation.

§ 49-5. Duties and responsibilities.

It shall be the responsibility of the Commission to study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Borough

Council and, upon its acceptance and approval, shall constitute the Official Comprehensive Borough Tree Plan for the Borough of Mahanoy City, Pennsylvania. The Commission, when requested by the Borough Council, shall consider, investigate, make findings on, report upon and recommend any special matter or question coming within the scope of its work.

§ 49-6. Administration; quorum.

The Commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

§ 49-7. Authorized species of street trees.

The following list constitutes the official street tree species for Mahanoy City, Pennsylvania. No species other than those included in this list may be planted as street trees without written permission of the Borough Tree Commission.

- Crab, pink flowering
- Elm, American
- Elm, Chinese
- Ginkgo
- Linden, small leaf
- Maple, columner
- Maple, hard
- Maple, Norway
- Maple, red
- Maple, Stanlen
- Oak, pin
- Oak, red
- Pear, Bradford gallery
- Pear, flowering
- Plane, oriental

§ 49-8. Planting requirements.

- A. Street trees may be planted no closer together than thirty (30) to forty (40) feet.
- B. The distance trees may be planted from curbs or curblines and sidewalks will be no closer than two (2) feet.
- C. No street tree shall be planted closer than thirty-five (35) feet to any street corner, measuring from the point of the nearest intersection, curb or curblines. No street tree shall be planted closer than ten (10) feet to any fireplug.
- D. No street tree, other than those species listed in § 49-7 of this chapter, may be planted under or within ten (10) lateral feet of any overhead utility wire or over or within five (5) lateral feet of any underground waterline, sewer line, transmission line or other utility.

§ 49-9. Care of public trees.

- A. The borough shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- B. The borough may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, waterlines or other public improvements or is affected with any injurious fungus, insect or other pest.
- C. This section does not prohibit the planting of street trees by adjacent property owners, provided that the selection and location of said trees are in accordance with §§ 49-7 and 49-8 of this chapter.

§ 49-10. Topping prohibited; exceptions.

It shall be unlawful as a normal practice for any person, firm or borough department to top any street tree, park tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter, at the determination of the Borough Tree Commission.

§ 49-11. Pruning and corner clearance.

Every owner of any tree overhanging any street or right-of-way within the borough shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The borough shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign.

§ 49-12. Removal of dead or diseased trees by borough.

The borough shall have the right to cause the removal of any dead or diseased trees on private property within the borough when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the borough. The Borough Tree Commission will notify, in writing, the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the borough has the authority to remove such trees and charge the cost of removal on the owners' property tax notices.

§ 49-13. Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

§ 49-14. Unlawful interference.

It shall be unlawful for any person to prevent, delay or interfere with the Borough Tree Commission or any of its agents while engaging in and about the planting, cultivation, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this chapter.

§ 49-15. License and bond required for arborists.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the borough without first applying for and procuring a license. The license fee shall be twenty-five dollars (\$25.) annually in advance; provided, however, that no license shall be required of any public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of fifty thousand dollars (\$50,000.) for bodily injury and one hundred thousand dollars (\$100,000.) for property damage indemnifying the borough or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

§ 49-16. Review of Commission by Borough Council; appeal.

The Borough Council shall have the right to review the conduct, acts and decisions of the Borough Tree Commission. Any person may appeal any ruling or order of the Borough Tree Commission to the Borough Council, which may hear the matter and make a final decision.

§ 49-17. Violations and penalties.

Any person violating any provision of this chapter shall, upon conviction, be subject to a fine not to exceed one thousand dollars (\$1,000.) and/or to a prison term not to exceed sixty (60) days, or both. The imposition of such fine and/or prison term shall not abrogate the responsibility of the individual so convicted from any civil liability, including the cost of work performed by the borough with regard to such violation.

Chapter 50

SOCIAL SECURITY

- § 50-1. Legislative declaration.
- § 50-2. Authority of borough.
- § 50-3. Payroll deductions and matching payments.
- § 50-4. Appropriation; participation agreement.

[HISTORY: Adopted by the Borough Council of the Borough of Mahanoy City 9-19-52 as Ord. No. 258. Amendments noted where applicable.]

GENERAL REFERENCES

Police Pension Fund -- See Ch. 40.

- § 50-1. Legislative declaration.

It is the considered opinion of this body that the extension of the social security system to employees and officers of the Borough of Mahanoy City will be of great benefit not only to the employees of the borough by providing that said employees and officers may participate in the provisions of the old-age and survivors insurance system, but also to the Borough of Mahanoy City by enabling it to attract and retain in employment the best personnel and thus increase the efficiency of its government.

- § 50-2. Authority of borough.

The 1951 Session of the General Assembly of the Commonwealth of Pennsylvania, in regular session, enacted a statute,

known as "Act. No. 491,"¹ which is the enabling Act provided for in Section 218 of Public Law 734, 81st Congress, which designated the Secretary of Labor and Industry of the Commonwealth of Pennsylvania to act as the "state agency" to implement the coverage of employees and officers under the said old-age and survivors insurance system. The Borough of Mahanoy City is hereby authorized to execute and deliver to the state agency a plan or plans and agreement, required under Section 6 of said enabling Act² and the Social Security Act, to extend coverage to employees and officers of the Borough of Mahanoy City, and do all other necessary things to effectuate coverage of employees and officers under the old-age and survivors insurance system.

§ 50-3. Payroll deductions and matching payments.

The Secretary is hereby authorized to establish a system of payroll deductions to be matched by payments by the Borough of Mahanoy City to be made into the Contribution Fund of the Social Security Act through the office of the state agency, and to make charges of this tax to the fund or funds from which wage or salary payments are issued to employees of the Borough of Mahanoy City. Such payments are to be made in accordance with the provisions of the law and regulations promulgated by the state agency and the Federal Security Administrator. Such payments which are delinquent shall bear interest at the rate of one-half of one percent ($\frac{1}{2}$ of 1%) per month until such time as payments are made.

§ 50-4. Appropriation; participation agreement.

Appropriation is hereby made from the proper fund or funds of the Borough of Mahanoy City in the necessary amount to pay into the Contribution Fund as provided in Section 4 of the enabling Act³ and in accordance with the plan or plans and agreement. Authority is given to the Burgess, the President and the Secretary of the Borough of Mahanoy City to enter into an

¹ Editor's Note: See 65 P.S. § 201 et seq.

² Editor's Note: See 65 P.S. § 266.

³ Editor's Note: See 65 P.S. § 204.

agreement with the state agency, which agreement shall be in accordance with Act No. 491 and with paragraph 218 of the Social Security Act. Such plan and agreement shall provide that the participation of this Borough of Mahanoy City shall commence as of January 1, 1953.