

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

COVER SHEET

Plaintiff(s) Firearm Owners Against Crime Firearms Policy Coalition, Inc. Firearms Policy Foundation Matthew Boarderly Saadyah Averick Fred Rak Vs Defendant(s) City of Pittsburgh Mayor William Peduto Councilman Bruce Kraus Councilman Corey O'Connor Councilman R. Daniel Lavelle Councilwoman Deb Gross Councilwoman Erika Strassburger Councilman Ricky Burgess	
	Case Number : - -
	Type of pleading : Complaint for Declaratory and Injunctive Relief
	Code and Classification :
	Filed on behalf of Firearms Owners Against Crime, et al.
	(Name of the filing party)
	☒ Counsel of Record ☐ Individual, If Pro Se
Name, Address and Telephone Number : Joshua Prince Civil Rights Defense Firm, P.C. 646 Lenape Road Bechtelsville, PA 19505 610-845-3803	
Attorney's State ID : 306521	
Attorney's Firm ID :	

Joshua Prince, Esq.
Attorney ID # 306521
Civil Rights Defense Firm, P.C.
646 Lenape Rd
Bechtelsville, PA 19505
888-202-9297
610-400-8439 (fax)
Joshua@CivilRightsDefenseFirm.com

Attorney for Plaintiffs

**IN THE COURT OF COMMON PLEAS
OF ALLEGHENY COUNTY, PENNSYLVANIA**

**FIREARM OWNERS AGAINST
CRIME;**

FIREARM POLICY COALITION, INC;

FIREARM POLICY FOUNDATION;

MATTHEW BOARDLEY,

SAADYAH AVERICK,

FRED RAK,

Plaintiffs,

vs.

CITY OF PITTSBURGH;

MAYOR WILLIAM PEDUTO;

COUNCILMAN BRUCE KRAUS;

COUNCILMAN COREY O'CONNOR;

COUNCILMAN R. DANIEL LAVELLE;

COUNCILWOMAN DEB GROSS ;

**COUNCILWOMAN ERIKA
STRASSBURGER; and,**

COUNCILMAN RICKY BURGESS

Defendants.

Civil Action

No.

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within TWENTY (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE
THE ALLEGHENY COUNTY BAR ASSOCIATION
11th Floor, Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219
TELEPHONE: 412-261-5555

Joshua Prince, Esq.
Attorney ID # 306521
Civil Rights Defense Firm, P.C.
646 Lenape Rd
Bechtelsville, PA 19505
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COUNCILWOMAN DEB GROSS ;

**COUNCILWOMAN ERIKA
STRASSBURGER; and,**

COUNCILMAN RICKY BURGESS

Defendants.

Civil Action

No.

**COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE
RELIEF FROM THE CITY OF PITTSBURGH’S ILLEGAL, UNENFORCEABLE
AND UNCONSTITUTIONAL ORDINANCES**

Plaintiffs, Firearm Owners Against Crime, Firearms Policy Coalition, Inc., Firearms Policy Foundation, Matthew Boardley, Saadyah Averick, Fred Rak, as well as on behalf of all similarly situated individuals to which Proposals 2018-1218,¹ 2018-1219,² and 2018-1220,³ as amended (hereinafter collectively “Proposals”) will be enforced against or aggrieved by, by and through their attorneys, Joshua Prince, Esq. and Adam Kraut, Esq. of Civil Rights Defense Firm, P.C., hereby file this Complaint for declaratory and injunctive relief against Defendants, Mayor William Peduto, Councilman Bruce Kraus, Councilman Corey O’Connor, Councilman R. Daniel Lavelle, Councilwoman Deb Gross, Councilwoman Erika Strassburger and Councilman Ricky Burgess, the City of Pittsburgh, and its officials, agents and employees, for violating Article 1, Section 21, Article 2, Section 1, Article 3, Section 1, 4, and 8 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and other statutory proscriptions and protections too numerous to list and in support thereof state the following:

JURISDICTION

1. This court has jurisdiction under 42 Pa.C.S.A. §§ 931, 7532, 7533, and 7536 of

¹ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784415&GUID=FB5A2159-21FF-4848-BE1F-99A4F53D873E&Options=&Search=>

² See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784416&GUID=235A3F50-F3F7-419E-8968-95B2D46BBFD5&Options=&Search=>

³ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784417&GUID=188CB67E-3B8B-4F62-9754-C99965B6F493&Options=&Search=>

the Declaratory Judgments Act, as the acts of all Defendants related to this Complaint occurred in Allegheny County, Pennsylvania.

2. Venue is proper pursuant to 42 Pa.C.S. § 931 and Pa.R.C.P. No. 1006, as the acts of all Defendants related to this Complaint occurred in Allegheny County, Pennsylvania.

PARTIES

3. Plaintiff Firearm Owners Against Crime (hereinafter “FOAC”) is a statewide, non-partisan Political Action Committee [“PAC”] and membership organization with 1,789 members, which actively works to defend, preserve, and protect the constitutional and statutory rights of lawful firearm owners, through, *inter alia*, Article 1, Sections 21 and 25 of the Pennsylvania Constitution and the 2nd Amendment of the U.S. Constitution. FOAC was formed in 1993, formally becoming a statewide PAC in 1994, and has members who legally possess firearms under Federal and State law throughout the Commonwealth, including in Allegheny County. FOAC brings this action on behalf of itself, its members, supporters who possess all the indicia of membership, and similarly situated members of the public, including Plaintiffs Matthew Boardley, Saadyah Averick, Fred Rak.
4. Plaintiff Firearms Policy Coalition, Inc. (hereinafter “FPC”) is a 501(c)(4) non-profit organization incorporated under the laws of Delaware. FPC serves its members and the public through direct advocacy, grassroots advocacy, legal efforts, research, education, operation of a Hotline, and other programs. The purposes of FPC include defending the United States Constitution and the

People's rights, privileges, and immunities deeply rooted in the Nation's history and tradition, especially the fundamental right to keep and bear arms. FPC brings this action on behalf of itself, its members, supporters who possess all the indicia of membership, and similarly situated members of the public, including Plaintiffs Matthew Boardley, Saadyah Averick, Fred Rak.

5. Plaintiff Firearms Policy Foundation (hereinafter "FPF") is a 501(c)(3) non-profit organization incorporated under the laws of Delaware. FPF's mission is to protect and defend the Constitution of the United States and the People's rights, privileges and immunities deeply rooted in this Nation's history and tradition, especially the inalienable, fundamental, and individual right to keep and bear arms, through all lawful charitable and educational activities as permissible under law. FPF brings this action on behalf of itself, its members, supporters who possess all the indicia of membership, and similarly situated members of the public, including Plaintiffs Matthew Boardley, Saadyah Averick, Fred Rak.
6. Plaintiff Matthew Boardley (hereinafter "Mr. Boardley") is an adult resident of the Avella, Washington County, Pennsylvania, who works as Security Area Director at Heinz Field, Stage AE, and the AJ Palumbo Center in the City of Pittsburgh, and who lawfully possesses firearms under State and Federal law, including those regulated by the enacted Proposals. He is also a member of FOAC, FPC, and FPF.
7. Plaintiff Saadyah Averick (hereinafter "Mr. Averick") is an adult resident of the City of Pittsburgh, Allegheny County, Pennsylvania, who lawfully possesses firearms under State and Federal law, including those regulated by the enacted

Proposals. He is also a member of the Jewish Community in Squirrel Hill and of FOAC, FPC, and FPF.

8. Plaintiff Fred Rak (hereinafter “Mr. Rak”) is an adult resident of the City of Pittsburgh, Allegheny County, Pennsylvania, who lawfully possesses firearms under State and Federal law, including those regulated by the enacted Proposals. He is a USCCA firearms instructor and a member of FOAC, FPC, and FPF.
9. Defendant City of Pittsburgh (hereinafter, “Pittsburgh” or “City”) is a municipal corporation duly organized, existing and operating under and pursuant to the applicable laws of the Commonwealth of Pennsylvania, currently a City of the Second Class, pursuant to 53 P.S. § 22101, *et seq.*, located within the County of Allegheny, Pennsylvania, and at all relevant times owns, manages, operates, directs and controls the Pittsburgh Police Department and all City officials, agents, and employees.
10. Defendant Mayor William Peduto (hereinafter “Mayor Peduto”) is an adult, who at all times relevant was the Mayor of the City of Pittsburgh. At all relevant times, Mayor Peduto was a policymaker with decision-making authority and was responsible for executing, implementing and enforcing policies, regulations and ordinances of the City of Pittsburgh, including execution, implementation and enforcement of Proposals 2018-1218,⁴ 2018-1219,⁵ and 2018-1220.⁶ He is being sued in both his official and individual capacities.

⁴ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784415&GUID=FB5A2159-21FF-4848-BE1F-99A4F53D873E&Options=&Search=>

11. Defendant Councilman Bruce Kraus (hereinafter “Councilman Kraus”) is an adult, who at all times relevant was the councilmember for District 3 of the City of Pittsburgh and whom voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220. He is being sued in both his official and individual capacities.
12. Defendant Councilman Corey O’Connor (hereinafter “Councilman O’Connor”) is an adult, who at all times relevant was the councilmember for District 5 of the City of Pittsburgh and whom voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220. He is being sued in both his official and individual capacities.
13. Defendant Councilman R. Daniel Lavelle (hereinafter “Councilman Lavelle”) is an adult, who at all times relevant was the councilmember for District 6 of the City of Pittsburgh and whom voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220. He is being sued in both his official and individual capacities.
14. Defendant Councilwoman Deb Gross (hereinafter “Councilwoman Gross”) is an adult, who at all times relevant was the councilmember for District 7 of the City of Pittsburgh and whom voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220. She is being sued in both her official and individual capacities.
15. Defendant Councilwoman Erika Strassburger (hereinafter “Councilwoman Strassburger”) is an adult, who at all times relevant was the councilmember for District 8 of the City of Pittsburgh and whom voted in favor of Proposals 2018-

⁵ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784416&GUID=235A3F50-F3F7-419E-8968-95B2D46BBFD5&Options=&Search=>

⁶ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784417&GUID=188CB67E-3B8B-4F62-9754-C99965B6F493&Options=&Search=>

1218, 2018-1219, and 2018-1220. She is being sued in both her official and individual capacities.

16. Defendant Councilman Ricky Burgess (hereinafter “Councilman Burgess”) is an adult, who at all times relevant was the councilmember for District 9 of the City of Pittsburgh and whom voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220. He is being sued in both his official and individual capacities.

THE PENNSYLVANIA UNIFORM FIREARMS ACT

17. Pennsylvania’s Uniform Firearms Act (hereinafter, “UFA”) can be found at 18 PA.C.S. § 6101, et seq.
18. Pennsylvania’s UFA provides for “Limitation on the regulation of firearms and ammunition” in 18 Pa.C.S. § 6120(a), which declares: “No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.”
19. Additionally, 18 PA.C.S. § 6119 provides that a violation of Pennsylvania’s UFA, including for Section 6120, constitutes a misdemeanor of the first degree.

THE PENNSYLVANIA CONSITUTION

20. **Article I, Section 21. Right to Bear Arms:** “The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.”

21. **Article I, Section 25. Reservation of Powers in People:** “To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.”
22. **Article II, Section 1. Legislative power:** “The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.”
23. **Article III, Section 1. Passage of laws.** “No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose.”
24. **Article III, Section 4. Consideration of bills.** “Every bill shall be considered on three different days in each House. All amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill and before the final vote is taken, upon written request addressed to the presiding officer of either House by at least 25% of the members elected to that House, any bill shall be read at length in that House. No bill shall become a law, unless on its final passage the vote is taken by yeas and nays, the names of the persons voting for and against it are entered on the journal, and a majority of the members elected to each House is recorded thereon as voting in its favor.”
25. **Article III, Section 8. Signing of bills.** “The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the General Assembly, after their titles have been publicly

read immediately before signing; and the fact of signing shall be entered on the journal.”

MUNICIPAL PROHIBITIONS

26. 53 Pa.C.S. § 2962(c)(2) provides,

“Prohibited powers. A municipality shall not: ... (2) Exercise powers contrary to or in limitation or enlargement of powers granted by statutes which are applicable in every part of this Commonwealth.”

27. 53 Pa.C.S. § 2962(g) provides,

“Regulation of firearms. A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms.”

28. 53 P.S. § 23158 restricts all Cities of the Second Class from enacting any general Ordinance where the penalty exceeds “three hundred dollars (\$300) for any one offence.”

29. 53 P.S. § 24586 restricts all Cities of the Second Class from enacting any unhealthful condition Ordinance where the penalty exceeds “one hundred dollars.”

ATTORNEY GENERAL’S DETERMINATION

30. On August 24, 2009, then-Attorney General Tom Corbett issued a letter to the Adams County Office of the District Attorney regarding the issue of Section 6120’s preemption, informing District Attorney Wagner that local municipalities are precluded from enacting ordinances regarding the possession of firearms. A copy of that letter is attached hereto and incorporated herein as Exhibit A.

DISTRICT ATTORNEY STEPHEN ZAPPALA'S DETERMINATION

31. On January 9, 2019, Allegheny County District Attorney Stephen Zappala issued a letter to Pittsburgh City Council regarding Article 1, Section 21 of the Pennsylvania Constitution and Section 6120, in which he advised City Council in relation to Proposals 2018-1218, 2018-1219, and 2018-1220 that "City Council does not have the authority to pass such legislation" and that "the legislation currently before Council, if passed, will be found unconstitutional." A copy of that letter is attached hereto and incorporated herein as Exhibit B.

CITY SOLICITOR YVONNE HILTON'S DETERMINATION

32. Upon information and belief, City Solicitor Yvonne Hilton, concurring with District Attorney Zappala's conclusions, refused participate in reviewing and revising the Proposals.

OFFICIAL OPPRESSION

33. 18 PA.C.S. § 5301 provides, "A person acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity commits a misdemeanor of the second degree if, knowing that his conduct is illegal, he:
- (1) subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement of personal or property rights; or
 - (2) denies or impedes another in the exercise or enjoyment of any right, privilege, power or immunity."

CASE LAW

34. The Pennsylvania Supreme Court in *Ortiz v. Commonwealth*, 681 A.2d 152, 156 (Pa. 1996), where the City of Pittsburgh was a party, in finding that both Article 1, Section 21 of the Pennsylvania Constitution and 18 Pa.C.S. § 6120 preempted *any* regulation of firearms or ammunition, declared,

Because the ownership of firearms is constitutionally protected, its regulation is a matter of statewide concern. The constitution does not provide that the right to bear arms shall not be questioned in any part of the commonwealth except Philadelphia and Pittsburgh, where it may be abridged at will, but that it shall not be questioned in any part of the commonwealth. Thus, regulation of firearms is a matter of concern in all of Pennsylvania, not merely in Philadelphia and Pittsburgh, and the General Assembly, not city councils, is the proper forum for the imposition of such regulation. (Emphasis added).

35. In finding that the Pennsylvania Supreme Court’s holding in *Ortiz* was “crystal clear,” the Pennsylvania Commonwealth Court held that even regulation by a municipality *consistent with* the UFA was preempted. *See, National Rifle Ass’n v. City of Philadelphia*, 977 A.2d 78, 82 (Pa. Cmwlth. 2009).
36. In *Clarke v. House of Representatives*, 957 A.2d 361 (Pa. Cmwlth. Ct. 2008), the Commonwealth Court dealt with seven ordinances enacted by the City of Philadelphia and found *all* of them to be preempted by Section 6120. The ordinances included: (1) limit of one handgun per month and prohibition on straw purchaser sales; (2) reporting of lost or stolen firearms; (3) requiring a license to acquire a firearm in Philadelphia or bring a firearm into Philadelphia; (4) requiring annual renewal of a gun license; (5) permitting confiscation of firearms from someone posing a risk of harm; (6) prohibiting the possession or transfer of

- assault rifles; and (7) requiring any person selling ammunition to report the purchase and purchase to the police department.
37. In *Dillon v. City of Erie*, 83 A.3d 467, 473 (Pa. Cmwlth. 2014), the Commonwealth Court found that the City of Erie’s ordinance precluding firearms in city parks violated Article 1, Section 21 and Section 6120.
38. In *Firearm Owners Against Crime, et al. v. Lower Merion Township*, 151 A.3d 1172 (Pa. Cmwlth. Ct. 2016)(*petition for allocatur denied July 11, 2017*), the Commonwealth Court held that Lower Merion Township’s ordinance prohibiting discharge of firearms violated Article 1, Section 21 and Section 6120.

CITY PROPOSALS/ORDINANCES AT ISSUE

Proposal 2018-1218

39. Proposal 2018-1218⁷ is titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by repealing Chapter 607: Firearms, Ammunition and Other Weapons in its entirety, and enacting and adding Article XI: Weapons to the Pittsburgh Code of Ordinances in order to meet the public safety needs of residents.” An initial draft copy of 2018-1218, plus its twice amended and final form, is attached hereto and incorporated herein as Exhibit C.

Proposal 2018-1219

⁷ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784415&GUID=FB5A2159-21FF-4848-BE1F-99A4F53D873E&Options=&Search=>

40. Proposal 2018-1219⁸ is titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by enacting and adding Article XI: Weapons, Chapter 1104: prohibition on the Use of Certain Accessories, Ammunition, and Modifications, and Chapter 1105: Authorized Prohibition of Large Capacity Magazines.” An initial draft copy of 2018-1219, plus its twice amended and final form, is attached hereto and incorporated herein as Exhibit D.

Proposal 2018-1220

41. Proposal 2018-1220⁹ is titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article XI: Weapons, by adding Chapter 1106: Prevention of Extreme Risk to Children and Chapter 1107: Extreme Risk Protection Orders.” An initial draft copy of 2018-1220, plus its twice amended and final form, is attached hereto and incorporated herein as Exhibit E.

STATEMENT OF FACTS

Facts Related to Introduction of Proposals and Erection of Unlawful Signage

42. Defendants informally announced an intent on or about December 14, 2018 to formally introduce three proposals regulating firearms, ammunition, and firearm

⁸ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784416&GUID=235A3F50-F3F7-419E-8968-95B2D46BBFD5&Options=&Search=>

⁹ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784417&GUID=188CB67E-3B8B-4F62-9754-C99965B6F493&Options=&Search=>

accessories. See, <https://triblive.com/local/allegheeny/14405721-74/pittsburgh-gun-safety-measures-would-include-assault-weapons-ban>

43. In informally announcing the proposals, Mayor Peduto acknowledged that he and City Council lacked the authority to enact the proposals and that such would require that they “change the laws in Harrisburg.” A copy of the article quoting Mayor Peduto is attached hereto and incorporated herein as Exhibit F.
44. This was echoed in another article on December 14, 2018, declaring that “City leaders, joined by Pennsylvania Gov. Tom Wolf, said Friday they plan to rally support for similar gun control measures in cities and towns across the state, with the ultimate goal of changing state gun laws.” A copy of the article is attached hereto and incorporated herein as Exhibit G.
45. Even more directly on point, Pittsburgh City Councilwoman Erika Strassburger stated that “[t]he inability for municipal governments to enact their own common-sense gun control measures defies this core principle.” A copy of the article quoting Councilwoman Strassburger is attached hereto and incorporated herein as Exhibit H.
46. Thereafter, Mayor Peduto declared “I think it has been very clear over the last several years that there needs to be more that is done at the local level, and that requires the changes of laws at a state and federal level.” A copy of the article quoting Mayor Peduto is attached hereto and incorporated herein as Exhibit I.
47. On December 17, 2018, on behalf of Plaintiff FOAC, the undersigned submitted a letter to Pittsburgh Mayor Bill Peduto and Pittsburgh City Council addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and

18 Pa.C.S. § 6120, and demanding that the proposals not be formally introduced.

A copy of the letter is attached hereto and incorporated herein as Exhibit J.

48. On December 18, 2018, the three proposals (hereinafter “Proposals”) were filed with the City Clerk.

49. Later on December 18, 2018, ignoring the undersigned’s letter, the Pittsburgh City Council formally introduced the Proposals, as 2018-1218,¹⁰ 2018-1219,¹¹ and 2018-1220.¹² *See*,

<https://pittsburgh.legistar.com/MeetingDetail.aspx?ID=661577&GUID=6F6DF698-E9C1-4E51-9A7C-7A8EFC9A5253&Options=info&Search=> and
http://pittsburgh.granicus.com/MediaPlayer.php?view_id=2&clip_id=2938&meta_id=237415

50. Proposal 2018-1218 was initially titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article I: Regulated Actions and Rights, by repealing the existing language of Chapter 607: Firearms, Ammunition, and Other Weapons, in its entirety and replacing it with a new Chapter 607: General Firearm Conduct, to update existing laws to meet the public safety needs of residents.” *See*, Exhibit C.

¹⁰ *See*,
<https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784415&GUID=FB5A2159-21FF-4848-BE1F-99A4F53D873E&Options=&Search=>

¹¹ *See*,
<https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784416&GUID=235A3F50-F3F7-419E-8968-95B2D46BBFD5&Options=&Search=>

¹² *See*,
<https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784417&GUID=188CB67E-3B8B-4F62-9754-C99965B6F493&Options=&Search=>

51. Proposal 2018-1219 was initially titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article I: Regulated Actions and Rights, by adding Chapter 610: Ban on Specified Firearm Accessories, Ammunition, and Modifications, to place a prohibition on certain firearm accessories, ammunition, and modifications.” *See*, Exhibit D.
52. Proposal 2018-1220 was initially titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article I: Regulated Actions and Rights, by adding Chapter 603: Extreme Risk Protection Orders, to provide for appropriate injunctive actions for the preservation of public safety in extreme circumstances.” *See*, Exhibit E.
53. On January 2, 2019, the City of Pittsburgh erected a sign outside of the City-County Building declaring that it was unlawful to possess a firearm within the City-County Building. A photo of the signage is attached hereto and incorporated herein as Exhibit K. *See also*, <https://triblive.com/local/alleggheny/14462062-74/pittsburgh-warns-city-hall-visitors-for-a-first-time-that-guns-are>.
54. As a result, on January 3, 2018, on behalf of Plaintiff FOAC, the undersigned submitted another letter to Mayor Peduto and City Council addressing the unlawful nature of the signage, as it does not comply with 18 Pa.C.S. § 913(d), which requires that any signage notify individuals that lockers must be made available within the building for the individual to secure his/her firearm or other dangerous weapon. A copy of the letter is attached hereto and incorporated herein as Exhibit L.

55. Thereafter, Mayor Peduto himself declared that firearms are “not permitted in the building. They’re permitted in the street, or the portico, the open carry laws will be recognized.” A copy of the article quoting Mayor Peduto is attached hereto and incorporated herein as Exhibit M and a copy of the video of Mayor Peduto stating such can be seen here - <https://pittsburgh.cbslocal.com/2019/01/03/gun-rights-advocates-pittsburgh-city-county-building-rally-preparations>.
56. On January 7, 2019, City Councilwoman Strassburger declared “My council colleagues and the mayor and I are aware of the state laws that are on the books, and we happen to strongly disagree with them [referring to Pennsylvania’s preemption law prohibiting municipalities from regulating firearms]. If there’s not political will to make change, we’re ready and willing to make changes through the court system.” A copy of the article quoting Councilwoman Strassburger is attached hereto and incorporated herein as Exhibit N.
57. On January 9, 2019, Allegheny County District Attorney Stephen Zappala sent a letter to City Council informing City Council, *inter alia*, “City Council does not have the authority to pass such legislation” and that “the legislation currently before Council, if passed, will be found unconstitutional.” *See*, Exhibit B.
58. On January 15, 2019, after City Council acknowledged receipt of District Attorney Zappala’s letter, Councilman Corey O’Connor told reporters that “[DA Zappala] has every right to his own opinion, we are still going to move forward” and “[a]t this point we are going to pass our bills, move forward. Whatever happens after that we will find out.” A copy of the article quoting Councilman O’Connor is attached hereto and incorporated herein as Exhibit O and the video

of Councilman O'Connor stating such can be seen here –

<https://pittsburgh.cbslocal.com/2019/01/15/allegheeny-county-district-attorney-pittsburgh-city-council-gun-legislation-letter>.

59. Later on January 15, 2019, Mayor Peduto, after receiving and reviewing District Attorney Zappala's letter, told reporters that "[i]f [DA Zappala] wants to be city solicitor, he has to move into the city and apply, and I'd consider his resume. Otherwise, he should be a district attorney." A copy of the article quoting Mayor Peduto is attached hereto and incorporated herein as Exhibit P. and the video of Mayor Peduto stating such can be seen here – <https://www.wtae.com/article/da-zappala-pittsburgh-city-council-does-not-have-authority-to-pass-gun-legislation-restricting-types-weapons/25902756>.
60. Upon information and belief, City Solicitor Yvonne Hilton, concurring with District Attorney Zappala's conclusions, refused participate in reviewing and revising the Proposals.
61. As a result of Solicitor Hilton's refusal, Councilmembers O'Connor and Strassburger procured Attorney Daniel Booker of Reed Smith, LLP, to review and revise the Proposals.
62. On March 20, 2019, Pittsburgh City Councilmembers Kraus, Coghill, O'Connor, Lavelle, Gross, Strassburger, and Burgess voted to amend the original Proposals with the amendments drafted by Attorney Booker. Copies of the amended proposals 2018-1218, 2018-1219, and 2018-1220 are included in Exhibits C, D, and E, respectively.

63. On March 26, 2019, Pittsburgh City Councilmembers Kraus, O'Connor, Lavelle, Gross, Strassburger, and Burgess voted in favor of enacting the Proposals.
64. On April 2, 2019, Pittsburgh City Councilmembers Kraus, O'Connor, Lavelle, Gross, Strassburger, and Burgess voted to amend, for a second time, the Proposals, with the amendments drafted by Attorney Booker. Copies of the twice amended proposals 2018-1218, 2018-1219, and 2018-1220 are included in Exhibits C, D, and E, respectively
65. On April 2, 2019, Pittsburgh City Councilmembers Kraus, O'Connor, Lavelle, Gross, Strassburger, and Burgess voted to enact the Proposals, as amended.
66. On April 9, 2019, Mayor Peduto signed the Proposals, enacting them into law.

Facts Related to Violations of the City Council Rules

67. Article VII., Section 1., of the Pittsburgh City Council "Rules of Council" declares that:

SECTION 1. No bill shall be introduced in Council unless deposited with the Clerk of Council by 12:00 noon Friday prior to the regular meeting of Council; but any member may present any bill or paper notwithstanding said rule, with the consent of the majority of members present at any meeting of Council. All bills deposited with the Clerk from the Mayor, City Council Members or department of the City must have accompanying documentation as to purpose, history and fiscal impact in a manner prescribed by Ordinance, the City Council Budget office, and the president of Council.

A copy of the Rules of Council is attached hereto and incorporated herein as Exhibit Q.

68. Article III., Section 4., subsection C., of the Pittsburgh City Council "Rules of Council" declares, in pertinent part, that:

ii. After the comment period in a Council meeting has ended, if a resolution or ordinance is added to the agenda or amended to make its substance differ, residents or taxpayers shall be provided an additional opportunity to comment on the addition or amendment before a final vote is taken.

See, Exhibit Q.

69. Proposals 2018-1218, 2018-1219, and 2018-1220 were not filed with the Clerk of Council until the day they were formally introduced on December 18, 2018.
70. The Proposals filed with the Clerk of Council did not have attached or otherwise accompanying them any “documentation as to purpose, history and fiscal impact.”
71. To this day, documentation as to “history and fiscal impact” in relation to the Proposals has never been filed with the Clerk of Council.
72. To the best of Plaintiff’s information, knowledge and belief, no documentation as to the “history and fiscal impact” even exists in relation to the Proposals as of the time of filing of this Complaint.
73. The Proposals were not introduced by a Member of City Council, but rather, by the City Clerk. *See*,
http://pittsburgh.granicus.com/MediaPlayer.php?view_id=2&clip_id=2938&meta_id=237415
74. No vote, including a vote to waive the requirement of Section 1 that the Proposals be filed by noon on Friday, December 14, 2018, was taken in relation to the Proposals on December 18, 2018.
75. Furthermore, on March 20, 2019 and April 2, 2019, the substance of the Proposals were amended (*see*, Exhibits G, H, I) and on April 2, 2019 the amended Proposals were enacted.

76. At no time after the public hearing on January 24, 2019 and prior to the final vote, was the public provided an additional public hearing to comment on the amendments. In fact, the last amendments to the Proposals occurred only minutes before the City Council enacted the Proposals.

Facts Related to Violations of the Home Rule Charter

77. Article III, Section 310(i), of the City of Pittsburgh’s “Home Rule Charter” declares that:

310. POWERS OF COUNCIL – Council shall have the following additional powers:

...

- (e) to exercise other powers conferred by this charter, by law or ordinance, consistent with the provisions of this charter.

A copy of the Home Rule Charter is attached hereto and incorporated herein as Exhibit R.

78. Neither the Pennsylvania Constitution nor the laws of Pennsylvania confer any power upon the City Council to propose, consider, and enact Proposals 2018-1218, 2018-1219 and 2018-1220.
79. To the contrary, the Pennsylvania Constitution and the laws of Pennsylvania explicitly prohibit City Council from proposing, considering, and enacting Proposals 2018-1218, 2018-1219 and 2018-1220.

Facts Related to Violations of the Municipal Powers of Cities of the Second Class

80. 53 P.S. § 23158 restricts all Cities of the Second Class from enacting any general Ordinance where the penalty exceeds \$300.00, per occurrence.

81. 53 P.S. § 24586 restricts all Cities of the Second Class from enacting any unhealthful condition Ordinance where the penalty exceeds \$100.00, per occurrence.
82. Proposals 2018-1218 and 2018-1219 specify a penalty of “\$1000 and costs for each offense.” *See*, Exhibit C and D.
83. 53 Pa.C.S. § 2962(c)(2) provides
- Prohibited powers.** A municipality shall not: ... (2) Exercise powers contrary to or in limitation or enlargement of powers granted by statutes which are applicable in every part of this Commonwealth.
84. Subsection 2962(g) provides
- Regulation of firearms.**--A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms
85. Proposals 2018-1218, 2018-1219 and 2018-1220 regulate the transfer, ownership, transportation and possession of firearms.

Facts Related to Violations of the Pennsylvania Constitution

86. District Attorney Zappala and City Solicitor Hilton informed City Council that the Proposals, if enacted, would, *inter alia*, be held unconstitutional, pursuant to Article 1, Section 21. *See*, Exhibit B.
87. Article 2, Section 1 of the Pennsylvania Constitution vests all power to legislate in the General Assembly.
88. No bill was proposed and offered by City Council nor could a bill be proposed and offered by City Council, as neither it nor its members are Members of the Pennsylvania General Assembly.

89. The Proposals, as evidenced by their explicit terms, constitute proposed ordinances. *See*, Exhibits C, D, and E.
90. Neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals.
91. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, the Proposals were never considered on three different days in each House.
92. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, no member of the Pennsylvania House of Representatives nor the Senate voted in favor of the Proposals.
93. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, the presiding officer of each house never signed the Proposals.

Facts Related to Violations of 18 Pa.C.S. § 913(d)

94. 18 Pa.C.S. § 913 provides, in pertinent part

(d) Posting of notice.--Notice of the provisions of subsections (a) and (e) shall be posted conspicuously at each public entrance to each courthouse or other building containing a court facility and each court facility, and no person shall be convicted of an offense under subsection (a)(1) with respect to a court facility if the notice was not so posted at each public entrance to the courthouse or other building containing a court facility and at the court facility unless the person had actual notice of the provisions of subsection (a).

(e) Facilities for checking firearms or other dangerous weapons.--Each county shall make available at or within the building containing a court facility by July 1, 2002, lockers or similar facilities at no charge or cost for the temporary checking of firearms by persons carrying firearms under section 6106(b) or 6109 or for the checking of other dangerous weapons

that are not otherwise prohibited by law. Any individual checking a firearm, dangerous weapon or an item deemed to be a dangerous weapon at a court facility must be issued a receipt. Notice of the location of the facility shall be posted as required under subsection (d).

95. The signage erected by the City of Pittsburgh in front of the City-Council Building does not advise individuals of their rights specified in Section 913(e), including, but not limited to, that lockers must be made available in the City-Council Building at no charge or cost to secure their firearms and other dangerous weapons. *See*, Exhibit K.
96. As of the date of filing this Complaint, the Defendants have failed to remove the unlawful signage or otherwise correct it by complying with the requirements of Section 913(d).

Facts Related to Defendant City of Pittsburgh

97. Defendant City is a municipal corporation duly organized, existing and operating under and pursuant to the applicable laws of the Commonwealth of Pennsylvania, currently a City of the Second Class, pursuant to 53 P.S. § 22101, *et seq.*, located within the County of Allegheny, Pennsylvania.
98. Defendant City is a municipality as defined by 18 Pa.C.S. § 6120.
99. At all relevant times, Defendant City owns, manages, operates, directs and controls the Pittsburgh Police Department and all City officials, agents, and employees.
100. On or about December 17, 2018, Defendant City received the December 17, 2018 letter of the undersigned, on behalf of FOAC, addressing the unlawful nature of

- the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.
101. On or about January 3, 2019, Defendant City received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
102. On or about January 9, 2019, Defendant City received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
103. On April 2, 2019 Pittsburgh City Council passed the Proposals, which were signed into effect by Mayor Peduto on April 9, 2019.
104. Defendant City intends to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual who is in violation of the enacted Proposals.

Facts Related to Defendant Mayor Peduto

105. Defendant Mayor Peduto is an adult, who at all times relevant was the Mayor of the City of Pittsburgh.
106. At all relevant times, Mayor Peduto was a policymaker with decision-making authority and was responsible for executing, implementing and enforcing policies, regulations and ordinances of the City of Pittsburgh, including execution, implementation and enforcement of Proposals 2018-1218, 2018-1219, and 2018-1220.

107. In informally announcing the proposals, Mayor Peduto acknowledged that he and City Council lacked the authority to enact the proposals and that such would require that they “change the laws in Harrisburg.” *See*, Exhibit F.
108. On or about December 17, 2018, Mayor Peduto received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.
109. On or about January 3, 2019, Defendant City received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
110. Thereafter, Mayor Peduto declared that firearms are “not permitted in the building. They’re permitted in the street, or the portico, the open carry laws will be recognized.” *See*, Exhibit M and the video of Mayor Peduto stating such can be seen here - <https://pittsburgh.cbslocal.com/2019/01/03/gun-rights-advocates-pittsburgh-city-county-building-rally-preparations>.
111. On or about January 9, 2019, Mayor Peduto received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
112. Later on January 15, 2019, Mayor Peduto, after receiving and reviewing District Attorney Zappala’s letter, told reporters that “[i]f [DA Zappala] wants to be city solicitor, he has to move into the city and apply, and I’d consider his resume. Otherwise, he should be a district attorney.” *See*, Exhibit P and the video of Mayor Peduto stating such can be seen here – <https://www.wtae.com/article/da->

[zappala-pittsburgh-city-council-does-not-have-authority-to-pass-gun-legislation-restricting-types-weapons/25902756](#).

113. Mayor Peduto willfully and unlawfully signed Proposals 2018-1218, 2018-1219, and 2018-1220 into effect on April 9, 2019, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.
114. Prior to and on the date Mayor Peduto signed Proposals 2018-1218, 2018-1219, and 2018-1219, he was aware that the Proposals were unlawful and prohibited by state law.
115. Mayor Peduto intends to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual who is in violation of the enacted Proposals.

Facts Related to Defendant Councilman Kraus

116. Defendant Councilman Kraus is an adult, who at all times relevant was the councilmember for District 3 of the City of Pittsburgh.
117. On or about December 17, 2018, Councilman Kraus received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.

118. On or about January 3, 2019, Councilman Kraus received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
119. On or about January 9, 2019, Councilman Kraus received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
120. On April 2, 2019, Councilman Kraus voted willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.
121. Prior to and on the date Councilman Kraus voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, he was aware that the Proposals were unlawful and prohibited by state law.

Facts Related to Defendant Councilman O'Connor

122. Defendant Councilman O'Connor is an adult, who at all times relevant was the councilmember for District 5 of the City of Pittsburgh.
123. On or about December 17, 2018, Councilman O'Connor received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.

124. On or about January 3, 2019, Councilman O'Connor received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
125. On or about January 9, 2019, Councilman O'Connor received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
126. On January 15, 2019, after City Council acknowledged receipt of District Attorney Zappala's letter, Councilman Corey O'Connor told reporters that "[DA Zappala] has every right to his own opinion, we are still going to move forward" and "[a]t this point we are going to pass our bills, move forward. Whatever happens after that we will find out." *See*, Exhibit O and the video of Councilman O'Connor stating such can be seen here – <https://pittsburgh.cbslocal.com/2019/01/15/allegheeny-county-district-attorney-pittsburgh-city-council-gun-legislation-letter>.
127. On April 2, 2019 Councilman O'Connor willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.
128. Prior to and on the date Councilman O'Connor voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, he was aware that the Proposals were unlawful and prohibited by state law.

Facts Related to Defendant Councilman Lavelle

129. Defendant Councilman Lavelle is an adult, who at all times relevant was the

councilmember for District 6 of the City of Pittsburgh.

130. On or about December 17, 2018, Councilman Lavelle received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.
131. On or about January 3, 2019, Councilman Lavelle received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
132. On or about January 9, 2019, Councilman Lavelle received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
133. On April 2, 2019, Councilman Lavelle willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.
134. Prior to and on the date Councilman Lavelle voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, he was aware that the Proposals were unlawful and prohibited by state law.

Facts Related to Defendant Councilwoman Gross

135. Defendant Councilwoman Gross is an adult, who at all times relevant was the councilmember for District 7 of the City of Pittsburgh.

136. On or about December 17, 2018, Councilwoman Gross received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.
137. On or about January 3, 2019, Councilwoman Gross received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
138. On or about January 9, 2019, Councilwoman Gross received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
139. On April 2, 2019, Councilwoman Gross willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.
140. Prior to and on the date Councilwoman Gross voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, she was aware that the Proposals were unlawful and prohibited by state law.

Facts Related to Defendant Councilwoman Strassburger

141. Defendant Councilwoman Strassburger is an adult, who at all times relevant was the councilmember for District 8 of the City of Pittsburgh.

142. On December 14, 2018, Councilwoman Strassburger declared that “[t]he inability for municipal governments to enact their own common-sense gun control measures defies this core principle.” *See*, Exhibit H.
143. On or about December 17, 2018, Councilwoman Strassburger received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.
144. On or about January 3, 2019, Councilwoman Strassburger received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
145. On January 7, 2019, Councilwoman Strassburger declared “My council colleagues and the mayor and I are aware of the state laws that are on the books, and we happen to strongly disagree with them [referring to Pennsylvania’s preemption law prohibiting municipalities from regulating firearms]. If there’s not political will to make change, we’re ready and willing to make changes through the court system.” *See*, Exhibit N.
146. On or about January 9, 2019, Councilwoman Strassburger received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
147. On April 2, 2019, Councilwoman Strassburger willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.

148. Prior to and on the date Councilwoman Strassburger voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, she was aware that the Proposals were unlawful and prohibited by state law.

Facts Related to Defendant Councilman Burgess

149. Defendant Councilman Burgess is an adult, who at all times relevant was the councilmember for District 9 of the City of Pittsburgh.
150. On or about December 17, 2018, Councilman Burgess received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. See, Exhibit J.
151. On or about January 3, 2019, Councilman Burgess received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. See, Exhibit L.
152. On or about January 9, 2019, Councilman Burgess received the January 9, 2019 letter of District Attorney Stephen Zappala. See, Exhibit B.
153. On April 2, 2019, Councilman Burgess willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.

154. Prior to and on the date Councilman Burgess voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, he was aware that the Proposals were unlawful and prohibited by state law

Facts Related to FOAC

155. FOAC is a statewide, non-partisan PAC, which actively works to defend, preserve, and protect constitutional and statutory rights of lawful firearm owners, including through Article 1, Sections 21 and 25 of the Pennsylvania Constitution and the Second Amendment to the U.S. Constitution.
156. FOAC actively educates and informs its members, the General Assembly, and the public on all issues pertaining to firearms, firearm safety, constitutional provisions, statutes, case law and all other issues related to or intersecting with Article 1, Sections 21 and 25 of the Pennsylvania Constitution, the Second Amendment of the U.S. Constitution, and firearms and ammunition in general.
157. FOAC was formed in 1993, formally becoming a statewide PAC in 1994, as a result of the City of Pittsburgh's illegal firearm and ammunition ban.
158. FOAC has 1,789 members within the Commonwealth, including in Allegheny County, who, under information and belief, may legally possess firearms under Federal and State law.
159. Plaintiffs Mr. Boardley, Mr. Averick, Mr. Rak are members of FOAC and at all times can and lawfully do possess firearms under Federal and State law.
160. FOAC's members have raised concern over the threat of prosecution by Defendants, as a result of the consideration and enactment of the Proposals.

161. FOAC fears that the Defendants, pursuant to the Proposals/Ordinances, will unlawfully prosecute its members, based on the statements made by the Defendants that they will enforce the Ordinances.

Facts Related to FPC

162. FPC is a 501(c)(4) non-profit organization incorporated under the laws of Delaware.

163. FPC serves its members and the public through direct advocacy, grassroots advocacy, legal efforts, research, education, operation of a Hotline, and other programs.

164. The purposes of FPC include defending the United States Constitution and the People's rights, privileges, and immunities deeply rooted in the Nation's history and tradition, especially the fundamental right to keep and bear arms.

165. FPC has members and supporters within the Commonwealth, including in Allegheny County and the Individual Plaintiffs in this case, who, under information and belief, may legally possess firearms under Federal and State law.

166. Plaintiffs Mr. Boardley, Mr. Averick, Mr. Rak are members of FPC.

167. FPC members have raised concern over the threat of prosecution by Defendants, as a result of the consideration and enactment of the Proposals.

168. FPC fears that the Defendants, pursuant to the Proposals/Ordinances, will unlawfully prosecute its members, based on the statements made by the Defendants that they will enforce the Ordinances.

Facts Related to FPF

169. FPF is a 501(c)(3) non-profit organization incorporated under the laws of Delaware.
170. FPF's mission is to protect and defend the Constitution of the United States and the People's rights, privileges and immunities deeply rooted in this Nation's history and tradition, especially the inalienable, fundamental, and individual right to keep and bear arms, through charitable and educational activities as permissible under law.
171. FPF has members and supporters within the Commonwealth, including in Allegheny County and the Individual Plaintiffs in this case, who, under information and belief, may legally possess firearms under Federal and State law.
172. Plaintiffs Mr. Boardley, Mr. Averick, Mr. Rak are members of FPF.
173. FPF members have raised concern over the threat of prosecution by Defendants, as a result of the consideration and enactment of the Proposals.
174. FPF fears that the Defendants, pursuant to the Proposals/Ordinances, will unlawfully prosecute its members, based on the statements made by the Defendants that they will enforce the Ordinances

Facts Related to Plaintiff Matthew Boardley

175. Mr. Boardley is a resident of Avella, Washington County, Pennsylvania, who works as Security Area Director at Heinz Field, Stage AE, and the AJ Palumbo Center in the City of Pittsburgh and is a member of Plaintiffs FOAC, FPC, and FPF.

176. As a result of his employment in the City of Pittsburgh, he is subject to the Local Earned Income Tax of Chapter 245¹³ of City of Pittsburgh’s Code of Ordinances.
177. Mr. Boardley may and lawfully does possess, use, transport, carry and store firearms, ammunition, armor or metal penetrating ammunition, magazines that have a capacity of more than 10 rounds of ammunition, firearm accessories and firearm modifications under State and Federal law.
178. As defined or categorized by the Proposals, Mr. Boardley lawfully owns, possess, utilizes, transports, carries and/or stores “ammunition”,¹⁴ “armor or metal penetrating ammunition”,¹⁵ “firearms”,¹⁶ “assault weapons”,¹⁷ “large capacity magazines”,¹⁸ and “rapid fire devices”.¹⁹
179. As a result of his employment, his personal protection and his rights as guaranteed by the U.S. and Pennsylvania Constitutions and laws, in public places within the City of Pittsburgh, he possess, utilizes, transports, carries, and stores in his vehicle and on his person, both concealed and unconcealed, numerous firearms, ammunition and magazines that are regulated by the enacted Proposals.
180. Those firearms include, but are not limited to:

¹³ See, https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T ITTWOFI_ARTVIIIBURETA_CH245EAINTA; *see also*, <http://pittsburghpa.gov/finance/taxes/index.html>.

¹⁴ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

¹⁵ Proposal 2018-1219 – Section 1104.01(B).

¹⁶ Proposal 2018-1218 – Sections 1101.01(D).

¹⁷ Proposal 2018-1218 – Sections 1102.01(B).

¹⁸ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

¹⁹ Proposal 2018-1219 – Section 1104.01(F).

- a. A semiautomatic AR-15 short-barreled rifle with an overall length of 30 inches, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, which is registered with the Bureau of Alcohol, Tobacco, Firearms and Explosives, and which has installed within it a binary trigger and has installed on it a folding stock, pistol grip, flash suppressor, and a silencer, which is also registered with the Bureau of Alcohol, Tobacco, Firearms and Explosives;
- b. A semiautomatic Sig Sauer P226 pistol, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, for which the slide completely encircles the barrel and prevents the user's hands from being burned; and,
- c. A semiautomatic Sig Sauer P320 pistol, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, for which the slide completely encircles the barrel and prevents the user's hands from being burned and into which, Mr. Boardley intends to install a threaded barrel, as soon as he is able to procure one.

181. Mr. Boardley has numerous magazines for the firearms specified *supra*, which have a capacity of more than 10 rounds.

182. On May 18, 2019, Mr. Boardley, as part of his employment as Security Area Director at Heinz Field, will be in the City of Pittsburgh at the Garth Brooks Concert ensuring the protection of the signer and attendees and as such will be possessing, utilizing, transporting, carrying, and storing in his vehicle and on his

- person, both concealed and unconcealed, numerous firearms, ammunition and magazines that are regulated by the enacted Proposals, as mentioned *supra*.
183. Further, as part of his employment as Security Area Director at Heinz Field, Mr. Boardley will be in the City of Pittsburgh at Heinz Field for every home game of the Pittsburgh Steelers²⁰ ensuring the protection of the players and attendees and as such will be possessing, utilizing, transporting, carrying, and storing in his vehicle and on his person, both concealed and unconcealed, numerous firearms, ammunition and magazines that are regulated by the enacted Proposals, as mentioned *supra*
184. Mr. Boardley frequents, at least on an average bi-weekly basis, the City of Pittsburgh, Allegheny County, for business purposes and during which, he possess, utilizes, transports, carries and/or stores “ammunition”,²¹ “armor or metal penetrating ammunition”,²² “firearms”,²³ “assault weapons”,²⁴ “large capacity magazines”,²⁵ and “rapid fire devices”,²⁶ in public places.
185. Mr. Boardley frequents, at least on an average bi-weekly basis, the City of Pittsburgh, Allegheny County, for recreational purposes and during which, he possess, transports, carries and/or stores “ammunition”,²⁷ “armor or metal

²⁰ The schedule for the Pittsburgh Steelers can be found here – <https://www.steelers.com/schedule>.

²¹ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

²² Proposal 2018-1219 – Section 1104.01(B).

²³ Proposal 2018-1218 – Sections 1101.01(D).

²⁴ Proposal 2018-1218 – Sections 1102.01(B).

²⁵ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

²⁶ Proposal 2018-1219 – Section 1104.01(F).

²⁷ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

- penetrating ammunition”,²⁸ “firearms”,²⁹ “assault weapons”,³⁰ “large capacity magazines”,³¹ and “rapid fire devices”,³² in public places.
186. Mr. Boardley fears prosecution by Defendants pursuant to the enactment of the Proposals, as the Defendants have stated that they will enforce the enacted Proposals.
187. With the past 180 days, Mr. Boardley has purchased one, or more, firearms.
188. Mr. Boardley fears being subjected to an extreme risk protection order and being divested of his firearms and licenses, merely because of the exercise of his U.S. and Pennsylvania constitutional rights – *i.e.* purchasing of a firearm – within the past 180 days,³³ as a result of Defendants statements that they will enforce the enacted Proposals.
189. Mr. Boardley fears being subjected to an extreme risk protection order and being divested of his firearms and licenses, merely because of his possession, use, and control of firearms for employment,³⁴ as a result of Defendants statements that they will enforce the enacted Proposals.

Facts Related to Plaintiff Saadyah Averick

190. Mr. Averick is a resident of the City of Pittsburgh, Allegheny County, and a member of Jewish Community in Squirrel Hill and of Plaintiffs FOAC, FPC, and

²⁸ Proposal 2018-1219 – Section 1104.01(B).

²⁹ Proposal 2018-1218 – Sections 1101.01(D).

³⁰ Proposal 2018-1218 – Sections 1102.01(B).

³¹ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

³² Proposal 2018-1219 – Section 1104.01(F).

³³ Proposal 2018-1220 – Section 1107.05(C).

³⁴ Proposal 2018-1220 – Section 1107.05(C).

FPF.

191. As a result of his residence and employment in the City of Pittsburgh, Mr. Averick is subject to the Local Earned Income Tax of Chapter 245³⁵ of City of Pittsburgh's Code of Ordinances, the Home Rule Tax of Chapter 246,³⁶ the Occupational Privilege Tax of Chapter 251,³⁷ and the Local Services Tax of Chapter 252.³⁸
192. Mr. Averick may and lawfully does possess, use, transport, carry and store firearms, ammunition, armor or metal penetrating ammunition, magazines that have a capacity of more than 10 rounds of ammunition, and firearm accessories under State and Federal law.
193. As defined or categorized by the Proposals, Mr. Averick lawfully owns, possess, transports, carries, stores and/or desires to manufacture or procure "ammunition",

³⁵ See, https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T ITTWOFI_ARTVIIIBURETA_CH245EAINTA; *see also*, <http://pittsburghpa.gov/finance/taxes/index.html>.

³⁶ See, https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T ITTWOFI_ARTVIIIBURETA_CH246HORUTA; *see also*, <http://pittsburghpa.gov/finance/taxes/index.html>.

³⁷ See, https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T ITTWOFI_ARTVIIIBURETA_CH251OCPRTA; *see also*, <http://pittsburghpa.gov/finance/taxes/index.html>.

³⁸ See, https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T ITTWOFI_ARTVIIIBURETA_CH252LOSETA; *see also*, <http://pittsburghpa.gov/finance/taxes/index.html>.

³⁹ “armor or metal penetrating ammunition”, ⁴⁰ “firearms”, ⁴¹ “assault weapons”,
⁴² “large capacity magazines”, ⁴³ and “rapid fire devices”. ⁴⁴

194. For purposes of his personal protection and his rights as guaranteed by the U.S. and Pennsylvania Constitutions and laws, in public places within the City of Pittsburgh, he possess, uses, transports, carries, and stores in his vehicle and on his person, both concealed and unconcealed, numerous firearms, ammunition and magazines that are regulated by the enacted Proposals.

195. Those firearms include, but are not limited to:

- a. A semiautomatic IWI Tavor rifle with an overall length of less than 30 inches, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and which has installed on it a flash suppressor;
- b. An AR-15 AERO M4E1 receiver, which he wishes to build into an AR-15 rifle, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and within which he desires to install a binary trigger and installed on which he intends to install a flash suppressor and folding or telescopic stock;
- c. A semiautomatic Glock 19 pistol, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, for

³⁹ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

⁴⁰ Proposal 2018-1219 – Section 1104.01(B).

⁴¹ Proposal 2018-1218 – Sections 1101.01(D).

⁴² Proposal 2018-1218 – Sections 1102.01(B).

⁴³ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

⁴⁴ Proposal 2018-1219 – Section 1104.01(F).

which the slide completely encircles the barrel and prevents the user's hands from being burned, and which is a semiautomatic version of the fully automatic Glock 18 pistol; and,

- d. A semiautomatic Sig Sauer P320 pistol, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, for which the slide completely encircles the barrel and prevents the user's hands from being burned.

196. Mr. Averick has numerous magazines for the firearms specified *supra*, which have a capacity of more than 10 rounds.

197. As Mr. Averick resides in the City of Pittsburgh, Allegheny County, on a daily basis, he possess, uses, transports, carries and/or stores “ammunition”,⁴⁵ “armor or metal penetrating ammunition”,⁴⁶ “firearms”,⁴⁷ “assault weapons”,⁴⁸ and “large capacity magazines”,⁴⁹ in public places.

198. Mr. Averick desires to manufacture and thereafter, possess, use, transport, carry and/or store, in the City of Pittsburgh, an AR-15 rifle from his lawfully owned and possessed AR-15 AERO M4E1 receiver; whereby, the AR-15 rifle would be capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and within which he desires to install a binary trigger and installed on which he intends to install a flash suppressor and folding or telescopic stock.

⁴⁵ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

⁴⁶ Proposal 2018-1219 – Section 1104.01(B).

⁴⁷ Proposal 2018-1218 – Sections 1101.01(D).

⁴⁸ Proposal 2018-1218 – Sections 1102.01(B).

⁴⁹ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

199. Mr. Averick desires to procure a “rapid fire device”⁵⁰ and install it in his AR-15.
200. Mr. Averick fears prosecution by Defendants pursuant to the enactment of the Proposals, as the Defendants have stated that they will enforce the enacted Proposals.
201. With the past 180 days, Mr. Averick has purchased one, or more, firearms.
202. Mr. Averick fears being subjected to an extreme risk protection order and being divested of his firearms and licenses, merely because of the exercise of his U.S. and Pennsylvania constitutional rights – *i.e.* purchasing of a firearm – within the past 180 days,⁵¹ as a result of Defendants statements that they will enforce the enacted Proposals.

Facts Related to Plaintiff Fred Rak

203. Mr. Rak is a resident of the City of Pittsburgh, Allegheny County, who is a USCCA firearms instructor, and a member of FOAC, FPC, and FPF.
204. As a result of his residence and employment in the City of Pittsburgh, Mr. Rak is subject to the Local Earned Income Tax of Chapter 245⁵² of City of Pittsburgh’s Code of Ordinances, the Home Rule Tax of Chapter 246,⁵³ the Occupational Privilege Tax of Chapter 251,⁵⁴ and the Local Services Tax of Chapter 252.⁵⁵

⁵⁰ Proposal 2018-1219 – Section 1104.01(F).

⁵¹ Proposal 2018-1220 – Section 1107.05(C).

⁵² *See*,

https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T ITTWOFI ARTVIIIBURETA_CH245EAINTA; *see also*, <http://pittsburghpa.gov/finance/taxes/index.html>.

⁵³ *See*,

https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T

205. Mr. Rak may and lawfully does possess, use, transport, carry and store firearms, ammunition, armor or metal penetrating ammunition, magazines that have a capacity of more than 10 rounds of ammunition, and firearm accessories under State and Federal law.
206. As defined or categorized by the Proposals, Mr. Rak lawfully owns, possess, transports, carries, stores and/or desires to manufacture or procure “ammunition”,⁵⁶ “armor or metal penetrating ammunition”,⁵⁷ “firearms”,⁵⁸ “assault weapons”,⁵⁹ and “large capacity magazines”.⁶⁰
207. For purposes of his firearms training, as well as, personal protection and his rights as guaranteed by the U.S. and Pennsylvania Constitutions and laws, he possess, uses, transports, carries, and stores in his vehicle and on his person, both concealed and unconcealed, numerous firearms, ammunition and magazines that are regulated by the enacted Proposals.
208. Those firearms include, but are not limited to:

[ITTWOFI_ARTVIIBURETA_CH246HORUTA](http://pittsburghpa.gov/finance/taxes/index.html); *see also*,
<http://pittsburghpa.gov/finance/taxes/index.html>.

⁵⁴ *See*,
https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T_ITTWOFI_ARTVIIBURETA_CH251OCPRTA; *see also*,
<http://pittsburghpa.gov/finance/taxes/index.html>.

⁵⁵ *See*,
https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T_ITTWOFI_ARTVIIBURETA_CH252LOSETA; *see also*,
<http://pittsburghpa.gov/finance/taxes/index.html>.

⁵⁶ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

⁵⁷ Proposal 2018-1219 – Section 1104.01(B).

⁵⁸ Proposal 2018-1218 – Sections 1101.01(D).

⁵⁹ Proposal 2018-1218 – Sections 1102.01(B).

⁶⁰ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

- a. A semiautomatic AR-15 rifle, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and which has installed on it a flash suppressor;
- b. Two 80% AR-15 receiver blanks, which he wishes to build into AR-15 rifles, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and installed on which he intends to install a flash suppressor and folding or telescopic stock; and,
- c. A semiautomatic Beretta 96A1 pistol, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, for which the slide completely encircles the barrel and prevents the user's hands from being burned.

209. Mr. Rak has numerous magazines for the firearms specified *supra*, which have a capacity of more than 10 rounds.

210. As Mr. Rak resides in the City of Pittsburgh, Allegheny County, on a daily basis, he possess, use, transports, carries and/or stores “ammunition”,⁶¹ “armor or metal penetrating ammunition”,⁶² “firearms”,⁶³ “assault weapons”,⁶⁴ and “large capacity magazines”,⁶⁵ in public places.

211. Mr. Rak desires to manufacture, and thereafter, in public places in the City of Pittsburgh, possess, use, transport, carry and/or store, two AR-15 rifles from his lawfully owned and possessed 80% AR-15 receiver blanks; whereby, the AR-15

⁶¹ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

⁶² Proposal 2018-1219 – Section 1104.01(B).

⁶³ Proposal 2018-1218 – Sections 1101.01(D).

⁶⁴ Proposal 2018-1218 – Sections 1102.01(B).

⁶⁵ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

rifles would be capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and on which he intends to install a flash suppressor and folding or telescopic stock.

212. Mr. Rak fears prosecution by Defendants pursuant to the enactment of the Proposals, as the Defendants have stated that they will enforce the enacted Proposals.

213. With the past 180 days, Mr. Rak has purchased one, or more, firearms.

214. Mr. Rak fears being subjected to an extreme risk protection order and being divested of his firearms and licenses, merely because of the exercise of his U.S. and Pennsylvania constitutional rights – *i.e.* purchasing of a firearm – within the past 180 days,⁶⁶ as a result of Defendants statements that they will enforce the enacted Proposals.

Statement of Facts of All Plaintiffs

215. The foregoing paragraphs are incorporated herein as if set forth in full.

216. The City is a municipality against which 18 Pa.C.S. § 6120 applies.

217. Plaintiffs own, possess, use, and bear firearms for all lawful purposes, including, but not limited to, self-defense, hunting, firearms training/education, and target shooting.

218. Plaintiffs bring this action as a result of the City's illegal enacted Proposals, which in addition to violating Sections 6120 and 2962, deprive them of their rights pursuant to the Pennsylvania Constitution.

⁶⁶ Proposal 2018-1220 – Section 1107.05(C).

219. Accordingly, Plaintiffs are “person[s] adversely affected” by the Defendants illegally enacted Proposals.
220. In an egregious and direct violation of Sections 6120 and 2962, the Defendants have promulgated, enacted, seek to enforce, and seek to continue enforcement of the Proposals and their associated penalties.
221. Although the undersigned and District Attorney Zappala informed the Defendants of their violations of state law and afforded them an opportunity, prior to filing this action, not to enact these Proposals, Defendants enacted the Proposals and expressed their intent to enforce them against everyone who violates them, including Plaintiffs.
222. In absolute defiance of the constitutional and statutory laws prohibiting the enactment of these Proposals, Councilwoman Strassburger declared “My council colleagues and the mayor and I are aware of the state laws that are on the books, and we happen to strongly disagree with them [referring to Pennsylvania’s preemption law prohibiting municipalities from regulating firearms]. If there’s not political will to make change, we’re ready and willing to make changes through the court system.” *See*, Exhibit N.
223. Each of these Proposals regulate firearms and ammunition and are patently unenforceable, unconstitutional, illegal, violate statewide preemption and clearly established precedent of the Supreme Courts of Pennsylvania in *Ortiz*.
224. In defiance of clearly established rights of the citizens, the Defendants have promulgated, enacted, ratified, condoned and enforced these gun control Proposals knowing that they have no authority to pass such Proposals, and

- knowing that such are violating the Pennsylvania Constitution, statutory law and the established precedent of the Commonwealth Courts, specifically the Supreme and Commonwealth Courts, which have issued binding precedent on the courts of this Commonwealth that the City of Pittsburgh has no authority or power to regulate firearms or ammunition.
225. Plaintiffs assert that their rights under Article 1, Sections 21 and 25 of the Pennsylvania Constitution are now unconstitutionally rendered illegal, curtailed and burdened by the passage and enforcement, or threat thereof, of these Proposals, which has resulted in a chilling effect upon their rights.
226. Plaintiffs are likely to face criminal charging, prosecution and penalties, for violating the Defendants enacted Proposals.

COUNT I: DECLARATORY RELIEF – 18 PA.C.S. § 6120 –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

227. The foregoing paragraphs are incorporated herein as if set forth in full.
228. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.
229. 18 Pa.C.S. § 6120(a) provides
- General rule.**--No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.

230. Due to their length, Plaintiffs incorporate by reference the text of Proposals 2018-1218, 2018-1219, and 2018-1220, including as twice amended, which are attached, respectively, as Exhibits C, D. and E.
231. The Proposals were promulgated, enacted, enforced and continue to be enforced by Defendants.
232. Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
233. Proposal 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. §§ 6106, 6109, as it prohibits individuals who are licensed to carry firearms from carrying firearms in the City in public places.
234. Proposal 2018-1218 and 2018-1219 are in direct conflict with, *inter alia*, 18 Pa.C.S. § 2707.1, 34 Pa.C.S. §§ 2505 - 2507, as they generally prohibit discharge of firearms, which the Commonwealth Court in *Firearm Owners Against Crime v. Lower Merion Township* already found to be preempted by Article 1, Section 21 of the Pennsylvania Constitution and Section 6120.
235. Proposals 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants term “assault weapons” and “large capacity magazines,” which the General Assembly, in relation to numerous proposed bills to prohibit the possession, purchase, and use of what Defendants term “assault weapons” and “large capacity magazines”, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania.

236. Proposal 2018-1219 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants categorize as “binary triggers”, “multi-burst trigger activators” and “rapid fire devices,” which the General Assembly, in relation to numerous proposed bills to prohibit such categories of devices, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania
237. Proposal 2018-1220 is in direct conflict with, *inter alia*, 50 P.S. § 7101, *et seq.*, and 23 Pa.C.S. § 6101, *et seq.*, as the General Assembly has already enacted two statutes that address individuals who are a present danger to themselves or others.
238. Even if the General Assembly had prohibited the conduct specified in the enacted Proposals, which it has not, Defendants are prohibited from promulgating, enacting, or enforcing any ordinance *consistent* with such law, pursuant to Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the Commonwealth Court’s holdings in *NRA v. City of Philadelphia* and *Clarke v. House of Representatives*.
239. A present controversy exists, as Defendants have publicly stated their intention to enforce the Proposals.
240. The current enforcement of these enacted Proposals has a chilling effect on the Plaintiffs’ otherwise lawful, and constitutionally protected, right to use, discharge, transport, transfer, carry, store and possess firearms, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days (*see*, Section 1107.05(C) of enacted Proposal 2018-

1220), in violation of Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the binding precedent.

241. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over their possible charging and prosecution, because of the Defendants’ statements that they will enforce enacted Proposals.
242. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms and ammunition pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over being subjected to extreme risk protection orders, *inter alia*, merely because of their purchase of a firearm within the past 180 days.
243. FOAC, FPC, and FPF fear prosecution of their members, especially those who lawfully, in public places in the City of Pittsburgh, use, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large

capacity magazines” – because of the Defendants statements that they will enforce enacted Proposals, against anyone in violation of enacted Proposals, including, but not limited to, the Plaintiffs.

244. FOAC, FPC, and FPF fear that their members will be subject to extreme risk protection orders, *inter alia*, merely because the member purchased a firearm within the past 180 days or because the member possesses, uses, or controls a firearm as part of his/her employment.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals violates 18 Pa.C.S. § 6120;
- b. Declaring that the enacted Proposals are unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals;
- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and
- f. Such other relief as the Court deems just and equitable.

COUNT II: INJUNCTIVE RELIEF – 18 PA.C.S. § 6120 –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

245. The foregoing paragraphs are incorporated herein as if set forth in full.
246. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
247. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
248. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
249. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days. *See*, Section 1107.04(C) of enacted Proposal 2018-1220.
250. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution and Sections 5301 and 6120 of the Crimes Code.

251. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.
252. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
253. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;
- c. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

**COUNT III: DECLARATORY RELIEF – ARTICLE 1, SECTION 21 OF THE
PENNSYLVANIA CONSTITUTION –
PROPOSALS 2018-1218, 2018-1219, and 2018-1220**

254. The foregoing paragraphs are incorporated herein as if set forth in full.

255. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.
256. Article 1, Section 21 of the Pennsylvania Constitution provides:
- Right to bear arms.** The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.
257. Due to their length, Plaintiffs incorporate by reference the text of Proposals 2018-1218, 2018-1219, and 2018-1220, which are attached, respectively, as Exhibits C, D. and E.
258. The Proposals were promulgated, enacted, enforced and continue to be enforced by Defendants.
259. Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
260. Proposal 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. §§ 6106, 6109, as it prohibits individuals who are licensed to carry firearms from carrying firearms in the City in public places.
261. Proposal 2018-1218 and 2018-1219 are in direct conflict with, *inter alia*, 18 Pa.C.S. § 2707.1, 34 Pa.C.S. §§ 2505 - 2507, as they generally prohibit discharge of firearms, which the Commonwealth Court in *Firearm Owners Against Crime v. Lower Merion Township* already found to be preempted by Article 1, Section 21 of the Pennsylvania Constitution and Section 6120.

262. Proposals 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants term “assault weapons” and “large capacity magazines,” which the General Assembly, in relation to numerous proposed bills to prohibit the possession, purchase, and use of what Defendants term “assault weapons” and “large capacity magazines”, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania.
263. Proposal 2018-1219 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants categorize as “binary triggers”, “multi-burst trigger activators” and “rapid fire devices,” which the General Assembly, in relation to numerous proposed bills to prohibit such categories of devices, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania
264. Proposal 2018-1220 is in direct conflict with, *inter alia*, 50 P.S. § 7101, *et seq.*, and 23 Pa.C.S. § 6101, *et seq.*, as the General Assembly has already enacted two statutes that address individuals who are a present danger to themselves or others.
265. Even if the General Assembly had prohibited the conduct specified in the enacted Proposals, which it has not, Defendants are prohibited from promulgating, enacting, or enforcing any ordinance *consistent* with such law, pursuant to Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the Commonwealth Court’s holdings in *NRA v. City of Philadelphia* and *Clarke v. House of Representatives*.
266. A present controversy exists, as Defendants have publicly stated their intention to enforce the Proposals.

267. The current enforcement of these enacted Proposals has a chilling effect on the Plaintiffs' otherwise lawful, and constitutionally protected, right to use, discharge, transport, transfer, carry, store and possess firearms, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days (*see*, Section 1107.05(C) of enacted Proposal 2018-1220), in violation of Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the binding precedent.
268. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over their possible charging and prosecution, because of the Defendants' statements that they will enforce enacted Proposals.
269. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms and ammunition pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over being subjected to extreme risk protection orders, *inter alia*, merely because of their purchase of a firearm within the past 180 days.

270. FOAC, FPC, and FPF fear prosecution of their members, especially those who lawfully, in public places in the City of Pittsburgh, use, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – because of the Defendants statements that they will enforce enacted Proposals, against anyone in violation of enacted Proposals, including, but not limited to, the Plaintiffs.

271. FOAC, FPC, and FPF fear that their members will be subject to extreme risk protection orders, *inter alia*, merely because the member purchased a firearm within the past 180 days or because the member possesses, uses, or controls a firearm as part of his/her employment.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals violate Article 1, Section 21 of the Pennsylvania Constitution;
- b. Declaring that the enacted Proposals are unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals;
- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;

- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- f. Such other relief as the Court deems just and equitable.

**COUNT IV: INJUNCTIVE RELIEF – ARTICLE 1, SECTION 21 OF THE
PENNSYLVANIA CONSTITUTION –
PROPOSALS 2018-1218, 2018-1219, and 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)**

- 272. The foregoing paragraphs are incorporated herein as if set forth in full.
- 273. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
- 274. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
- 275. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
- 276. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a

firearm in the past 180 days. *See*, Section 1107.04(C) of enacted Proposal 2018-1220.

277. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution and Sections 5301 and 6120 of the Crimes Code.
278. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.
279. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
280. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;
- c. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally

- liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

COUNT V: DECLARATORY RELIEF – 53 PA.C.S. § 2962 –
PROPOSALS 2018-1218, 2018-1219, and 2018-1220
(ALL PLAINTIFFS V. ALL DEFENDANTS)

281. The foregoing paragraphs are incorporated herein as if set forth in full.
282. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.
283. 53 Pa.C.S. § 2962(c)(2) provides
- Prohibited powers.** A municipality shall not: . . . (2) Exercise powers contrary to or in limitation or enlargement of powers granted by statutes which are applicable in every part of this Commonwealth.
284. 53 Pa.C.S. § 2962(g) provides
- Regulation of firearms.**--A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms
285. Due to their length, Plaintiffs incorporate by reference the text of Proposals 2018-1218, 2018-1219, and 2018-1220, which are attached, respectively, as Exhibits C, D. and E.
286. The Proposals were promulgated, enacted, enforced and continue to be enforced by Defendants.
287. Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order

- any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
288. Proposal 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. §§ 6106, 6109, as it prohibits individuals who are licensed to carry firearms from carrying firearms in the City in public places.
289. Proposal 2018-1218 and 2018-1219 are in direct conflict with, *inter alia*, 18 Pa.C.S. § 2707.1, 34 Pa.C.S. §§ 2505 - 2507, as they generally prohibit discharge of firearms, which the Commonwealth Court in *Firearm Owners Against Crime v. Lower Merion Township* already found to be preempted by Article 1, Section 21 of the Pennsylvania Constitution and Section 6120.
290. Proposals 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants term “assault weapons” and “large capacity magazines,” which the General Assembly, in relation to numerous proposed bills to prohibit the possession, purchase, and use of what Defendants term “assault weapons” and “large capacity magazines”, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania.
291. Proposal 2018-1219 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants categorize as “binary triggers”, “multi-burst trigger activators” and “rapid fire devices,” which the General Assembly, in relation to numerous proposed bills to prohibit such categories of devices, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania

292. Proposal 2018-1220 is in direct conflict with, *inter alia*, 50 P.S. § 7101, *et seq.*, and 23 Pa.C.S. § 6101, *et seq.*, as the General Assembly has already enacted two statutes that address individuals who are a present danger to themselves or others.
293. Even if the General Assembly had prohibited the conduct specified in the enacted Proposals, which it has not, Defendants are prohibited from promulgating, enacting, or enforcing any ordinance *consistent* with such law, pursuant to Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the Commonwealth Court’s holdings in *NRA v. City of Philadelphia* and *Clarke v. House of Representatives*.
294. A present controversy exists, as Defendants have publicly stated their intention to enforce the Proposals.
295. The current enforcement of these enacted Proposals has a chilling effect on the Plaintiffs’ otherwise lawful, and constitutionally protected, right to use, discharge, transport, transfer, carry, store and possess firearms, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days (*see*, Section 1107.05(C) of enacted Proposal 2018-1220), in violation of Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the binding precedent.
296. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large

- capacity magazines” – pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over their possible charging and prosecution, because of the Defendants’ statements that they will enforce enacted Proposals.
297. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms and ammunition pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over being subjected to extreme risk protection orders, *inter alia*, merely because of their purchase of a firearm within the past 180 days.
298. FOAC, FPC, and FPF fear prosecution of their members, especially those who lawfully, in public places in the City of Pittsburgh, use, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – because of the Defendants statements that they will enforce enacted Proposals, against anyone in violation of enacted Proposals, including, but not limited to, the Plaintiffs.
299. FOAC, FPC, and FPF fear that their members will be subject to extreme risk protection orders, *inter alia*, merely because the member purchased a firearm within the past 180 days or because the member possesses, uses, or controls a firearm as part of his/her employment.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals violate the 53 Pa.C.S. § 2962;
- b. Declaring that the enacted Proposals are unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals;
- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- f. Such other relief as the Court deems just and equitable.

COUNT VI: INJUNCTIVE RELIEF – 53 PA.C.S. § 2962 –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS V. ALL DEFENDANTS)

300. The foregoing paragraphs are incorporated herein as if set forth in full.

301. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.

302. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme

- risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
303. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
304. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days. *See*, Section 1107.05(C) of enacted Proposal 2018-1220.
305. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution, Sections 5301 and 6120 of the Crimes Code, and 53 Pa.C.S. § 2962.
306. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.
307. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
308. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;
- c. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

**COUNT VII: DECLARATORY RELIEF – LIMITATIONS ON POWERS OF
SECOND CLASS CITIES –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)**

309. The foregoing paragraphs are incorporated herein as if set forth in full.

310. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.

311. 53 P.S. § 23158 restricts all Cities of the Second Class from enacting any general Ordinance where the penalty exceeds \$300.00, per occurrence.

312. Due to their length, Plaintiffs incorporate by reference the text of Proposals 2018-1218, 2018-1219, and 2018-1220 which are attached, respectively, as Exhibits C, D, and E.
313. The Proposals were promulgated, enacted, enforced and continue to be enforced by Defendants.
314. Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting individuals, including, but not limited to, the Plaintiffs, who are in violation of the enacted Proposals.
315. In violation of 53 P.S. § 23158, Proposals 2018-1218, 2018-1219, and 2018-1220 specify a penalty of “\$1000 and costs for each offense,” when the maximum penalty that may be imposed, as limited by Section 23158, is “three hundred dollars (\$300) for any one offense.” *See*, Exhibit C, D, and E.
316. 53 P.S. § 24586 restricts all Cities of the Second Class from enacting any unhealthful condition Ordinance where the penalty exceeds \$100.00, per occurrence.
317. In violation of 53 P.S. § 24586, Proposals 2018-1218, 2018-1219, and 2018-1220 specify a penalty of “\$1000 and costs for each offense,” when the maximum penalty that may be imposed, as limited by Section 24586, is “one hundred dollars.” *See*, Exhibit C, D, and E.
318. A present controversy exists, as Defendants have publicly stated their intention to enforce the Proposals.
319. The current enforcement of these enacted Proposals has a chilling effect on the Plaintiffs’ otherwise lawful, and constitutionally protected, right to use, discharge,

sell, transport, transfer, carry, store and possess firearms, in violation of Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, 53 P.S. § 23158, 53 P.S. § 24586, and the binding precedent.

320. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over their possible charging and prosecution, because of the Defendants’ statements that they will enforce enacted Proposals.
321. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms and ammunition pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over being subjected to extreme risk protection orders, *inter alia*, merely because of their purchase of a firearm within the past 180 days.
322. FOAC, FPC, and FPF fear prosecution of their members, especially those who lawfully, in public places in the City of Pittsburgh, use, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”,

“multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – because of the Defendants statements that they will enforce enacted Proposals, against anyone in violation of enacted Proposals, including, but not limited to, the Plaintiffs.

323. FOAC, FPC, and FPF fear that their members will be subject to extreme risk protection orders, *inter alia*, merely because the member purchased a firearm within the past 180 days or because the member possesses, uses, or controls a firearm as part of his/her employment.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals 2018-1218, 2018-1219, and 2018-1220 violate 53 P.S. §§ 23158, 24586;
- b. Declaring that the enacted Proposals 2018-1218, 2018-1219, and 2018-1220 are unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals 2018-1218, 2018-1219, and 2018-1220;
- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,

- f. Such other relief as the Court deems just and equitable.

COUNT VIII: INJUNCTIVE RELIEF – LIMITATIONS ON POWERS OF
SECOND CLASS CITIES –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

324. The foregoing paragraphs are incorporated herein as if set forth in full.
325. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
326. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
327. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
328. Enforcement of the enacted Proposals 2018-1218, 2018-1219, and 2018-1220 will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications.
329. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution, Sections 5301 and 6120 of the Crimes Code, 53 Pa.C.S. § 2962, and 53 P.S. §§ 23158, 24586.

330. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting Proposals 2018-1218, 2018-2019, and 2018-1220.
331. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
332. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law
333. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals 2018-1218, 2018-1219, and 2018-1220;
- b. Requiring that Defendants repeal enacted Proposals 2018-1218, 2018-1219, and 2018-1220;
- c. Ordering that Defendants pay reasonable expenses;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,

- e. Such other relief as the Court deems just and equitable.

COUNT IX: DECLARATORY RELIEF – CITY OF PITTSBURGH
HOME RULE CHARTER –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

334. The foregoing paragraphs are incorporated herein as if set forth in full.
335. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.
336. Article III, Section 310(i), of the City of Pittsburgh’s “Home Rule Charter” declares that:
- 310. POWERS OF COUNCIL** – Council shall have the following additional powers:
- . . .
- to exercise other powers conferred by this charter, by law or ordinance, consistent with the provisions of this charter.
337. In violation of Article III, Section 310(i), of the City of Pittsburgh’s “Home Rule Charter,” the Proposals violate the powers of the Council, as no law, as acknowledged by Defendants, grants or otherwise confers the Council with power to enact the Proposals and when the law, pursuant to Article 1, Section 21, 18 Pa.C.S. § 6120, and 53 Pa.C.S. § 2962(g), specifically precludes the Council from enacting the Proposals.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals violate the City of Pittsburgh's Home Rule Charter;
- b. Declaring that the enacted Proposals are unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals;
- d. Ordering that Defendants pay reasonable expenses;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- f. Such other relief as the Court deems just and equitable.

COUNT X: INJUNCTIVE RELIEF – CITY OF PITTSBURGH
HOME RULE CHARTER –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

- 338. The foregoing paragraphs are incorporated herein as if set forth in full.
- 339. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
- 340. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
- 341. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.

342. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days. *See*, Section 630.03(B.)(6.) of enacted Proposal 2018-1220.
343. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution, Sections 5301 and 6120 of the Crimes Code, 53 Pa.C.S. § 2962, and Article III, Section 310(i), of the City of Pittsburgh’s “Home Rule Charter.”
344. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.
345. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
346. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;
- c. Ordering that Defendants pay reasonable expenses;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

COUNT XI: DECLARATORY RELIEF – CITY OF PITTSBURGH CITY
COUNCIL RULES –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS V. ALL DEFENDANTS)

347. The foregoing paragraphs are incorporated herein as if set forth in full.

348. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.

349. Article VII., Section 1., of the Pittsburgh City Council “Rules of Council” declares that:

SECTION 1. No bill shall be introduced in Council unless deposited with the Clerk of Council by 12:00 noon Friday prior to the regular meeting of Council; but any member may present any bill or paper notwithstanding said rule, with the consent of the majority of members present at any meeting of Council. All bills deposited with the Clerk from the Mayor, City Council Members or department of the City must have accompanying documentation as to purpose, history and fiscal impact in a manner prescribed by Ordinance, the City Council Budget office, and the president of Council.

See, Exhibit Q.

350. Article III., Section 4., subsection C., of the Pittsburgh City Council “Rules of Council” declares, in pertinent part, that:

ii. After the comment period in a Council meeting has ended, if a resolution or ordinance is added to the agenda or amended to make its substance differ, residents or taxpayers shall be provided an additional opportunity to comment on the addition or amendment before a final vote is taken.

See, Exhibit Q.

351. The Proposals were not filed with the Clerk of Council until the day they were formally introduced on December 18, 2018.

352. The Proposals filed with the Clerk of Council did not have attached or otherwise accompanying them any “documentation as to purpose, history and fiscal impact.”

353. The Proposals were not introduced by a Member of City Council, but rather, by the City Clerk. *See*,

http://pittsburgh.granicus.com/MediaPlayer.php?view_id=2&clip_id=2938&meta_id=237415

354. No vote, including a vote to waive the requirement of Section 1 that the Proposals be filed by noon on Friday, December 14, 2018, was taken in relation to the Proposals on December 18, 2018.

355. In violation of Article VII., Section 1., of the Pittsburgh City Council “Rules of Council,” the Proposals were not filed with the Clerk of Council until December 18, 2018, no vote was taken on December 18, 2018 to waive the requirement that the Proposals be filed Friday, December 14, 2018, and the Proposals that were filed with the Clerk of Council on December 18, 2018 did not include “documentation as to purpose, history and fiscal impact.”

356. In fact, to this day, documentation as to “history and fiscal impact” in relation to the Proposals has never been filed with the Clerk of Council.
357. To the best of Plaintiff’s information, knowledge and belief, no documentation as to the “history and fiscal impact” even exists in relation to the Proposals as of the time of filing of this Complaint.
358. Furthermore, on March 20, 2019 and April 2, 2019, the substance of the Proposals were amended (*see*, Exhibits C, D, E) and on April 2, 2019, the amended Proposals were enacted.
359. At no time after the public hearing on January 24, 2019 and prior to the final vote, was the public provided an additional public hearing to comment on the amendments. In fact, the last amendments to the Proposals occurred only minutes before the City Council enacted the Proposals.
360. In violation of Article III., Section 4., Subsection C., of the Pittsburgh City Council “Rules of Council,” the residents and taxpayers were not offered an opportunity for additional public hearing in relation to the amendments.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals were enacted in violation of Article VII., Section 1., of the Pittsburgh City Council “Rules of Council;”
- b. Declaring that the enacted Proposals are therefore unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals;

- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- f. Such other relief as the Court deems just and equitable.

COUNT XII: INJUNCTIVE RELIEF – CITY OF PITTSBURGH CITY COUNCIL
RULES –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS V. ALL DEFENDANTS)

- 361. The foregoing paragraphs are incorporated herein as if set forth in full.
- 362. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
- 363. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
- 364. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
- 365. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could

be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days. *See*, Section 1107.04(C) of enacted Proposal 2018-1220.

366. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution, Sections 5301 and 6120 of the Crimes Code, 53 Pa.C.S. § 2962, and Articles III, Section 4., subsection C., and VII., Section 1., of the Pittsburgh City Council “Rules of Council;”
367. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.
368. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
369. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;

- c. Ordering that Defendants pay reasonable expenses, including attorney fees and cost;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

**COUNT XIII: DECLARATORY RELIEF – ARTICLE 2, SECTION 1 AND
ARTICLE III, SECTIONS 1, 4, AND 8 OF THE PENNSYLVANIA
CONSTITUTION –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)**

370. The foregoing paragraphs are incorporated herein as if set forth in full.

371. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.

372. Article 2, Section 1 of the Pennsylvania Constitution provides:

Legislative power. “The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.”

373. Article 3, Section 1 of the Pennsylvania Constitution provides:

Passage of laws. “No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose.”

374. Article 3, Section 4 of the Pennsylvania Constitution provides:

Consideration of bills. Every bill shall be considered on three different days in each House. All amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill and before the final vote is taken, upon written request addressed to the presiding officer of either House by at least 25% of the members elected to that House, any bill shall be read at length in that House. No bill shall become a law, unless on its final passage the vote is taken by yeas and nays, the names of the persons voting for and against it are entered on the journal, and a majority of the members elected to each House is recorded thereon as voting in its favor.

375. Article 3, Section 8 of the Pennsylvania Constitution provides:

Signing of bills. The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the General Assembly, after their titles have been publicly read immediately before signing; and the fact of signing shall be entered on the journal.

376. No bill was proposed and offered by City Council nor could a bill be proposed and offered by City Council, as neither it nor its members are Members of the Pennsylvania General Assembly.

377. The Proposals, as evidenced by their explicit terms, constitute proposed ordinances.

378. Neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals.

379. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, the Proposals were never considered on three different days in each House.

380. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, no member of the Pennsylvania House of Representatives nor the Senate voted in favor of the Proposals.

381. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, the presiding officer of each house never signed the Proposals.
382. In violation of Article 2, Section 1, the Proposals constitute legislation, which can only be considered and enacted by the General Assembly and then only in compliance with Article 3 of the Pennsylvania Constitution.
383. In violation of Article 3, Sections 1, 4, and 8, the Proposals were never enacted in compliance with the Constitutional requirements for any legislation.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals violate Article 2, Section 1 and Article 3, Sections 1, 4, and 8 of the Pennsylvania Constitution;
- b. Declaring that the Proposals are unlawful;
- c. Enjoining Defendants from enforcing the Proposals;
- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- f. Such other relief as the Court deems just and equitable.

**COUNT XIV: INJUNCTIVE RELIEF – ARTICLE 2, SECTION 1 AND ARTICLE
III, SECTIONS 1, 4, AND 8 OF THE PENNSYLVANIA CONSTITUTION –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220**
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

384. The foregoing paragraphs are incorporated herein as if set forth in full.
385. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
386. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
387. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
388. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days. *See*, Section 1107.04(C) of enacted Proposal 2018-1220.
389. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21, Article 2,

Section 1, and Article 3, Sections 1, 4, and 8 of the Pennsylvania Constitution, Sections 5301 and 6120 of the Crimes Code, and 53 Pa.C.S. § 2962.

390. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.

391. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.

392. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;
- c. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

COUNT XV: DECLARATORY RELIEF – 18 PA.C.S. § 913(d) –
UNLAWFUL SIGNAGE
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

393. The foregoing paragraphs are incorporated herein as if set forth in full.

394. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.

395. 18 Pa.C.S. § 913 provides, in pertinent part

(d) Posting of notice.--Notice of the provisions of subsections (a) and (e) shall be posted conspicuously at each public entrance to each courthouse or other building containing a court facility and each court facility, and no person shall be convicted of an offense under subsection (a)(1) with respect to a court facility if the notice was not so posted at each public entrance to the courthouse or other building containing a court facility and at the court facility unless the person had actual notice of the provisions of subsection (a).

(e) Facilities for checking firearms or other dangerous weapons.--Each county shall make available at or within the building containing a court facility by July 1, 2002, lockers or similar facilities at no charge or cost for the temporary checking of firearms by persons carrying firearms under section 6106(b) or 6109 or for the checking of other dangerous weapons that are not otherwise prohibited by law. Any individual checking a firearm, dangerous weapon or an item deemed to be a dangerous weapon at a court facility must be issued a receipt. Notice of the location of the facility shall be posted as required under subsection (d).

396. The signage erected by the City of Pittsburgh in front of the City-Council

Building does not advise individuals of their rights specified in Section 913(e), including, but not limited to, that lockers must be made available in the City-Council Building at no charge or cost to secure their firearms and other dangerous weapons.

397. As of the date of filing this Complaint, the Defendants have failed to remove the unlawful signage or otherwise correct it by complying with the requirements of Section 913(d).

398. Thus, in violation of 18 Pa.C.S. § 913(d), the signage erected by the City of Pittsburgh in front of the City-Council Building fails to advise individuals that secure lockers must be made available within the City-Council Building for the individual to secure his/her firearm or other dangerous weapon.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that erected sign violates 18 Pa.C.S. § 913(d);
- b. Declaring that the erected sign is unlawful;
- c. Enjoining Defendants from utilizing the erected sign;
- d. Directing Defendants to immediately remove the erected sign and if Defendants deem it appropriate to re-erect signage at the City-Council Building that any signage be in conformance with Section 913(d);
- e. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- f. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- g. Such other relief as the Court deems just and equitable.

COUNT XVI: INJUNCTIVE RELIEF – 18 PA.C.S. § 913(d) –
UNLAWFUL SIGNAGE
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

399. The foregoing paragraphs are incorporated herein as if set forth in full.
400. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
401. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the erected sign, as Defendants City and Mayor Peduto has expressed, after receipt of the undersigned's letter, that it is unlawful to possess a firearm or other dangerous weapon in the City-Council Building.
402. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
403. Enforcement of the erected sign will have a chilling effect on the otherwise lawful right to secure, free of charge, one's firearms and other dangerous weapons in a locker within the City-Council Building.
404. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21, Sections 5301 and 6120 of the Crimes Code, and 18 Pa.C.S. § 913(d).
405. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants erecting the sign.
406. An injunction is the appropriate method to stay the enforcement of a sign erected in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.

407. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the erected sign;
- b. Ordering Defendants to immediately remove the erected sign and if Defendants deem it appropriate to re-erect signage at the City-Council Building that any signage be in conformance with Section 913(d);
- c. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that judgment be entered against the Defendants as follows:

- a. Declaring that Defendant's actions in promulgating, enacting and enforcing the Proposals were contrary to Article 1, Sections 21 and 25 of

the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, the Home Rule Charter of Pittsburgh, and the Pittsburgh City Council Rules and thus are null and void;

- b. Declaring that the erected sign in front of the City-Council Building violates 18 Pa.C.S. § 913(d);
- c. Permanently enjoining Defendants, including all officials, agents and employees, and their successors, as follows:
 - i. Enjoining Defendants from enforcing the enacted Proposals and erected sign;
 - ii. Requiring Defendants repeal the enacted Proposals;
 - iii. Ordering Defendants to immediately remove the erected sign and if Defendants deem it appropriate to re-erect signage at the City-Council Building that any signage be in conformance with Section 913(d);
 - iv. Enjoining Defendant from implementing any other proposal, ordinance, law, or rule that regulates, in any manner, firearms and ammunition;
- d. Awarding Plaintiffs reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,

- f. Awarding Plaintiffs any additional or further relief this court finds appropriate, equitable, or just.

Respectfully Submitted,



Joshua Prince, Esq.

Attorney ID No. 306521

Civil Rights Defense Firm, P.C.

646 Lenape Rd

Bechtelsville, PA 19505

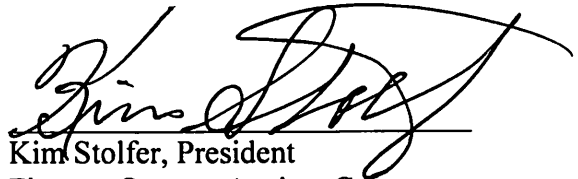
888-202-9297 ext. 81114

610-400-8439 (fax)

Joshua@CivilRightsDefenseFirm.com

VERIFICATION

I, Kim Stolfer, President of Firearm Owners Against Crime verify that I am authorized to make this Verification on behalf of Firearm Owners Against Crime and that all the information contained in the foregoing is true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



Kim Stolfer, President
Firearm Owners Against Crime

VERIFICATION

I, Brandon Combs, President of Firearms Policy Coalition, Inc., and Chairman of Firearms Policy Foundation, verify that I am authorized to make this Verification on behalf of Firearm Policy Coalition, Inc. and Firearms Policy Foundation and that all the information contained in the foregoing is true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read 'Brandon Combs', is written over a horizontal line.

Brandon Combs
President, Firearm Policy Coalition
Chairman, Firearms Policy Foundation

VERIFICATION

I, Matthew Boardley, subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities, hereby certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.


Matthew Boardley

VERIFICATION

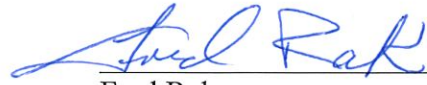
I, Saadyah Averick, subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities, hereby certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.

A handwritten signature in blue ink, appearing to read 'Saadyah Averick', written over a horizontal line.

Saadyah Averick

VERIFICATION

I, Fred Rak, subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities, hereby certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.



Fred Rak

Exhibit A
(AG Tom Corbett Letter of August 24,
2009)



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA 17120

TOM CORBETT
ATTORNEY GENERAL

16TH FLOOR
STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-3381

August 24, 2009

The Honorable Shawn C. Wagner
Adams County Office of the District Attorney
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325

Re Local Ordinances Concerning Firearms

Dear District Attorney Wagner:

Recently, my office has received a number of inquiries about the enactment of local ordinances pertaining to the use, possession or acquisition of firearms. These inquiries have chiefly concerned the authority of a political subdivision to legislate in this regard, and the related question of whether an adopted ordinance is legally enforceable. I am writing to share the position that my office has taken because your office, too, may be confronted with these issues and may find this information helpful.

Any review of this issue must, of course, begin with an examination of the Commonwealth's statutory law to determine what, if anything, it provides with respect to a political subdivision's ability to legislate on this subject. Our General Assembly has addressed this matter by enacting, as part of the Crimes Code, the provisions found in 18 Pa.C.S. § 6120 (Limitation on the regulation of firearms and ammunition), which contain this express prohibition: "No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth." § 6120(a). As used in this statute, "firearms" has, with one exception, the same meaning as in 18 Pa.C.S. § 5515 (Prohibiting of paramilitary training): "Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon."

In the more than thirty-five years since the enactment of § 6120(a), Pennsylvania's courts, including its Supreme Court, have uniformly interpreted its provisions to preempt local governments from legislating with respect to the ownership, use, possession or transportation of firearms. *See, e.g., Schneck v. City of Philadelphia*, 383 A.2d 227 (Pa. Cmwlth. 1978) (striking down a Philadelphia ordinance that regulated the acquisition and transfer of firearms). In

Air rifles are not "firearms" for purposes of § 6120(a). *See* § 6120(b) (incorporating definition found in 18 Pa.C.S. § 6304). An "air rifle" is: "Any air gun, air pistol, spring gun, spring pistol, B-B gun or any implement that is not a firearm which impels a pellet of any kind with a force that can reasonably be expected to cause bodily harm." It does not include paintball guns or markers. § 6304(g).

Schneck, the Commonwealth Court, sitting en *banc*, held that §6120(a) "clearly preempts local governments from regulating the lawful ownership, possession and transportation of firearms" It declared the ordinance to be invalid and unenforceable.

Nearly two decades later, in *Ortiz v. Commonwealth*, 681 A.2d 152 (Pa. 1996), our Supreme Court provided further guidance when it considered ordinances banning certain types of assault weapons passed by the cities of Philadelphia and Pittsburgh. Although both cities are home rule municipalities, and as such, each "may exercise any power or perform any function not denied by [the Pennsylvania] Constitution, by its home rule charter or by the General Assembly at any time," PA. CONST. art. IX, § 2, the court explained that, in the area of firearms, the General Assembly has, by enacting §6120(a), acted affirmatively to prohibit local regulation of the ownership, possession, use or transfer of firearms, thus denying all municipalities, including those which operate under a home rule charter, the authority to legislate in this regard. 681 A.2d at 155. The court *in Ortiz* also stressed that "[b]ecause the ownership of firearms is constitutionally protected, its regulation is a matter of statewide concern ... Thus, regulation of firearms is a matter of concern in all of Pennsylvania ... and the General Assembly, not city councils, is the proper forum for the imposition of such regulation." *Id.* at 156.

Given this straightforward explication of Pennsylvania law by its highest court, it is, and continues to be, my understanding that any effort by a municipality to legislate in a way that affects the ownership, use, possession, transfer or transportation of a firearm is not legitimate. On those occasions when my office's input has been sought, we have communicated this. Rulings to date in ongoing cases involving this issue support that conclusion.

The issue of firearms-related preemption is currently being litigated in three cases pending in the state appellate courts. All of the cases arise from the enactment of ordinances in Philadelphia. In *Clarke, et al. v. House of Representatives, et al.*, 957 A.2d 361 (Pa. Cmwlth. 2008) ("*Clarke I*"), two members of Philadelphia City Council filed suit in the Commonwealth Court against both houses of the General Assembly seeking a declaratory judgment that seven ordinances, dealing with firearms passed by Philadelphia City Council and signed by the Mayor in May of 2007, were legal and enforceable.² In an *en banc* ruling, Commonwealth Court

²The seven ordinances provided as follows:

Bill 040117-A limits handgun purchases to one per month and prohibits straw purchases and sales. **Bill 060700** mandates the reporting of lost or stolen firearms. **Bill 040136-A** requires a license in order to acquire a firearm within Philadelphia or bring a firearm into Philadelphia. **Bill 040137** requires the annual renewal of a gun license. **Bill 040312** states that a firearm can be confiscated from someone posing a risk of harm. **Bill 040315** prohibits the possession or transfer of assault weapons. **Bill 040118-A** requires that any person selling ammunition report the purchase and the purchaser to the Police Department.

957 A.2d at 362 (emphasis added).

sustained preliminary objections to the petition for review and dismissed the action on the basis it did not state a claim as to which relief could be granted. The court concluded that the ordinances were "not materially different from those presented in *Schneck* and *Ortiz*," and were therefore likewise preempted by §6120(a). The Council members have appealed to the Pennsylvania Supreme Court. Disposition of that appeal, which is docketed at No. 74 MAP 2008, is pending.

Commonwealth Court has addressed the preemption question even more recently in *National Rifle Association, et al. v. City of Philadelphia, et al. ("NRA ")*, ___ A.2d ___ 2009 WL 1692390 (Pa. Cmwlth. 06-18-09). That case involved a challenge to five ordinances passed by Philadelphia City Council in April of 2008.³ The court of common pleas determined, as a threshold matter, that the plaintiffs did not have standing to challenge three of the ordinances, specifically, the "imminent danger," "protection from abuse" and "lost or stolen gun" ordinances.⁴ The remaining two, the "straw purchaser" and "assault weapons" ordinances, it concluded, were preempted by §6120(a) and permanently enjoined city officials from enforcing them. The city appealed that ruling to Commonwealth Court which, in an *en banc* decision issued June 18, 2009, affirmed the lower court's ruling in all respects. A petition for allowance of appeal seeking review of Commonwealth Court's ruling was filed in the Pennsylvania Supreme Court on July 17, 2009. The case is docketed in that court at No. 399 EAL 2009.

The petitioners in *Clarke I* filed another suit in Commonwealth Court against the Commonwealth of Pennsylvania also challenging the 2008 ordinances. In that action, *Clarke, et al. v. Commonwealth of Pennsylvania*, No. 284 M.D. 2008 (Pa. Cmwlth.) ("Clarke II"), my

³ These five ordinances, the court said,

can be summarized as follows: **Bill No. 080017, "Imminent Danger Ordinance,"** authorizes the temporary removal of firearms from persons found by the court, upon affidavit of two police officers or a district attorney, to pose a risk of imminent harm to themselves or others; **Bill No. 080018-A, "Protection From Abuse Ordinance,"** prohibits persons subject to an active protection from abuse order from acquiring or possessing firearms when such order provides for confiscation of the firearms; **Bill No. 080032-A, "Lost or Stolen Gun Ordinance,"** requires gun owners to report their lost or stolen firearms to law enforcement officials within twenty-four hours after discovery of the loss or theft; **Bill No. 080033, "Assault Weapons Ordinance,"** prohibits the possession, sale and transfer of certain offensive weapons, including assault weapons, as well as certain contraband accessories or ammunition; and finally, **Bill No. 080035-A, "Straw Purchaser Ordinance,"** prohibits any person when purchasing a handgun from acting as a straw purchaser and prohibits the purchase of more than one handgun within any thirty-day period, except for any person who is not a straw purchaser.

2009 WL 1692390, *1 (emphasis added).

⁴ In its decision, the court of common pleas noted that although these three ordinances were not technically at issue in the case because of the lack of standing, it nevertheless felt the same reasoning would apply. In some media accounts of this decision and Commonwealth Court's affirmance, it was reported that these three ordinances had been "approved" by the courts. That is incorrect. Because of the lack of standing, the courts have never had jurisdiction to rule on these issues. If anything, the court of common pleas' remarks suggest a contrary outcome.

office, which represents the Commonwealth, filed preliminary objections seeking to dismiss the case on several grounds, including preemption. On December 3, 2008, Commonwealth Court sustained those objections and dismissed the case, based on its ruling in *Clarke I*. An appeal to the Pennsylvania Supreme Court, where it is docketed at No. 92 MAP 2008, is pending.

Obviously, the Supreme Court's forthcoming decisions in *Clarke I and II*, and any decision it might issue in *NRA*, if it chooses to hear the case, will furnish further guidance on this subject. In our view, the existing body of law, and its consistent application of the principles of preemption, at very minimum, counsels great caution in dealing with locally-enacted ordinances which affect firearm use, ownership, possession and transportation. Given what the courts have said, we believe it would be appropriate to treat such enactments as invalid.

I hope that this discussion of this issue will be helpful to you. Please contact Amy Zapp, Deputy Attorney General, Special Litigation Section, at (717) 705-4487, if my office can be of further assistance.

Sincerely,

TOM CORBETT Attorney General

Exhibit B
(DA Stephen Zappala Letter of January 9,
2019)



STEPHEN A. ZAPPALA, JR.
DISTRICT ATTORNEY

COUNTY OF ALLEGHENY

OFFICE OF THE DISTRICT ATTORNEY

303 COURTHOUSE
PITTSBURGH, PENNSYLVANIA 15219-2489
PHONE (412) 350-4400 • FAX (412) 350-4414

January 9, 2019

Honorable Corey O'Connor
Office of Councilman Corey O'Connor
City-County Building
414 Grant Street
Pittsburgh, PA 15219

In re: Proposed Ordinance to add Chapter 629: Ban on Specified
Firearm Accessories, Ammunition, and Modifications

Dear Councilman O'Connor:

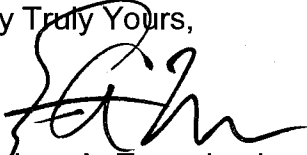
I greatly appreciate you forwarding me the proposed legislation, referenced above. As the District Attorney of Allegheny County for the past 20 years, I understand the efforts to curtail gun violence and limit the accessibility to assault weapons, ammunition, and gun accessories capable of causing widespread injury, destruction, and death. I am also aware of the city's effort previously under Mayor Ravenstahl which was decided against the city in 2010. While I certainly see the desire for such type of legislation at the state and federal levels, I believe that City Council does not have the authority to pass such legislation. In support of that opinion, I would refer you to 18 Pa.C.S. §6120; *Ortiz v. Commonwealth of Pennsylvania*, 681 A.2d 152 (Pa. 1996); *Dillon v. City of Erie*, 83 A.3d 467 (Pa.Cmwlt. 2014); and *Firearm Owners v. Lower Merion Township*, 151 A.3d 1172 (Pa.Cmwlt. 2016).

I am certain that you have sought the legal advice of your Law Department as to whether 18 Pa.C.S. §6119 would permit a criminal complaint to be filed against an individual member of Council who violates 18 Pa.C.S. §6120 by voting to adopt these types of regulations. Likewise, I am sure you have discussed the due process implications of enacting any legislation reviewed by your Law Department, and found to be unconstitutional. I am also certain that you realize that if such legislation passes, there is sure to be a resident of Allegheny County who seeks to file a private criminal complaint alleging a violation of §6120. Those are matters which will confront my Office, should the legislation be enacted. This letter is not intended to express any opinion on the merits or outcome of any effort to charge such violation against Council members. I do not have any knowledge of the legal opinion provided to you by your

Law Department. I mention the matters just to ensure their consideration by you and Council.

As indicated, I understand the desire of local governments to be proactive in reducing gun violence and the opportunities to cause the type of pain, suffering, and death, which recently occurred in the City of Pittsburgh. I believe however, that the legislative effort needs to come from the General Assembly of the Commonwealth of Pennsylvania and that the legislation currently before Council, if passed, will be found unconstitutional.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'SAZ', written over the closing 'Yours'.

Stephen A. Zappala, Jr.
District Attorney of Allegheny County

Exhibit C
(Proposal 2018-1218)

TITLE

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article I: Regulated Actions and Rights, by repealing the existing language of Chapter 607: Firearms, Ammunition, and Other Weapons, in its entirety and replacing it with a new Chapter 607: General Firearm Conduct, to update existing laws to meet the public safety needs of residents.

BODY

The Council of the City of Pittsburgh hereby enacts:

SECTION 1. The Pittsburgh Code of Ordinances is hereby amended and supplemented as follows at Title VI: Conduct, Article I: Regulated Actions and Rights, by repealing the existing language of Chapter 607 in its entirety and replacing with the following:

§ 607.01 DEFINITIONS

A. **Air Gun.** Any gun which uses air under pressure from pumping or other means to discharge projectiles at a muzzle velocity in excess of 200 feet per second.

B. **Ammunition.** Cartridge cases, shells, projectiles (including shot), primers, bullets (including restricted pistol bullets), propellant powder, or other devices or materials designed, re-designed, or intended for use in a firearm or destructive device.

1. Unless otherwise stated, for the purposes of this Chapter, ammunition does not include blanks.

C. **Assault Weapon.** Any of the following, but not including any firearm modified to render it permanently inoperable, unassembled parts or a combination parts possessed for the purposes of repairing or servicing a lawfully-possessed firearm:

1. A selective-fire firearm capable of fully automatic, semiautomatic or burst fire at the option of the user or a firearm that has the ability to accept a large capacity magazine;

2. Any of the following semiautomatic firearms:

a. Algimec Agmi;

b. Armalite AR-180;

c. Australian Automatic Arms SAP Pistol;

- d. Auto-Ordnance Thompson type;
- e. Avtomat Kalashnikov AK-47 type;
- f. Barrett Light-Fifty model 82A1;
- g. Beretta AR-70;
- h. Bushmaster Auto Rifle and Auto Pistol;
- i. Calico models M-900, M-950 and 100-P. 20170HB0194PN0159 - 2 - 1 2 3 4 5
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30;
- j. Chartered Industries of Singapore SR-88;
- k. Colt AR-15 and Sporter;
- l. Daewoo K-1, K-2, Max-1 and Max-2;
- m. Ecom MK-IV, MP-9 and MP-45;
- n. Fabrique Nationale FN/FAL, FN/LAR or FN/FNC;
- o. FAMAS MAS 223;
- p. Feather AT-9 and Mini-AT;
- q. Federal XC-900 and XC-450;
- r. Franchi SPAS-12 and Law-12;
- s. Galil AR and ARM;
- t. Goncz High-Tech Carbine and High-Tech Long Pistol;
- u. Heckler & Koch HK-91, HK-93, HK-94 and SP-89;
- v. Holmes MP-83;
- w. Intratec TEC-9 and Scorpion;
- x. Iver Johnson Enforcer model 3000;
- y. MAC-10, MAC-11 and MAC-11 Carbine type;

- z. Ruger Mini-14/5F folding stock model only;
- aa. Scarab Skorpion;
- bb. SIG 57 AMT and 500 series;
- cc. Spectre Auto Carbine and Auto Pistol;
- dd. Springfield Armory BM59, SAR-48 and G-3;
- ee. Sterline MK-6 and MK-7;
- ff. Steyr AUG;
- gg. Street Sweeper and Striker 12 revolving cylinder shotguns;
- hh. USAS-12. (xxxv) UZI Carbine, Mini-Carbine and Pistol;
- ii. Weaver Arms Nighthawk; and
- jj. Wilkinson "Linda" Pistol;

3. A semiautomatic firearm not specifically listed in § 607.01(A)(2) that meets any of the following criteria:

- a. The firearm is a semiautomatic rifle that has an ability to accept a detachable magazine and has at least two of the following:
 - i. A folding or telescoping stock;
 - ii. A pistol grip that protrudes conspicuously beneath the action of the weapon;
 - iii. A bayonet mount;
 - iv. A flash suppressor or threaded barrel designed to accommodate a flash suppressor; and
 - v. A grenade launcher;
- b. The firearm is a semiautomatic pistol that has an ability to accept a detachable magazine and has at least two of the following:
 - i. An ammunition magazine that attaches to the pistol outside of the pistol grip;

- ii. A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip or silencer;
- iii. A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned;
- iv. A manufactured weight of 50 ounces or more when the pistol is unloaded; and
- v. A semiautomatic version of an automatic firearm;

c. The firearm is a semiautomatic shotgun that has at least two of the following:

- i. A folding or telescoping stock;
- ii. A pistol grip that protrudes conspicuously beneath the action of the weapon;
- iii. A fixed magazine capacity in excess of five rounds; and
- iv. An ability to accept a detachable magazine;

4. A part or combination of parts designed or intended to convert a firearm into an assault weapon or any combination of parts from which an assault weapon may be rapidly assembled if those parts are in possession or under the control of the same person.

D. Facsimile Firearm. Any toy, antique, starter pistol, or other object that bears a reasonable resemblance to an operable firearm, or any object that impels a projectile by means of a spinning action, compression, or CO2 cartridge.

E. Firearm. Any pistol, handgun, rifle, machine gun, air rifle, air pistol, blank gun, BB gun, or other instrument from which steel or metal projectiles are propelled, or which may be readily converted to expel a projectile, or other instruments propelling projectiles which are designed or normally used for no other primary purpose than as a weapon, including, for the purposes of this Chapter, the frame or receiver of the weapon, and excluding the following:

- 1. A crossbow;
- 2. A recurve bow;

3. A compound bow; and

4. A longbow.

F. Large Capacity Magazine. A firearm magazine, belt, drum, feed strip or similar device that has the capacity of, or can be readily restored or converted to accept, more than 10 rounds of ammunition but does not include:

1. A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition;
2. A .22 caliber tube ammunition feeding device;
3. A tubular magazine that is contained in a lever-action firearm; and
4. A magazine that is permanently inoperable.

§ 607.02 PROHIBITION ON NON-SPECIFIED FIREARMS AND WEAPONS

A. It shall be unlawful to manufacture, sell, purchase, transport, carry, store, or otherwise hold in one's possession within the City of Pittsburgh firearms or weapons designed or intended to cause injury or death to persons or damage to property for which no common lawful purpose exists, including, but not limited to the following:

1. An anti-tank gun;
2. A bazooka;
3. A bomb;
4. A booby trap;
5. A flamethrower;
6. A grenade;
7. A mine;
8. A mortar;

9. A recoilless rifle; and

10. A rifle grenade launcher.

§ 607.03 PROHIBITION ON ASSAULT WEAPONS

A. It shall be unlawful to manufacture, sell, purchase, transport, carry, store, or otherwise hold in one's possession within the City of Pittsburgh an assault weapon, as defined herein.

§ 607.04 CARRYING OF OPERABLE FIREARMS PROHIBITED

A. No person shall carry in any vehicle or concealed or unconcealed on or about their person except when on their land or in their abode or fixed place of business any firearm.

B. This Section shall not apply to any person specifically exempted under 18 P.S. Sec. 610(b) (1-10).

§ 607.05 CARRYING OF FASCIMILE FIREARMS PROHIBITED

A. No person shall carry in any vehicle or concealed or unconcealed on or about their person except when on their land or in their abode or fixed place of business any facsimile firearm with the intent to alarm, intimidate, terrify, or threaten any person.

§ 607.06 DISCHARGE

A. No person shall discharge any of the following anywhere within the City, except in the following circumstances:

1. Firearms, except:

- a. When under appropriate supervision at duly-established target ranges; or
- b. When in circumstances permitted by the Crimes Code Act of December 6, 1972, P.L. 334, as amended (18 Pa. C.S. Sec. 101 *et seq.*);

2. Air guns, except:

- a. When under appropriate supervision at duly-established target ranges; or

b. Where the firing or discharge and missile flight are wholly confined to the user's own property, or the property of another from whom express consent has been granted;

3. Bows, including those listed in § 607.01(E)(1) through § 607.01(E)(4);

a. When under appropriate supervision at duly-established target ranges; or

b. Where the firing or discharge and arrow or projectile flight are wholly confined to the user's own property, or the property of another from whom express consent has been granted.

§ 607.07 EXEMPTIONS

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws;

2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:

a. The firearm or item is housed appropriated;

b. The firearm or item is secured from handling by those unauthorized to do so; and

c. The firearm or device is unloaded, when and if possible; and

3. A person lawfully owning or otherwise possessing an assault weapon before the effective date of this Chapter.

§ 607.08 SELLING, TRANSFERRING, PURCHASING, AND RECEIVING OF AMMUNITION

A. No individual, retailer, wholesale business, firm, or corporation within the City of Pittsburgh shall be permitted to engage in the following activities:

1. Purchase or receive ammunition without producing at least one of the following forms of photo identification at the time of purchase or receipt of the ammunition, whichever occurs earlier:

a. A current, unexpired Commonwealth of Pennsylvania photo driver's license;

b. A photo identification card issued by the Commonwealth of Pennsylvania;

- c. A current, unexpired photo driver's license from another state; or
- d. Any comparable current photo ID issued by a governmental agency of the United States.

2. Sell or transfer ammunition to any person who:

- a. Fails to produce an acceptable form of photo identification as described in § 607.08(A)(1); or
- b. Is under the age of 18.

§ 607.09 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

A. Any individual, retailer, wholesale business, firm, or corporation found in violation of this Chapter or otherwise fails to comply shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

B. Each day of a continuing violation of or failure to comply with this Chapter shall constitute and separate and distinct offense.

C. Prosecution under § 607.02 and § 607.03 shall be subject to the defenses and exemptions stipulated in 18 PA C.S.A. 908(b), as amended.

§ 607.10 APPLICATION OF CHAPTER

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Title VI: Conduct, Article I: Regulated Actions and Rights.

§ 607.11 EFFECTIVE DATE

A. This Chapter shall take effect 60 days after its enactment by City Council.

§ 607.12 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Chapter. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter.

As Amended on March 20, 2019

Amendment to 2018-1218

TITLE

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by repealing Chapter 607: Firearms, Ammunition, and Other Weapons in its entirety, and enacting and adding Article XI: Weapons to the Pittsburgh Code of Ordinances in order to meet the public safety needs of residents.

BODY

The Council of the City of Pittsburgh hereby enacts:

SECTION I. Chapter 607 of Title VI: Conduct, Article I: Regulated Actions and Rights of The Pittsburgh Code of Ordinances is repealed in its entirety.

SECTION II. The Pittsburgh Code of Ordinances is amended to add Article XI: Weapons.

SECTION III. Article XI: Weapons shall provide as follows in Chapter 1101: General Weapons Provisions:

§ 1101.01 DEFINITIONS

A. **Air Gun.** Any gun which uses air under pressure from pumping or other means to discharge projectiles at a muzzle velocity in excess of 200 feet per second.

B. **Ammunition.** Cartridge cases, shells, projectiles (including shot), primers, bullets, propellant powder, or other devices or materials designed, re-designed, or intended for use in a firearm or destructive device.

C. **Facsimile Firearm.** Any toy, antique, starter pistol, or other object that bears a reasonable resemblance to an operable firearm, or any object that impels a projectile by means of a spinning action, compression, or CO2 cartridge.

D. **Firearm.** Any pistol, handgun, rifle, machine gun, air rifle, air pistol, blank gun, BB gun, or other instrument from which steel or metal projectiles are propelled, or which may be readily converted to expel a projectile, or other instruments propelling projectiles which are designed or normally used for no other primary purpose than as a weapon, including, for the purposes of this Chapter, the frame or receiver of the weapon, and excluding the following:

1. A crossbow;

2. A recurve bow;
3. A compound bow; and
4. A longbow.

§ 1101.02 PROHIBITION ON SPECIFIED WEAPONS

A. It shall be unlawful to hold in one's possession within the City of Pittsburgh weapons designed or intended to cause injury or death to persons or damage to property for which no common lawful purpose exists, including, but not limited to the following:

1. An anti-tank gun;
2. A bazooka;
3. A bomb;
4. A booby trap;
5. A flamethrower;
6. A grenade;
7. A mine; and
8. A mortar shell.

B. Nothing in this Section shall be deemed to restrict a person's ability to possess a weapon in circumstances permitted by 18 Pa. C.S. § 908.

§ 1101.03 CARRYING OF FACSIMILE FIREARMS PROHIBITED

A. No person shall carry in any vehicle or concealed or unconcealed on or about their person except when on their land or in their abode or fixed place of business any facsimile firearm with the intent to alarm, intimidate, terrify, or threaten any person.

§ 1101.04 USE OF WEAPONS BY DISCHARGE

A. No person shall use a weapon to discharge ammunition or arrows in any public place within the City of Pittsburgh, except in the following circumstances:

1. Firearms, except:

- a. When under appropriate supervision at duly-established target ranges; or
- b. When in circumstances permitted by the Crimes Code Act of December 6, 1972, P.L. 334, as amended (18 Pa. C.S. Sec. 101 *et seq.*);

2. Air guns, except:

- a. When under appropriate supervision at duly-established target ranges; or
- b. Where the firing or discharge and missile flight are wholly confined to the user's own property, or the property of another from whom express consent has been granted;

3. Bows, including those listed in "§ 1101.01(D)(1) through § 1101.01(D)(4)," except:

- a. When under appropriate supervision at duly-established target ranges; or
- b. Where the firing or discharge and arrow or projectile flight are wholly confined to the user's own property, or the property of another from whom express consent has been granted.

B. For purposes of this Section, "public place" shall include streets, parks, open spaces, public buildings, public accommodations, businesses and other locations to which the general public has a right to resort, but does not include a private home or residence or any duly established site for the sale or transfer of firearms or for firearm training, practice or competition.

§ 1101.05 EXEMPTIONS

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws; and
2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:
 - a. The firearm or item is housed appropriately;
 - b. The firearm or item is secured from handling by those unauthorized to do so; and
 - c. The firearm or device is unloaded, when and if possible.

B. Nothing in this Chapter shall be deemed to restrict a person's ability to use a lawfully possessed firearm for immediate and otherwise lawful protection of a person's or another person's person or property or for lawful hunting purposes.

§ 1101.06 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

A. Any person found in violation of this Chapter shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

B. Each day of a continuing violation of or failure to comply with § 1101.02 of this Chapter shall constitute a separate and distinct offense.

§ 1101.07 APPLICATION OF CHAPTER

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified in Title VI: Conduct, Article I: Regulated Actions and Rights or elsewhere in Article XI: Weapons.

§ 1101.08 EFFECTIVE DATE

A. This Chapter shall take effect 60 days after its enactment by City Council.

§ 1101.9 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Chapter. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter.

§ 1101.10 FINDINGS AND PURPOSES

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and

3. Empirical study and recent history demonstrate that assault weapons and large capacity magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions of assault weapons and large capacity magazines are correlated with reductions in mass shootings, and the use of assault weapons and large capacity magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using assault weapons and large capacity magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for assault weapons and large capacity magazines that can justify the consequences of tolerating the proliferation of military-style weaponry in the community; and

4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus upheld prohibitions on assault weapons, large capacity magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of firearms; and

5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of firearms, ammunition, and ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of assault weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of assault weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 Pa. C.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 Pa. C.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation"; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians by prohibiting assault weapons, or to allow the

elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and

10. The City Council has authority to legislate regarding the use of firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. Appropriate restrictions on the use of assault weapons will promote public safety, even if not as completely as a prohibition, both by imposing criminal liability on those who would use assault weapons in public spaces and by allowing police officers to intercede earlier and deter future tragedies.

SECTION IV. Article XI: Weapons shall provide as follows in Chapter 1102: Use of Assault Weapons in Public Places:

§ 1102.01 DEFINITIONS

A. Applicable definitions set forth in § 1101.01 shall apply as well in this Chapter 1102.

B. **Assault Weapon.** Any of the following, but not including any firearm modified to render it permanently inoperable, or unassembled parts or a combination of parts possessed for the purposes of repairing or servicing a lawfully-possessed firearm:

1. A selective-fire firearm capable of fully automatic, semi-automatic or burst fire at the option of the user that has the ability to accept a large capacity magazine;

2. Any of the following semi-automatic firearms:

a. Algimec Agmi;

b. Armalite AR-180;

c. Australian Automatic Arms SAP Pistol;

d. Auto-Ordnance Thompson type;

e. Avtomat Kalashnikov AK-47 type;

f. Barrett Light-Fifty model 82A1;

g. Beretta AR-70;

h. Bushmaster Auto Rifle and Auto Pistol;

- i. Calico models M-900, M-950 and 100-P;
- j. Chartered Industries of Singapore SR-88;
- k. Colt AR-15 and Sporter;
- l. Daewoo K-1, K-2, Max-1 and Max-2;
- m. Ecom MK-IV, MP-9 and MP-45;
- n. Fabrique Nationale FN/FAL, FN/LAR or FN/FNC;
- o. FAMAS MAS 223;
- p. Feather AT-9 and Mini-AT;
- q. Federal XC-900 and XC-450;
- r. Franchi SPAS-12 and Law-12;
- s. Galil AR and ARM;
- t. Goncz High-Tech Carbine and High-Tech Long Pistol;
- u. Heckler & Koch HK-91, HK-93, HK-94 and SP-89;
- v. Holmes MP-83;
- w. Intratec TEC-9 and Scorpion;
- x. Iver Johnson Enforcer model 3000;
- y. MAC-10, MAC-11 and MAC-11 Carbine type;
- z. Ruger Mini-14/5F folding stock model only;
- aa. Scarab Skorpion;
- bb. SIG 57 AMT and 500 series;
- cc. Spectre Auto Carbine and Auto Pistol;
- dd. Springfield Armory BM59, SAR-48 and G-3;
- ee. Sterline MK-6 and MK-7;
- ff. Steyr AUG;
- gg. Street Sweeper and Striker 12 revolving cylinder shotguns;

- hh. USAS-12;
- ii. UZI Carbine, Mini-Carbine and Pistol;
- jj. Weaver Arms Nighthawk; and
- kk. Wilkinson "Linda" Pistol;

3. A semi-automatic firearm not specifically listed in § 1102.01(B)(2) that meets any of the following criteria:

a. The firearm is a semi-automatic, centerfire rifle that has an ability to accept a detachable magazine and has at least one of the following:

- i. A folding or telescoping stock;
- ii. A pistol grip that protrudes conspicuously beneath the action of the weapon;
- iii. A thumbhole stock;
- iv. A second handgrip or a protruding grip that can be held by the non-trigger hand;
- v. A flash suppressor, muzzle brake, muzzle compensator, or threaded barrel designed to accommodate a flash suppressor, muzzle brake, or muzzle compensator; or
- vi. A grenade launcher or flare launcher.

b. The firearm is a semi-automatic, centerfire rifle with a fixed magazine with the ability to accept more than 10 rounds.

c. The firearm is a semi-automatic, centerfire rifle that has an overall length of less than 30 inches.

d. The firearm is a semi-automatic, centerfire pistol that has an ability to accept a detachable magazine and has at least one of the following:

- i. Capacity to accept an ammunition magazine that attaches to the pistol outside of the pistol grip;
- ii. A second handgrip;
- iii. A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; or

iv. A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned, except a slide that encloses the barrel.

e. The firearm is a semi-automatic, centerfire pistol with a fixed magazine that has the ability to accept more than 10 rounds.

f. The firearm is a semi-automatic, centerfire shotgun that has at least one of the following:

i. A folding or telescoping stock;

ii. A pistol grip that protrudes conspicuously beneath the action of the weapon;

iii. A thumbhole stock;

iv. A vertical handgrip; or

v. An ability to accept a detachable magazine.

g. Any shotgun with a revolving cylinder.

C. Large Capacity Magazine. A firearm magazine, belt, drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept, more than 10 rounds of ammunition. This definition shall not be construed to include the following:

1. A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition;

2. A .22 caliber tube ammunition feeding device;

3. A tubular magazine that is contained in a lever-action firearm; and

4. A magazine that is permanently inoperable.

D. Selective Fire. Refers to the adjustment capability of weapons to fire in semi-automatic, multi-shot bursts, and / or automatic modes.

E. Semi-Automatic. A firearm that fires a single round for each pull of the trigger and uses the force from the discharged round to chamber a new round immediately after each round is fired.

§ 1102.02 PROHIBITION ON USE OF ASSAULT WEAPONS

A. It shall be unlawful to use any assault weapon in any public place within the City of Pittsburgh.

B. For purposes of this Section, "public place" shall include streets, parks, open spaces, public buildings, public accommodations, businesses and other locations to which the general public has a right to resort, but does not include a private home or residence or any duly established site for the sale or transfer of firearms or for firearm training, practice or competition.

C. For purposes of this Section, "use" of an assault weapon does not include possession, ownership, transportation or transfer. "Use" of an assault weapon shall include, but is not limited to:

1. Discharging or attempting to discharge an assault weapon;
2. Loading an assault weapon with ammunition;
3. Brandishing an assault weapon;
4. Displaying a loaded assault weapon;
5. Pointing an assault weapon at any person; and
6. Employing an assault weapon for any purpose prohibited by the laws of Pennsylvania or of the United States.

D. For purposes of this Section, there shall be a rebuttable presumption that an assault weapon is loaded if fitted with a magazine.

§ 1102.03 PENALTIES FOR VIOLATIONS

A. Any person found in violation of this Chapter shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

§ 1102.04 EXEMPTIONS

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in executing its official duties, including those charged with the enforcement of laws; and
2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:
 - a. The firearm or item is housed appropriately;

b. The firearm or item is secured from handling by those unauthorized to do so; and

c. The firearm or device is unloaded, when and if possible.

B. Nothing in this Chapter shall be deemed to restrict a person's ability to use a lawfully possessed firearm for immediate and otherwise lawful protection of a person's or another person's person or property or for lawful hunting purposes.

§ 1102.05 APPLICATION OF CHAPTER

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI: Weapons.

§ 1102.06 EFFECTIVE DATE

A. This Chapter shall take effect 60 days after its enactment by City Council.

§ 1102.07 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Chapter. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is held to be invalid, unenforceable or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity or application of the remaining portions of this Chapter.

§ 1102.08 FINDINGS AND PURPOSES

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and

2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and

3. Empirical study and recent history demonstrate that assault weapons and large capacity magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions of assault weapons and large capacity magazines are correlated with reductions in mass shootings, and the use of assault weapons and large

capacity magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using assault weapons and large capacity magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for assault weapons and large capacity magazines that can justify the consequences of tolerating the proliferation of military-style weaponry in the community; and

4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus upheld prohibitions on assault weapons, large capacity magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of firearms; and

5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of firearms, ammunition, and ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of assault weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of assault weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 Pa. C.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 Pa. C.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation"; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians by prohibiting assault weapons, or to allow the

elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and

10. The City Council has authority to legislate regarding the use of firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. Appropriate restrictions on the use of assault weapons will promote public safety, even if not as completely as a prohibition, both by imposing criminal liability on those who would use assault weapons in public spaces and by allowing police officers to intercede earlier and deter future tragedies.

SECTION V. Article XI: Weapons shall provide as follows in Chapter 1103: Authorized Prohibition of Assault Weapons:

§ 1103.01 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01 and 1102.01 shall apply as well in this Chapter 1103.

§ 1103.02 AUTHORIZED PROHIBITION OF ASSAULT WEAPONS

A. Following the Effective Date as set forth in § 1103.06, it shall be unlawful to own, possess, transfer or transport an assault weapon within the City of Pittsburgh.

§ 1103.03 EXEMPTIONS

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws;

2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:

a. The firearm or item is housed appropriately;

b. The firearm or item is secured from handling by those unauthorized to do so; and

- c. The firearm or device is unloaded, when and if possible; and
- 3. A person lawfully owning or otherwise possessing an assault weapon before the effective date of this Chapter.

§ 1103.04 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

- A. Any person found in violation of this Chapter or who otherwise fails to comply shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.
- B. Each day of a continuing violation of or failure to comply with this Chapter shall constitute a separate and distinct offense.

§ 1103.05 APPLICATION OF CHAPTER

- A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI.

§ 1103.06 EFFECTIVE DATE

- A. Section 1103.02 of this Chapter shall take effect 60 days after, and to the extent permitted by, action of the Pennsylvania General Assembly or the Pennsylvania Supreme Court that has the effect of authorizing the implementation and enforcement of § 1103.02 by the City of Pittsburgh.

§ 1103.07 SEVERABILITY

- A. Severability is intended throughout and within the provisions of this Chapter. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter.

§ 1103.08 FINDINGS AND PURPOSES

- A. For the purposes of this Chapter, the City Council does hereby find that:
 - 1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and

2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and

3. Empirical study and recent history demonstrate that assault weapons and large capacity magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions of assault weapons and large capacity magazines are correlated with reductions in mass shootings, and the use of assault weapons and large capacity magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using assault weapons and large capacity magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for assault weapons and large capacity magazines that can justify the consequences of tolerating the proliferation of military-style weaponry in the community; and

4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus upheld prohibitions on assault weapons, large capacity magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of firearms; and

5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of firearms, ammunition, and ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of assault weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of assault weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 Pa. C.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 Pa. C.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of firearms in or into the highways

and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation”; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians by prohibiting assault weapons, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents’ justified demands for protection; and

10. The City Council has authority to legislate regarding the use of firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. Appropriate restrictions on the use of assault weapons will promote public safety, even if not as completely as a prohibition, both by imposing criminal liability on those who would use assault weapons in public spaces and by allowing police officers to intercede earlier and deter future tragedies.

As Amended on April 2, 2019



Text File

Introduced: 12/14/2018

Bill No: 2018-1218, **Version:** 3

Committee: Committee on Public Safety
Services

Status: Mayor's Office for Signature

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by repealing Chapter 607: Firearms, Ammunition, and Other Weapons in its entirety, and enacting and adding Article XI: Weapons, Chapter 1101: General Weapons Provisions, Chapter 1102: Use of Assault Weapons in Public Places, and Chapter 1103: Authorized Prohibition of Assault Weapons to the Pittsburgh Code of Ordinances in order to meet the public safety needs of residents.

(Public Hearing held 1/24/19; Post Agenda held 2/12/19)

The Council of the City of Pittsburgh hereby enacts:

SECTION I. Chapter 607 of Title VI: Conduct, Article I: Regulated Actions and Rights of The Pittsburgh Code of Ordinances is repealed in its entirety.

SECTION II. The Pittsburgh Code of Ordinances is amended to add Article XI: Weapons.

SECTION III. Article XI: Weapons shall provide as follows in Chapter 1101: General Weapons Provisions:

§ 1101.01 DEFINITIONS

A. **Air Gun.** Any gun which uses air under pressure from pumping or other means to discharge projectiles at a muzzle velocity in excess of 200 feet per second.

B. **Ammunition.** Cartridge cases, shells, projectiles (including shot), primers, bullets, propellant powder, or other devices or materials designed, re-designed, or intended for use in a Firearm or destructive device.

C. **Facsimile Firearm.** Any toy, antique, starter pistol, or other object that bears a reasonable resemblance to an operable Firearm, or any object that impels a projectile by means of a spinning action, compression, or CO2 cartridge.

D. **Firearm.** Any pistol, handgun, rifle, machine gun, air rifle, air pistol, blank gun, BB gun, or other instrument from which steel or metal projectiles are propelled, or which may be readily converted to expel a projectile, or other instruments propelling projectiles which are designed or normally used for no other primary purpose than as a weapon, including, for the purposes of this Chapter, the frame or receiver of the weapon, and

excluding the following:

1. A crossbow;
2. A recurve bow;
3. A compound bow; and
4. A longbow.

§ 1101.02 PROHIBITION ON WEAPONS THAT ARE NOT FIREARMS

A. It shall be unlawful to hold in one's possession within the City of Pittsburgh weapons designed or intended to cause injury or death to persons or damage to property for which no common lawful purpose exists, including, but not limited to the following:

1. An anti-tank gun;
2. A bazooka;
3. A bomb;
4. A booby trap;
5. A flamethrower;
6. A grenade;
7. A mine; and
8. A mortar shell.

B. Nothing in this Section shall be deemed to restrict a person's ability to possess a Firearm or weapon in circumstances permitted by 18 Pa. C.S. § 908.

§ 1101.03 CARRYING OF FACSIMILE FIREARMS PROHIBITED

A. No person shall carry in any vehicle or concealed or unconcealed on or about their person except when on their land or in their abode or fixed place of business any Facsimile Firearm with the intent to alarm, intimidate, terrify, or threaten any person.

§ 1101.04 USE OF WEAPONS BY DISCHARGE

A. No person shall use a weapon to discharge Ammunition or arrows in any public place within the City of Pittsburgh, except in the following circumstances:

1. Firearms, except:

- a. When under appropriate supervision at duly-established target ranges; or
- b. When in circumstances permitted by the Crimes Code Act of December 6, 1972, P.L. 334, as amended (18 Pa. C.S. Sec. 101 *et seq.*);

2. Air Guns, except:

- a. When under appropriate supervision at duly-established target ranges; or
- b. Where the firing or discharge and missile flight are wholly confined to the user's own property, or the property of another from whom express consent has been granted;

3. Bows, including those listed in "§ 1101.01(D)(1) through § 1101.01(D)(4)," except:

- a. When under appropriate supervision at duly-established target ranges; or
- b. Where the firing or discharge and arrow or projectile flight are wholly confined to the user's own property, or the property of another from whom express consent has been granted.

B. For purposes of this Section, "public place" shall include streets, parks, open spaces, public buildings, public accommodations, businesses and other locations to which the general public has a right to resort, but does not include a private home or residence or any duly established site for the sale or transfer of Firearms or for Firearm training, practice or competition.

§ 1101.05 EXEMPTIONS

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

- 1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws; and

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2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:

- a. The Firearm or item is housed appropriately;
- b. The Firearm or item is secured from handling by those unauthorized to do so; and
- c. The Firearm or device is unloaded, when and if possible.

B. Nothing in this Chapter shall be deemed to restrict a person's ability to use a lawfully possessed Firearm for immediate and otherwise lawful protection of a person's or another person's person or property or for lawful hunting purposes.

§ 1101.06 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

A. Any person found in violation of this Chapter shall be fined up to \$1,000 and costs for each offense.

B. Each day of a continuing violation of or failure to comply with § 1101.02 of this Chapter shall constitute a separate and distinct offense.

§ 1101.07 APPLICATION OF CHAPTER

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified in Title VI: Conduct, Article I: Regulated Actions and Rights or elsewhere in Article XI: Weapons.

§ 1101.08 EFFECTIVE DATE

A. This Chapter shall take effect 60 days after its enactment.

§ 1101.9 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any

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portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons.

§ 1101.10 FINDINGS AND PURPOSES

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and
3. Empirical study and recent history demonstrate that Assault Weapons and Large Capacity Magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions of Assault Weapons and Large Capacity Magazines are correlated with reductions in mass shootings, and the use of Assault Weapons and Large Capacity Magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using Assault Weapons and Large Capacity Magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for Assault Weapons and Large Capacity Magazines that can justify the consequences of tolerating the proliferation of military-style weaponry in the community; and
4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus upheld prohibitions on Assault Weapons, Large Capacity Magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of Firearms; and
5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of Firearms, and, as to 18 Pa. C.S. § 6120, Ammunition, and Ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of Assault Weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of Assault Weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 P.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of Firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 P.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of Firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation"; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians by prohibiting Assault Weapons, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and

10. The City Council has authority to legislate regarding the use of Firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. Appropriate restrictions on the use of Assault Weapons will promote public safety, even if not as completely as a prohibition, both by imposing criminal liability on those who would use Assault Weapons in public spaces and by allowing police officers to intercede earlier and deter future tragedies.

SECTION IV. Article XI: Weapons shall provide as follows in Chapter 1102: Use of Assault Weapons in Public Places:

§ 1102.01 DEFINITIONS

A. Applicable definitions set forth in § 1101.01 shall apply as well in this Chapter 1102.

B. **Assault Weapon.** Any of the following, but not including any Firearm modified to render it permanently inoperable, or unassembled parts or a combination of parts possessed for the purposes of repairing or servicing

a lawfully-possessed Firearm:

1. A Selective-Fire Firearm capable of fully automatic, Semi-Automatic or burst fire at the option of the user that has the ability to accept a Large Capacity Magazine;

2. Any of the following Semi-Automatic Firearms:

- a. Algimec Agmi;
- b. Armalite AR-180;
- c. Australian Automatic Arms SAP Pistol;
- d. Auto-Ordnance Thompson type;
- e. Avtomat Kalashnikov AK-47 type;
- f. Barrett Light-Fifty model 82A1;
- g. Beretta AR-70;
- h. Bushmaster Auto Rifle and Auto Pistol;
- i. Calico models M-900, M-950 and 100-P;
- j. Chartered Industries of Singapore SR-88;
- k. Colt AR-15 and Sporter;
- l. Daewoo K-1, K-2, Max-1 and Max-2;
- m. Ecom MK-IV, MP-9 and MP-45;
- n. Fabrique Nationale FN/FAL, FN/LAR or FN/FNC;
- o. FAMAS MAS 223;
- p. Feather AT-9 and Mini-AT;
- q. Federal XC-900 and XC-450;
- r. Franchi SPAS-12 and Law-12;
- s. Galil AR and ARM;

- t. Goncz High-Tech Carbine and High-Tech Long Pistol;
- u. Heckler & Koch HK-91, HK-93, HK-94 and SP-89;
- v. Holmes MP-83;
- w. Intratec TEC-9 and Scorpion;
- x. Iver Johnson Enforcer model 3000;
- y. MAC-10, MAC-11 and MAC-11 Carbine type;
- z. Ruger Mini-14/5F folding stock model only;
- aa. Scarab Skorpion;
- bb. SIG 57 AMT and 500 series;
- cc. Spectre Auto Carbine and Auto Pistol;
- dd. Springfield Armory BM59, SAR-48 and G-3;
- ee. Sterline MK-6 and MK-7;
- ff. Steyr AUG;
- gg. Street Sweeper and Striker 12 revolving cylinder shotguns;
- hh. USAS-12;
- ii. UZI Carbine, Mini-Carbine and Pistol;
- jj. Weaver Arms Nighthawk; and
- kk. Wilkinson "Linda" Pistol;

3. A Semi-Automatic Firearm not specifically listed in § 1102.01(B)(2) that meets any of the following criteria:

- a. The Firearm is a Semi-Automatic, centerfire rifle that has an ability to accept a detachable magazine and has at least one of the following:
 - i. A folding or telescoping stock;

- ii. A pistol grip that protrudes conspicuously beneath the action of the weapon;
 - iii. A thumbhole stock;
 - iv. A second handgrip or a protruding grip that can be held by the non-trigger hand;
 - v. A flash suppressor, muzzle brake, muzzle compensator, or threaded barrel designed to accommodate a flash suppressor, muzzle brake, or muzzle compensator; or
 - vi. A grenade launcher or flare launcher.
- b. The Firearm is a Semi-Automatic, centerfire rifle with a fixed magazine with the ability to accept more than 10 rounds.
- c. The Firearm is a Semi-Automatic, centerfire rifle that has an overall length of less than 30 inches.
- d. The Firearm is a Semi-Automatic, centerfire pistol that has an ability to accept a detachable magazine and has at least one of the following:
 - i. Capacity to accept an Ammunition magazine that attaches to the pistol outside of the pistol grip;
 - ii. A second handgrip;
 - iii. A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; or
 - iv. A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the Firearm with the non-trigger hand without being burned, except a slide that encloses the barrel.
- e. The Firearm is a Semi-Automatic, centerfire pistol with a fixed magazine that has the ability to accept more than 10 rounds.
- f. The Firearm is a Semi-Automatic, centerfire shotgun that has at least one of the following:
 - i. A folding or telescoping stock;
 - ii. A pistol grip that protrudes conspicuously beneath the action of the weapon;
 - iii. A thumbhole stock;
 - iv. A vertical handgrip; or

v. An ability to accept a detachable magazine.

g. Any shotgun with a revolving cylinder.

C. Large Capacity Magazine. A Firearm magazine, belt, drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept, more than 10 rounds of Ammunition. This definition shall not be construed to include the following:

1. A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of Ammunition;
2. A .22 caliber tube Ammunition feeding device;
3. A tubular magazine that is contained in a lever-action Firearm; and
4. A magazine that is permanently inoperable.

D. Selective Fire. Refers to the adjustment capability of weapons to fire in Semi-Automatic, multi-shot bursts, and / or automatic modes.

E. Semi-Automatic. A Firearm that fires a single round for each pull of the trigger and uses the force from the discharged round to chamber a new round immediately after each round is fired.

§ 1102.02 PROHIBITION ON USE OF ASSAULT WEAPONS

A. It shall be unlawful to use any Assault Weapon in any public place within the City of Pittsburgh.

B. For purposes of this Section, "public place" shall include streets, parks, open spaces, public buildings, public accommodations, businesses and other locations to which the general public has a right to resort, but does not include a private home or residence or any duly established site for the sale or transfer of Firearms or for Firearm training, practice or competition.

C. For purposes of this Section, "use" of an Assault Weapon does not include possession, ownership, transportation or transfer. "Use" of an Assault Weapon shall include, but is not limited to:

1. Discharging or attempting to discharge an Assault Weapon;
2. Loading an Assault Weapon with Ammunition;
3. Brandishing an Assault Weapon;
4. Displaying a loaded Assault Weapon;

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5. Pointing an Assault Weapon at any person; and

6. Employing an Assault Weapon for any purpose prohibited by the laws of Pennsylvania or of the United States.

D. For purposes of this Section, the term “brandishing” means, with respect to a Firearm, to display all or part of the Firearm, or otherwise make the presence of the Firearm known to another person, in order to intimidate that person, regardless of whether the Firearm is directly visible to that person.

E. For purposes of this Section, there shall be a rebuttable presumption that an Assault Weapon is loaded if fitted with a magazine.

§ 1102.03 PENALTIES FOR VIOLATIONS

A. Any person found in violation of this Chapter shall be fined up to \$1,000 and costs for each offense.

§ 1102.04 EXEMPTIONS

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in executing its official duties, including those charged with the enforcement of laws; and

2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:

a. The Firearm or item is housed appropriately;

b. The Firearm or item is secured from handling by those unauthorized to do so; and

c. The Firearm or device is unloaded, when and if possible.

B. Nothing in this Chapter shall be deemed to restrict a person’s ability to use a lawfully possessed Firearm for immediate and otherwise lawful protection of a person’s or another person’s person or property or for lawful hunting purposes.

§ 1102.05 APPLICATION OF CHAPTER

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in

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Article XI: Weapons.

§ 1102.06 EFFECTIVE DATE

A. This Chapter shall take effect 60 days after its enactment.

§ 1102.07 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons.

§ 1102.08 FINDINGS AND PURPOSES

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and
3. Empirical study and recent history demonstrate that Assault Weapons and Large Capacity Magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions of Assault Weapons and Large Capacity Magazines are correlated with reductions in mass shootings, and the use of Assault Weapons and Large Capacity Magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using Assault Weapons and Large Capacity Magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for Assault Weapons and Large Capacity Magazines that can justify the consequences of tolerating the proliferation of military-style weaponry in

the community; and

4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus upheld prohibitions on Assault Weapons, Large Capacity Magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of Firearms; and

5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of Firearms, and, as to 18 Pa. C.S. § 6120, Ammunition, and Ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of Assault Weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of Assault Weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 P.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of Firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 P.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of Firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation"; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians by prohibiting Assault Weapons, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and

10. The City Council has authority to legislate regarding the use of Firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. Appropriate restrictions on the use of Assault Weapons will promote public safety, even if not as completely as a prohibition, both by imposing criminal liability on those who would use Assault

Weapons in public spaces and by allowing police officers to intercede earlier and deter future tragedies.

SECTION V. Article XI: Weapons shall provide as follows in Chapter 1103: Authorized Prohibition of Assault Weapons:

§ 1103.01 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01 and 1102.01 shall also apply in this Chapter 1103.

§ 1103.02 AUTHORIZED PROHIBITION OF ASSAULT WEAPONS

A. Following the Effective Date as set forth in § 1103.06, it shall be unlawful to own, possess, transfer or transport an Assault Weapon within the City of Pittsburgh.

§ 1103.03 EXEMPTIONS

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws;
2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:
 - a. The Firearm or item is housed appropriately;
 - b. The Firearm or item is secured from handling by those unauthorized to do so; and
 - c. The Firearm or device is unloaded, when and if possible; and
3. A person lawfully owning or otherwise possessing an Assault Weapon before the effective date of this Chapter.

§ 1103.04 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

Committee: Committee on Public Safety
Services

Status: Mayor's Office for Signature

A. Any person found in violation of this Chapter or who otherwise fails to comply shall be fined up to \$1,000 and costs for each offense.

B. Each day of a continuing violation of or failure to comply with this Chapter shall constitute a separate and distinct offense.

§ 1103.05 APPLICATION OF CHAPTER

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI.

§ 1103.06 EFFECTIVE DATE

A. Section 1103.02 of this Chapter shall take effect 60 days after, and to the extent permitted by, action of the Pennsylvania General Assembly or the Pennsylvania Supreme Court that has the effect of authorizing the implementation and enforcement of § 1103.02 by the City of Pittsburgh.

§ 1103.07 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons.

§ 1103.08 FINDINGS AND PURPOSES

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the

Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and

3. Empirical study and recent history demonstrate that Assault Weapons and Large Capacity Magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions of Assault Weapons and Large Capacity Magazines are correlated with reductions in mass shootings, and the use of Assault Weapons and Large Capacity Magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using Assault Weapons and Large Capacity Magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for Assault Weapons and Large Capacity Magazines that can justify the consequences of tolerating the proliferation of military-style weaponry in the community; and

4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus upheld prohibitions on Assault Weapons, Large Capacity Magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of Firearms; and

5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of Firearms, and, as to 18 Pa. C.S. § 6120, Ammunition, and Ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of Assault Weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of Assault Weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 P.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of Firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 P.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of Firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation";

and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians by prohibiting Assault Weapons, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and

10. The City Council has authority to legislate regarding the use of Firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. Appropriate restrictions on the use of Assault Weapons will promote public safety, even if not as completely as a prohibition, both by imposing criminal liability on those who would use Assault Weapons in public spaces and by allowing police officers to intercede earlier and deter future tragedies.

Exhibit D
(Proposal 2018-1219)

TITLE

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article I: Regulated Actions and Rights, by adding Chapter 629: Ban on Specified Firearm Accessories, Ammunition, and Modifications, to place a prohibition on certain firearm accessories, ammunition, and modifications.

BODY

The Council of the City of Pittsburgh hereby enacts:

SECTION 1. The Pittsburgh Code of Ordinances is hereby amended and supplemented as follows at Title VI: Conduct, Article I: Regulated Actions and Rights:

§ 629.01 DEFINITIONS

A. **Ammunition.** Cartridge cases, shells, projectiles (including shot), primers, bullets (including restricted pistol bullets), propellant powder, or other devices or materials designed, re-designed, or intended for use in a firearm or destructive device.

1. Unless otherwise stated, for the purposes of this Chapter, ammunition does not include blanks.

B. **Antique Firearm.** Any of the following:

1. Any firearm with a matchlock, flintlock, or percussion cap type of ignition system;
2. Any firearm manufactured on or before 1898; and
3. Any replica of any firearm described in § 629.01(B)(1) or § 629.01(B)(2) if said replica:
 - a. Is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition; or
 - b. Uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

C. **Armor or Metal Penetrating Ammunition.** Any ammunition, except a shotgun shell, that is designed primarily to penetrate a body vest or a body shield, and has either of the following characteristics:

1. Has projective or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass,

beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness; or

2. Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, teflon coating and / or ammunition commonly known as “KTW ammunition,” to breach or penetrate a body vest or body shield when fired from a firearm.

D. Binary Trigger. A firearm’s trigger designed to fire one round of ammunition on the pull of the trigger and another round upon the release of the trigger.

E. Bump Stock. Any device for a pistol, rifle, or shotgun that increases the rate of fire achievable with such weapon by using energy from the recoil of the weapon to generate a reciprocating action that facilitates repeated activation of the trigger.

F. Firearm. Any pistol, handgun, rifle, machine gun, air rifle, air pistol, blank gun, BB gun, or other instrument from which steel or metal projectiles are propelled, or which may be readily converted to expel a projectile, or other instruments propelling projectiles which are designed or normally used for no other primary purpose than as a weapon, including, for the purposes of this Chapter, the frame or receiver of the weapon, and excluding the following:

1. A crossbow;
2. A recurve bow;
3. A compound bow; and
4. A longbow.

G. Fixed Magazine. A self-contained unit consisting of the case, primer, propellant charge and projective or projectiles, including any ammunition-feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.

H. Large Capacity Magazine. A firearm magazine, belt, drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept, more than 10 rounds of ammunition. This definition shall not be construed to include the following:

1. A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition;
2. A .22 caliber tube ammunition feeding device;
3. A tubular magazine that is contained in a lever-action firearm; and
4. A magazine that is permanently inoperable.

I. **Magazine.** A box, drum, or other container that holds and feeds ammunition into a semiautomatic rifle, shotgun, or pistol.

J. **Multi-Burst Trigger Activator.** Either of the following:

1. A device designed or redesigned to be attached to a semi-automatic firearm, which allows the firearm to discharge two or more shots in a burst by activating the device; or
2. A manual or power-driven trigger-activating device constructed and designed so that it increases the rate of fire of a semi-automatic firearm when attached to that firearm.

K. **Rapid Fire Device.** Any device, part, accessory, attachment, or modification designed to accelerate the rate of fire of a firearm, including, but not limited to:

1. A binary trigger;
2. A bump stock;
3. A multi-burst trigger activator; and
4. A trigger crank.

L. **Semi-Automatic Modification.** An alteration to a semi-automatic firearm accomplished through any combination of parts, components, attachments, or accessories, including but not limited to a rapid fire device, that accelerates the rate of fire of a semi-automatic firearm.

M. **Silencer.** Any device placed over the muzzle of a firearm's barrel to muffle or quiet the sound made the discharge of a projectile, accomplished through the baffling of the escape of gases or otherwise.

N. **Trigger Crank.** A trigger actuator that attaches to the trigger of a firearm and causes the weapon to fire by turning the crank handle.

§ 629.02 PROHIBITED ACCESSORIES AND FEATURES

A. It shall be unlawful to manufacture, sell, purchase, transport, carry, store, or otherwise hold in one's possession within the City of Pittsburgh the following firearms provided that those firearms are any of the following, or have the following accessories:

1. A semiautomatic, centerfire rifle that does not have a fixed magazine but has any one of the following:
 - a. A pistol grip that protrudes conspicuously beneath the action of the weapon;

- b. A thumbhole stock;
 - c. A folding or telescoping stock;
 - d. A grenade launcher or flare launcher;
 - e. A flash suppressor;
 - f. A forward pistol grip;
2. A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds;
3. A semiautomatic, centerfire rifle that has an overall length of less than 30 inches;
4. A semiautomatic pistol that does not have a fixed magazine but has any one of the following:
- a. A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer;
 - b. A second handgrip;
 - c. A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer's hand, except a slide that encloses the barrel;
 - d. The capacity to accept a detachable magazine at some location outside of the pistol grip;
5. A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds;
6. A semiautomatic shotgun that has both of the following:
- a. A folding or telescoping stock;
 - b. A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip;
7. A semiautomatic shotgun that has the ability to accept a detachable magazine; and
8. Any shotgun with a revolving cylinder.

§ 629.03 PROHIBITED AMMUNITION

A. It shall be unlawful to manufacture, sell, purchase, transport, carry, store, or otherwise hold in one's possession within the City of Pittsburgh the following ammunition, as defined in this Chapter, the following ammunition:

1. Any ammunition containing any explosive or incendiary material or any other chemical substance, including, but not limited to:
 - a. That which is commonly known as tracer ammunition, except which has been manufactured for use in shotguns; and
 - b. That which is commonly known as incendiary ammunition;
2. Armor or metal penetrating ammunition;
3. A large capacity magazine;
4. A projectile or projectile core which may be used in a pistol and which is constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium;
5. A full jacketed projectile larger than .22 caliber designed and intended for use in a pistol and whose jacket has a weight of more than 25% of the total weight of the projectile; and
6. Ammunition for a .50 BMG rifle.

§ 629.04 PROHIBITED MODIFICATIONS

A. It shall be unlawful to manufacture, sell, purchase, transport, carry, store, or otherwise hold in one's possession within the City of Pittsburgh the following firearms that have been outfitted with the following modifications:

1. A binary trigger;
2. A bump stock;
3. A multi-burst trigger activator;
4. A rapid-fire device;
5. A semi-automatic modification;
6. A silencer; and

7. A trigger crank.

B. This Chapter shall not be construed to prohibit the use of a replacement trigger or trigger components manufactured and intended to decrease the weight of the trigger pull, or to improve the quality and release of the trigger pull in a firearm.

§ 629.05 EXEMPTIONS

A. The contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws;

2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:

a. The firearm or item is housed appropriated;

b. The firearm or item is secured from handling by those unauthorized to do so; and

c. The firearm or device is unloaded, when and if possible;

3. The use, loan, or transportation of an unloaded firearm, a firearm loaded with blank cartridges, or a facsimile used solely as a prop in a permitted entertainment production, including, but not limited to, for a for a motion picture, television, or video production; or

4. An antique firearm, as defined in this Chapter.

§ 629.06 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

A. Any individual, retailer, wholesale business, firm, or corporation found in violation of § 629.02, § 629.03, § 629.04, or otherwise fails to comply shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

B. Each day of a continuing violation of or failure to comply with this Chapter shall constitute and separate and distinct offense.

C. Where relevant, prosecution shall be subject to the defenses and exemptions stipulated in 18 PA C.S.A. 908(b), as amended.

§ 629.07 APPLICATION OF CHAPTER

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Title VI: Conduct, Article I: Regulated Actions and Rights.

§ 629.08 EFFECTIVE DATE

A. This Chapter shall take effect 60 days after its enactment by City Council.

§ 629.09 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Chapter. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter.

As Amended on March 20, 2019

Amendment to 2018-1219

TITLE

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by enacting and adding Article XI: Weapons, Chapter 1104: Prohibition on the Use of Certain Accessories, Ammunition, and Modifications, and Chapter 1105: Authorized Prohibition of Large Capacity Magazines.

BODY

The Council of the City of Pittsburgh hereby enacts:

SECTION I Article XI: Weapons shall provide as follows in Chapter 1104: Prohibition on the Use of Certain Accessories, Ammunition, and Modifications:

§ 1104.01 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01 and 1102.01 shall apply as well in this Chapter 1104.

B. **Armor or Metal Penetrating Ammunition.** Any ammunition, except a shotgun shell, that is designed primarily to penetrate a body vest or a body shield, and has either of the following characteristics:

1. Has projectile or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness; or
2. Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, teflon coating and / or ammunition commonly known as “KTW ammunition,” to breach or penetrate a body vest or body shield when fired from a firearm.

C. **Binary Trigger.** A firearm’s trigger designed to fire one round of ammunition on the pull of the trigger and another round upon the release of the trigger.

D. **Large Capacity Magazine.** A firearm magazine, belt, drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept, more than 10 rounds of ammunition. This definition shall not be construed to include the following:

1. A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition;

2. A .22 caliber tube ammunition feeding device;
3. A tubular magazine that is contained in a lever-action firearm; and
4. A magazine that is permanently inoperable.

E. Multi-Burst Trigger Activator. Either of the following:

1. A device designed or redesigned to be attached to a semi-automatic firearm, which allows the firearm to discharge two or more shots in a burst by activating the device; or
2. A manual or power-driven trigger-activating device constructed and designed so that it increases the rate of fire of a semi-automatic firearm when attached to that firearm.

F. Rapid Fire Device. Any device, part, accessory, attachment, or modification designed to accelerate substantially the rate of fire of a firearm, including, but not limited to:

1. A binary trigger;
2. A multi-burst trigger activator; and
3. A trigger crank.

G. Trigger Crank. A trigger actuator that attaches to the trigger of a semi-automatic firearm and causes the weapon to fire by turning the crank handle.

§ 1104.02 PROHIBITED USES OF ARMOR PENETRATING AMMUNITION

A. It shall be unlawful to use Armor or Metal Penetrating Ammunition in any public place within the City of Pittsburgh.

B. For purposes of this Section, “public place” shall include streets, parks, open spaces, public buildings, public accommodations, businesses and other locations to which the general public has a right to resort, but does not include a private home or residence or any duly established site for the sale or transfer of firearms or for firearm training, practice or competition.

C. For purposes of this Section, “use” of ammunition does not include possession, ownership, transportation or transfer. “Use” of ammunition shall include, but is not limited to:

1. Discharging or attempting to discharge by means of a firearm; and
2. Loading it into a firearm or magazine.

§ 1104.03 PROHIBITED USE OF LARGE CAPACITY MAGAZINE

A. It shall be unlawful to use in any public place within the City of Pittsburgh any large capacity magazine.

B. For purposes of this Section, “use” of a large capacity magazine does not include possession, ownership, transportation or transfer. “Use” of a large capacity magazine shall include:

1. Employing it to discharge or in attempt to discharge ammunition by means of a firearm;
2. Loading it with ammunition;
3. Fitting or installing it into a firearm;
4. Brandishing it with a firearm;
5. Displaying it with a firearm while loaded; and
6. Employing it for any purpose prohibited by the laws of Pennsylvania or of the United States.

C. For purposes of this Section, “public place” shall include streets, parks, open spaces, public buildings, public accommodations, businesses and other locations to which the general public has a right to resort, but does not include a private home or residence or any duly established site for the sale or transfer of firearms or for firearm training, practice or competition.

§ 1104.04 USE OF RAPID FIRE DEVICES PROHIBITED

A. It shall be unlawful to use any rapid fire device in any public place within the City of Pittsburgh.

B. This Chapter shall not be construed to prohibit the use of a replacement trigger or trigger components manufactured and intended to decrease the weight of the trigger pull, or to improve the quality and release of the trigger pull in a firearm.

§ 1104.05 EXEMPTIONS

A. The contents of this Chapter shall not apply to any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws.

B. Nothing in this Chapter shall be deemed to restrict a person’s ability to use a lawfully possessed firearm for immediate and otherwise lawful protection of a person’s or another person’s person or property or for lawful hunting purposes.

§ 1104.06 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

A. Any person who violates the provisions of this Chapter shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

§ 1104.07 APPLICATION OF CHAPTER

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI: Weapons.

§ 1104.08 EFFECTIVE DATE

A. This Chapter shall take effect 60 days after its enactment by City Council.

§ 1104.09 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Chapter. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter.

§ 1104.10 FINDINGS AND PURPOSE

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and

2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and

3. Empirical study and recent history demonstrate that assault weapons and large capacity magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions on assault weapons and large capacity magazines are correlated with reductions in mass shootings, and the use of assault weapons and large capacity magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using assault weapons and large capacity magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater

destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for assault weapons and large capacity magazines that can justify the consequences of tolerating the proliferation of such military-style weaponry in the community; and

4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus routinely upheld prohibitions on assault weapons, large capacity magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of firearms; and

5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of firearms, ammunition, and ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of assault weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of assault weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 Pa. C.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 Pa. C.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation"; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians with a prohibition on assault weapons and large capacity magazines, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and

10. The City Council has authority to legislate regarding the use of ammunition and ammunition components, as distinguished from ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. The City Council has authority to legislate regarding firearm accessories that do not come within applicable state law definitions of firearms or ammunition and ammunition components; and

12. The City Council has authority to legislate regarding accessories that increase the lethality of firearms.

SECTION II. Article XI: Weapons shall provide as follows in Chapter 1105: Authorized Prohibition of Large Capacity Magazines:

§ 1105.01 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01, 1102.01 and 1104.01 shall apply as well in this Chapter 1105.

§ 1105.02 PROHIBITION OF LARGE CAPACITY MAGAZINES

A. Following the effective date set forth in § 1105.06, it shall be unlawful to own, possess, transfer or transport a large capacity magazine within the City of Pittsburgh.

§ 1105.03 EXEMPTIONS

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws;
2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:
 - a. The firearm or item is housed appropriately;
 - b. The firearm or item is secured from handling by those unauthorized to do so; and
 - c. The firearm or device is unloaded, when and if possible.

§ 1105.04 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

A. Any person found in violation of this Chapter or who otherwise fails to comply shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

B. Each day of a continuing violation of or failure to comply with this Chapter shall constitute a separate and distinct offense.

§ 1105.05 APPLICATION OF CHAPTER

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI.

§ 1105.06 EFFECTIVE DATE

A. Section 1105.02 of this Chapter shall take effect 60 days after, and to the extent permitted by, action of the Pennsylvania General Assembly or the Pennsylvania Supreme Court that has the effect of authorizing the implementation and enforcement of § 1105.02 by the City of Pittsburgh.

§ 1105.07 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Chapter. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter.

§ 1105.08 FINDINGS AND PURPOSE

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and

2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and

3. Empirical study and recent history demonstrate that assault weapons and large capacity magazines should be prohibited, because they present an unacceptable and needless

public safety risk. Prohibitions on assault weapons and large capacity magazines are correlated with reductions in mass shootings, and the use of assault weapons and large capacity magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using assault weapons and large capacity magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for assault weapons and large capacity magazines that can justify the consequences of tolerating the proliferation of such military-style weaponry in the community; and

4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus routinely upheld prohibitions on assault weapons, large capacity magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of firearms; and

5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of firearms, ammunition, and ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of assault weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of assault weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 Pa. C.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 Pa. C.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation"; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians with a prohibition on assault weapons and large

capacity magazines, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and

10. The City Council has authority to legislate regarding the use of ammunition and ammunition components, as distinguished from ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. The City Council has authority to legislate regarding firearm accessories that do not come within applicable state law definitions of firearms or ammunition and ammunition components; and

12. The City Council has authority to legislate regarding accessories that increase the lethality of firearms.

As Amended on April 2, 2019



Text File

Introduced: 12/14/2018

Bill No: 2018-1219, **Version:** 3

Committee: Committee on Public Safety
Services

Status: Mayor's Office for Signature

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by enacting and adding Article XI: Weapons, Chapter 1104: Prohibition on the Use of Certain Accessories, Ammunition, and Modifications, and Chapter 1105: Authorized Prohibition of Large Capacity Magazines.
(Public Hearing held 1/24/19; Post Agenda held 2/12/19)

The Council of the City of Pittsburgh hereby enacts:

SECTION I Article XI: Weapons shall provide as follows in Chapter 1104: Prohibition on the Use of Certain Accessories, Ammunition, and Modifications:

§ 1104.01 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01 and 1102.01 shall also apply to this Chapter 1104.

B. **Armor or Metal Penetrating Ammunition.** Any Ammunition, except a shotgun shell, that is designed primarily to penetrate a body vest or a body shield, and has either of the following characteristics:

1. Has projectile or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness; or
2. Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, teflon coating and / or Ammunition commonly known as "KTW Ammunition," to breach or penetrate a body vest or body shield when fired from a Firearm.

C. **Binary Trigger.** A Firearm's trigger designed to fire one round of Ammunition on the pull of the trigger and another round upon the release of the trigger.

D. **Large Capacity Magazine.** A Firearm magazine, belt, drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept, more than 10 rounds of Ammunition. This definition shall not be construed to include the following:

1. A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of Ammunition;

Committee: Committee on Public Safety
Services

Status: Mayor's Office for Signature

2. A .22 caliber tube Ammunition feeding device;
3. A tubular magazine that is contained in a lever-action Firearm; and
4. A magazine that is permanently inoperable.

E. Multi-Burst Trigger Activator. Either of the following:

1. A device designed or redesigned to be attached to a Semi-Automatic Firearm, which allows the Firearm to discharge two or more shots in a burst by activating the device; or
2. A manual or power-driven trigger-activating device constructed and designed so that it increases the rate of fire of a Semi-Automatic Firearm when attached to that Firearm.

F. Rapid Fire Device. Any device, part, accessory, attachment, or modification designed to accelerate substantially the rate of fire of a Firearm, including, but not limited to:

1. A binary trigger;
2. A multi-burst trigger activator; and
3. A trigger crank.

G. Trigger Crank. A trigger actuator that attaches to the trigger of a Semi-Automatic Firearm and causes the weapon to fire by turning the crank handle.

§ 1104.02 PROHIBITED USES OF ARMOR PENETRATING AMMUNITION

A. It shall be unlawful to use Armor or Metal Penetrating Ammunition in any public place within the City of Pittsburgh.

B. For purposes of this Section, “public place” shall include streets, parks, open spaces, public buildings, public accommodations, businesses and other locations to which the general public has a right to resort, but does not include a private home or residence or any duly established site for the sale or transfer of Firearms or for Firearm training, practice or competition.

C. For purposes of this Section, “use” of Ammunition does not include possession, ownership, transportation or transfer. “Use” of Ammunition shall include, but is not limited to:

1. Discharging or attempting to discharge by means of a Firearm; and

2. Loading it into a Firearm or magazine.

§ 1104.03 PROHIBITED USE OF LARGE CAPACITY MAGAZINE

A. It shall be unlawful to use in any public place within the City of Pittsburgh any Large Capacity Magazine.

B. For purposes of this Section, “use” of a Large Capacity Magazine does not include possession, ownership, transportation or transfer. “Use” of a Large Capacity Magazine shall include:

1. Employing it to discharge or in attempt to discharge Ammunition by means of a Firearm;
2. Loading it with Ammunition;
3. Fitting or installing it into a Firearm;
4. Brandishing it with a Firearm;
5. Displaying it with a Firearm while loaded; and
6. Employing it for any purpose prohibited by the laws of Pennsylvania or of the United States.

C. For purposes of this Section, “public place” shall include streets, parks, open spaces, public buildings, public accommodations, businesses and other locations to which the general public has a right to resort, but does not include a private home or residence or any duly established site for the sale or transfer of Firearms or for Firearm training, practice or competition.

D. For purposes of this Section, the term “brandishing” means, with respect to a Firearm, to display all or part of the Firearm, or otherwise make the presence of the Firearm known to another person, in order to intimidate that person, regardless of whether the Firearm is directly visible to that person.

§ 1104.04 USE OF RAPID FIRE DEVICES PROHIBITED

A. It shall be unlawful to use any rapid fire device in any public place within the City of Pittsburgh.

B. This Chapter shall not be construed to prohibit the use of a replacement trigger or trigger components manufactured and intended to decrease the weight of the trigger pull, or to improve the quality and release of the trigger pull in a Firearm.

§ 1104.05 EXEMPTIONS

- A. The contents of this Chapter shall not apply to any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws.
- B. Nothing in this Chapter shall be deemed to restrict a person's ability to use a lawfully possessed Firearm for immediate and otherwise lawful protection of a person's or another person's person or property or for lawful hunting purposes.

§ 1104.06 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

- A. Any person who violates the provisions of this Chapter shall be fined up to \$1,000 and costs for each offense.

§ 1104.07 APPLICATION OF CHAPTER

- A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI: Weapons.

§ 1104.08 EFFECTIVE DATE

- A. This Chapter shall take effect 60 days after its enactment.

§ 1104.09 SEVERABILITY

- A. Severability is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons.

§ 1104.10 FINDINGS AND PURPOSE

- A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and
3. Empirical study and recent history demonstrate that Assault Weapons and Large Capacity Magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions on Assault Weapons and Large Capacity Magazines are correlated with reductions in mass shootings, and the use of Assault Weapons and Large Capacity Magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using Assault Weapons and Large Capacity Magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for Assault Weapons and Large Capacity Magazines that can justify the consequences of tolerating the proliferation of such military-style weaponry in the community; and
4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus routinely upheld prohibitions on Assault Weapons, Large Capacity Magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of Firearms; and
5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of Firearms, and, as to 18 Pa. C.S. § 6120, Ammunition, and Ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of Assault Weapons under existing Pennsylvania law; and
6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of Assault Weapons unless and until governing law allows it to become effective; and
7. A Second Class City has the power under 53 P.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of Firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds,

alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons”; and

8. The City Council has authority under 53 P.S. § 3703 to “regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of Firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation”; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians with a prohibition on Assault Weapons and Large Capacity Magazines, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents’ justified demands for protection; and

10. The City Council has authority to legislate regarding the use of Ammunition and Ammunition components, as distinguished from ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. The City Council has authority to legislate regarding Firearm accessories that do not come within applicable state law definitions of Firearms or Ammunition and Ammunition components; and

12. The City Council has authority to legislate regarding accessories that increase the lethality of Firearms.

SECTION II. Article XI: Weapons shall provide as follows in Chapter 1105: Authorized Prohibition of Large Capacity Magazines:

§ 1105.01 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01, 1102.01 and 1104.01 shall apply as well in this Chapter 1105.

§ 1105.02 PROHIBITION OF LARGE CAPACITY MAGAZINES

A. Following the effective date set forth in § 1105.06, it shall be unlawful to own, possess, transfer or transport

a Large Capacity Magazine within the City of Pittsburgh.

§ 1105.03 EXEMPTIONS

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws;
2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:
 - a. The Firearm or item is housed appropriately;
 - b. The Firearm or item is secured from handling by those unauthorized to do so; and
 - c. The Firearm or device is unloaded, when and if possible.

§ 1105.04 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

- A. Any person found in violation of this Chapter or who otherwise fails to comply shall be fined up to \$1,000 and costs for each offense.
- B. Each day of a continuing violation of or failure to comply with this Chapter shall constitute a separate and distinct offense.

§ 1105.05 APPLICATION OF CHAPTER

- A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI.

§ 1105.06 EFFECTIVE DATE

- A. Section 1105.02 of this Chapter shall take effect 60 days after, and to the extent permitted by, action of the Pennsylvania General Assembly or the Pennsylvania Supreme Court that has the effect of authorizing the implementation and enforcement of § 1105.02 by the City of Pittsburgh.

§ 1105.07 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons.

§ 1105.08 FINDINGS AND PURPOSE

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and
3. Empirical study and recent history demonstrate that Assault Weapons and Large Capacity Magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions on Assault Weapons and Large Capacity Magazines are correlated with reductions in mass shootings, and the use of Assault Weapons and Large Capacity Magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using Assault Weapons and Large Capacity Magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for Assault Weapons and Large Capacity Magazines that can justify the consequences of tolerating the proliferation of such military-style weaponry in the community; and
4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus routinely upheld prohibitions on Assault Weapons, Large Capacity Magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of

Firearms; and

5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of Firearms, and, as to 18 Pa. C.S. § 6120, Ammunition, and Ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of Assault Weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of Assault Weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 P.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of Firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 P.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of Firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation"; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians with a prohibition on Assault Weapons and Large Capacity Magazines, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and

10. The City Council has authority to legislate regarding the use of Ammunition and Ammunition components, as distinguished from ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. The City Council has authority to legislate regarding Firearm accessories that do not come within applicable state law definitions of Firearms or Ammunition and Ammunition components; and

12. The City Council has authority to legislate regarding accessories that increase the lethality of

Introduced: 12/14/2018

Bill No: 2018-1219, **Version:** 3

Committee: Committee on Public Safety
Services

Status: Mayor's Office for Signature

Firearms.

Exhibit E
(Proposal 2018-1220)

TITLE

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article I: Regulated Actions and Rights, by adding Chapter 630: Extreme Risk Protection Orders, to provide for appropriate injunctive actions for the preservation of public safety in extreme circumstances.

BODY

The Council of the City of Pittsburgh hereby enacts:

SECTION 1. The Pittsburgh Code of Ordinances is hereby amended and supplemented as follows at Title VI: Conduct, Article I: Regulated Actions and Rights:

§630.01 DEFINITIONS.

A. **Concealed Carry License.** A license issued under 18 Pa.C.S. § 6109 or a similar license issued pursuant to the laws of another state.

B. **Extreme Bodily Injury.** Bodily injury that creates a substantial risk of death or causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

C. **Extreme Risk Protection Order.** A court order prohibiting a person from having in the person's possession or control, purchasing or receiving, or attempting to purchase or receive, a firearm, based upon a finding by clear and convincing evidence that the person presents a danger of suicide or of causing extreme bodily injury to another person.

D. **Family or Household Member.** A spouse or person who has a spouse, person living as a spouse or who lived as a spouse, parent or child, other person related by consanguinity or affinity, current or former sexual or intimate partner or person who shares biological parenthood.

E. **Firearm.** Any pistol, handgun, rifle, machine gun, air rifle, air pistol, blank gun, BB gun, or other instrument from which steel or metal projectiles are propelled, or which may be readily converted to expel a projectile, or other instruments propelling projectiles which are designed or normally used for no other primary purpose than as a weapon, including, for the purposes of this Chapter, the frame or receiver of the weapon.

F. Firearms Dealer or Dealer. A person licensed to sell firearms under 18 Pa.C.S. § 6113.

G. Law Enforcement Officer. An officer of the United States, of another state or political subdivision thereof or of the Commonwealth or political subdivision thereof, who is empowered by law to conduct investigations of or to make an arrest for an offense enumerated in this chapter or an equivalent crime in another jurisdiction and an attorney authorized by law to prosecute or participate in the prosecution of such offense.

§630.02 ACCESS TO COURTS.

A. The following individuals shall have standing to file a petition requesting the issuance or renewal of an extreme risk protection order:

1. A law enforcement officer; or
2. A family or household member of a person alleged to present a danger of suicide or of causing extreme bodily injury to another person may file a petition requesting that the court issue or renew an extreme risk protection order.

B. No fee may be charged for the filing of a petition for a proceeding under this Chapter.

§630.03 PETITION FOR EXTREME RISK PROTECTION ORDER

A. A petition for an extreme risk protection order shall be supported by a written affidavit signed under oath and shall specify facts that support the issuance of an order and information concerning firearms known or believed to be in the respondent's possession or control.

B. In determining whether to issue an extreme risk protection order, the court shall consider evidence of the following factors:

1. A history of any of the following:
 - a. Threats or acts or acts of violence, or attempted acts of violence;
 - b. Threats or acts of suicide or self-harm, or attempted acts of suicide or self-harm;
 - c. Domestic or intimate partner violence;
 - d. Cruelty to animals;
 - e. Driving under the influence of alcohol or a controlled substance; or

- f. Violent or emotionally unstable conduct;
- 2. Recent unlawful use of controlled substances;
- 3. Past use, display, or brandishing of a firearm that constituted illegality or recklessness;
- 4. A prior violation of a protection from abuse order under 23 Pa.C.S. Ch. 61;
- 5. Medically-unsupervised cessation of voluntary or consistent use of prescription medication necessary to treat a mental illness, or failure to voluntarily or consistently use prescription medication necessary to treat a mental illness;
- 6. Acquisition or attempted acquisition of a firearm within the previous 180 days of the filing of a petition for an extreme risk protection order.
- 7. Supplementary factors or information not enumerated herein but that which is deemed to be reliable and appropriate of consideration by the court, including a statement by the respondent.

C. The receipt of a petition shall induce the court to:

- 1. Issue a temporary extreme risk protection order and schedule a hearing;
 - a. The hearing shall be scheduled no fewer than three nor more than 10 days from the date of the order;
 - b. A temporary order shall be served concurrent with a warrant to search for and seize any firearm or concealed carry license in the respondent's possession or control;
- 2. Issue an order for a hearing on the petition without issuing an extreme risk protection order;
 - a. A hearing on a petition shall be scheduled no fewer than three nor more than 10 days from the date of the order, provided, however, that the hearing may not be held fewer than three days after the date of service of the order over the objection of the respondent;
 - b. If the respondent fails to appear for a hearing on a petition, the court may issue a temporary extreme risk protection order and a warrant to search for and seize

any firearm or concealed carry license in the respondent's possession or control;
or

3. Dismiss the matter.

§630.04 EFFECTIVE DATE OF EXTREME RISK PROTECTION ORDER

A. An extreme risk protection order shall be effective immediately upon issuance.

§630.05 NOTICE TO LAW ENFORCEMENT

A. At the time of issuance of an extreme risk protection order, the court shall properly notify both the relevant local enforcement agencies and the Pennsylvania State Police;

B. The Pennsylvania State Police shall enter the order into the Pennsylvania Instant Check System and request that the order be entered into the Federal Bureau of Investigation National Instant Criminal Background Check System.

C. Law enforcement agencies shall establish appropriate and adequate procedures to ensure that an officer at the scene of an alleged violation of the order is informed of the existence and terms of the order.

D. Service of an extreme risk protection order or an order for a hearing shall be made in person by a law enforcement officer, as directed by the court.

E. Immediately upon completion of service of an order under this Chapter, the law enforcement agency completing service shall make a return of service to the court and shall provide a copy of the return of service and of the order to the petitioner, the local law enforcement agency and the Pennsylvania State Police.

§630.06 EXTREME RISK PROTECTION ORDER

A. The court shall issue a temporary extreme risk protection order upon probable cause to believe that the respondent presents a danger of suicide or of causing extreme bodily injury to another person.

B. A temporary order shall be effective for one year unless, after a hearing, the court vacates or terminates the order or establishes a shorter effective period, which shall be no fewer than three

months.

C. A temporary order shall include:

1. The date and time the order was issued;
2. A statement of the grounds supporting the issuance of the order;
3. The duration of the order;
4. The date and time of the hearing scheduled on the temporary order;
5. Instructions on how to waive the hearing or request a continuance; and
6. A statement in substantially the following form:
 - a. An extreme risk protection order has been issued by the court and is now in effect. You are required to relinquish all firearms and any concealed carry license currently in your possession or control. Failure to relinquish all firearms in your possession or control is punishable by a fine and term of imprisonment under 18 Pa.C.S. § 6105. While this order is in effect, you may not have in your possession or control, or attempt to gain possession or control of, firearms. Failure to do so is punishable by a fine and term of imprisonment under 18 Pa.C.S. § 6105. If you own any other firearm that is not within your immediate possession or control at the time that you receive this order, you must deliver that firearm to law enforcement within 72 hours. A hearing is scheduled on this order. If you choose to waive your right to a hearing, the order will be effective for one year. If you choose to exercise your right to a hearing, you may present evidence and testimony on your behalf. You are entitled to be represented by an attorney. If you cannot afford an attorney, the court will appoint an attorney to represent you.

D. A respondent shall have the right to a hearing on a temporary extreme risk protection order. The court shall ensure that the respondent is given adequate time to prepare for the hearing. If the respondent fails to appear for a scheduled hearing, the court shall make the order effective for a period of one year. A hearing on a temporary order shall be in addition to and shall not affect the right to a termination hearing.

E. If, after conducting a hearing, the court finds by clear and convincing evidence that the respondent presents a danger of suicide or of causing extreme bodily injury to another person, the court shall issue an extreme risk protection order and a warrant to search for and seize any firearm or concealed carry license in the respondent's possession or control.

1. An order entered after a hearing shall be in effect no fewer than three months and no longer than one year from the date of the order.

2. The order shall include:

- a. The date and time the order was issued;
- b. A statement of the grounds supporting the issuance of the order;
- c. The timeframe and manner in which the respondent may request a termination hearing;
- d. The address of the court to which a request for a hearing must be sent;
- e. Instructions for relinquishment of firearms remaining in the respondent's possession or control;
- f. Notification of the penalties for violating the order; and
- g. A statement in substantially the following form:
 - i. An extreme risk protection order has been issued by the court and is now in effect. You are required to relinquish all firearms and any concealed carry license currently in your possession or control. Failure to relinquish all firearms in your possession or control is punishable by a fine and term of imprisonment under 18 Pa.C.S. § 6105. While this order is in effect, you may not have in your possession or control, or attempt to gain possession or control of, firearms. Failure to do so is punishable by a fine and term of imprisonment under 18 Pa.C.S. § 6105. If you own any other firearm that is not within your immediate possession or control at the time that you receive this order, you must deliver that firearm to law enforcement within 72 hours. A hearing is scheduled on this order. If you choose to waive your right to a hearing, the order will be effective for one year. If you choose to exercise your right to a hearing, you may present evidence and testimony on your behalf. You are entitled to be represented by an attorney. If you cannot afford an attorney, the court will appoint an attorney to represent you.

§ 630.07. TERMINATION, RENEWAL OF EXTREME RISK PROTECTION ORDER

A. A person subject to an extreme risk protection order shall have the right to one hearing during the effective period of the order for the purpose of determining whether the order should be terminated earlier than the expiration date specified in the order. A termination hearing is in addition to a hearing on a temporary order.

B. The court shall provide notice of the termination hearing to the person requesting the hearing, the petitioner, and both the relevant local enforcement agencies and the Pennsylvania State

Police.

C. At a termination hearing, the person subject to the order shall have the burden of proving, by clear and convincing evidence, that the person does not present a danger of suicide or of causing extreme bodily injury to another person.

D. A petition to renew an extreme risk protection order shall be supported by a written affidavit, signed by the petitioner under oath and shall specify facts that support the issuance of an order. The court may deny the petition or may schedule a hearing.

E. A renewal hearing shall take place no more than 30 days before the expiration of an existing order. The court shall provide notice of the hearing to the petitioner, the respondent, the local law enforcement agency and the Pennsylvania State Police.

F. If the court finds by clear and convincing evidence that the respondent presents a danger of suicide or of causing serious extreme injury to another person, the court may renew the extreme risk protection order for a duration of up to one year.

§ 630.08. SURRENDER OF FIREARMS

A. The surrender of firearms made necessary by the issuance of an extreme risk protection order shall be performed by the following procedures:

1. Immediately upon service of an extreme risk protection order, the respondent shall relinquish to the law enforcement agency a firearm or concealed carry license in the respondent's immediate possession or control.
2. Intentional or knowing failure to comply with paragraph § 630.08(A)(1) shall be a violation of 18 Pa.C.S. § 6105.
3. Within 24 hours of the time of service, the respondent shall deliver to the law enforcement agency any firearm that is in the possession of a third party or not otherwise in the respondent's immediate possession or control at the time of service.
4. If, after a hearing or at any other time an extreme risk protection order is in effect, the court finds probable cause to believe that an additional firearm or concealed carry license remains in the respondent's possession or control, the court shall issue a warrant to search for and seize the firearm or license.

B. The receipt of surrendered firearms shall be performed by the following procedures:

1. At the time of surrender of a firearm or concealed carry license, the law enforcement agency taking possession shall issue a receipt identifying all relinquished items and provide a copy of the receipt to the respondent.

2. Within 72 hours after service of the order, the law enforcement agency serving the order shall file the original receipt with the court.

C. The transfer of surrendered firearms to a firearms dealer shall be performed by the following procedures:

1. A respondent who has relinquished a firearm in compliance with an extreme risk protection order may request that the firearm be transferred to a firearms dealer for consignment sale, lawful transfer or safekeeping.

2. Upon receiving the request, the law enforcement agency shall transport the firearm to a dealer at no cost to the respondent or the dealer.

3. A dealer accepting a firearm of a respondent under this section shall provide the law enforcement agency with an affidavit on a form prescribed by the Pennsylvania State Police. The form shall include, at a minimum, the following:

- a. The caption of the case in which the extreme risk protection order was issued.

- b. The name, address, date of birth and Social Security number of the respondent.

- c. A list of all firearms of the respondent relinquished to the dealer, including, if applicable, the manufacturer, model and serial number of the firearms.

- d. The name and license number of the dealer and the address of the licensed premises.

- e. An acknowledgment that the dealer will not return the firearm to the respondent nor sell or transfer to another person the dealer knows is a family or household member of the respondent while the respondent is subject to an extreme risk protection order.

- f. An acknowledgment that the firearm, if sold or transferred, will be sold or lawfully transferred in compliance with 18 Pa.C.S. Ch. 61.

§ 630.09. RETURN OF FIREARMS

A. If a court vacates a temporary order following a hearing, the court shall order the immediate return of all firearms and licenses to the respondent.

B. Upon termination after hearing or expiration of an extreme risk protection order, the respondent may request return of firearms and licenses, and the law enforcement agency or dealer shall return the relinquished items promptly upon receipt of the request.

C. A third party may request the return of a relinquished firearm at any time by providing proof of ownership and a sworn affidavit stating that the third party will not intentionally or knowingly return a firearm to a person subject to an extreme risk protection order or a family or household member of the person nor intentionally or knowingly allow a person subject to an extreme risk protection order to have access to a firearm prior to the time that the order expires or is vacated or terminated by order of court.

1. The affidavit must state that the third party understands that to do so would constitute a misdemeanor of the first degree under 18 Pa.C.S. § 6105(a.1) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), punishable by up to five years imprisonment and up to a \$10,000 fine.

2. Proof of ownership may consist of a statement made in a sworn affidavit.

D. Prior to returning a firearm to a person, the law enforcement agency or dealer in possession of the firearm shall independently confirm that the person requesting return of the firearm is legally eligible to possess firearms under Federal and State law.

E. A firearm shall be deemed abandoned after a period of one year from the date that an order for relinquishment has been terminated or has expired and no owner has submitted a written request for its return, provided, however, that no law enforcement agency or firearms dealer may dispose of a firearm deemed abandoned without first providing notice to the person who relinquished the firearm.

1. If the person who relinquished the firearm fails to respond to the notice within 20 days, the law enforcement agency or firearms dealer may dispose of the firearm.

2. Notification shall be sent by certified mail to:

- a. An address where the person is known to reside;

- b. The last known address;

- c. The address provided at the time of relinquishment; or

- d. An address that is found after searching the available sources of address data maintained in the Commonwealth's databases of motor vehicle registration, motor vehicle driver licensing, occupational and professional licensure, corrections facilities and public assistance.

3. Firearms considered to be abandoned and in need of disposal shall be considered a nuisance and sold or destroyed in a manner deemed appropriate by the law enforcement agency or firearms dealer.

§ 630.10. FAILURE TO COMPLY, VIOLATIONS

A. Failure to comply with or violation of the requirements of § 630.08(A) shall be an offense under 18 Pa.C.S. § 6105.

B. A person who knowingly gives false information to a law enforcement officer with the intent to implicate another person under this Chapter shall be considered to have committed an offense under 18 Pa.C.S. § 4906.

C. A person who knowingly files a petition containing false statements or information with the intent to implicate another person under this chapter commits an offense under 18 Pa.C.S. § 4903.

D. A person convicted of false reporting or false swearing under this section shall be ordered to pay full restitution to the respondent, which shall include, but not be limited to, expenses incurred by the respondent as a result of the false reporting or false swearing.

§ 630.11 EFFECTIVE DATE

A. This Chapter shall take effect 60 days after its enactment by City Council.

§ 630.12 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Chapter. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter.

As Amended on March 20, 2019

Amendment to 2018-1220

TITLE

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article XI: Weapons, by adding Chapter 1106: Prevention of Extreme Risk to Children and Chapter 1107: Extreme Risk Protection Orders.

BODY

The Council of the City of Pittsburgh hereby enacts:

SECTION 1. Article XI: Weapons shall provide as follows in Chapter 1106 Prevention of Extreme Risk to Children:

§ 1106.01 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01, 1102.01 and 1104.01 shall apply as well in this Chapter 1106.

§ 1106.02 PREVENTION OF UNAUTHORIZED USES OF FIREARMS BY MINORS

A. A firearm's custodian shall be in violation of this Section if:

1. A minor gains access to and uses the firearm; and
2. The firearm's custodian knew or reasonably should have known that a minor was likely to gain access to the firearm.

B. For purposes of this Section, "use" of a firearm does not include possession, ownership, transportation or transfer. "Use" of a firearm shall include, but is not limited to:

1. Discharging or attempting to discharge the firearm;
2. Loading the firearm with ammunition;
3. Brandishing the firearm;
4. Pointing the firearm at any person; and
5. Employing the firearm for any purpose prohibited by the laws of

Pennsylvania or of the United States.

C. The provisions of this Section shall not apply if:

1. The minor gains access to the firearm as the result of an illegal entry to any premises by any person;
2. The firearm is stored in a locked box, locked gun safe, or other secure, locked space, or is secured with a trigger lock or other similar device that is properly engaged so as to render the firearm inoperable by any person other than the firearm's custodian or other lawfully authorized user;
3. The firearm is carried on the person of the firearm's custodian or within close enough proximity thereto that the firearm's custodian can readily retrieve and use the firearm as if carried on the person; or
4. The minor uses the firearm in a lawful act of self-defense or defense of another person.
5. The minor was lawfully given authorization to use the firearm by the minor's parent or legal guardian.

D. For purposes of this Section, "firearm's custodian" means the person who exercises custody or control over the firearm.

E. For purposes of this Section, "minor" means a person under 18 years of age.

§ 1106.03 PENALTIES FOR VIOLATIONS

A. Any person found in violation of this Chapter 1106 shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

§ 1106.04 APPLICATION OF CHAPTER

A. This Chapter 1106 shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI.

§ 1106.05 EFFECTIVE DATE

A. This Chapter 1106 shall take effect 60 days after its enactment by City Council.

§ 1106.06 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Chapter 1106. If any section, subsection, sentence, clause, phrase, or portion of this Chapter 1106 is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter 1106.

§ 1106.07 FINDINGS AND PURPOSE

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
2. Gun violence and gun suicides present a public health and public safety crisis in the United States; and
3. From 2013 to 2017, the Centers for Disease Control and Prevention reported that the average number of firearm deaths for all ages was 36,383 per year, and the average number of firearm deaths for persons under 18 years old was 1,499 per year; and
4. From 2013 to 2017, 7,517 Pennsylvania residents died from a firearm injury, including 301 children under the age of 18; and
5. From 2013 to 2017, a child or teen under the age of 18 was killed by gunfire in Pennsylvania every 6 days, on average; and
6. Law enforcement agencies in Pittsburgh and Allegheny County have partnered with the National Shooting Sports Foundation to distribute free gun locks to Pittsburgh residents through Project ChildSafe; and
7. A February 2018 Politico/Morning Consult poll found that 76 percent of registered voters across America supported requiring that all gun owners store their guns in a safe storage unit; and
8. Every year in the United States, on average, more than 250 children under 18 gain access to a gun and unintentionally shoot themselves or someone else, and nearly 600 more die by suicide performed with a gun; and
9. Storing household guns locked, unloaded, or separate from the ammunition is associated with reductions in the risk of self-inflicted shootings among, and unintentional shootings by, children and teenagers; and
10. An estimated 4.6 million American children and teens under 18 still live in homes with at least one gun that is loaded and unlocked despite the lifesaving effect that responsible gun storage can have; and

11. Available evidence, as compiled by the RAND Corporation, indicates that child access prevention laws or safe storage laws reduce self-inflicted fatal or nonfatal firearm injuries among youth and reduce unintentional firearm injuries or unintentional firearm deaths among children; and
12. Over 22,000 Americans every year, including over 1,000 children and teens, die by firearm suicide; and
13. A meta-analysis of 14 different scientific studies concluded that access to a firearm triples the risk of death by suicide of anyone in the household; and
14. Among commonly used methods of self-harm, firearms are by far the most lethal, with a fatality rate of approximately 85 percent, compared to less than five percent with other methods, such that while firearms are used in less than six percent of suicide attempts, over half of suicide deaths result from suicide attempts performed with firearms; and
15. Extreme risk protection order laws have been shown to help prevent firearm suicides, as shown by the empirical evidence of reduced suicide rates under Connecticut's and Indiana's laws; and
16. Extreme risk protection order laws can also prevent gun crimes, as an analysis of mass shootings from 2009 to 2017 revealed that in 51 percent of incidents the shooter exhibited warning signs that he posed a danger to himself or others before the shooting; and
17. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of firearms, ammunition, and ammunition components; and
18. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer, or transportation of firearms, ammunition, and ammunition components unless and until governing law allows it to become effective; and
19. Senate Bill No. 90, a proposed statewide extreme risk protection order law dated February 14, 2019, was introduced to the General Assembly of Pennsylvania in the Session of 2019 by a bipartisan group of legislators; and
20. The City Council calls upon the Pennsylvania General Assembly to protect all Pennsylvanians by enacting Senate Bill No. 90, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and
21. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution; and

22. The City Council has authority to legislate regarding the use of firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public.

SECTION 2. Article XI: Weapons shall provide as follows in Chapter 1107 Extreme Risk Protection Orders:

§ 1107.01 SCOPE OF CHAPTER

A. This Chapter 1107 relates to extreme risk protection orders.

§ 1107.02 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01, 1102.01 and 1104.01, and not otherwise expressly defined in this Chapter 1107, shall apply as well in this Chapter 1107.

B. **Court.** The Pittsburgh Municipal Court.

C. **Extreme Risk Protection Order.** A court order prohibiting a person from having in the person's possession or control, purchasing or receiving or attempting to purchase or receive, a firearm, based upon a finding that the person presents a risk of suicide or of causing the death of, or serious bodily injury to, another person.

D. **Family or Household Member.** Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by first-degree consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

1. For the purposes of this Chapter 1107, an individual shall not be considered a Family or Household Member if that individual is enjoined by or is subject to the prohibitions in any active:

a. injunction, protection from abuse order, protection order, restraining order, or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to another person, including any temporary or final order issued by a civil or criminal court, whether obtained by filing an independent action or pending litigation in another proceeding, so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; or

b. support, child custody or visitation provisions, orders, remedy or relief issued as part of a protection order, restraining order, or injunction pursuant to state, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.

E. Firearms Dealer or Dealer. A person licensed to sell firearms under 18 Pa. C.S. § 6113 (relating to licensing of dealers).

F. Firearms License or License. A concealed carry license issued under 18 Pa. C.S. § 6109 (relating to licenses), safekeeping license issued under 23 Pa. C.S. § 6108.3 (relating to relinquishment to third party for safekeeping), hunting license required under 34 Pa. C.S. § 2701 (relating to license requirements) or any similar license issued pursuant to the laws of another state.

G. Law Enforcement Officer. A City of Pittsburgh police officer who is empowered by law to conduct investigations of or to make an arrest for an offense enumerated in this Chapter 1107 or an equivalent crime in another jurisdiction and an attorney authorized by law to prosecute or participate in the prosecution of such offense.

H. Serious Bodily Injury. Bodily injury that creates a substantial risk of death or causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

§ 1107.03 PRELIMINARY MATTERS

A. The following individuals shall have standing to file a petition requesting that the court issue an extreme risk protection order or renew an existing extreme risk protection order:

1. A law enforcement officer; or
2. A family or household member of a person believed to present a risk of suicide or of causing the death of, or extreme bodily injury to, another person.

B. No filing fee may be charged for a petition under this Chapter 1107.

C. An extreme risk protection order is effective at the time of service.

D. A respondent under this Chapter 1107 shall have the right to be represented by counsel. If the respondent cannot afford an attorney and meets the income guidelines applicable to representation by a public defender in a criminal case, the court shall appoint counsel upon the request of the respondent.

§ 1107.04 PETITION FOR EXTREME RISK PROTECTION ORDER

A. A petition for an extreme risk protection order shall set forth facts that demonstrate the risk presented by the respondent's ability to purchase firearms or have possession or control of firearms, and shall describe the number, types and locations of any firearms known or believed to be owned by the respondent or known or believed to be in the respondent's possession or control.

B. The court may consider all relevant evidence, but in no case shall an order be issued under § 1107.05 (relating to interim extreme risk protection order) or § 1107.09 (relating to order after hearing) absent a demonstration of risk due to behaviors or events occurring in the preceding 24 months.

C. In determining whether grounds exist to issue an extreme risk protection order, the court shall consider evidence of the following factors and the recency of any behaviors or events:

1. Suicide threats or attempts.
2. Threats or acts of violence or attempted acts of violence.
3. Domestic abuse, including any violation of a protection from abuse order, under 23 Pa. C.S. Ch. 61 (relating to protection from abuse) or a similar law in another state.
4. Cruelty to animals under 18 Pa. C.S. Ch. 55 Subch. B (relating to cruelty to animals) or a similar law in another state.
5. Abuse of controlled substances or alcohol, or any criminal offense that involves controlled substances or alcohol.
6. Unlawful or reckless use, display or brandishing of a firearm.
7. Recent acquisition or attempted acquisition of a firearm.
8. The possession, use or control of a firearm as a part of the respondent's employment.
9. Any additional information the court finds to be reliable, including a statement by the respondent.

§ 1107.05 INTERIM EXTREME RISK PROTECTION ORDER

A. The court reviewing a petition shall issue an interim extreme risk protection order if it finds, by a preponderance of the evidence, that:

1. The respondent presents a risk of suicide or of causing the death of, or serious bodily injury to, another person; and
2. The risk is imminent and other circumstances that would make it safe to proceed by ordering a hearing under § 1107.06 (relating to hearing on petition) without issuing an interim extreme risk protection order do not exist.

B. An interim extreme risk protection order shall include:

1. The date and time the order was issued.
2. Instructions for relinquishment of any firearm or firearms license that the respondent owns or that is in the respondent's possession or control.
3. Notification of the penalties for violating the order.
4. If the order was issued by a court and a hearing is scheduled under § 1107.05(D), the order shall include:
 - a. Notice of the time, date and location of the hearing;
 - b. Notice of the right to request a continuance, and instructions on requesting a continuance or waiving the hearing;
 - c. Notice of the fact that, at the hearing, or if the hearing is waived, the court may extend the order for up to one year; and
 - d. Notice of the right to an attorney under § 1107.03 (relating to preliminary matters).

C. An interim extreme risk protection order issued by a court shall be in effect until following a hearing it is either vacated or terminated.

D. If the court orders an interim extreme risk protection order under § 1107.06(A), the court shall schedule a hearing on the petition to be held no more than 10 days from the date of the order.

E. The respondent may request a continuance on a hearing scheduled to take place after the issuance of an interim order, which the court shall grant. No hearing shall be continued except with the consent of the respondent.

§ 1107.06 HEARING ON PETITION

A. Upon reviewing a petition filed under § 1107.04 (relating to petition for extreme risk protection order), the court may issue an order for a hearing on the petition, which shall be scheduled to be held no more than 10 days from the date of the petition.

B. If the hearing is scheduled to take place fewer than three business days after service of the order, the court shall grant a continuance until at least three business days after service, if requested by the respondent. The court shall notify the respondent of the respondent's right to a continuance under this § 1107.06.

C. If the respondent waives the right to be present at a hearing or fails to appear for a hearing on a petition scheduled under this § 1107.06, the court may proceed with the hearing and may issue an extreme risk protection order in the respondent's absence.

§ 1107.07 NOTICE TO LAW ENFORCEMENT

A. The court issuing an extreme risk protection order, an order for a hearing, or an order renewing, vacating or terminating an extreme risk protection order shall cause a copy of the order to be delivered to the sheriff, the local law enforcement agency and the Pennsylvania State Police.

B. Upon receipt of an extreme risk protection order or an order renewing, vacating or terminating an extreme risk protection order, the City of Pittsburgh Bureau of Police shall advise the Pennsylvania State Police and request or cause the Pennsylvania State Police to enter the order into the appropriate database so that notice of the order is provided through the Pennsylvania Instant Check System and the Federal Bureau of Investigation National Instant Criminal Background Check System.

§ 1107.08 SERVICE

A. Service of an extreme risk protection order or an order for a hearing shall be made in person by the sheriff or a law enforcement officer, as directed by the court issuing the order. At the time of service, the sheriff or law enforcement officer shall provide the respondent with a copy of the petition.

B. Immediately upon completion of service of an extreme risk protection order, the sheriff or law enforcement officer completing service shall make a return of service to the court and shall provide a copy of the return of service to the petitioner.

§ 1107.09 ORDER AFTER HEARING

A. The court shall issue an extreme risk protection order after conducting a hearing ordered under § 1107.05 (relating to interim extreme risk protection order) or § 1107.06 (relating to hearing on petition), or after the respondent waives the right to a hearing under § 1107.05, if the court finds by clear and convincing evidence that the respondent presents a risk of suicide or of causing the death of, or serious bodily injury to, another person.

B. An extreme risk protection order issued after a hearing shall be made effective for no less than three months nor more than one year.

C. The order shall include:

1. The date and time the order was issued.
2. The time frame and manner in which the respondent may request a termination hearing.

3. Instructions for relinquishment of any firearm that the respondent owns or that is in the respondent's possession or control, and any firearms license that is issued to the respondent.

4. Notification of the penalties for violating the order.

§ 1107.10 TERMINATION HEARING

A. A respondent subject to an extreme risk protection order may submit one written request at any time during the effective period of the order for a hearing to determine whether the order should be terminated.

B. Upon receipt of a request for a termination hearing, the court shall set a date for the hearing and shall provide notice of the hearing to the petitioner, the City of Pittsburgh Bureau of Police or other appropriate local law enforcement agency and the Pennsylvania State Police.

C. At a termination hearing, the respondent seeking termination of the order shall have the burden of proving, by clear and convincing evidence, that the respondent does not present a risk of suicide or of causing the death of, or serious bodily injury to, another person.

§ 1107.11 RENEWAL OF ORDER

A. A petition to renew an extreme risk protection order shall set forth facts that support a renewal of the order. The court may deny the petition based on the information set forth in the petition or may schedule a hearing. The court shall provide notice of the hearing to the petitioner, the respondent, the local law enforcement agency and the Pennsylvania State Police.

B. If the court finds by clear and convincing evidence, based on factors set forth under § 1107.04 (relating to petition for extreme risk protection order), that the respondent continues to present a risk of suicide or of causing the death of, or serious bodily injury to, another person, the court may renew the extreme risk protection order for a duration of no fewer than three months and no more than one year from the date of the order.

C. The following limitations shall apply:

1. A petition under this § 1107.11 must be filed at least 60 days prior to the expiration of the order.

2. A renewal hearing shall take place no later than 30 days prior to the expiration date set in an existing order.

3. No extreme risk protection order may be renewed more than twice under this § 1107.11.

§ 1107.12 RELINQUISHMENT OF FIREARMS

A. An extreme risk protection order issued under § 1107.05 (relating to interim extreme risk protection order) or § 1107.09 (relating to order after hearing) shall require the relinquishment of all firearms owned by the respondent or in the respondent's possession or control within 24 hours following service of the order, except for cause shown, in which case the court issuing the order shall specify the time for relinquishment of any or all of the respondent's firearms.

B. A law enforcement officer or sheriff serving an extreme risk protection order shall request that all firearms and any firearms license in the respondent's possession or control be immediately relinquished into the custody of the law enforcement officer or sheriff. A law enforcement officer taking custody of a firearm or firearms license under § 1107.12(B) shall transfer the firearm or firearms license to the sheriff or to a firearms dealer for safekeeping.

C. A respondent shall, within the time frame specified in the order, relinquish to the sheriff or a firearms dealer any firearm or license remaining in the respondent's possession or control after the time of service. A respondent relinquishing a firearm directly to a dealer shall, within the time frame specified in the order, provide to the law enforcement agency or sheriff a copy of the affidavit described in § 1107.12(F) in lieu of the firearm listed in the affidavit. A sheriff accepting an affidavit in lieu of a firearm shall file a copy with the court.

D. A sheriff or law enforcement officer taking custody of a firearm or license from a respondent shall provide the respondent with a copy of a signed and dated receipt. The receipt shall include a detailed description indicating the serial number and condition of each firearm and notification that firearms will be deemed abandoned when the conditions under 18 Pa. C.S. § 6128(a) (relating to abandonment of firearm, weapon or ammunition) are satisfied, and may then be disposed of in accordance with 18 Pa. C.S. § 6128. The sheriff or law enforcement officer issuing the receipt shall file the original with the court.

1. In addition, the appropriate law enforcement agency shall be liable to the lawful owner of said confiscated, seized or relinquished firearm for any loss, damage or substantial decrease in value of said firearm that is a direct result of a lack of reasonable care by the appropriate law enforcement agency.

E. A respondent whose firearm is in the custody of a sheriff may request that the firearm be transferred to a firearms dealer for consignment sale, lawful transfer or safekeeping. Upon receiving the request, the sheriff shall transport the firearm to a dealer at no cost to the respondent or the dealer.

F. A firearms dealer accepting custody of a firearm under this Chapter 1107 shall provide the respondent, sheriff or law enforcement officer from which the dealer accepts custody with an affidavit. A sheriff or law enforcement officer delivering custody of a firearm to a dealer shall file a copy of the affidavit with the court.

G. The affidavit shall include the following:

1. The caption of the case in which the extreme risk protection order was issued.
2. The name, address, date of birth and Social Security number of the respondent.
3. A list of all firearms relinquished to the dealer and a detailed description of each firearm, including its condition and, if applicable, the manufacturer, model and serial number.
4. The name and license number of the dealer and the address of the licensed premises.
5. An acknowledgment that the dealer will not return a firearm to the respondent while the respondent is subject to an extreme risk protection order.
6. An acknowledgment that the firearm, if sold or transferred, will be sold or transferred in compliance with 18 Pa. C.S. Ch. 61 (relating to firearms and other dangerous articles), and that no firearm will be returned to a respondent or any third party until the dealer has independently confirmed that the person requesting return of the firearm is legally eligible to possess firearms under Federal and State law.

§ 1107.13 RETURN OF FIREARMS

A. Subject to § 1107.13(C), if, following a hearing, a court vacates an interim extreme risk protection order, the court shall order the immediate return of all relinquished firearms and licenses to the respondent. Upon termination or expiration of an extreme risk protection order, the respondent may request that the sheriff or firearms dealer in possession of a relinquished firearm or license return the firearm or license. Subject to § 1107.13(C), the sheriff or dealer shall return the firearm or license to the respondent as soon as possible but not later than the end of the next business day after the day on which the respondent makes the request.

B. A third party may request the return of a relinquished firearm at any time by providing proof of ownership and a sworn affidavit. Proof of ownership may consist of a statement in the affidavit. The affidavit shall affirm the following:

1. The third party will not intentionally or knowingly return a firearm to a person subject to an extreme risk protection order nor intentionally or knowingly allow a person subject to an extreme risk protection order to have access to a firearm.
2. The third party understands that intentionally or knowingly allowing a person subject to an extreme risk protection order to have access to a firearm constitutes a violation of § 1107.16(C) of this Chapter, resulting in a fine of \$1,000 and costs for each offense, and in default of payment thereof, imprisonment for not more than 90 days.
3. If the third party is a member of the household of a person who is subject to an extreme risk protection order, that any firearm returned to the third party will be stored either in a gun safe to which the person does not have and will not be permitted to access, or in a location outside the home to which the person does not have access.

C. Prior to returning a firearm to any person, the sheriff or firearms dealer in possession of the firearm shall independently confirm that the person requesting return of the firearm is legally eligible to possess firearms under Federal and State law. The sheriff or dealer receiving a request under § 1107.13(A) shall conduct the required background check as soon as possible, but not later than the end of the next business day after the day on which the respondent makes the request.

§ 1107.14 ABUSE OF PROCESS

A. A person who files a petition for an extreme risk protection order knowing the information in the petition to be materially false, or with the intent to harass another, shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

B. A person determined to have violated § 1107.14(A) or determined by the court to have acted in bad faith for the purpose of harassing the respondent shall be ordered to pay full restitution to the respondent. For purposes of this § 1107.14(B), restitution shall include, but not be limited to, reasonable attorney fees, costs of storage and other expenses incurred by the respondent as a result of the false reporting or false swearing.

§ 1107.15 MENTAL HEALTH AND CHEMICAL DEPENDENCY SERVICES

A. During any proceeding under this Chapter 1107, the court shall consider whether a mental health or chemical dependency evaluation is necessary, and may order such an evaluation as it deems necessary.

§ 1107.16 PENALTIES FOR VIOLATIONS

A. A person who is the subject of an extreme risk protection order issued pursuant to § 1107.05 (relating to interim extreme risk protection order) or § 1107.09 (relating to order after hearing), if he intentionally or knowingly fails to relinquish a firearm or firearms license as required by the order, shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

B. A person who intentionally or knowingly accepts possession of a firearm from a person he knows is the subject of an extreme risk protection order issued pursuant to § 1107.05 (relating to interim extreme risk protection order) or § 1107.09 (relating to order after hearing) shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

1. § 1107.16(B) shall not apply to a firearms dealer or subsequent purchaser from a firearms dealer who accepts possession of a firearm pursuant to this Chapter 1107.

2. It shall be an affirmative defense to any prosecution under § 1107.16(B) that the person accepting possession of a firearm in violation of § 1107.16(B):

a. Notified the sheriff or law enforcement officer as soon as practicable that he has taken possession; and

b. Relinquished possession of any firearm in violation of § 1107.16(B) as directed by the sheriff or law enforcement officer.

C. A person who has accepted possession of a firearm or firearms license pursuant to this Chapter 1107, if he intentionally or knowingly returns a firearm or firearms license to a respondent or intentionally or knowingly allows a respondent to have access to the firearm or firearms license prior to the expiration of an extreme risk protection order or the issuance of a court order that vacates or terminates an extreme risk protection order under this Chapter 1107, shall be fined \$1,000 and costs for each offense, and in default of payment thereof, may be imprisoned for not more than 90 days.

§ 1107.17 EFFECTIVE DATE

A. This Chapter shall take effect 180 days after its enactment by City Council.

§ 1107.18 INTERPRETATION CONSISTENT WITH STATE LAW

A. This Chapter 1107 shall be interpreted to be consistent with any legislation enacted by the Pennsylvania General Assembly addressing the same subject matter.

§ 1107.19 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Chapter 1107. If any section, subsection, sentence, clause, phrase, or portion of this Chapter 1107 is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter 1107.

§ 1107.20 FINDINGS AND PURPOSE

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and

2. Gun violence and gun suicides present a public health and public safety crisis in the United States; and
3. From 2013 to 2017, the Centers for Disease Control and Prevention reported that the average number of firearm deaths for all ages was 36,383 per year, and the average number of firearm deaths for persons under 18 years old was 1,499 per year; and
4. From 2013 to 2017, 7,517 Pennsylvania residents died from a firearm injury, including 301 children under the age of 18; and
5. From 2013 to 2017, a child or teen under the age of 18 was killed by gunfire in Pennsylvania every 6 days, on average; and
6. Law enforcement agencies in Pittsburgh and Allegheny County have partnered with the National Shooting Sports Foundation to distribute free gun locks to Pittsburgh residents through Project ChildSafe; and
7. A February 2018 Politico/Morning Consult poll found that 76 percent of registered voters across America supported requiring that all gun owners store their guns in a safe storage unit; and
8. Every year in the United States, on average, more than 250 children under 18 gain access to a gun and unintentionally shoot themselves or someone else, and nearly 600 more die by suicide performed with a gun; and
9. Storing household guns locked, unloaded, or separate from the ammunition is associated with reductions in the risk of self-inflicted shootings among, and unintentional shootings by, children and teenagers; and
10. An estimated 4.6 million American children and teens under 18 still live in homes with at least one gun that is loaded and unlocked despite the lifesaving effect that responsible gun storage can have; and
11. Available evidence, as compiled by the RAND Corporation, indicates that child access prevention laws or safe storage laws reduce self-inflicted fatal or nonfatal firearm injuries among youth and reduce unintentional firearm injuries or unintentional firearm deaths among children; and
12. Over 22,000 Americans every year, including over 1,000 children and teens, die by firearm suicide; and
13. A meta-analysis of 14 different scientific studies concluded that access to a firearm triples the risk of death by suicide of anyone in the household; and
14. Among commonly used methods of self-harm, firearms are by far the most lethal, with a fatality rate of approximately 85 percent, compared to less than five percent with other methods, such that while firearms are used in less than six percent of suicide

attempts, over half of suicide deaths result from suicide attempts performed with firearms; and

15. Extreme risk protection order laws have been shown to help prevent firearm suicides, as shown by the empirical evidence of reduced suicide rates under Connecticut's and Indiana's laws; and

16. Extreme risk protection order laws can also prevent gun crimes, as an analysis of mass shootings from 2009 to 2017 revealed that in 51 percent of incidents the shooter exhibited warning signs that he posed a danger to himself or others before the shooting; and

17. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of firearms, ammunition, and ammunition components; and

18. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer, or transportation of firearms, ammunition, and ammunition components unless and until governing law allows it to become effective; and

19. Senate Bill No. 90, a proposed statewide extreme risk protection order law dated February 14, 2019, was introduced to the General Assembly of Pennsylvania in the Session of 2019 by a bipartisan group of legislators; and

20. The City Council calls upon the Pennsylvania General Assembly to protect all Pennsylvanians by enacting Senate Bill No. 90, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and

21. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution; and

22. The City Council has authority to legislate regarding the use of firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public.

As Amended on April 2, 2019



Text File

Introduced: 12/14/2018

Bill No: 2018-1220, **Version:** 3

Committee: Committee on Public Safety
Services

Status: Mayor's Office for Signature

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article XI: Weapons, by adding Chapter 1106: Prevention of Extreme Risk to Children and Chapter 1107: Extreme Risk Protection Orders.

(Public Hearing held 1/24/19; Post Agenda held 2/12/19)

The Council of the City of Pittsburgh hereby enacts:

SECTION 1. Article XI: Weapons shall provide as follows in Chapter 1106 Prevention of Extreme Risk to Children:

§ 1106.01 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01, 1102.01 and 1104.01 shall also apply in this Chapter 1106.

§ 1106.02 PREVENTION OF UNAUTHORIZED USES OF FIREARMS BY MINORS

A. A Firearm's custodian shall be in violation of this Section if:

1. A minor gains access to and uses the Firearm; and
2. The Firearm's custodian knew or reasonably should have known that a minor was likely to gain access to the Firearm.

B. For purposes of this Section, "use" of a Firearm does not include possession, ownership, transportation or transfer. "Use" of a Firearm shall include, but is not limited to:

1. Discharging or attempting to discharge the Firearm;
2. Loading the Firearm with Ammunition;
3. Brandishing the Firearm;
4. Pointing the Firearm at any person; and

Committee: Committee on Public Safety
Services

Status: Mayor's Office for Signature

5. Employing the Firearm for any purpose prohibited by the laws of Pennsylvania or of the United States.

C. The provisions of this Section shall not apply if:

1. The minor gains access to the Firearm as the result of an illegal entry to any premises by any person;
2. The Firearm is stored in a locked box, locked gun safe, or other secure, locked space, or is secured with a trigger lock or other similar device that is properly engaged so as to render the Firearm inoperable by any person other than the Firearm's custodian or other lawfully authorized user;
3. The Firearm is carried on the person of the Firearm's custodian or within close enough proximity thereto that the Firearm's custodian can readily retrieve and use the Firearm as if carried on the person; or
4. The minor uses the Firearm in a lawful act of self-defense or defense of another person.
5. The minor was lawfully given authorization to use the Firearm by the minor's parent or legal guardian.

D. For purposes of this Section, "Firearm's custodian" means the person who exercises custody or control over the Firearm.

E. For purposes of this Section, "minor" means a person under 18 years of age.

F. For purposes of this Section, the term "brandishing" means, with respect to a Firearm, to display all or part of the Firearm, or otherwise make the presence of the Firearm known to another person, in order to intimidate that person, regardless of whether the Firearm is directly visible to that person.

§ 1106.03 PENALTIES FOR VIOLATIONS

A. Any person found in violation of this Chapter 1106 shall be fined up to \$1,000 and costs for each offense.

§ 1106.04 APPLICATION OF CHAPTER

A. This Chapter 1106 shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI.

§ 1106.05 EFFECTIVE DATE

A. This Chapter 1106 shall take effect 60 days after its enactment.

§ 1106.06 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a Court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons. Court

§ 1106.07 FINDINGS AND PURPOSE

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
2. Gun violence and gun suicides present a public health and public safety crisis in the United States; and
3. From 2013 to 2017, the Centers for Disease Control and Prevention reported that the average number of Firearm deaths for all ages was 36,383 per year, and the average number of Firearm deaths for persons under 18 years old was 1,499 per year; and
4. From 2013 to 2017, 7,517 Pennsylvania residents died from a Firearm injury, including 301 children under the age of 18; and
5. From 2013 to 2017, a child or teen under the age of 18 was killed by gunfire in Pennsylvania every 6 days, on average; and
6. Law enforcement agencies in Pittsburgh and Allegheny County have partnered with the National Shooting Sports Foundation to distribute free gun locks to Pittsburgh residents through Project ChildSafe; and
7. A February 2018 Politico/Morning Consult poll found that 76 percent of registered voters across America supported requiring that all gun owners store their guns in a safe storage unit; and

8. Every year in the United States, on average, more than 250 children under 18 gain access to a gun and unintentionally shoot themselves or someone else, and nearly 600 more die by suicide performed with a gun; and
9. Storing household guns locked, unloaded, or separate from the Ammunition is associated with reductions in the risk of self-inflicted shootings among, and unintentional shootings by, children and teenagers; and
10. An estimated 4.6 million American children and teens under 18 still live in homes with at least one gun that is loaded and unlocked despite the lifesaving effect that responsible gun storage can have; and
11. Available evidence, as compiled by the RAND Corporation, indicates that child access prevention laws or safe storage laws reduce self-inflicted fatal or nonfatal Firearm injuries among youth and reduce unintentional Firearm injuries or unintentional Firearm deaths among children; and
12. Over 22,000 Americans every year, including over 1,000 children and teens, die by Firearm suicide; and
13. A meta-analysis of 14 different scientific studies concluded that access to a Firearm triples the risk of death by suicide of anyone in the household; and
14. Among commonly used methods of self-harm, Firearms are by far the most lethal, with a fatality rate of approximately 85 percent, compared to less than five percent with other methods, such that while Firearms are used in less than six percent of suicide attempts, over half of suicide deaths result from suicide attempts performed with Firearms; and
15. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of Firearms, Ammunition, and Ammunition components; and
16. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer, or transportation of Firearms, Ammunition, and Ammunition components unless and until governing law allows it to become effective; and
17. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution; and
18. The City Council has authority to legislate regarding the use of Firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public.

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SECTION 2. Article XI: Weapons shall provide as follows in Chapter 1107 Extreme Risk Protection Orders:

§ 1107.01 SCOPE OF CHAPTER

A. This Chapter 1107 relates to Extreme Risk Protection Orders.

§ 1107.02 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01, 1102.01 and 1104.01, and not otherwise expressly defined in this Chapter 1107, shall also apply in this Chapter 1107.

B. **Court.** The Pittsburgh Municipal Court.

C. **Extreme Risk Protection Order.** A Court order prohibiting a person from having in the person's possession or control, purchasing or receiving or attempting to purchase or receive, a Firearm, based upon a finding that the person presents a risk of suicide or of causing the death of, or Serious Bodily Injury to, another person through the use of a firearm.

D. **Family or Household Member.** Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by first-degree consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

E. **Firearms Dealer or Dealer.** A person licensed to sell Firearms under 18 Pa. C.S. § 6113 (relating to licensing of Dealers).

F. **Firearms License or License.** A concealed carry license issued under 18 Pa. C.S. § 6109 (relating to licenses), safekeeping license issued under 23 Pa. C.S. § 6108.3 (relating to relinquishment to third party for safekeeping), hunting license required under 34 Pa. C.S. § 2701 (relating to license requirements) or any similar license issued pursuant to the laws of another state.

G. **Law Enforcement Officer.** A City of Pittsburgh police officer who is empowered by law to conduct investigations of or to make an arrest for an offense enumerated in this Chapter 1107 or an equivalent crime in another jurisdiction and an attorney authorized by law to prosecute or participate in the prosecution of such offense.

H. **Serious Bodily Injury.** Bodily injury that creates a substantial risk of death or causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

§ 1107.03 PRELIMINARY MATTERS

A. The following individuals shall have standing to file a petition requesting that the Court issue an Extreme Risk Protection Order or renew an existing Extreme Risk Protection Order:

1. A Law Enforcement Officer; or
2. A Family or Household Member of a person believed to present a risk of suicide or of causing the death of, or extreme bodily injury to, another person through the use of a firearm.

B. No filing fee may be charged for a petition under this Chapter 1107.

C. An Extreme Risk Protection Order is effective at the time of service.

D. A respondent under this Chapter 1107 shall have the right to be represented by counsel. If the respondent cannot afford an attorney and meets the income guidelines applicable to representation by a public defender in a criminal case, the Court shall appoint counsel upon the request of the respondent.

§ 1107.04 PETITION FOR EXTREME RISK PROTECTION ORDER

A. A petition for an Extreme Risk Protection Order shall set forth facts that demonstrate the risk presented by the respondent's ability to purchase Firearms or have possession or control of Firearms, and shall describe the number, types and locations of any Firearms known or believed to be owned by the respondent or known or believed to be in the respondent's possession or control.

B. A petition for an Extreme Risk Protection Order, at the time of the filing, shall also identify all known restraining orders, orders of protection, and pending lawsuits, complaints, petitions, or actions pending, active, or filed within one year prior to the petition for an Extreme Risk Protection Order involving the respondent, including, but not limited to, an order entered pursuant to 23 Pa. C.S. Ch. 61 (relating to protection from abuse).

C. The Court may consider all relevant evidence, but in no case shall an order be issued under § 1107.05 (relating to interim Extreme Risk Protection Order) or § 1107.09 (relating to order after hearing) absent a demonstration of risk due to behaviors or events occurring in the preceding 24 months.

D. In determining whether grounds exist to issue an Extreme Risk Protection Order, the Court shall consider evidence of the following factors and the recency of any behaviors or events:

1. Suicide threats or attempts.
2. Threats or acts of violence or attempted acts of violence.
3. Domestic abuse, including any violation of a protection from abuse order, under 23 Pa. C.S. Ch. 61

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(relating to protection from abuse) or a similar law in another state.

4. Cruelty to animals under 18 Pa. C.S. Ch. 55 Subch. B (relating to cruelty to animals) or a similar law in another state.
5. Abuse of controlled substances or alcohol, or any criminal offense that involves controlled substances or alcohol.
6. Unlawful or reckless use, display or brandishing of a Firearm.
7. Recent acquisition or attempted acquisition of a Firearm.
8. The possession, use or control of a Firearm as a part of the respondent's employment.
9. Any additional information the Court finds to be reliable, including a statement by the respondent.

E. For purposes of this Section, the term "brandishing" means, with respect to a Firearm, to display all or part of the Firearm, or otherwise make the presence of the Firearm known to another person, in order to intimidate that person, regardless of whether the Firearm is directly visible to that person.

§ 1107.05 INTERIM EXTREME RISK PROTECTION ORDER

A. The Court reviewing a petition shall issue an interim Extreme Risk Protection Order if it finds, by a preponderance of the evidence, that:

1. The respondent presents a risk of suicide or of causing the death of, or Serious Bodily Injury to, another person through the use of a firearm; and
2. The risk is imminent and other circumstances that would make it safe to proceed by ordering a hearing under § 1107.06 (relating to hearing on petition) without issuing an interim Extreme Risk Protection Order do not exist.

B. An interim Extreme Risk Protection Order shall include:

1. The date and time the order was issued.
2. Instructions for relinquishment of any Firearm or Firearms license that the respondent owns or that is in the respondent's possession or control.
3. Notification of the penalties for violating the order.

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4. If the order was issued by a Court and a hearing is scheduled under § 1107.05(D), the order shall include:

- a. Notice of the time, date and location of the hearing;
- b. Notice of the right to request a continuance, and instructions on requesting a continuance or waiving the hearing;
- c. Notice of the fact that, at the hearing, or if the hearing is waived, the Court may extend the order for up to one year; and
- d. Notice of the right to an attorney under § 1107.03 (relating to preliminary matters).

C. An interim Extreme Risk Protection Order issued by a Court shall be in effect until following a hearing it is either vacated or terminated.

D. If the Court orders an interim Extreme Risk Protection Order under § 1107.06(A), the Court shall schedule a hearing on the petition to be held no more than 10 days from the date of the order.

E. The respondent may request a continuance on a hearing scheduled to take place after the issuance of an interim order, which the Court shall grant. No hearing shall be continued except with the consent of the respondent.

§ 1107.06 HEARING ON PETITION

A. Upon reviewing a petition filed under § 1107.04 (relating to petition for Extreme Risk Protection Order), the Court may issue an order for a hearing on the petition, which shall be scheduled to be held no more than 10 days from the date of the petition.

B. If the hearing is scheduled to take place fewer than three business days after service of the order, the Court shall grant a continuance until at least three business days after service, if requested by the respondent. The Court shall notify the respondent of the respondent's right to a continuance under this § 1107.06.

C. If the respondent waives the right to be present at a hearing or fails to appear for a hearing on a petition scheduled under this § 1107.06, the Court may proceed with the hearing and may issue an Extreme Risk Protection Order in the respondent's absence.

§ 1107.07 NOTICE TO LAW ENFORCEMENT

A. The Court issuing an Extreme Risk Protection Order, an order for a hearing, or an order renewing, vacating

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or terminating an Extreme Risk Protection Order shall cause a copy of the order to be delivered to the sheriff, the local law enforcement agency and the Pennsylvania State Police.

B. Upon receipt of an Extreme Risk Protection Order or an order renewing, vacating or terminating an Extreme Risk Protection Order, the City of Pittsburgh Bureau of Police shall advise the Pennsylvania State Police and request or cause the Pennsylvania State Police to enter the order into the appropriate database so that notice of the order is provided through the Pennsylvania Instant Check System and the Federal Bureau of Investigation National Instant Criminal Background Check System.

§ 1107.08 SERVICE

A. Service of an Extreme Risk Protection Order or an order for a hearing shall be made in person by the sheriff or a Law Enforcement Officer, as directed by the Court issuing the order. At the time of service, the sheriff or Law Enforcement Officer shall provide the respondent with a copy of the petition.

B. Immediately upon completion of service of an Extreme Risk Protection Order, the sheriff or Law Enforcement Officer completing service shall make a return of service to the Court and shall provide a copy of the return of service to the petitioner.

§ 1107.09 ORDER AFTER HEARING

A. The Court shall issue an Extreme Risk Protection Order after conducting a hearing ordered under § 1107.05 (relating to interim Extreme Risk Protection Order) or § 1107.06 (relating to hearing on petition), or after the respondent waives the right to a hearing under § 1107.05, if the Court finds by clear and convincing evidence that the respondent presents a risk of suicide or of causing the death of, or Serious Bodily Injury to, another person through the use of a firearm.

B. An Extreme Risk Protection Order issued after a hearing shall be made effective for no less than three months nor more than one year.

C. The order shall include:

1. The date and time the order was issued.
2. The time frame and manner in which the respondent may request a termination hearing.
3. Instructions for relinquishment of any Firearm that the respondent owns or that is in the respondent's possession or control, and any Firearms license that is issued to the respondent.

4. Notification of the penalties for violating the order.

§ 1107.10 TERMINATION HEARING

A. A respondent subject to an Extreme Risk Protection Order may submit one written request at any time during the effective period of the order for a hearing to determine whether the order should be terminated.

B. Upon receipt of a request for a termination hearing, the Court shall set a date for the hearing and shall provide notice of the hearing to the petitioner, the City of Pittsburgh Bureau of Police or other appropriate local law enforcement agency and the Pennsylvania State Police.

C. At a termination hearing, the respondent seeking termination of the order shall have the burden of proving, by clear and convincing evidence, that the respondent does not present a risk of suicide or of causing the death of, or Serious Bodily Injury to, another person through the use of a firearm.

§ 1107.11 RENEWAL OF ORDER

A. A petition to renew an Extreme Risk Protection Order shall set forth facts that support a renewal of the order. The Court may deny the petition based on the information set forth in the petition or may schedule a hearing. The Court shall provide notice of the hearing to the petitioner, the respondent, the local law enforcement agency and the Pennsylvania State Police.

B. If the Court finds by clear and convincing evidence, based on factors set forth under § 1107.04 (relating to petition for Extreme Risk Protection Order), that the respondent continues to present a risk of suicide or of causing the death of, or Serious Bodily Injury to, another person through the use of a firearm, the Court may renew the Extreme Risk Protection Order for a duration of no fewer than three months and no more than one year from the date of the order.

C. The following limitations shall apply:

1. A petition under this § 1107.11 must be filed at least 60 days prior to the expiration of the order.
2. A renewal hearing shall take place no later than 30 days prior to the expiration date set in an existing order.
3. No Extreme Risk Protection Order may be renewed more than twice under this § 1107.11.

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§ 1107.12 RELINQUISHMENT OF FIREARMS

A. An Extreme Risk Protection Order issued under § 1107.05 (relating to interim Extreme Risk Protection Order) or § 1107.09 (relating to order after hearing) shall require the relinquishment of all Firearms owned by the respondent or in the respondent's possession or control within 24 hours following service of the order, except for cause shown, in which case the Court issuing the order shall specify the time for relinquishment of any or all of the respondent's Firearms.

B. A Law Enforcement Officer or sheriff serving an Extreme Risk Protection Order shall request that all Firearms and any Firearms license in the respondent's possession or control be immediately relinquished into the custody of the Law Enforcement Officer or sheriff. A Law Enforcement Officer taking custody of a Firearm or Firearms license under § 1107.12(B) shall transfer the Firearm or Firearms license to the sheriff or to a Firearms Dealer for safekeeping.

C. A respondent shall, within the time frame specified in the order, relinquish to the sheriff or a Firearms Dealer any Firearm or license remaining in the respondent's possession or control after the time of service. A respondent relinquishing a Firearm directly to a Dealer shall, within the time frame specified in the order, provide to the law enforcement agency or sheriff a copy of the affidavit described in § 1107.12(F) in lieu of the Firearm listed in the affidavit. A sheriff accepting an affidavit in lieu of a Firearm shall file a copy with the Court.

D. A sheriff or Law Enforcement Officer taking custody of a Firearm or license from a respondent shall provide the respondent with a copy of a signed and dated receipt. The receipt shall include a detailed description indicating the serial number and condition of each Firearm and notification that Firearms will be deemed abandoned when the conditions under 18 Pa. C.S. § 6128(a) (relating to abandonment of Firearm, weapon or Ammunition) are satisfied, and may then be disposed of in accordance with 18 Pa. C.S. § 6128. The sheriff or Law Enforcement Officer issuing the receipt shall file the original with the Court.

1. In addition, the appropriate law enforcement agency shall be liable to the lawful owner of said confiscated, seized or relinquished Firearm for any loss, damage or substantial decrease in value of said Firearm that is a direct result of a lack of reasonable care by the appropriate law enforcement agency.

E. A respondent whose Firearm is in the custody of a sheriff may request that the Firearm be transferred to a Firearms Dealer for consignment sale, lawful transfer or safekeeping. Upon receiving the request, the sheriff shall transport the Firearm to a Dealer at no cost to the respondent or the Dealer.

F. A Firearms Dealer accepting custody of a Firearm under this Chapter 1107 shall provide the respondent, sheriff or Law Enforcement Officer from which the Dealer accepts custody with an affidavit. A sheriff or Law Enforcement Officer delivering custody of a Firearm to a Dealer shall file a copy of the affidavit with the Court.

G. The affidavit shall include the following:

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1. The caption of the case in which the Extreme Risk Protection Order was issued.
 2. The name, address, date of birth and Social Security number of the respondent.
 3. A list of all Firearms relinquished to the Dealer and a detailed description of each Firearm, including its condition and, if applicable, the manufacturer, model and serial number.
 4. The name and license number of the Dealer and the address of the licensed premises.
 5. An acknowledgment that the Dealer will not return a Firearm to the respondent while the respondent is subject to an Extreme Risk Protection Order.
 6. An acknowledgment that the Firearm, if sold or transferred, will be sold or transferred in compliance with 18 Pa. C.S. Ch. 61 (relating to Firearms and other dangerous articles), and that no Firearm will be returned to a respondent or any third party until the Dealer has independently confirmed that the person requesting return of the Firearm is legally eligible to possess Firearms under Federal and State law.

§ 1107.13 RETURN OF FIREARMS

A. Subject to § 1107.13(C), if, following a hearing, a Court vacates an interim Extreme Risk Protection Order, the Court shall order the immediate return of all relinquished Firearms and licenses to the respondent. Upon termination or expiration of an Extreme Risk Protection Order, the respondent may request that the sheriff or Firearms Dealer in possession of a relinquished Firearm or license return the Firearm or license. Subject to § 1107.13(C), the sheriff or Dealer shall return the Firearm or license to the respondent as soon as possible but not later than the end of the next business day after the day on which the respondent makes the request.

B. A third party may request the return of a relinquished Firearm at any time by providing proof of ownership and a sworn affidavit. Proof of ownership may consist of a statement in the affidavit. The affidavit shall affirm the following:

1. The third party will not intentionally or knowingly return a Firearm to a person subject to an Extreme Risk Protection Order nor intentionally or knowingly allow a person subject to an Extreme Risk Protection Order to have access to a Firearm.
2. The third party understands that intentionally or knowingly allowing a person subject to an Extreme Risk Protection Order to have access to a Firearm constitutes a violation of § 1107.16(C) of this Chapter, resulting in a fine of up to \$1,000 and costs for each offense.
3. If the third party is a member of the household of a person who is subject to an Extreme Risk Protection Order, that any Firearm returned to the third party will be stored either in a gun safe to which the person does not have and will not be permitted to access, or in a location outside the home to which

the person does not have access.

C. Prior to returning a Firearm to any person, the sheriff or Firearms Dealer in possession of the Firearm shall independently confirm that the person requesting return of the Firearm is legally eligible to possess Firearms under Federal and State law. The sheriff or Dealer receiving a request under § 1107.13(A) shall conduct the required background check as soon as possible, but not later than the end of the next business day after the day on which the respondent makes the request.

§ 1107.14 ABUSE OF PROCESS

A. A person who files a petition for an Extreme Risk Protection Order knowing the information in the petition to be materially false, or with the intent to harass another, shall be fined \$1,000 and costs for each offense.

B. A person determined to have violated § 1107.14(A) or determined by the Court to have acted in bad faith for the purpose of harassing the respondent shall be ordered to pay full restitution to the respondent. For purposes of this § 1107.14(B), restitution shall include, but not be limited to, reasonable attorney fees, costs of storage and other expenses incurred by the respondent as a result of the false reporting or false swearing.

§ 1107.15 MENTAL HEALTH AND CHEMICAL DEPENDENCY SERVICES

A. During any proceeding under this Chapter 1107, the Court shall consider whether a mental health or chemical dependency evaluation is necessary, and may order such an evaluation as it deems necessary.

§ 1107.16 PENALTIES FOR VIOLATIONS

A. A person who is the subject of an Extreme Risk Protection Order issued pursuant to § 1107.05 (relating to interim Extreme Risk Protection Order) or § 1107.09 (relating to order after hearing), if he intentionally or knowingly fails to relinquish a Firearm or Firearms license as required by the order, shall be fined up to \$1,000 and costs for each offense.

B. A person who intentionally or knowingly accepts possession of a Firearm from a person he knows is the subject of an Extreme Risk Protection Order issued pursuant to § 1107.05 (relating to interim Extreme Risk Protection Order) or § 1107.09 (relating to order after hearing) shall be fined up to \$1,000 and costs for each offense.

1. § 1107.16(B) shall not apply to a Firearms Dealer or subsequent purchaser from a Firearms Dealer who accepts possession of a Firearm pursuant to this Chapter 1107.

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2. It shall be an affirmative defense to any prosecution under § 1107.16(B) that the person accepting possession of a Firearm in violation of § 1107.16(B):

- a. Notified the sheriff or Law Enforcement Officer as soon as practicable that he has taken possession; and
- b. Relinquished possession of any Firearm in violation of § 1107.16(B) as directed by the sheriff or Law Enforcement Officer.

C. A person who has accepted possession of a Firearm or Firearms license pursuant to this Chapter 1107, if he intentionally or knowingly returns a Firearm or Firearms license to a respondent or intentionally or knowingly allows a respondent to have access to the Firearm or Firearms license prior to the expiration of an Extreme Risk Protection Order or the issuance of a Court order that vacates or terminates an Extreme Risk Protection Order under this Chapter 1107, shall be fined up to \$1,000 and costs for each offense.

§ 1107.17 EFFECTIVE DATE

A. This Chapter shall take effect 180 days after its enactment.

§ 1107.18 INTERPRETATION CONSISTENT WITH STATE LAW

A. This Chapter 1107 shall be interpreted to be consistent with any legislation enacted by the Pennsylvania General Assembly addressing the same subject matter.

§ 1107.19 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons.

§ 1107.20 FINDINGS AND PURPOSE

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
2. Gun violence and gun suicides present a public health and public safety crisis in the United States; and
3. From 2013 to 2017, the Centers for Disease Control and Prevention reported that the average number of Firearm deaths for all ages was 36,383 per year, and the average number of Firearm deaths for persons under 18 years old was 1,499 per year; and
4. From 2013 to 2017, 7,517 Pennsylvania residents died from a Firearm injury, including 301 children under the age of 18; and
5. From 2013 to 2017, a child or teen under the age of 18 was killed by gunfire in Pennsylvania every 6 days, on average; and
6. Law enforcement agencies in Pittsburgh and Allegheny County have partnered with the National Shooting Sports Foundation to distribute free gun locks to Pittsburgh residents through Project ChildSafe; and
7. A February 2018 Politico/Morning Consult poll found that 76 percent of registered voters across America supported requiring that all gun owners store their guns in a safe storage unit; and
8. Every year in the United States, on average, more than 250 children under 18 gain access to a gun and unintentionally shoot themselves or someone else, and nearly 600 more die by suicide performed with a gun; and
9. Storing household guns locked, unloaded, or separate from the Ammunition is associated with reductions in the risk of self-inflicted shootings among, and unintentional shootings by, children and teenagers; and
10. An estimated 4.6 million American children and teens under 18 still live in homes with at least one gun that is loaded and unlocked despite the lifesaving effect that responsible gun storage can have; and
11. Available evidence, as compiled by the RAND Corporation, indicates that child access prevention laws or safe storage laws reduce self-inflicted fatal or nonfatal Firearm injuries among youth and reduce unintentional Firearm injuries or unintentional Firearm deaths among children; and
12. Over 22,000 Americans every year, including over 1,000 children and teens, die by Firearm suicide; and
13. A meta-analysis of 14 different scientific studies concluded that access to a Firearm triples the risk

of death by suicide of anyone in the household; and

14. Among commonly used methods of self-harm, Firearms are by far the most lethal, with a fatality rate of approximately 85 percent, compared to less than five percent with other methods, such that while Firearms are used in less than six percent of suicide attempts, over half of suicide deaths result from suicide attempts performed with Firearms; and

15. Extreme Risk Protection Order laws have been shown to help prevent Firearm suicides, as shown by the empirical evidence of reduced suicide rates under Connecticut's and Indiana's laws; and

16. Extreme Risk Protection Order laws can also prevent gun crimes, as an analysis of mass shootings from 2009 to 2017 revealed that in 51 percent of incidents the shooter exhibited warning signs that he posed a danger to himself or others before the shooting; and

17. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of Firearms, and, as to 18 Pa. C.S. § 6120, Ammunition, and Ammunition components; and

18. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer, or transportation of Firearms, and, as to 18 Pa. C.S. § 6120, Ammunition, and Ammunition components unless and until governing law allows it to become effective; and

19. Senate Bill No. 90, a proposed statewide Extreme Risk Protection Order law dated February 14, 2019, was introduced to the General Assembly of Pennsylvania in the Session of 2019 by a bipartisan group of legislators; and

20. The City Council calls upon the Pennsylvania General Assembly to protect all Pennsylvanians by enacting Senate Bill No. 90; and

21. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution; and

22. The City Council has authority to legislate regarding the use of Firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public.

Exhibit F

(Article – *Pittsburgh gun safety proposal
would ban semiautomatic rifles*)



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<https://triblive.com/local/allegheeny/14405721-74/pittsburgh-gun-safety-measures-would-include-assault-weapons-ban>

Pittsburgh gun safety proposal would ban semiautomatic rifles



BOB BAUDER (<https://twitter.com/BobBauder>) | Friday, Dec. 14, 2018, 11:33 a.m.

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Nate Smallwood | Tribune-Review

Mayor Bill Peduto speaks at a press conference announcing a package of gun safety measures that will be introduced to Pittsburgh City Council Tuesday at the City-County Building on Dec. 14, 2018.

Pittsburgh Mayor Bill Peduto was joined by Gov. Tom Wolf, members of City Council and state Democratic lawmakers Friday in proposing legislation that would ban semiautomatic rifles and certain ammunition and firearms accessories within city limits.

Citing the 11 people killed in the Oct. 27 mass shooting at Squirrel Hill's Tree of Life synagogue, Peduto said the ban is necessary to protect the safety and welfare of Pittsburgh residents. He vowed to build a coalition among municipalities and residents across the nation to fend off legal challenges from gun rights activists that are certain to come. Peduto said he's written letters to more than 100 cities seeking support.

"We intend to work not only in this council chamber but across the state of Pennsylvania in council chambers, in every town and village across this state, to get the support that is needed to change the laws in Harrisburg, but we won't stop there," Peduto said. "We'll work in city halls across the United States, one by one, going to the places where they have not only been the victims of mass homicide, but have been the victims of homicides on a continual basis."

Kim Stofler, president of the statewide group Firearm Owners Against Crime, cited a state law prohibiting counties and municipalities from regulating "the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition

components when carried or transported for purposes not prohibited" in Pennsylvania.

Stolfer said the group would sue the city if it enacts the bills.

"What the city is doing is criminal," he said. "There's going to be more than one lawsuit. We're also going to be pursuing criminal charges against the mayor and council for intentionally violating the law."

Wolf, along with Democratic state Sens. Jay Costa of Forest Hills, Wayne Fontana of Brookline and state Rep. Dan Frankel of Squirrel Hill vowed to support legislation proposed by Frankel that would abolish the the law cited by Stolfer. Pittsburgh for more than a decade has been prevented from enforcing an ordinance requiring the reporting of lost or stolen handguns because of the preemption.

They admitted it would be an uphill fight in Pennsylvania's Republican-controlled Legislature, which has stymied efforts by Democrats to enact stiffer gun laws, but noted GOP lawmakers in October supported passage of the first firearms regulation in more than a decade. The law requires domestic abusers to turn in guns within 24 hours of a conviction.

The key, they said, was to convince Republicans that citizens want change in the wake of mass shootings across the country.

"We have a governor here that's supporting us," Fontana said. "If we can get the majority party to understand that their constituents also are concerned, that's our job. We have to make them understand that. If we do, then we feel like we can maybe get something done, but it's going to be a fight, and it's not going to be easy."

Legislation proposed in Pittsburgh would ban the manufacture, sale, purchase, transportation, carry, storage or possession of assault weapons within the city. A second bill would ban certain ammunition for semiautomatic rifles, including explosive and armor piercing bullets. It would ban accessories, including large magazines and bump stocks that allow rapid fire similar to automatic weapons.

A third bill would permit courts to temporarily prohibit a person deemed at risk by police or family members from possessing a gun.

The bills would exempt law enforcement officers and people who carry guns for an official duty, museums and guns used as theater or film props.

Among the speakers Friday were Josh Fidel and Cody Murphy, two seniors at Taylor Allderdice High School in Squirrel Hill, who said the Tree of Life massacre and other mass shootings have created a culture of fear among young people.

"Now I have the constant fear of being attacked in the back of my mind, a feeling that no person should ever feel," said Fidel, 17, who is Jewish. "We cannot just stand idly by and continue to be bystanders as more and more Americans die to guns held by the hands of hate. It is time for us to stop these massacres from happening in our communities. We need common-sense gun laws now."

The bills' cosponsors, Councilman Corey O'Connor of Swisshelm Park and Councilwoman Erika Strassburger of Squirrel Hill, plan to introduce the legislation during a council

meeting Tuesday. O'Connor said council intends to hold community meetings and a public hearing on the legislation, and a vote could happen in February.

Bob Bauder is a Tribune-Review staff writer. You can contact Bob at 412-765-2312, bbauder@tribweb.com or via Twitter [@bobbauder](https://twitter.com/bobbauder).

Exhibit G

(Article – *Pittsburgh officials to consider
ban on some guns, ammunition*)



Pittsburgh officials to consider ban on some guns, ammunition

December 14, 2018 10:21 AM

By Shelly Bradbury / Pittsburgh Post-Gazette

Pittsburgh City Council will consider banning assault-style weapons, prohibiting some types of ammunition and allowing police officers to seize guns from people in the city who pose an extreme risk to themselves or others, officials said Friday.

The legislation, which will be introduced Tuesday by council members Erika Strassburger and Corey O'Connor, comes in the wake of the [Oct. 27 mass shooting](#) at the Tree of Life Congregation in Squirrel Hill in which 11 worshippers were killed. The council is expected to hold public hearings on the proposal before taking a vote in February.

City leaders, joined by Pennsylvania Gov. Tom Wolf, said Friday they plan to rally support for similar gun control measures in cities and towns across the state, with the ultimate goal of changing state gun laws, which currently make it legally difficult for cities to enact their own firearms restrictions.

"If we continue to allow so many citizens to live in fear of mass shootings, when we can, right now, reduce that risk, we are robbing citizens of their rights to life, liberty and the pursuit of happiness," Mr. Wolf said during a news conference at Pittsburgh's city hall Friday.

Mayor Bill Peduto, who said council has offered unanimous support for the measures, said one of the guns to be banned would be the Colt AR-15 rifle that was used in the Tree of Life attack.

"Used in the Tree of Life shooting, and used throughout the neighborhoods of Pittsburgh on a monthly basis, [the AR-15 is] taking away from us the promise of youth, the promise of our future and on a daily basis ripping our neighborhoods apart," he said, emphasizing the legislation is aimed at all gun violence, not just mass shootings.

Kim Stolfer, president of Firearms Owners Against Crimes, a political action committee, said his

organization opposes the proposed legislation in its entirety.

“Gun control is, at its basic elemental level, government telling citizens, ‘We don’t trust you so we have to take your rights and freedoms because of what someone might do or has done,’” he said. “And that is a betrayal of the trust citizens place in government.”

City law already prohibits people from firing a gun within the city limits, with a handful of exceptions. The proposed changes would also prohibit carrying, storing, transferring, selling, buying or manufacturing assault-style weapons in the city.

The legislation generally defines assault-style weapons as guns that can switch between automatic fire, semi-automatic fire or burst fire, as well as guns that can accept large-capacity magazines, which are defined as magazines that hold more than 10 rounds. It also includes a list of specific guns that would be banned.

Gun owners who already legally possess such weapons would be grandfathered in and exempted from the new laws.

Armor-penetrating ammunition and accessories designed to accelerate a gun’s rate of fire, like bump stocks, would also be prohibited under the proposal.

Council members Strassburger and O’Connor also hope to create “Extreme Risk Protection Orders,” which would allow the courts to authorize law enforcement to temporarily seize a person’s guns under limited circumstances.

Under the proposed legislation, either a law enforcement officer or a family or household member of a person “alleged to present a danger of suicide or of causing extreme bodily injury to another person” could petition the court for an order.

That petition would trigger a process similar to that followed for Protection from Abuse orders, in which a judge reviews the circumstances and the defendant is given an opportunity to argue his or her case in court. If a judge issued an extreme risk order of protection, it would include a warrant to allow law enforcement to search and seize the defendant’s firearms, typically keeping the weapons for a year.

Some of the proposed changes to city law mirror bills that were introduced in the Legislature in recent years but did not pass.

So-called "preemption language" in state law has made it difficult for cities to create gun laws that vary substantially from state law, and cities that seek to tighten their regulations often encounter swift legal challenges.

Proponents of preemption argue that it protects gun owners from accidentally running afoul of a patchwork set of gun regulations that might otherwise vary widely from city to city, while critics have said it prevents local communities from adopting measures their residents seek.

City leaders on Friday said they are ready to fight any legal challenges to the legislation, and said they have been in talks with other Pennsylvania cities whose leaders have expressed a desire join any such legal fight.

"We have to tackle and take out gun violence from all sides, and that's what we're doing today," Ms. Strassburger said. "We know our legislation will only go so far, and that's why we're calling on cities across Pennsylvania and the nation to join Pittsburgh in our efforts."

Mr. Stolfer said nothing in the proposed changes would have prevented the Tree of Life shooting, and said a better way to keep citizens safe is to arm them.

"One of the most important elements in one of these crazy situations is immediate response," he said. "Those police officers [at the synagogue] might not have been shot if two or three of the citizens in that congregation responded."

The National Rifle Association, which did not immediately return a request for comment, wrote on its website that the proposals in Pittsburgh represent a "wholesale disregard of the rule of law," and called them a political stunt.

"If the drafts were enacted as written, the resulting ordinances would infringe fundamental rights, violate state law, and stick municipal taxpayers with hefty legal fees for the inevitable court challenges the new laws would provoke," the statement read.

Mr. Peduto said Pittsburgh has challenged the constitutionality of state laws before and can do so again. He dismissed the NRA's position.

"If the NRA would, not hiding on a blog, come in and speak openly, then I would welcome them to walk the streets of Pittsburgh and hear from real Americans about what it is they want to see done," he said.

Harrisburg staff writer Liz Navratil contributed. Shelly Bradbury: 412-263-1999, sbradbury@post-gazette.com or follow @ShellyBradbury on Twitter.

First Published December 14, 2018 10:13 AM

Exhibit H

(Article – *Paul Muschick: It's time for
Pittsburgh — and Pennsylvania — to ban
assault weapons*)



ADVERTISEMENT

Paul Muschick: It's time for Pittsburgh — and Pennsylvania — to ban assault weapons



Officials in Pittsburgh are proposing a ban on assault weapons, ammunition and large-capacity magazines after a mass shooting at the Tree of Life synagogue claimed 11 lives in October. (Joe Raedle / Getty Images)



By **Paul Muschick**

DECEMBER 14, 2018, 4:40 PM

A plan to restrict gun ownership in Pittsburgh should heat up the statewide debate in Pennsylvania about reforming firearms laws.

Two months after 11 people were **gunned down in a synagogue** there, Pittsburgh officials on Friday proposed a ban on assault weapons, large-capacity magazines and modifications such as bump stocks that increase firing rates.

They also want to require people who are dangerous to turn in their guns.

It's not just Pittsburgh that should be taking those steps. Those should be the laws everywhere. It's time. Let's do it.

Those rules wouldn't prevent all mass shootings, but they could make them harder to commit, and minimize the damage.

Pittsburgh knows it is picking a fight. If the legislation passes, it surely will be challenged in court on the grounds that municipalities cannot pass gun laws that are more restrictive than state laws.

That argument is part of what undermined an Allentown **law** a decade ago that required gun owners to report a lost or stolen gun within 48 hours.

Firearms Owners Against Crimes, a statewide organization, would sue over the proposals made Friday, President Kim Stolfer said. He said courts repeatedly have struck down attempts by municipalities to preempt state law, including a similar attempt by Pittsburgh in 1993 to ban assault weapons.

"I'm very troubled by this," he said.

The suspect in the Oct. 27 Tree of Life **synagogue shooting**, **Robert Bowers**, used four weapons including an AR-15 assault rifle, according to authorities. All were purchased and possessed legally. Authorities say Bowers told them he "wanted all Jews to die."

"No one in America wants a country where guns make our schools unsafe for children, families afraid in places of worship, and where our streets are stained every day with innocent blood," Pittsburgh Mayor Bill Peduto said. "The morality we all share, across every race, gender, ethnicity, region and religion, compels us to take action."

Officials called on other governments to pursue similar reforms and to challenge state restrictions on their ability to do so.

"The Pennsylvania Constitution guarantees the rights of all people to 'peace, safety and happiness,'" Councilwoman Erika Strassburger said. "The inability for municipal governments to enact their own common sense-gun control measures defies this core principle."

Gov. **Tom Wolf** attended the unveiling of the legislation in Pittsburgh, signaling his continued support for such measures statewide and nationwide.

"He understands the frustration of local communities and residents that more hasn't been done to address gun violence and keep weapons from dangerous individuals," Wolf spokesman J.J. Abbott said.

Some state lawmakers were there in support, too. If the Legislature would take action, cities wouldn't have to.

There have been attempts, but they haven't gone far. Legislators can try again when they reconvene in January.

Many bills that **gained support** this year but didn't make it far enough for final votes should come up again — including one that would ban bump stocks. Another would allow for "extreme risk protection orders" similar to what Pittsburgh proposes, where a judge could issue a protection order that prohibits someone from possessing a gun if law enforcement or immediate family members show that the person poses a significant danger.

Bills to ban assault-style weapons did not advance in the Legislature this year.

The one law that was **enacted** this year requires people with a court-issued protection from abuse order or domestic violence conviction to relinquish their firearms to law enforcement or a licensed firearms dealer within 24 hours. They used to be able to keep their weapons for 60 days, and could give them to a friend or relative for safekeeping.

If lawmakers don't have the courage to take further action, there may be another way for them to allow cities such as Pittsburgh to address gun violence themselves.

State Rep. Dan Frankel, a Democrat from that area, said this week that he will introduce legislation that would allow municipal and county governments to write firearms laws that are more-restrictive than state law.

"These episodes of mass violence, when coupled with the everyday firearms related violence, leave communities seeking local solutions," Frankel wrote in a legislative sponsorship memo filed Wednesday. "It is time for us to move legislation that will expand the ability of local governments to respond to mass shootings, terror attacks and ongoing violence within their municipal borders."

He's right. If state lawmakers won't take a stand against gun violence, local officials should be able to.

paul.muschick@mcall.com

610-820-6582

Paul Muschick's columns are published Monday through Friday at themorningcall.com and Sunday, Wednesday and Friday in The Morning Call. Follow me on Facebook at [PaulMuschickColumns](https://www.facebook.com/PaulMuschickColumns), Twitter [@mcwatchdog](https://twitter.com/mcwatchdog) and themorningcall.com/muschick.

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This article is related to: [Shootings](#), [Pittsburgh Synagogue Shooting](#), [Tom Wolf](#)

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Exhibit I

(Article – ‘*Common sense*’ gun safety
legislation unveiled in Pittsburgh includes
assault weapons ban)

'Common sense' gun safety legislation unveiled in Pittsburgh includes assault weapons ban

Bob Mayo

PITTSBURGH —

Mayor Bill Peduto and Gov. Tom Wolf, joined by members of City Council and the state Legislature, said they will work to pass what they call "common sense gun legislation" for Pittsburgh.

The proposals announced Friday come in the wake of the Tree of Life Synagogue shootings and on the anniversary of the Sandy Hook shootings.

Peduto said it's clear that more needs to be done on gun issues on the local level.

"The only answer we've gotten from Washington is, 'Nothing can be done, there's nothing that can be done.' That is not an answer. There are solutions that can be done," Peduto said at a news conference attended by gun safety advocates and supporters. "What has stalled in Washington doesn't necessarily mean that we can't make it happen at a local level."

"We simply cannot accept this violence as a normal part of American life, and now we can't wait any longer," Wolf said.

The governor supports changes in state law to empower Pittsburgh and other local governments to act.

"If we continue to allow so many citizens to live in fear of mass shootings, when we can act right now to reduce that risk, we're robbing citizens of their rights to life, liberty and the pursuit of happiness," Wolf said.

"Enough is enough, and this has to stop," City Councilman Corey O'Connor said.

"We're here to say 'No more,'" City Councilwoman Erika Strassburger said.

Three bills will be introduced in City Council:

- A ban on assault weapons within Pittsburgh. ([Read the legislation](#))
- A ban on accessories, ammunition, and weapon modifications often used in mass shootings. ([Read the legislation](#))
- Adoption of "extreme risk protection orders" that would let courts temporarily prohibit someone from having guns if law enforcement or immediate family show the person poses a "significant danger." ([Read the legislation](#))

"We see these tragedies every single day. When we leave here today there might be another one," said Valerie Dixon, an activist and victim advocate who lost a son to gun violence.

"Now I have the constant fear of being attacked in the back of my mind, a feeling that no person should ever feel," said Josh Fidel, a high school student who lives near the Tree of Life Synagogue.

Gun advocacy groups plan to fight the legislation.

"The ordinances that the city of Pittsburgh is contemplating are illegal, and the city should know this because we beat them in 1994 and we're going to beat them again," said Kim Stolfer, president of Firearms Owners Against Crime. "The fact is, what the city's doing is illegal and there's very little difference between them and the killer at the synagogue except for a matter of degree. They're both criminals."

"The draft ordinances -- if enacted as written -- would infringe fundamental rights, violate state law, and cost taxpayers dearly because the Pennsylvania Supreme Court has already twice invalidated similar ordinances," said Amy Hunter, a spokeswoman for the NRA Institute for Legislative Action, in an email to Pittsburgh's Action News 4. "To add insult to injury, these bad policies would do nothing to reduce firearm-related crime. These proposals are nothing more than grandstanding from anti-gun politicians who aren't concerned about trampling on their citizens' rights."

"I think it has been very clear over the last several years that there needs to be more that is done at the local level, and that requires the changes of laws at a state and federal level that empowers us to protect the people that we call our neighbors," Peduto said.

"I am going to continue to champion common sense gun safety at the state level, and I am going to continue to urge Washington to live up to its responsibilities," Wolf said.

State Rep. Dan Frankel will sponsor state legislation that would empower local governments like Pittsburgh to pass such legislation.

Members of City Council say they hope to pass the gun legislation for Pittsburgh by Feb. 14, the anniversary of the Parkland shootings.

The city says the public will have a chance to speak out on the gun legislation proposals at hearings to be held by City Council.

[AlertMe](#)

Exhibit J

(Letter of December 17, 2018 on behalf of
Firearm Owners Against Crime to Mayor
Peduto and City Council)

FIREARMS INDUSTRY CONSULTING GROUP

A Division of Civil Rights Defense Firm, P.C.

Joshua Prince
Adam Kraut
Jorge Pereira

Phone: 888-202-9297
Fax: 610-400-8439



December 17, 2018

The Honorable William Peduto
Office of Mayor William Peduto
5th Floor
414 Grant Street
Pittsburgh, PA 15219

RE: Proposed Firearm Ordinances

Dear Mayor Peduto and Members of City Council,

I have been retained by Allegheny County Sportsmen's League (ACSL) and Firearm Owners Against Crime (FOAC) regarding the three illegal firearm proposals that were announced on Friday, December 14, 2018 and which are scheduled to be formally introduced during the City Council meeting on Tuesday, December 18, 2018.

As you are acutely aware, based upon your statements during the press conference on December 14th, 18 Pa.C.S. § 6120 provided, in relevant part,

(a) General rule. No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.

Pursuant to 18 Pa.C.S. § 6119, "an offense under this subchapter constitutes a misdemeanor of the first degree," which, pursuant to 18 Pa.C.S. § 106(b)(6), provides for a maximum of sentence of five

(5) years. Furthermore, pursuant to 18 Pa.C.S. § 5301, any City official who "impedes another in the exercise or enjoyment of any right or privilege" is guilty of official oppression, which is a misdemeanor of the second degree.

As you are likely aware, I litigated the matter of *Dillon v. City of Erie*, 83 A.3d 467 (Pa. Cmwlth. 2014), where the Commonwealth Court struck down the City of Erie's ordinance, *inter alia*, prohibiting individuals from possessing and discharging firearms in city parks. More recently, I litigated the matter of *FOAC v. Lower Merion Township*, 151 A.3d 1172 (Pa. Cmwlth. Ct. 2016) (*petition for allocatur denied July 11, 2017*), where the Commonwealth Court struck down, *inter alia*, Lower Merion Township's discharge ordinance.

Further, in interpreting Section 6120, the Pennsylvania Supreme Court has been "crystal clear" that only the General Assembly can regulate firearms, as the entire field is preempted. *See, Nat'l Rifle Ass'n v. City of Philadelphia*, 977 A.2d 78, 82 (Pa. Cmwlth. 2009). The Court stated in *Ortiz v. Commonwealth* that "[b]ecause the ownership of firearms is constitutionally protected, its regulation is a matter of statewide concern. . . . [T]he General Assembly, not city councils, is the proper forum for the imposition of such regulation." 681 A.2d 152, 156 (Pa. 1996). (Emphasis added). Continuing, the *Ortiz* Court stated that:

. . . the Constitution of Pennsylvania requires that home rule municipalities may not perform any power denied by the General Assembly; the General Assembly has denied all municipalities the power to regulate the ownership, possession, transfer or transportation of firearms; and the municipalities seek to regulate that which the General Assembly has said they may not regulate. The inescapable conclusion, unless there is more, is that the municipalities' attempt to ban the possession of certain types of firearms is constitutionally infirm.

The Court continued: "Although we agree with [the municipalities] that the General Assembly may negate ordinances enacted by home rule municipalities only when the General Assembly's conflicting statute concerns substantive matters of statewide concern, this does not help municipal appellants, for the matters at issue in this case [municipal regulation of firearms] are substantive matters of statewide concern."

Likewise, the Commonwealth Court has invariably held that Section 6120 and the *Ortiz* decision prohibit the regulation of firearms and ammunition. *See, National Rifle Ass'n v. City of Philadelphia*, 977 A.2d 78 (Pa. Cmwlth. 2009) (holding that a Straw Purchaser Ordinance and an Assault Weapons Ordinance were preempted by § 6120); *Dillon v. City of Erie*, 83 A.3d 467 (Pa. Cmwlth. 2014) (holding that the prohibition on possession of firearms in city parks violates Section 6120); *Clarke v. House of Rep. of Commonwealth*, 957 A.2d 361, 365 (Pa. Cmwlth. 2008) (holding that "practical considerations do not alter the clear preemption imposed by the legislature"); *Ortiz v. Commonwealth*, 655 A.2d 194 (Pa. Cmwlth. 1995) (holding municipal assault weapons ban invalid and unenforceable); *Schneck v. City of Philadelphia*, 383 A.2d 227

(Pa. Cmwlth. 1978) (holding that municipal regulations on the acquisition and transfer of firearms was preempted by § 6120). Even this City acknowledged the unlawfulness of its prior, almost identical, assault weapon ban, when it entered into a stipulation in relation to a prior court challenge, which was approved by Allegheny County Judge Strassburger on February 27, 2015.

In addition to the statutes and case law, on August 24, 2009, then-Attorney General Tom Corbett issued a letter to the Adams County Office of the District Attorney regarding the issue of Section 6120's preemption and informing District Attorney Wagner that local municipalities are precluded from enacting ordinances regarding firearms.

As a result of the case law and determinations, numerous municipalities have found themselves in violation of these legal protections and have taken immediate corrective action, especially in light of the fact that numerous insurance carriers have contacted their municipal clients and demanded that they immediately rescind, repeal or preclude enactment of any firearms-related ordinances.

1. In August of 2007, District Township, Berks County, wanted to consider enacting restrictions on the carrying of firearms in the township building. Ed Overberger, Supervisors Chairman, was quoted as saying, "Our solicitor, the state police and the state association of township supervisors all have told us that we can't adopt an ordinance regulating firearms." <http://readingeagle.com/article.aspx?id=53999>.
2. In September of 2012, Centre Township was considering passing a firearms discharge ordinance, which would have precluded the discharge of firearms in the township; however, when presented with the above-listed statutes and holdings, the Township opted to enact a discharge protection ordinance, declaring, "It shall be lawful for any person to discharge a firearm within the Township, except if discharged in violation of all local, state and federal laws, rules and regulations, including but not limited to the Air Rifles Law, Game Commission Rules and Regulations and the Game Law." Ordinance 145-2012, November 12, 2012.
<http://www.centretownship.com/wp-content/uploads/2012/11/Firearms-Ordinance.pdf>.
3. In 2012, both Chestnut Hill Township, Monroe County, and Lower Saucon Township, Northampton County, adjusted their ordinances to comply with the preemption of Section 6120.
<http://www.nbcphiladelphia.com/news/politics/Pa-Towns-Repeal-Gun-Bans-as-Philly-Forges-Ahead-201097011.html>.
4. In October of 2012, in Washington Township, Berks County, PA, the Township Board, in addition to refusing to move forward on Firearm/Archery Ordinance, unanimously voted to strike Ordinance 76-5(B) (relating to the possession of firearms in the parks) and repeal Ordinance 79-3 (relating to carrying firearms in the township buildings without a license to carry firearms). See, <http://blog.princelaw.com/2012/11/16/washington-township-decides-to-tablefirearmsarchery-ordinance-and-modify-existing-ordinances>.
5. In April of 2013, the Borough of Quakertown, PA was made aware of its illegal ordinance

precluding individuals from possessing firearms on its public lands and repealed its ordinance. <http://www.nbcphiladelphia.com/news/politics/Pa-Towns-Repeal-Gun-Bans-as-Philly-Forges-Ahead-201097011.html>.

6. Additionally, on April 16, 2013, East Rockhill Township, Montgomery County, removed its prohibition on the possession of firearms in parks and township-owned property, because of Section 6120. http://www.montgomerynews.com/articles/2013/0/22/perkasie_news_herald/news/doc5175802b6e10b5
7. On May 12, 2013, in Morrisville, Pennsylvania, Chief Thomas Herron of the Morrisville Police Department, in relation to a similar pro-gun rally, where firearms were present in Morrisville's Williamson Park, was quoted as saying, "Though a borough ordinance forbids firearms in the park, state law allows citizens the right to carry firearms and state law supersedes the borough ordinance." http://www.phillyburbs.com/my_town/falls/rally-for-gun-safety-drawshundreds/article_2775a9b5-a509-5f6f-8049-29c0883f61b2.html.
8. On May 12, 2013, in Morrisville, Pennsylvania, Chief Thomas Herron of the Morrisville Police Department, in relation to a similar pro-gun rally, where firearms were present in Morrisville's Williamson Park, was quoted as saying, "Though a borough ordinance forbids firearms in the park, state law allows citizens the right to carry firearms and state law supersedes the borough ordinance." http://www.phillyburbs.com/my_town/falls/rally-for-gun-safety-drawshundreds/article_2775a9b5-a509-5f6f-8049-29c0883f61b2.html.
9. South Heidelberg Township was considering passing a no-discharge ordinance in relation to a resident's complaint about gunfire. On September 12, 2013, the Board elected not to proceed with the discharge ordinance when presented with information regarding Section 6120 and the residents' outrage. <http://readingeagle.com/article.aspx?id=510781>.
10. On December 10, 2014, the Borough of Doylestown Public Safety Committee unanimously voted to rescind all of its ordinances regarding firearms and ammunition, including its firearm discharge and possession ordinances, after its insurance carrier demanded it take such action. <http://www.wfmz.com/news/news-regional-southeasternpa/doylestown-borough-plans-torepeal-gun-law/30171960>.
11. On January 13, 2015, Chalfont Borough repealed its discharge ordinance. http://www.theintell.com/news/local/chalfont-repeals-gun-dischargeordinance/article_eb256296-5b85-5add-b459-08c74220cac4.html.
12. On June 23, 2016, Lehigh County District Attorney James Martin sent a letter to the City of Allentown, after learning of its intent to re-enact firearm ordinances that it had repealed as a result of Act 192, wherein he specifically stated that any such enactments would be unlawful. As a result, the City of Allentown removed the proposals from consideration.

These are but a few recent instances in which local municipalities have taken corrective action in light of the aforementioned Constitutional and legislative protections, as well as, the potential civil and criminal ramifications.

It bears mentioning that neither an ordinance nor a statute providing for a felony conviction has precluded criminals from entertaining and committing criminal acts. At best, an ordinance only duplicates charging, which is already provided by the Crimes Code; at worst, a law-abiding

citizen is undeservingly and unknowingly charged with a crime for which he/she never intended to commit and had no knowledge that he/she was committing. A patchwork of laws across the Commonwealth serves no purpose but to ensnare those, who have no intention of violating the law but who unwarily find themselves in a jurisdiction, which imposes restrictions on their rights that the Commonwealth otherwise allows.

In the event Pittsburgh enacts these proposed unlawful ordinances, ACSL and FOAC are prepared to take legal action against the City, which will result in substantial additional burdens on the taxpayers. Clearly, it is in the best of interest of all of those involved that the proposals not be enacted. Accordingly, I am respectfully requesting that the proposal neither be offered nor enacted. In the event the City enacts these proposals, please let me know whether you will accept service of the Complaint or require service by the Sheriff.

Thanking you for your time and consideration in this matter, I am

Yours truly,
Firearms Industry Consulting Group



Joshua G. Prince
joshua@civilrightsdefensefirm.com

jgp/web
Matter no. 10655

Distribution

The Honorable William Peduto

Pittsburgh City Council

cc: Firearm Owners Against Crime by mail

Allegheny County Sportsmen's League by mail

FIREARMS INDUSTRY CONSULTING GROUP

A Division of Civil Rights Defense Firm, P.C.

Joshua Prince
Adam Kraut
Jorge Pereira

Phone: 888-202-9297
Fax: 610-400-8439



December 17, 2018

Pittsburgh City Council
510 City-County Building
414 Grant Street
Pittsburgh, PA 15219

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Pursuant to 18 Pa.C.S. § 6119, "an offense under this subchapter constitutes a misdemeanor of the first degree," which, pursuant to 18 Pa.C.S. § 106(b)(6), provides for a maximum of sentence of five (5) years. Furthermore, pursuant to 18 Pa.C.S. § 5301, any City official who "impedes another in

the exercise or enjoyment of any right or privilege" is guilty of official oppression, which is a misdemeanor of the second degree.

As you are likely aware, I litigated the matter of *Dillon v. City of Erie*, 83 A.3d 467 (Pa. Cmwlth. 2014), where the Commonwealth Court struck down the City of Erie's ordinance, *inter alia*, prohibiting individuals from possessing and discharging firearms in city parks. More recently, I litigated the matter of *FOAC v. Lower Merion Township*, 151 A.3d 1172 (Pa. Cmwlth. Ct. 2016) (*petition for allocatur denied July 11, 2017*), where the Commonwealth Court struck down, *inter alia*, Lower Merion Township's discharge ordinance.

Further, in interpreting Section 6120, the Pennsylvania Supreme Court has been "crystal clear" that only the General Assembly can regulate firearms, as the entire field is preempted. *See, Nat'l Rifle Ass'n v. City of Philadelphia*, 977 A.2d 78, 82 (Pa. Cmwlth. 2009). The Court stated in *Ortiz v. Commonwealth* that "[b]ecause the ownership of firearms is constitutionally protected, its regulation is a matter of statewide concern. . . . [T]he General Assembly, not city councils, is the proper forum for the imposition of such regulation." 681 A.2d 152, 156 (Pa. 1996). (Emphasis added). Continuing, the *Ortiz* Court stated that:

. . . the Constitution of Pennsylvania requires that home rule municipalities may not perform any power denied by the General Assembly; the General Assembly has denied all municipalities the power to regulate the ownership, possession, transfer or transportation of firearms; and the municipalities seek to regulate that which the General Assembly has said they may not regulate. The inescapable conclusion, unless there is more, is that the municipalities' attempt to ban the possession of certain types of firearms is constitutionally infirm.

The Court continued: "Although we agree with [the municipalities] that the General Assembly may negate ordinances enacted by home rule municipalities only when the General Assembly's conflicting statute concerns substantive matters of statewide concern, this does not help municipal appellants, for the matters at issue in this case [municipal regulation of firearms] are substantive matters of statewide concern."

Likewise, the Commonwealth Court has invariably held that Section 6120 and the *Ortiz* decision prohibit the regulation of firearms and ammunition. *See, National Rifle Ass'n v. City of Philadelphia*, 977 A.2d 78 (Pa. Cmwlth. 2009) (holding that a Straw Purchaser Ordinance and an Assault Weapons Ordinance were preempted by § 6120); *Dillon v. City of Erie*, 83 A.3d 467 (Pa. Cmwlth. 2014) (holding that the prohibition on possession of firearms in city parks violates Section 6120); *Clarke v. House of Rep. of Commonwealth*, 957 A.2d 361, 365 (Pa. Cmwlth. 2008) (holding that "practical considerations do not alter the clear preemption imposed by the legislature"); *Ortiz v. Commonwealth*, 655 A.2d 194 (Pa. Cmwlth. 1995) (holding municipal assault weapons ban invalid and unenforceable); *Schneck v. City of Philadelphia*, 383 A.2d 227 (Pa. Cmwlth. 1978) (holding that municipal regulations on the acquisition and transfer of

firearms was preempted by § 6120). Even this City acknowledged the unlawfulness of its prior, almost identical, assault weapon ban, when it entered into a stipulation in relation to a prior court challenge, which was approved by Allegheny County Judge Strassburger on February 27, 2015.

In addition to the statutes and case law, on August 24, 2009, then-Attorney General Tom Corbett issued a letter to the Adams County Office of the District Attorney regarding the issue of Section 6120's preemption and informing District Attorney Wagner that local municipalities are precluded from enacting ordinances regarding firearms.

As a result of the case law and determinations, numerous municipalities have found themselves in violation of these legal protections and have taken immediate corrective action, especially in light of the fact that numerous insurance carriers have contacted their municipal clients and demanded that they immediately rescind, repeal or preclude enactment of any firearms-related ordinances.

1. In August of 2007, District Township, Berks County, wanted to consider enacting restrictions on the carrying of firearms in the township building. Ed Overberger, Supervisors Chairman, was quoted as saying, "Our solicitor, the state police and the state association of township supervisors all have told us that we can't adopt an ordinance regulating firearms." <http://readingeagle.com/article.aspx?id=53999>.
2. In September of 2012, Centre Township was considering passing a firearms discharge ordinance, which would have precluded the discharge of firearms in the township; however, when presented with the above-listed statutes and holdings, the Township opted to enact a discharge protection ordinance, declaring, "It shall be lawful for any person to discharge a firearm within the Township, except if discharged in violation of all local, state and federal laws, rules and regulations, including but not limited to the Air Rifles Law, Game Commission Rules and Regulations and the Game Law." Ordinance 145-2012, November 12, 2012.
<http://www.centretownship.com/wp-content/uploads/2012/11/Firearms-Ordinance.pdf>.
3. In 2012, both Chestnut Hill Township, Monroe County, and Lower Saucon Township, Northampton County, adjusted their ordinances to comply with the preemption of Section 6120.
<http://www.nbcphiladelphia.com/news/politics/Pa-Towns-Repeal-Gun-Bans-as-Philly-Forges-Ahead-201097011.html>.
4. In October of 2012, in Washington Township, Berks County, PA, the Township Board, in addition to refusing to move forward on Firearm/Archery Ordinance, unanimously voted to strike Ordinance 76-5(B) (relating to the possession of firearms in the parks) and repeal Ordinance 79-3 (relating to carrying firearms in the township buildings without a license to carry firearms). See, <http://blog.princelaw.com/2012/11/16/washington-township-decides-to-tablefirearmsarchery-ordinance-and-modify-existing-ordinances>.
5. In April of 2013, the Borough of Quakertown, PA was made aware of its illegal ordinance precluding individuals from possessing firearms on its public lands and repealed its

ordinance. <http://www.nbcphiladelphia.com/news/politics/Pa-Towns-Repeal-Gun-Bans-as-Philly-Forges-Ahead-201097011.html>.

6. Additionally, on April 16, 2013, East Rockhill Township, Montgomery County, removed its prohibition on the possession of firearms in parks and township-owned property, because of Section 6120.
http://www.montgomerynews.com/articles/2013/0/22/perkasie_news_herald/news/doc5175802b6e10b5
7. On May 12, 2013, in Morrisville, Pennsylvania, Chief Thomas Herron of the Morrisville Police Department, in relation to a similar pro-gun rally, where firearms were present in Morrisville's Williamson Park, was quoted as saying, "Though a borough ordinance forbids firearms in the park, state law allows citizens the right to carry firearms and state law supersedes the borough ordinance." http://www.phillyburbs.com/my_town/falls/rally-for-gun-safety-drawshundreds/article_2775a9b5-a509-5f6f-8049-29c0883f61b2.html.
8. On May 12, 2013, in Morrisville, Pennsylvania, Chief Thomas Herron of the Morrisville Police Department, in relation to a similar pro-gun rally, where firearms were present in Morrisville's Williamson Park, was quoted as saying, "Though a borough ordinance forbids firearms in the park, state law allows citizens the right to carry firearms and state law supersedes the borough ordinance." http://www.phillyburbs.com/my_town/falls/rally-for-gun-safety-drawshundreds/article_2775a9b5-a509-5f6f-8049-29c0883f61b2.html.
9. South Heidelberg Township was considering passing a no-discharge ordinance in relation to a resident's complaint about gunfire. On September 12, 2013, the Board elected not to proceed with the discharge ordinance when presented with information regarding Section 6120 and the residents' outrage. <http://readingeagle.com/article.aspx?id=510781>.
10. On December 10, 2014, the Borough of Doylestown Public Safety Committee unanimously voted to rescind all of its ordinances regarding firearms and ammunition, including its firearm discharge and possession ordinances, after its insurance carrier demanded it take such action. <http://www.wfmz.com/news/news-regional-southeasternpa/doylestown-borough-plans-torepeal-gun-law/30171960>.
11. On January 13, 2015, Chalfont Borough repealed its discharge ordinance. http://www.theintell.com/news/local/chalfont-repeals-gun-dischargeordinance/article_eb256296-5b85-5add-b459-08c74220cac4.html.
12. On June 23, 2016, Lehigh County District Attorney James Martin sent a letter to the City of Allentown, after learning of its intent to re-enact firearm ordinances that it had repealed as a result of Act 192, wherein he specifically stated that any such enactments would be unlawful. As a result, the City of Allentown removed the proposals from consideration.

These are but a few recent instances in which local municipalities have taken corrective action in light of the aforementioned Constitutional and legislative protections, as well as, the potential civil and criminal ramifications.

It bears mentioning that neither an ordinance nor a statute providing for a felony conviction has precluded criminals from entertaining and committing criminal acts. At best, an ordinance only duplicates charging, which is already provided by the Crimes Code; at worst, a law-abiding citizen is undeservingly and unknowingly charged with a crime for which he/she never intended

to commit and had no knowledge that he/she was committing. A patchwork of laws across the Commonwealth serves no purpose but to ensnare those, who have no intention of violating the law but who unwarily find themselves in a jurisdiction, which imposes restrictions on their rights that the Commonwealth otherwise allows.

In the event Pittsburgh enacts these proposed unlawful ordinances, ACSL and FOAC are prepared to take legal action against the City, which will result in substantial additional burdens on the taxpayers. Clearly, it is in the best of interest of all of those involved that the proposals not be enacted. Accordingly, I am respectfully requesting that the proposal neither be offered nor enacted. In the event the City enacts these proposals, please let me know whether you will accept service of the Complaint or require service by the Sheriff.

Thanking you for your time and consideration in this matter, I am

Yours truly,
Firearms Industry Consulting Group



Joshua G. Prince
joshua@civilrightsdefensefirm.com

jgp/web
Matter no. 10655

Distribution

The Honorable William Peduto
Pittsburgh City Council

cc: Firearm Owners Against Crime by mail
Allegheny County Sportsmen's League by mail

From: Pree, Brenda brenda.pree@pittsburghpa.gov
Subject: Re: Letter in Response to Mayor and City Council Firearm Proposals
Date: December 17, 2018 at 3:43 PM
To: Civil Rights Defense Firm Joshua@CivilRightsDefenseFirm.com

BP

Good Afternoon,
Your letter has been distributed to City Council.

Regards,

Brenda F. Pree, CMC
City Clerk
414 Grant Street
510 City County Building
Pittsburgh, PA 15219
412-255-2138 (Office)
Brenda.Pree@pittsburghpa.gov

From: Civil Rights Defense Firm <Joshua@CivilRightsDefenseFirm.com>
Sent: Monday, December 17, 2018 2:57:31 PM
To: Pree, Brenda
Cc: Clark-Baskin, Kim
Subject: Letter in Response to Mayor and City Council Firearm Proposals

City Clerk Pree and Deputy Clerk Clark-Baskin,

Please find attached a copy of a letter that is being sent on behalf of my clients, Allegheny County Sportsmen's League and Firearm Owners Against Crime, in relation to the recently announced firearm proposals, which are scheduled to be introduced tomorrow during the City Council meeting. Accordingly, if you could kindly forward the attached letter to the City Council members, I would greatly appreciate it.

Thanking you for your time and assistance in this matter, I am

Respectfully Yours,

Joshua Prince, Esq.
Firearms Industry Consulting Group® (FICG®)
a Division of Civil Rights Defense Firm, P.C.
646 Lenape Rd
Bechtelsville, PA 19505
888-202-9297
610-400-8439 (fax)
Joshua@CivilRightsDefenseFirm.com

Your PA Firearms Lawyer® and PA Gun Attorney®, as well as, the home to armor piercing arguments®. You can find our firearms-specific website at www.FirearmsIndustryConsultingGroup.com or our Firm's main website at www.CivilRightsDefenseFirm.com.

www.gas-solutions.com

The highest compliment we can receive is the referral of your friends, family and business associates. Thank you for your trust

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Exhibit K

(Signage erected by City of Pittsburgh in
front of City-County Building)



It is unlawful to possess a firearm or other dangerous device inside this facility. Any person possessing such device or devices is subject to prosecution under 18 PA. C.S.A. Sec 913

All persons entering this facility are subject to search.



PER ORDER OF THE DIRECTOR OF PUBLIC SAFETY CITY OF PITTSBURGH

PGH DOMI

Exhibit L

(Letter of January 3, 2019 on behalf of
Firearm Owners Against Crime to Mayor
Peduto and City Council)

FIREARMS INDUSTRY CONSULTING GROUP

A Division of Civil Rights Defense Firm, P.C.

Joshua Prince
Adam Kraut
Jorge Pereira

Phone: 888-202-9297
Fax: 610-400-8439



January 03, 2019

The Honorable William Peduto
Office of Mayor William Peduto
5th Floor
414 Grant Street
Pittsburgh, PA 15219

RE: Unlawful Signage Outside of City Council

Dear Mayor Peduto and Members of City Council,

As you are aware, I represent Allegheny County Sportsmen's League (ACSL) and Firearm Owners Against Crime (FOAC), whom became aware today of an unlawful sign that you have erected outside of the City-County Building. Specifically, in article published today by Bob Bauder of TribLive entitled *Pittsburgh warns City Hall visitors that guns are prohibited in building*, he states that "Pittsburgh began preparing Wednesday for an armed protest scheduled for Monday outside the City-County Building by posting signs for a first time warning visitors that weapons are not permitted inside the Downtown building." The article also includes a picture of the sign. Both the article and picture are *available at* <https://triblive.com/local/allegheny/14462062-74/pittsburgh-warns-city-hall-visitors-for-a-first-time-that-guns-are>.

Contrary to the explicit requirements of 18 Pa.C.S. § 913(d), the erected sign fails to advise individuals that, pursuant to Section 913(e), lockers must be made available within the facility to every individual desiring to secure firearms and other dangerous weapons and that such persons securing firearms or other dangerous weapons must be issued a receipt. As the signs are in direct violation of Section 913 and 18 Pa.C.S. § 6120, ACSL and FOAC are demanding that the signs be immediately removed and if the City intends to replace them that any new signage be consistent

with the explicit requirements of Section 913(d).

As set forth in my letter of December 17, 2018, it is my hope that these matters can be resolved amicably and without further cost to the taxpayers. However, in the event that the City fails to immediately take down the unlawful signs, ACSL and FOAC are prepared to take legal action against the City and respectfully request that the City advise whether it will accept service of the Complaint or will require service by the Sheriff.

Thanking you for your time and consideration in this request, I am

Yours truly,
Firearms Industry Consulting Group


Joshua G. Prince
joshua@civilrightsdefensefirm.com

jgp/web
Matter no. 10655

Distribution

The Honorable William Peduto
Pittsburgh City Council

FIREARMS INDUSTRY CONSULTING GROUP

A Division of Civil Rights Defense Firm, P.C.

Joshua Prince
Adam Kraut
Jorge Pereira

Phone: 888-202-9297
Fax: 610-400-8439



January 03, 2019

Pittsburgh City Council
510 City-County Building
414 Grant Street
Pittsburgh, PA 15219

RE: Unlawful Signage Outside of City Council

Dear Mayor Peduto and Members of City Council,

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As set forth in my letter of December 17, 2018, it is my hope that these matters can be resolved amicably and without further cost to the taxpayers. However, in the event that the City fails to immediately take down the unlawful signs, ACSL and FOAC are prepared to take legal action against the City and respectfully request that the City advise whether it will accept service of the Complaint or will require service by the Sheriff.

Thanking you for your time and consideration in this request, I am

Yours truly,
Firearms Industry Consulting Group



Joshua G. Prince
joshua@civilrightsdefensefirm.com

jgp/web
Matter no. 10655

Distribution

The Honorable William Peduto
Pittsburgh City Council

Exhibit M

(Article – *Gun Rights Advocates Set To
Demonstrate Outside City-County
Building, Public Safety Officials
Preparing*)

pittsburgh.cbslocal.com

Gun Rights Advocates Set To Demonstrate Outside City-County Building, Public Safety Officials Preparing

3 minutes

January 3, 2019 at 9:08 pm

Follow KDKA-TV: [Facebook](#) | [Twitter](#)

PITTSBURGH (KDKA) — A new sign has been posted outside the City-County Building in Downtown Pittsburgh. It warns that taking guns inside the building is against the law.

The sign has been placed there in advance of an “Open Carry Rally” set for Monday. Hundreds of armed gun advocates are expected to attend, as well as counter protestors.

City officials are preparing in advance for the demonstrations.

Second Amendment advocates have been holding rallies across the country, but on Monday, their Open Carry protest comes to Pittsburgh.

It’s in response to [Mayor Bill Peduto’s proposal to ban assault weapons](#) in the city.

“They’re not permitted in the building. They’re permitted in the

street, or the portico, the open carry laws will be recognized,” Mayor Peduto said.

The new sign that’s gone up at the entrance of the building says: *“It is unlawful to possess a firearm or other dangerous device inside this facility. Any person possessing such device or devices is subject to prosecution under 18 PA. C.S.A. Sec 913. All persons entering this facility are subject to search.”*

Watch Kristin Emery’s report —

That’s been the case, but this is the first time it’s been posted.

“It’s not the first time we’ve had events that have been controversial, or even where there have been counter protests at the portico,” Mayor Peduto said.

It is the site where Klansman, Nazis and counter protestors once gathered. It remained peaceful, and the mayor expects the same thing on Monday.

“There will be a large presence of officers there, the officers will allow and make sure people will have the right to assemble and will be given that ability to do so peacefully,” said Mayor Peduto.

While the mayor doesn’t agree with the open carry protestors, he respects their right to free speech and to openly carry a gun. But it gives him pause.

“The amount of weapons that will be in plain sight, I just worry about the general public,” he said.

Gun rights demonstrators are vowing to remain peaceful and stay outside of the City-County Building.

The demonstration is planned for the noon hour when many will be out getting some lunch. City employees will be walking in and out of the building.

[Comments \(5\)](#)

Exhibit N

(Article – ‘He's a traitor’: *Armed protesters
ridicule Bill Peduto during gun rally in
Pittsburgh*)



 | [Back \(/local/alleggheny/14479129-74/armed-protesters-pillory-peduto-during-peaceful-rally-downtown-pittsburgh/\)](/local/alleggheny/14479129-74/armed-protesters-pillory-peduto-during-peaceful-rally-downtown-pittsburgh/) | Text Size: **— +**

<https://triblive.com/local/alleggheny/14479129-74/armed-protesters-pillory-peduto-during-peaceful-rally-downtown-pittsburgh>

'He's a traitor': Armed protesters ridicule Bill Peduto during gun rally in Pittsburgh

BOB BAUDER AND MEGAN GUZA | Monday, Jan. 7, 2019, 4:24 p.m.

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Nate Smallwood / Tribune-Review

Attendees participate in the open carry demonstration while listening to speakers at a rally held at the City-County Building, Downtown on Jan. 7, 2019.

Mayor Bill Peduto was among the most unpopular people in Pittsburgh on Monday as hundreds of gun rights protesters openly carrying rifles, shotguns and pistols hurled insults and criticism at him and a proposed gun ban during a rally in front of the City-County Building in the city's Downtown.

Gun proponents came from as far away as Chicago and accused Peduto and City Council of violating state law by proposing ordinances banning semi-automatic rifles and certain firearms accessories from the city limits.

They said the ordinances would do nothing to stop violent crime. They recited the Second Amendment and invoked Thomas Paine in declaring their right to bear arms. They dared Peduto to debate them face-to-face.

"He's a traitor. He's a coward. He's a commie," protesters yelled.

Speaker Kaitlyn Bennett, who gained fame when she posed for a graduation photo with an AR-10 rifle on Kent State's campus, said the bills would make the city less safe.

"Rapists, murderers and thieves are all on the mayor's side today," she said. "They're thankful. They're saying, 'Thank you, Mayor Peduto, for allowing me to go after my victims knowing they will be unarmed. Thank you.'"

The protest was otherwise peaceful. The city did not give an estimate on the size of the

crowd.

The crowd included one counter protester silently holding a sign that read, "Keep your guns away from our kids." Protesters jeered and shouted at her.

Bennett said the woman was looking for 15 minutes of fame.

"She just walked into a crowd of, what, 300 to 500 armed people?" she said.

Police made no arrests, and participants left without incident after a little more than an hour. Peduto was not in the building and unavailable for comment.

"The gun violence killing innocent people across the country, including 11 peacefully worshipping at Tree of Life in Squirrel Hill in October, has become a public health epidemic," Peduto spokesman Tim McNulty said. "The few regulatory efforts proposed by Mayor Peduto and City Council are simply common sense measures meant to take the epidemic head-on."

About 16 protesters later entered the City-County Building in an unsuccessful attempt to speak with Peduto and City Council members. Six of them were armed and checked their guns in a secure room before entering, according to building security.

"We simply wanted to come over and get any council member's opinion or statement on do or do they not maybe support Mayor Peduto's position, or anything that would help us understand where the council is coming from," said Boyd Martin, who was among the group. "We got nothing."

Council proposed the gun ban after the October murders of 11 people by a man armed with a semi-automatic rifle at the Tree of Life synagogue in Squirrel Hill.

Council members Corey O'Connor and Erika Strassburger, who represent portions of Squirrel Hill and proposed the ordinances, said they were determined to push the bills through to a vote.

"My council colleagues and the mayor and I are aware of the state laws that are on the books, and we happen to strongly disagree with them," Strassburger said, referring to Pennsylvania's preemption law prohibiting municipalities from regulating firearms. "If there's not political will to make change, we're ready and willing to make changes through the court system."

O'Connor said he felt it was his duty to propose the ban. Bills like this, he said, could save lives by getting these weapons off the streets. He believed the bills would pass.

"I think, as an elected official, my job is to do everything I can to protect our residents," he said.

State Rep. Aaron Bernstine, a Republican who represents northern Beaver County and parts of Butler and Lawrence counties, spoke during the protest and described gun ownership as a God-given right.

"Unfortunately the mayor and his cronies here in the city of Pittsburgh are attempting to infringe upon the rights of these law-abiding citizens, and all it is is a political stunt," he said. "If we're really going to address the issues, we need to increase penalties for those

who commit crimes with weapons."

Bob Bauder is a Tribune-Review staff writer. You can contact Bob at 412-765-2312, bbauder@tribweb.com or via Twitter @bobbauder. Megan Guza is a Tribune-Review staff writer. You can contact Megan at 412-380-8519, mguza@tribweb.com or via Twitter @meganguzaTrib.

Exhibit O

(Article – *Pittsburgh City Council Digs In
After DA Says It ‘Does Not Have Authority
To Pass’ Gun Legislation*)

pittsburgh.cbslocal.com

Pittsburgh City Council Digs In After DA Says It 'Does Not Have Authority To Pass' Gun Legislation

3 minutes

Follow KDKA-TV: [Facebook](#) | [Twitter](#)

PITTSBURGH (KDKA) – The Pittsburgh City Council is digging in on its attempt to ban certain types of weapons, even after the Allegheny County District Attorney says it “does not have the authority to pass” proposed legislation to ban assault weapons in the city.

In a letter to Councilman Corey O'Connor, dated Jan. 9, District Attorney Stephen Zappala said:

“As the District Attorney of Allegheny County for the past 20 years, I understand the efforts to curtail gun violence and limit the accessibility to assault weapons, ammunition, and gun accessories capable of causing widespread injury, destruction, and death. I am also aware of the city’s effort previously under Mayor Ravenstahl which was decided against the city in 2010. While I certainly see the desire for such type of legislation at the state and federal levels, I believe that City Council does not have the authority to pass such legislation.”

[Click here to read the full letter.](#)

“The state has to act on it, there is no local authority,” Zappala said.

Despite Zappala’s letter, O’Connor said the city will move forward on its proposed legislation.

“He has every right to his own opinion, we are still going to move forward,” O’Conner said.

The proposed legislation was announced outside council chambers on Dec. 14 and was supported by the governor and the mayor.

The city wants to ban assault rifles, accessories like bump stocks and allow courts to temporarily prohibit anyone determined to be dangerous from possessing a gun.

“Right now you are talking about passing something that you don’t have the statutory authority to do,” Zappala said. “Once you start arresting people, there are constitutional implications to that, there are civil rights implications. I think this could open up a Pandora’s box.

The proposed legislation has been met with opposition from gun rights advocates, including [an “Open Carry Rally” earlier this month](#) on the portico of the City-County Building.

“At this point we are going to pass our bills, move forward,” O’Connor said. “Whatever happens after that we will find out.”

Kim Stolfer, an expert on firearms law, is pretty certain what the city will find out.

“They tried to ban firearms in 1993, in 1994 we had to sue them, they lost and there is a consent decree that says they can’t do this.”

O’Conner believes the council can’t be sued.

“We have legislative immunity, our law department told us that,” O’Conner said. ‘So we are not going to stop fighting against gun violence.’”

Brenda Waters



[Comments \(5\)](#)

Exhibit P

(Article – *DA: Pittsburgh City Council does not have authority to pass gun legislation restricting certain types of weapons*)

[wtae.com](https://www.wtae.com)

DA Zappala: Pittsburgh City Council does not have authority to pass gun legislation restricting some types of weapons

Sheldon Ingram

4 minutes

DA: Pittsburgh City Council does not have authority to pass gun legislation restricting certain types of weapons

Hide Transcript Show Transcript

DA: Pittsburgh City Council does not have authority to pass gun legislation restricting certain types of weapons

PITTSBURGH —

City Council does not have authority to pass [legislation that would restrict certain types of guns in Pittsburgh](#), according to Allegheny County District Attorney Stephen Zappala.

In a letter addressed to City Councilman Corey O'Connor, dated Jan. 9, Zappala wrote the following:

"I greatly appreciate you forwarding me the proposed legislation, referenced above. As the District Attorney of Allegheny County for the past 20 years, I understand the efforts to curtail gun

violence and limit the accessibility to assault weapons, ammunition, and gun accessories capable of causing widespread injury, destruction, and death. I am also aware of the city's effort previously under Mayor Ravenstahl which was decided against the city in 2010. While I certainly see the desire for such type of legislation at the state and federal levels, I believe that City Council does not have the authority to pass such legislation."

Zappala went on to cite several cases connected to firearm owners in Pennsylvania.

"It's been pre-empted. The state has to act on it. There is no local authority," Zappala said Tuesday.

He added that [the legislation currently before council](#) would be found unconstitutional if it were to be passed, saying that the legislative effort needs to come from the General Assembly of the commonwealth of Pennsylvania.

"They just don't have the ability to do this," Zappala said. "They should get the votes in Harrisburg if they can, and that's where the action has to take place."

Mayor Bill Peduto reacted to Zappala's letter with a jab.

"If he wants to be city solicitor, he has to move into the city and apply, and I'd consider his resume," Peduto said. "Otherwise, he should be a district attorney."

[The full letter is available by clicking here.](#)

[Follow this story](#) to get instant e-mail alerts from **WTAE** on the latest developments and related topics.

DA: Pittsburgh City Council does not have authority to pass gun
legislation restricting certain types of weapons

Exhibit Q
(Pittsburgh City Council “Rules of
Council”)

CITY OF PITTSBURGH

OFFICE OF CITY COUNCIL



RULES OF COUNCIL



REVISED November, 2017

RULES OF COUNCIL

I. RULES

SECTION 1. Purpose; Procedural Authority. These rules shall govern the proceedings of City Council in conducting business of the City of Pittsburgh. "Robert's Rules of Order" shall be adopted as parliamentary authority for all procedure not expressly set forth in these rules.

SECTION 2. Suspension of Rules. No rule shall be suspended except by an affirmative vote of two-thirds of the members elected and such vote shall be taken without debate

SECTION 3. Amendment of Rules. No rule of the Council shall be amended or changed, except by a majority vote of the members elected thereto, and after one week's previous notice to the members of Council in writing of such change desired to be effected.

II. ORGANIZATION

SECTION 1. Organizational Meeting.

A. At its organization meeting or thereafter Council shall, by a majority vote of all Council Members, elect one member to serve as Council President and one member to serve as President Pro Tempore for the ensuing term.

B. Once elected, the President shall appoint a Council Member to Chair each of the Standing Committees set forth in Rule VI.

C. Every five years the Council shall review the Rules of Council and amend as necessary.

SECTION 2. Officers and Duties

A. Council President

- i. Council President shall at Regular Meetings:
 1. Preserve order and decorum
 2. Name the member who shall speak when two or more members address the Council President at the same time

3. Limit discussion by Council Members so that no member speaks more than once on an agenda item until every other member choosing to speak has spoken
 4. Decide all questions by Order subject to appeal to the Council by any two members.
- ii. Council President shall at Standing Meetings chair the meeting if the Chair of the Committee on Finance and Law is absent
- B. Chair of Committee on Finance and Law**
- i. Chair shall at Standing Committee Meetings:
 1. Preserve order and decorum
 2. Name the member who shall speak when two or more members address the Chair of Committee on Finance and Law at the same time
 3. Limit discussion by Council Members so that no member speaks more than once on an agenda item until every other member choosing to speak has spoken
 4. Decide all questions by Order subject to appeal to the Council by any two members.
- C. President Pro-Tempore**
- i. The President Pro-Tempore shall chair any Regular Meeting for which the President is absent.
 - ii. The President Pro-Tempore shall chair any Standing Meeting for which the Chair of the Committee on Finance and Law and President are both absent.
 - iii. Approves invoices submitted by the Council President.
- D. Clerk.**
- i. The Clerk of Council shall prepare for each Committee meeting at least five days before such meeting, a calendar list of all matters that have been submitted to Council and that are un-disposed of, giving a statement of the present condition of each resolution or ordinance, and of any action that has been taken thereon; and shall furnish the same to each member of Council at the meeting of the Committee.
 - ii. The Clerk of Council shall keep a journal whereon shall be bulletined all bills, ordinances or resolutions as received by the Clerk, as well as the course of procedure, and final disposition of such, which journal shall be open to all

III. MEETINGS

SECTION 1. Meetings, Generally.

A. Regular Meetings. The regular meetings of Council shall be held on Tuesday at 10:00 a.m. at least fifty weeks during the calendar year. Regular Meetings shall meet in such order as provided in Rule V.

B. Standing Committee Meetings. All standing committees of Council shall meet on Wednesday of each of the weeks during which regular meetings of Council are held and on such succeeding days as the committee may determine. All standing committee meetings shall begin at 10:00 a.m. each day. Committees shall meet in such order as provided in Rule VI.

C. Special meetings. Special meetings are a separate session of Council held at a time different from that of any regular meetings and convened only to consider business specified in the call of the meetings. The purpose of a Special Meeting is to deal with matters arising between regular meetings of Council, but that require action by Council before the next regular meeting. Special meetings of Council shall be called by the Clerk at the order of the President, or of any standing committees of Council, or of one-third of all Council members, or of the Mayor. However, such call shall be in writing, shall specify the purposes for which the call was made, shall be signed by the parties ordering the call and shall be entered by the Clerk in her minute books. The Clerk shall give written notice to the members of any special meeting not less than twenty-four hours previous to such meeting.

D. Post-Agenda Meetings. Post-Agenda Meetings are information gathering sessions sponsored by City Council. Specific guests are invited, at the request of the Member who called the meeting, to share their expertise with Council on target subject. The format of Post-Agenda meetings are determined by the Chair of the meeting. Post-Agendas are open to the public. There is, however, no public comment period. Any Council Member can request a Post-Agenda Meeting by making a motion, receiving a second and an affirmative vote of a majority of Council Members present.

E. Public Hearings. Public hearings are called in order to receive input from the public. They can be called by a valid petition, by City Council, or by statutory mandate. Public Hearings are further defined in Rule VI.

F. Executive Sessions. According to State Law, Executive Sessions are defined as follows:

- i. *Purpose.* Council may hold a meeting from which the public is excluded for one or more of the purposes as defined in State law.
 - (1) To discuss any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation

of performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the agency, or former public officer or employee, provided, however, that the individual employees or appointees whose rights could be adversely affected may request, in writing, that the matter or matters be discussed at an open meeting. The agency's decision to discuss such matters in executive session shall not serve to adversely affect the due process rights granted by law, including those granted by State law. The provisions of this paragraph shall not apply to any meeting involving the appointment or selection of any person to fill a vacancy in any elected office.

(2) To hold information, strategy and negotiation sessions related to the negotiation or arbitration of a collective bargaining agreement or, in the absence of a collective bargaining unit, related to labor relations and arbitration.

(3) To consider the purchase or lease of real property up to the time an option to purchase or lease the real property is obtained or up to the time an agreement to purchase or lease such property is obtained if the agreement is obtained directly without an option.

(4) To consult with its attorney or other professional advisor regarding information or strategy in connection with litigation or with issues on which identifiable complaints are expected to be filed.

(5) To review and discuss agency business which, if conducted in public, would violate a lawful privilege or lead to the disclosure of information or confidentiality protected by law, including matters related to the initiation and conduct of investigations of possible or certain violations of the law and quasi-judicial deliberations.

ii. *Attendance.* Council may admit to an executive session persons necessary to carry out the purpose of the meeting. The persons may include, but are not limited to, agency staff, legal and technical advisors and individuals and their representatives who may be affected by matters to be discussed at an executive session. Council may also meet with auditors and legislative investigatory committees in an executive session.

iii. *Procedure.* An executive session may be held during an open meeting, at the conclusion of an open meeting or may be announced for a future time at an open meeting. If Council conducts an executive session which was not announced at an open meeting, the agency shall give each of its members at least 24 hours' notice in advance of the time of the meeting unless all of the members of Council by unanimous agreement waive the requirement for the notice.

iv. *Notice.* At the open meeting occurring immediately prior or subsequent to an executive session, the agency shall announce and include within its minutes, the date, time, location and purpose of the executive session. The purpose of an executive session may be explained by a general reference to the types or categories of subjects

discussed at the session and need not identify with specificity persons or matters considered during the meeting.

v. *Official action.* Unless otherwise provided by law or exempt under State law (PA § 1.59 relating to exemptions), a meeting at which a quorum of the members of Council take official action with regard to matters discussed at an executive session shall be open to the public.

vi. *Minutes.* The agency shall keep minutes of each executive session in the same manner required by State law (relating to minutes) for open meetings. The minutes of executive sessions do not constitute records available for public inspection and copying.

vii. *Violation of Confidentiality*

(1) Any Council member present at an executive session to have been found to divulge information determined to be attorney client privilege may be fined in an amount up to \$500, with the approval of a majority of Council members, and/or censured by a vote of a majority of Council members. The fine and/or censuring shall be acted on during a Council Meeting and shall be consistent with State law, Roberts Rules of Order, and the Rules of Council.

G. Briefings or Informational Sessions. Briefings, presentations, or informational sessions may take place with individuals or a group of members of Council, provided that a quorum of members are not present.

SECTION 2. Quorum. A quorum shall consist of a majority of the members elected. This applies to committees as well as to regular or special meetings of Council. A quorum shall not be required for Executive Session or Post-Agenda meetings.

SECTION 3. Members Attendance. Any Council Member not present at any Regular, Standing, or duly called Special Meeting of Council shall be fined the sum of twenty dollars (\$20.00), unless excused by the Council for sickness or other unavoidable causes, and any such fine or fines imposed shall be deducted from the salary of such offending member. Members may participate and vote by telephone or video conference at public meetings in lieu of physical presence. Participation by phone shall be permitted when members are unable to be physically present at a meeting due to: illness or disability, travel for City business, or family or other major emergency. Telephone attendance of a Council Member for purposes of voting on a quasi-judicial matter at a Council meeting is prohibited.

SECTION 4. Public Attendance.

A. Open Meetings. All meetings of Council and committees shall be open to the public, subject to the right of Council to establish an enclosure beyond which passage may be limited to the members, officers and staff of Council, the Mayor, City Controller, heads of departments, and persons assigned to duty by

the President and subject to the regulation of cameras, lights, and recording and transmitting equipment so as not to interfere with the orderly conduct of Council.

B. Persons Invited to the Committee Table. No person shall be heard or seated at the Committee table unless invited by the Chairman of the Committee in session and with the unanimous consent of the members present.

C. Public Comment.

- i. In compliance with Pennsylvania Act 93 of 1998, opportunity for comment by residents or taxpayers of the City will be provided as the first order of business at any special meetings of Council and at the weekly Standing Committee Meeting and as the second order of business at the weekly Regular Meeting of Council. Comment is limited to matters of concern, official action or deliberation which are or may be before Council, and unless determined otherwise by a majority of Council Members present; is limited to three (3) minutes per individual.
- ii. After the comment period in a Council meeting has ended, if a resolution or ordinance is added to the agenda or amended to make its substance differ, residents or taxpayers shall be provided an additional opportunity to comment on the addition or amendment before a final vote is taken. In the event there is not sufficient time for comment, Council may defer the comment period as permitted by Act 93 of 1998.
- iii. The public comment period shall be recorded.

VI. STANDING COMMITTEES

SECTION 1. There shall be the following standing committees.

B. A. Committee on Finance and Law, which shall have the charge of and jurisdiction over all ordinances, resolutions, bills, papers and other matters relating to:

1. Bond and Debt Issuance
2. City Banking/ Investment
3. Creation of Offices or Positions of any kind
4. Department of Finance
5. Enterprise Resource System
6. Equal Opportunity Review Commission (EORC)
7. Ethics
8. Law Department
9. Multi-year Capital Improvement Program

10. Office of Management and Budget, Operating & Capital Divisions
11. Pension Fiscal
12. Real Estate
13. Taxation
14. Treasurer

C. Committee on Public Safety, which shall have charge of and jurisdiction over all ordinances, resolutions, bills, papers and other matters of every kind pertaining to:

1. Bureau of Animal Control
2. Bureau of Fire
3. Bureau of Police
4. Citizens Police Review Board (CPRB)
5. Department of Public Safety
6. Emergency Management Agency (EMA)
7. Emergency Medical Services (EMS)
8. Emergency Operations and Communications
9. Homeland Security

D. Committee on Public Works, which shall have charge of and jurisdiction over all ordinances, resolutions, bills, or papers affecting or pertaining to:

1. Construction and maintenance of Public Works
2. Department of Mobility and Infrastructure
3. Department of Public Works, and the Bureaus of:
 - a. Bureau of Administration
 - b. Bureau of Operations
 - c. Bureau of Environmental Services
 - d. Bureau of Transportation & Engineering
4. Facilities Operation and Maintenance (Not Parks or Recreation related)
5. Forestry & Shade Tree Commission
6. Public Right-of-Way management
7. Public Right-of-Way maintenance
8. Streets Lighting

E. Committee on Human Resources, which shall have charge of and jurisdiction over all ordinances, resolutions, bills, or papers affecting or pertaining to:

1. Benefits
2. Department of Personnel and Civil Service
3. Equal Employment Opportunity Commission (EEOC)
4. Human Relations Commission (HRC)
5. Job Training Partnership Act (JTPA)/Pittsburgh Partnership/Workforce Investment Act (WIA)

6. Office of Municipal Investigation (OMI)
7. Payroll Administration/System
8. Pension Benefits Administration
9. Personnel (inclusive of Salaries and Employment Numbers)

F. Committee on Land Use and Economic Development, which shall have charge of and jurisdiction over all ordinances, resolutions, bills, or papers affecting or pertaining to:

1. Art Commission
2. Community Development Block Grants (CDBG)
3. Conditional Use Permits
4. Department of Community Affairs (DCA) funding
5. Department of Community and Economic Development (DCED) funding
6. Department of City Planning
7. Department of Permits, Licenses, and Inspections (PLI)
8. Mapping and GIS
9. Historic Review Commission
10. Market Based Revenue Opportunities (MBRO)
11. Neighborhood Initiatives
12. Riverfront Development
13. Small Business Initiatives
14. Transportation Planning
15. Zoning
16. Sustainability Initiatives

G. Committee on Urban Recreation, which shall have charge of and jurisdiction over all ordinances, resolutions, bills or papers pertaining to

1. Department of Parks and Recreation
2. Greenways
3. Libraries
4. Park Programming
5. Recreation Facilities Maintenance
6. Senior Centers and Programming
7. Special Events
8. Trails
9. Youth Policy

H. Committee on Innovation, Performance and Asset Management, which shall have charge of and jurisdiction over all ordinances, resolutions, bills, papers and other matters relating to:

1. 311 Response Center

2. Cable Bureau
3. City Asset Inventory & Management
4. Department of Innovation and Performance (I&P)
5. Facilities Inventory and Management
6. Fleet Maintenance, Repair and Alteration
7. Purchasing and Contracts
8. Information Technology
9. Data collection and analysis
10. Operational Performance Targets

I. Committee on Intergovernmental Affairs, which shall have charge of and jurisdiction over all ordinances, resolutions, bills, or papers affecting or pertaining to:

1. Allegheny Regional Assets District (ARAD)
2. Authorities –Agreements
3. County
4. Congress of Neighboring Communities (CONNECT)
5. Federal
6. Local governmental cooperation agreements
7. Quasi-governmental cooperation agreements
8. Liquor Licenses
9. Pennsylvania Municipal League
10. Port of Pittsburgh
11. School Boards
12. State
13. Tourism-Visit Pittsburgh

J. Committee on Hearings (held by the President of Council), which shall have charge of the jurisdiction and scheduling of:

1. Appointments and Reappointments
2. Executive Sessions
3. Post-Agenda Meetings
4. Public Hearings
5. Public Meetings
6. Special Committees
7. Special Meetings

If any ordinances, resolutions, bills, papers and other matters could be under the jurisdiction of multiple committees, the City Clerk shall use their best judgement as to which committee to assign.

SECTION 2. Order of Business. At the hour appointed for the Standing Committee meeting of Council, the Chairperson of the Committee on Finance and Law shall take the chair, and

the Clerk shall proceed to call the roll and note the absentees, and no member shall depart without leave from the Chairperson. When the roll is called, either in Council or in committee, the name of the presiding officer shall be called last. In the absence of the Chairperson, the President of Council, and the President Pro-Tempore, the members shall elect a temporary Chairperson to chair that meeting, provided there be a quorum present. Should no quorum attend within thirty minutes after the hour appointed for the meeting, the Council shall thereupon stand adjourned, and all absentees shall be fined in accordance with Rule III, Section 3 hereof.

- a. The order of business at all standing meetings of Council shall be as follows:
 - 1. Comments from residents or taxpayers in accordance with Rule VI (c).
 - 2. Roll call.
 - 3. Standing committees in the order in which they are listed above.
 - 4. Announcements.

SECTION 3. SEATING AT STANDING COMMITTEE MEETINGS

Seating during Standing Committee meetings shall be at the Council Table, and shall be organized as follows:

- A. The Chairperson of the Committee on Finance and Law shall sit at the head of the Council table.
- B. The President of City Council, who is also the chair of the Committee on Hearings, shall sit to the right of the Finance Chair.
- C. The President Pro-Tempore, who may be the chair of any of the other Committees, shall sit to the right of the President.

SECTION 4. PROCEDURE FOR STANDING COMMITTEES

A. Each Standing Committee shall have charge and jurisdiction over all ordinances, resolutions, bills, papers and matter relating to those subjects enumerated above and such other business as may be referred to it by the Council.

B. Each standing committee shall be composed of all of the members of Council. The Chairperson of each committee shall be designated by the President of Council to serve for the same term or length or term for which the President of Council is elected.

C. The Rules of Council, as far as applicable, shall govern all committees of Council.

D. Committees will meet in the order set forth above, except as otherwise provided by order of Council or any Committee thereof.

E. All votes shall be taken via voice, unless the yeas and nays shall be required by law or demanded by any member.

F. The yeas and nays may be demanded on any question at any time before the next business is taken up.

V. REGULAR MEETINGS

SECTION 1. Order of Business. At the hour appointed for the meeting of Council, the President shall take the chair, and the Clerk shall proceed to call the roll and note the absentees, and no member shall depart without leave from the President. When the roll is called, either in Council or in committee, the name of the presiding officer shall be called last. In the absence of the President and the President Pro-Tempore, the members shall elect a temporary President Pro-Tempore to chair that meeting, provided there be a quorum present. Should no quorum attend within thirty minutes after the hour appointed for the meeting, the Council shall thereupon stand adjourned, and all absentees shall be fined in accordance with Rule III, Section 3 hereof.

The order of business at all stated meetings of Council shall be as follows:

1. Presentation of petitions, letters, memorials, remonstrances, proclamations, and ordinances, which may be referred to the appropriate committees, or otherwise disposed of, without debate.
 - a. Members shall have the right to confer proclamations upon any person or organization, recognizing them for an outstanding skill, service, or accomplishment, with the approval of the majority of City Council. Members shall also have the right to present proclamations directly to their recipients during a regular meeting of City Council, however such presentations shall be limited to two presentations per Member per meeting.
2. Comments from residents or taxpayers in accordance with Rule VI (c).
3. Presentation of papers.
4. Unfinished business.
5. Reports from standing committees
6. Reports from special committees.
7. Motions and resolutions.
8. Reading, correction and approval of the minutes of previous meeting or meetings where the same may not have been already read, corrected and approved shall be the last order of business.

The order of business at Special Meetings shall be the same as in the case of stated meetings, except the special business for which the meetings have been called shall be first considered. The reading, correction and approval of the minutes of previous meetings, not already read, correct and approved shall be the last order of business.

SECTION 2. PROCEDURE FOR REGULAR MEETINGS

- A. The title of every bill proposing an ordinance or resolution shall be read when presented for final vote. Any such bill shall be read at length when any member of Council shall so request.
- B. Any such bill may be amended at any time before final passage.

C. All amendments made to any bill proposing an ordinance or resolution shall be printed for the use of members before the final vote is taken on the bill.

D. A member of Council shall not be permitted to conduct discussion on a bill during voting, or to explain his/ her vote, except where a Council Member may be allowed explain a vote of "abstain."

E. When any bill, upon its final passage, received the votes of a majority of the members of Council present, but not a majority of those elected, such bill shall be considered as laid upon the table, and may be called up for further action, at the same or any subsequent meeting of Council.

F. All final action in adopting legislation shall be by roll call vote, and shall be by yeas and nays, and unless otherwise provided by law, shall require at least five affirmative votes for final passage. The names of the persons voting for and against such bill shall be entered into the minutes of the meeting and the journal.

VI. PUBLIC HEARINGS

SECTION 1. Public hearings may be granted to petitioners and remonstrates and in any other matters affecting public business which are within the jurisdiction of the Council. Such hearings shall be held on the day and at such time as may be fixed by the President of Council. The President of Council shall preside at all such hearings and shall arrange the calendar for same.

SECTION 2. No action or vote shall be taken on an ordinance, resolution, petition, remonstrance or communications at the time a hearing is held on the same.

SECTION 3. The President of Council shall schedule all public hearings for a date that is no more than 30 calendar days after a request is made by a majority of the Members of Council or a valid Petition for a Public Hearing is received by the City Clerk. In the exceptional circumstances when a public hearing within 30 days does not reasonably permit residents access and the right to be heard, the President shall schedule the Public Hearing as quickly thereafter as possible.

VII. SPECIAL COMMITTEES

SECTION 1. The President of Council may, from time to time, as conditions require, appoint special committees to investigate any matters pertaining to the city business, which committees shall submit their reports in writing.

SECTION 2. All reports from special committees shall be in writing and shall be signed by the Chairman or a majority of the members thereof. All papers with which a report deals shall be returned with the report. Nothing in this rule shall be construed to prevent the introduction of minority reports.

SECTION 3. The President of Council shall be ex-officio member of all special committees.

VIII. LEGISLATION

SECTION 1. No bill shall be introduced in Council unless deposited with the Clerk of Council by 12:00 noon Friday prior to the regular meeting of Council; but any member may present any bill or paper notwithstanding said rule, with the consent of the majority of the members present at any meeting of Council. All bills deposited with the Clerk from the Mayor, City Council Members or a department of the City must have accompanying documentation as to purpose, history and fiscal impact in a manner prescribed by Ordinance, the Council Budget Office, and the President of Council.

SECTION 2. Any bill proposing an ordinance or resolution, or any other matter to come before Council shall be presented by a Member or, and shall, in open meeting, be read by the Clerk by title.

The Clerk shall refer such bill to the proper committee, which committee may not consider such bill to the proper committee, which committee may not consider such bill until the 8th calendar day following the meeting in which the bill is introduced, except that referral to a committee shall not be necessary in the case of any such bill which by law may be passed finally on the day of its introduction. When returned therefrom, such bill shall be printed and a copy delivered to the Council office of each member at least forty-eight hours previous to a regular meeting of Council, or where possible, twenty-four hours previous to a special meeting of Council.

SECTION 3. Standing Committees may not consider any bill until the 8th calendar day following the meeting in which the bill is introduced, except that referral to a committee shall not be necessary in the case of any such bill which by law may be passed finally on the day of its introduction. When returned therefrom, such bill shall be printed and a copy delivered to the Council office of each member at least forty-eight hours previous to a regular meeting of Council, or where possible, twenty-four hours previous to a special meeting of Council.

SECTION 4. No bill proposing an ordinance or resolution shall be passed containing more than one subject, which shall be clearly expressed in its title.

IX. MOTIONS

SECTION 1. Decorum.

A. When any Council Member wishes to speak, he/she shall motion to the Chair.

- B. When two or more Councilmembers motion to speak at the same time, the Chair shall designate the one who shall speak first.
- C. When recognized, the Member shall, in a courteous manner, confine comments to the question under debate.
- D. The Council Member who sponsors a Bill, Resolution, or motion shall have the privilege of speaking first upon it.
- E. If any member transgresses the Rules of Council, the Chair shall or any member may, through the Chair, call the member to order.
- F. In order to preserve order and decorum, the Chair may entertain a motion from any member to censure the member who is out of order. With a second and a majority vote, Council may express severe disapproval of the member who is out of order. The motion to Censure shall be recorded in the meeting minutes and the journal.

SECTION 2. Motions and Debate.

A. Rules of Debate.

- 1. The Chair shall:
 - 1. Rigidly enforce all rules adopted for the government of Council;
 - 2. Preserve order and decorum in debate;
 - 3. Prevent personal reflections and confine member to the question under discussion; and
 - 4. Decide all questions of order, subject to appeal.

B. Motions. Motions shall be entertained in the order of precedence outlined in the 11th Edition of Robert's Rules of Order Newly Revised.

MOTION TO:	Second Required	Debatable	Amendable	Vote Required	May be reconsidered
Adjourn	Yes	No	No	Majority	No
Recess	Yes	No	Yes	Majority	No
Reconsideration	Yes	Yes	No	Majority	No
Lay on the Table	Yes	No	No	Majority	Yes
Take from the Table	Yes	No	No	Majority	No
Call the Question	Yes	No	No	2/3	Yes

Hold to a Certain Time	Yes	Yes	Yes	Majority	Yes
Commit to a Committee	Yes	Yes	Yes	Majority	Yes
Amend or Substitute	Yes	Yes	Yes	Majority	Yes
Hold Indefinitely	Yes	Yes	No	Majority	Only affirmative vote

C. Point of Order. The Chair shall decide all points of order. If dissatisfied with the decision of the Chair, any Member may appeal the decision.

- B. No Member may speak more than once on an appeal without the consent of a majority of the Council Members in attendance.
- C. In all cases of appeal, the member challenging the question shall be: "Shall the decision of the Chair be sustained?"
- D. The decision in response to the appeal shall be by majority vote of the Council Members in attendance. In case of a tie vote, the decision of the Chair shall stand.

D. Censure. The Chair may, or any member may, through the Chair, call on Council to Censure a member who is out of order. With a second and a majority vote, Council may express severe disapproval of the member who is out of order. The motion to Censure shall be recorded in the meeting minutes and the journal.

E. Call the Question. A Councilmember may make a motion to Call the Question (also known as Previous Question) to end debate on an immediate pending motion. This motion requires a second and a two-thirds vote in favor.

F. Hold to a Certain Time. To postpone a question to a certain time, and within limits, the motion shall state a definite date, meeting, or hour, or until after a certain event.

G. Lay on the Table

- i. A majority of the Council may decide to temporarily halt consideration of a question immediately and without debate during a meeting. The maker of a motion to Lay on the Table must state the reason for the motion. A motion that has been laid on the table may be brought back by a motion to Take from the Table before that meeting is adjourned.

- ii. Once a question has been laid on the table, it can be taken from the table by a majority vote of those present, as soon as the interrupting business has been disposed of or whenever no other question is pending.

H. Hold Indefinitely. The Council can decide not to take a direct vote or position on a main question by disposing it with a motion to Hold Indefinitely. The question may not be brought back again during the legislative session.

X. COUNCIL EXPENDITURES

SECTION 1. An individual Council Member may expend funds from their own Council Member budget account for the following purposes:

A. Donations without consideration.

B. Staffing and consulting through the following procedures:

1. When a temporary employee's total annual payment amount will exceed \$10,000, the employing Councilperson shall assure that the temporary employee enters into a contract with the Clerk's Office, and the contract shall include a detailed list of duties, the nature of work to be performed and a specific rate of pay (hourly wage) commensurate with the work to be performed. Time cards must be submitted to the City Clerk on a bi-weekly basis and the individual employing Council Member must sign off on all requests for payment.
2. When any Professional Services matter will result in expenditures in excess of \$1,000 annually, the employing Councilperson shall assure that the individual or entity providing such professional services shall enter into a contract that will include a scope of services detailing the nature of the work to be performed, the duties to be performed and a specific rate of pay, including a "not to exceed" amount. Professional services shall also include a verifiable description of qualifications of the individual or firm chosen to perform the service. Members are encouraged to utilize existing resources such as universities or firms which specialize in the desired product.

C. Travel, education, and training of staff and members. All reimbursable travel or education and training must first be approved by the President of Council. The President or his staff's travel, education, or training must first be approved by the President Pro-Tempore.

SECTION 2. The expenditure of funds from Council Member budget accounts shall be done through the following procedure:

1. All reimbursable travel or education and training must first be approved by the President of Council. The President or his staff's travel, education, or training must first be approved by the President Pro-Tempore.

2. Before any miscellaneous service expenditure or professional service contracts by Council are introduced they must first be approved by the President of Council. The President of Council's expenditures shall be approved by the President Pro Tempore.
3. In order to allow time for review, all invoices must be submitted by end of business Friday to be included on the following week's agenda. Any submission after Friday will be held until the following week. All invoices must be filled out completely in a form determined by the City Clerk, signed by the Council Member and the President, and include all backup documentation including but not limited to:
 1. Receipts of expenditures for reimbursement.
 2. Time cards for employees, including rate of compensation.
 3. Duties performed and nature of work completed.
 4. Social Security Number of employee.
 5. Tax I.D. Number for non-profit entities.
 6. Description of qualifications of individuals or organizations performing tasks.

SECTION 3. As a rule, the budgeted salary account is only permitted to be used for payment of staff salaries. If at any time a budget transfer between miscellaneous services and salaries is necessary, upon an explanation of the basis for each transfer, such transfers must be approved through the formal legislative process. The vehicle allowance line item shall be treated in the same manner.

SECTION 4. When a Councilmember is fined, the fines shall be donated to the Greater Pittsburgh Community food bank. In the event of a fine, the fine shall be withheld from the Council Members paycheck, and the City Clerk shall transfer the amount of the fine from Council salaries, account 101100.51101, to Clerk grants, account 101200.58101, and then process a payment from that account to the Greater Pittsburgh Community food bank, or its successor organization.

XI. INVOICES

A. Departmental invoices Three Thousand Dollars (\$3,000.00) or below with a purpose that is not covered under a contract with the City of Pittsburgh may be paid by the City Controller after the invoices have been placed on City Council's Standing Committees agenda under the Committee on Finance and Law and approved.

B. P-Cards: Invoices for Purchase Card (P-Cards) purchases shall appear on the standing committee agenda on a separate list in a form approved by the President of Council.

1. An invoice for P-Card purchases will not be deemed approved until it has received an affirmative vote of a majority of members.

2. City Council will have the discretion to:

- a. hold any item(s) on the P-Card agenda through a majority vote. The item(s) will appear at the next available standing committee meeting.
- b. delete any item(s) on the P-Card agenda through a majority vote.
- c. refer any item(s) to the P-Card dispute resolution committee.

3. Council Members and Council staff purchases using P-Cards are subject to the provisions of Rule X. Council Expenditures.

C. Bid commodity contracts, per section 161.01 of the City code shall appear on the standing committee agenda on a separate list in a form approved by the President of Council.

1. A contract bid will not be deemed approved until after it has received an affirmative vote of a majority of members.

2. City Council will have the discretion to:

- a. hold any item(s) on the Bid Contract agenda through a majority vote. The item(s) may appear at the next standing committee meeting.
- b. delete any item(s) on the Bid Contract agenda through a majority vote.

XII. HEARINGS ON INTERMUNICIPAL LIQUOR LICENSE TRANSFERS

A. To request a transfer of a liquor license from within Allegheny County pursuant to 40 PA.C.S.A. §4-461, the applicant shall file a completed application with the City Clerk, which the City Clerk shall immediately distribute to all City Council members. The City Clerk will attempt to verify the accuracy of all information in the application, particularly liquor law violations and misdemeanor or felony convictions of owners.

B. Within 45 days of submission of the completed application, City Council shall schedule a public hearing and vote to approve or deny the application.

C. Notice:

1. Notice of the date, time, and place of the hearing shall promptly be mailed to the applicant.
2. Notice of the application and date, time, and place of the hearing shall promptly be mailed by the City Clerk to abutting property owners, including property owners across the street from the subject property

and to registered community development organizations serving the subject neighborhood.

3. Public notice of the application and date, time, and place of the hearing shall be posted on weatherproof signs provided by the City Clerk on the property to which the applicant has requested transfer of the license. At least one sign shall be posted for each one hundred (100) feet of street frontage up to a maximum of ten (10) signs. Required signs shall be placed along the perimeter of the subject property in locations that are clearly legible from adjacent public streets. The applicant shall submit a photograph of the sign posted on the property to evidence compliance with the posting requirement. The required sign(s) shall be posted at least seven (7) days before the hearing.
4. In addition, City Council shall invite to such hearings a Liquor Control Enforcement official and a Liquor control Board Licensing official.
5. The public hearing shall be conducted as follows:
 - a. Any Council member who has previously expressed a bias regarding the transfer at issue shall recuse him/herself from the hearing as well as the votes for preliminary and final approval.
 - b. The applicant may appear in person or by counsel.
 - c. Procedure: The applicant or the applicant's counsel shall make an opening statement in support of their request for the transfer.
 - d. Council members shall have the opportunity to examine the applicant or the applicant's counsel.
 - e. The applicant may present witnesses to speak in favor of the requested transfer.
 - f. Council members shall have the opportunity to examine the applicant's witnesses.
 - g. Abutting property owners opposing the transfer shall have the opportunity to present their reasons for opposition.
 - h. The applicant or the applicant's counsel shall have the opportunity to cross-examine such opposing witnesses.
 - i. The opposing witnesses shall have the opportunity to rebut testimony from the applicant or the applicant's witnesses and to make a closing statement.
 - j. The applicant or the applicant's counsel shall then have the opportunity to rebut the opposing witnesses' testimony and to make a closing statement.
6. Decision:
 - a. City Council must approve the application unless it finds that doing so would adversely affect the welfare, health, peace and morals of the City of Pittsburgh or its residents.

- b. Notice of City Council's approval or denial of the application shall be mailed to the applicant at the address given in the application. (*Resolution 304 of 2002*)

D. The cost of the permit application shall be set by the City Clerk in a manner consistent with the City Code.

Exhibit R
(City of Pittsburgh “Home Rule Charter”)

WHAT IS HOME RULE?

With home rule, Pittsburgh will no longer have to go to the State Legislature in Harrisburg to seek permission for actions it should be able to decide on its own.

In the future, home rule will allow the City to do everything not expressly forbidden by state law or the Constitution.

Moreover, the new charter will establish a more flexible, efficient and responsible government.

There are certain matters that the Study Commission was not allowed to change. The state law authorizing the Commission forbids any changes in pensions, benefits or working conditions now enjoyed by city employees, subjects of taxation, property assessments, eminent domain, public schools, or election laws. Therefore, this charter can only do part of the task of modernizing city government. Many other needed changes will have to come through the General Assembly of the Commonwealth.

Many essential changes, however, are made in this new charter. Particularly, it provides for a flexible, easy-to-change structure, and for improved access and response for citizens.

NOTE: The Home Rule Charter was approved by the electorate of the City of Pittsburgh in the election held November 5, 1974.

The Home Rule Charter has been recorded in Ordinance Book Volume 74; and also in the Municipal Record of the Council of the City of Pittsburgh Volume 108.

LINDA M. JOHNSON-WASLER
City Clerk

AS AMENDED:

November 2, 1982	Section 204(4)	March 2, 1994	Section 707
April 10, 1984	Section 310(h)	January 16, 1996	Section 309
May 19, 1987	Section 302	May 20, 1997	Sections 228-230
November 8, 1988	Section 206	November 2, 1999	Sections 515 & 516
November 7, 1989	Section 303	August 7, 2000	Section 705
November 7, 1989	Section 710	December 31, 2000	Article 6
November 5, 1991	Section 404(d)		Dissolution of CAB's
November 3, 1992	Section 223		Ord. 25 of 2000
November 3, 1992	Section 322	November 5, 2013	Section 711
November 2, 1993	Section 305		

**GOVERNMENT STUDY COMMISSION
CITY OF PITTSBURGH
Elected November 7, 1972**

John H. Bingler, Jr. - Chairperson
Edith Elaine Abdullah - Vice Chairperson
Robert E. Kennedy - Secretary
Robert L. Martin - Treasurer
David W. Craig
William P. Gallagher
Mary H. Hall
Arthur C. Holloway
Gabor Kish
Joseph A. Madden
Sister Michele O'Leary, RSM

STAFF

James V. Cunningham, Executive Director
Frederick A. Boehm, Solicitor Legislative Draftsman
Susan A. Lesnieski, Office Manager
Cecelia E. Bethea, Clerk Typist
Joe Handley, Organizer-Researcher
Ben Hayllar, Public Information Consultant
Wilda Sellers, Stenotypist
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Tom Witt, Intern
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RESEARCH CONSULTANTS

Howard Hallman And George Washnis,
Center For Governmental Studies,
Washington, DC
Lenox Moak, Director Of Finance,
City Of Philadelphia
George Ward, Executive Director,
Detroit Charter Revision Commission
Richard Conaway and George Whitmer,
Pennsylvania Economy League,
Western Division

RESEARCH CONSULTANTS - Continued

Jane Thompson, Executive Director,
Citizenship Information Center,
University Of Pittsburgh
Christine Altenberger, Institute Of
Urban Policy And Administration,
University Of Pittsburgh
Dr. Raymond Owen, Political Science
Department, University Of
Pittsburgh
Joseph Lenchner, Assistant Vice
President, Equibank
Jonathan Robison, Director
South Oakland Citizens Council

STUDENT CONSULTANTS

Al Adkins
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Shirley Doubt
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Joyce Runion
Sheryl Stolzenberg

FINDINGS OF THE COMMISSION

While Pittsburgh traces its history back to a frontier fort first established in 1754, it was incorporated as a borough in 1794, and as a city in 1816. From that time it has been subject to close supervision and rule by the Commonwealth of Pennsylvania.

The present "charter" of the City is a series of state laws and amendments dating back to the 19th Century, with a comprehensive charter act passed in 1901, major amendments made in 1911, and lesser amendments enacted since that time. It fills 550 pages.

Prior to 1901, the major powers of local government were placed in common and select councils which had numerous members, elected from districts throughout the City.

The acts passed from 1901 to 1911 shifted more city government powers to the mayor, and replaced the large district councils with a single council of nine members elected at-large.

From its study of the government of the City of Pittsburgh, the Commission made these findings:

- A. Close supervision and rule of the City by the Commonwealth makes for cumbersome, inflexible and less responsive government.
- B. Pittsburgh's strong-mayor form of government dating back to 1911 is a basically sound form, but needs to be strengthened in three areas.
- C. The first area in need of strengthening is checks and balances, that is sufficient strength needs to be provided for each of the various branches of city government to prevent any single branch from abusing its power in the future.
- D. The second area is accessibility. Mechanisms need to be provided to ensure citizens the means to communicate with city government and to participate in its processes.
- E. The third area is accountability. Adequate provisions need to be made for officials to report to the citizenry what they are doing to carry out their duties, to ensure that officials are responsive to the public will.

The new charter proposed by this Commission seeks to provide for home rule, distribution of powers, access mechanisms, and accountability provisions as called for by these findings.

NOTE: Robert Rade Stone resigned February 5, 1973 upon becoming a member of Council. He was replaced by Arthur C. Holloway as a commission member.

SUMMARY OF THE HOME RULE CHARTER

ARTICLE ONE establishes home rule powers for the City, demands that the City's powers be construed broadly by the courts, and confirms the City's boundaries. Some important terms used in the charter are defined.

ARTICLE TWO states the qualifications for the mayor who shall serve a four year term of office and shall administer the affairs of the City.

If there is a vacancy in the office of mayor, the president of council shall serve as mayor until the next election, at which time an election shall be held for the unexpired portion of the term.

To make the structure of City government flexible, the mayor and council shall have the power to establish, change, or abolish commissions, boards, or units of government (e.g., departments).

The mayor shall appoint, with the approval of council, the heads of the major administrative units of government. However, the mayor may remove these officers at will.

The mayor, with council's approval, shall appoint a city solicitor who shall act as the City's attorney.

The mayor must make an annual state of the city message, and the heads of major administrative units of government must provide council and the mayor all information asked of them.

There shall be a fifteen member human relations commission with a staff, attorney and subpoena powers. Members of the commission shall be appointed by the mayor with the approval of council, but cannot be removed except for just cause and with council's consent.

ARTICLE THREE states that there shall be a nine member council elected from the City at large.

Council can by ordinance change itself so that all its members are elected from separate districts to be drawn by the Court of Common Pleas.

Council's president shall be elected by the members of council and shall establish and abolish all committees of council, schedule public hearings, and preside at council meetings.

Article three states that there shall be a nine (9) member council elected from the City at large, with all vacancies filled by a special election.

Council has the power to investigate any legislative or administrative matter.

This article also outlines the legislative process: the submission of ordinances or resolutions, holding mandatory public hearings, submission of legislation for veto or approval by the mayor, and the procedure for overriding a mayor's veto.

All actions of council are to be done publicly.

All city ordinances shall be reviewed, codified, and made available to any citizen.

ARTICLE FOUR establishes the office of controller who shall be elected to serve a four year term. The controller will continue to perform pre-audits and post audits of all city accounts.

To assure that the people get the services they pay for, the controller must do a performance audit of any unit of government that receives city funds, at least once every four years.

ARTICLE FIVE outlines the fiscal operation of the City. It calls for annual operating and capital budgets to be submitted to council approximately 7 weeks in advance of the end of the fiscal year, and for a six year capital program that shall be reviewed and updated annually.

All ordinary contracts shall be by bids and shall be awarded to the lowest responsible bidder.

ARTICLE SIX creates community advisory boards which shall maintain a guaranteed channel of communication for citizens with city government.

The mayor shall draw the boards' boundaries. Each board will be created only if the people in the community want it. The boards will cost the City nothing, but will ensure that the people elected to a board by a community shall be consulted on all

physical, social or zoning matters that might affect the community.

ARTICLE SEVEN calls for a uniform city personnel system based on fitness and merit.

There shall be no discrimination in city government personnel policies or practices.

No city employee shall engage in political activity on city property or during working hours, nor shall an employee be compelled to contribute to any fund (other than one required by law).

This article contains a strict conflict of interest provision.

ARTICLE EIGHT requires elected officials to make an annual disclosure of all businesses or associations in which they have financial interests, the amount of any surplus campaign funds, and the names of all creditors of debts in excess of \$1,000.

This article lists crimes which if committed by an elected official shall cause immediate forfeiture of office. The grounds for impeachment are set forth as are the impeachment procedures.

All city records are open to the public, except in cases where disclosure would violate a person's right to privacy, hinder law enforcement or divulge legally privileged information.

All candidates for city office must file a preliminary accounting of all campaign expenditures and contributions at least five days before election day.

PREAMBLE

In order to achieve increased independence for city government, and more power over local matters, the people of Pittsburgh adopt this home rule charter as an instrument of progress and hope.

It has been created in a long labor, open to all citizens and participated in by many.

The purpose of this charter is a responsible city. A responsible city is one which seeks to ensure that all of its citizens' needs are met, whether from public or private, city, county, state or national sources.

A responsible city is one which expects aggressive action from its officials toward the achievement of dignified housing, useful employment, pure air and water, efficient transportation excellent education, health, safety, recreation and culture, and the other conditions conducive to human growth.

It is one which provides equal protection of the law for all citizens, with no one denied the enjoyment of civil, economic or political rights, or discriminated against in the exercise thereof because of race, color, creed, national origin, age, handicap or sex.

It is one where all citizens have reasonable access to records and officials and where police power is under civil direction at all times.

It is one where citizens generously accept service in government, participate thoughtfully in public decisions, support public employees in the performance of lawful duties, avoid frivolous use of their rights and supply their government with sufficient resources to meet its responsibilities.

The achievement of the purpose of this home rule charter depends upon the constant interest and concern of citizens.

ARTICLE I

HOME RULE POWERS - DEFINITIONS

101. HOME RULE POWERS

The City of Pittsburgh has all home rule powers and may perform any function and exercise any power not denied by the Constitution, the laws of Pennsylvania, or this charter whether such powers or functions are presently available to the City or may in the future become available. The powers of the City shall be construed liberally in favor of the City, and the specific mention of particular powers in this charter shall not be construed as limiting in any way the general power stated in this article. All possible powers of the City, except as limited above, are to be considered as if expressly set forth in this article whether such powers are presently available to the City, or may in the future become available.

102. DEFINITION OF CERTAIN TERMS

As used in this charter:

"Agencies" means authorities and also all organizations which receive city funds but are not a part of city government.

"Major Administrative Unit" means a subdivision of city government, whose head reports directly to the mayor, excluding boards, commissions and magistrate courts.

"Law" means the Pennsylvania Constitution or an act of the general assembly.

"Unit of Government" means any subdivision of city government including any department, bureau, division, board, commission or magistrate court.

103. BOUNDARIES

The boundaries of the City shall be the actual boundaries of the City at the time this charter takes

effect, and as they may in the future be lawfully changed.

ARTICLE 2

EXECUTIVE BRANCH

201. THE MAYOR

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

202. QUALIFICATIONS OF THE MAYOR

The mayor shall have been a resident of the City for at least three years immediately preceding election, unless absent on the public business of the United States or this Commonwealth, and shall reside in the City while serving as mayor.

203. ELECTION AND TERM OF THE MAYOR

The mayor shall be chosen by the qualified electors of the City at the municipal election, and shall serve for a term of four years from the first Monday of January following election until a successor is elected and qualified.

204. POWERS AND DUTIES OF THE MAYOR

The mayor shall have the following additional powers and duties:

- a. to provide leadership for the advancement of the City and achievement of the goals set forth in the Preamble of this charter;

b. to execute and enforce the provisions of this charter, the ordinances and resolutions of the City and the laws of this Commonwealth;

c. to inform council at least once a year concerning the finances and general conditions of the City;

d. to provide council with information concerning the administration and conditions of the City as requested by council;

e. to call meetings with council when necessary;

f. to submit proposed legislation to any member of council for introduction;

g. to make long and short range plans for the improvement of the economic, physical and social condition of the City and its neighborhoods;

h. to supervise all city employees and officers except as otherwise provided by this charter;

i. to promote intergovernmental relations generally and specifically by:

1. initiating as well as cooperating in working relationships with other governments, public and quasi-public agencies for the promotion of public services, economic development and cultural activities of mutual benefit to all concerned;

2. aggressively seeking funds for city programs from federal, state and county sources;

3. making periodic public reports on the current status of the City's present and prospective relations with other governments, public and quasi-public agencies;

4. The mayor shall present an annual report on the tax monies paid per capita and the citizens of the City of Pittsburgh to the federal government that is allocated to military spending. The report shall include an analysis of the impact of

the military budget on the City's economy in relation to jobs and social services. The mayor shall advertise this analysis in two prominent daily newspapers in the City.

j. to take such action as may be necessary to ensure that no inequities exist in any unit of city government and that each unit operates in a manner which provides every citizens full and equal access to government and a like opportunity to render goods and services to the City; and

k. to perform other duties and exercise other powers as stated in this charter or assigned by law, ordinance or resolution.

205. STATE OF THE CITY MESSAGE

The mayor shall deliver a state of the city message each year in public. The state of the city message may be delivered at the same time as the mayor's budget proposal to council or within three months thereafter.

206. VACANCY IN THE OFFICE OF THE MAYOR

A vacancy in the mayor's office shall be filled at the next election permitted by law. The person elected shall be a resident of the city of Pittsburgh and shall take office as soon as possible after the certification of election and shall serve the remaining portion of the vacated term.

Until the vacancy is filled by an election, the president of council shall serve as Mayor. If the president of council accepts the position of mayor, he/she shall immediately relinquish his/her position as council member. Council shall then elect a new president of council.

If the president of council shall be unable or unwilling to serve as mayor, a mayor shall be elected by a majority vote of all the members of council. The

person elected shall be a resident of the city of Pittsburgh. If a member of council is elected and accepts the position of mayor, he/she shall immediately relinquish his/her position as council member.

207. DEPUTY MAYOR

The mayor may appoint a non-elected major administrative unit head to act as deputy mayor while the mayor is necessarily absent from the City or temporarily disabled. The mayor shall file a notice of the appointment in the office of council. The deputy mayor shall have all the powers and discharge all the duties of the mayor during the mayor's absence or temporary disability except the power of appointment or removal. The deputy mayor shall serve without additional compensation and post bond with the controller in an amount approved by council.

208. ORGANIZATIONAL STRUCTURE

All units of government, except those mandated by this charter, may be established, revised or abolished by ordinance. Such an ordinance may be introduced by the mayor or council. If the ordinance is introduced by council, council shall immediately notify the mayor, who shall within thirty days of receipt of notice submit a recommendation to council. Council shall take no action on the ordinance until a recommendation is received or the thirty day period expires.

209. APPOINTMENT AND TERM OF HEADS OF MAJOR ADMINISTRATIVE UNITS

The mayor shall appoint the heads of all major administrative units subject to approval of council. Unless removed, all major administrative unit heads shall hold office during the term for which

the mayor is elected and until their successors are appointed and qualified.

210. REMOVAL OF HEADS OF MAJOR ADMINISTRATIVE UNITS

The mayor may remove the head of any major administrative unit at will. A removal shall not be effective until the mayor transmits reasons to council in writing.

211. INFORMATION REQUIRED OF UNITS OF GOVERNMENT

All heads of units of government shall furnish the mayor or council such information as the mayor or council shall demand at any reasonable time and shall make an annual public report in writing to the mayor and council.

212. CITY SOLICITOR

The mayor shall appoint, subject to approval of council, a city solicitor. The solicitor shall be a major administrative unit head. The city solicitor shall be an attorney qualified to practice law before the Supreme Court of Pennsylvania.

213. DUTIES OF CITY SOLICITOR

The city solicitor shall:

- a. act as attorney for the City as a municipal corporation, for council, and for any city unit of government, except when council or a unit of government authorized to do so by this charter chooses to use its own counsel;
- b. prepare all contracts to which the City or any of its units is a party; and,

c. audit, in connection with the election of the controller, the preliminary account of campaign contributions and expenses required by section 802 of this charter, to publish the results of the audit, and to inform the proper authorities of any violation of law revealed by the audit.

214. APPOINTMENT AND TERM OF MEMBERS OF BOARDS AND COMMISSIONS

The mayor shall appoint the members of all boards and commissions subject to approval of council. They shall serve for terms as provided by law, this charter or ordinance.

215. REMOVAL OF MEMBERS OF BOARDS AND COMMISSIONS

The mayor may remove any member of a board or commission at will except as otherwise provided by this charter. A removal shall not be effective until the mayor transmits reasons to council in writing.

216. HUMAN RELATIONS COMMISSION

The mayor shall appoint a fifteen member human relations commission. Each member shall serve for a term of four years or until a successor is appointed and qualified. The commission shall:

a. investigate complaints of unlawful discrimination against any person in the enjoyment of the civil rights guaranteed by law, this charter or ordinance and secure those rights without discrimination;

b. secure the rights of citizens to services from city government without discrimination;

c. submit an annual written report to the mayor summarizing the year's activities and making recommendations;

d. hold public hearings as necessary to make determinations on all matters within its jurisdiction; and,

e. perform other duties and exercise all powers including enforcement powers as conferred by law or ordinance.

217. HUMAN RELATIONS COMMISSION STAFF

The commission may employ and supervise a staff including a solicitor. The solicitor for the commission shall be an attorney qualified to practice law before the Supreme Court of Pennsylvania. The solicitor shall be responsible to the chief staff officer of the commission and provide legal representation to the commission on legal matters within its jurisdiction.

218. REMOVAL OF HUMAN RELATIONS COMMISSION MEMBERS

The mayor may remove a commission member only for just cause and with the approval of council. The mayor shall submit reasons constituting cause in writing to the commission and council.

219. APPOINTMENT AND TERM OF MEMBERS OF AUTHORITIES

The mayor shall appoint all members of authorities subject to approval of council except as otherwise required by law. They shall serve for terms as provided by law.

**220. COMPOSITION OF AUTHORITY
BOARDS**

A member of council shall serve on each authority board. However, no member of council may serve on more than one authority board at the same time.

**221. REMOVAL OF AUTHORITY
MEMBERS**

The mayor may remove any member of an authority at will except as otherwise provided by law. A removal shall not be effective until the mayor transmits reasons to council in writing.

**222. VACANCIES ON AUTHORITIES,
BOARDS AND COMMISSIONS**

Should the mayor fail to nominate a person to fill any vacancy, however created, on any authority, board or commission within sixty days after an office becomes vacant, council may fill the vacancy unless prohibited by law.

**223. APPOINTMENT AND TERM OF
MAGISTRATES**

The mayor shall appoint city magistrates subject to approval of council. They shall serve for terms of four years. However, the initial terms of magistrates appointed following adoption of this charter shall be staggered so that their appointment is distributed over four year periods as evenly as possible. If the mayor fails to nominate a person to fill a city magistrate's position within 60 days after the expiration of a magistrate's term, the name of the person currently holding that magisterial position shall, upon the person's consent, automatically be re-nominated for an additional term.

224. CHIEF MAGISTRATE - STAFF

The mayor shall designate one magistrate to serve as chief magistrate. The chief magistrate shall employ and supervise a staff which shall be responsible to the chief magistrate. The chief magistrate shall be responsible for the scheduling of cases, assigning magistrates to various courts and maintaining proper decorum in court at all times.

225. REMOVAL OF MAGISTRATES

Magistrates may be removed as provided by law and this charter.

**226. ORGANIZATION AND
JURISDICTION OF MAGISTRATE
COURTS**

Except as otherwise provided in this charter or by ordinance, the organization, jurisdiction, powers, procedures and practices of the magistrate courts shall be in accordance with the law.

227. TABLE OF ORGANIZATION

The executive branch shall file a table of organization in the office of city clerk. The table of organization shall be kept current at all times and shall be available for inspection by the public during regular work hours.

**228. INDEPENDENT CITIZEN REVIEW
BOARD**

There is established an Independent Citizen Review Board, comprised of seven members reflecting Pittsburgh's diversity, for the purpose of

receiving, investigating and recommending appropriate action on complaints regarding police misconduct and for the purpose of improving the relationship between the police department and the community. The members shall serve four year staggered terms and serve until the appointment of their successors. Four of the seven appointments shall be made from a list of nine nominations submitted to the Mayor by City Council. Members shall be residents of the City, shall not be employed by the City or any of its Authorities, and shall serve without compensation.

229. POWERS OF INDEPENDENT CITIZEN REVIEW BOARD.

The Board shall:

- a. Investigate selected complaints filed by individuals alleging police misconduct;
- b. Establish a mediation program pursuant to which a complainant may voluntarily choose to resolve a complaint by means of informal conciliation;
- c. Provide advice and recommendations to the Mayor and the Chief of Police on policies and actions of the Police Bureau, including recommendations on police training, hiring and disciplinary policies and specific recommendations of discipline for individual officers; provided, however, the Mayor and the Chief of Police shall retain full and ultimate authority to set disciplinary policies or take other actions deemed appropriate relative to the Police Bureau.
- d. Hold public hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith require the production of evidence relating to any other matter under investigation or any questions before the board and do all other things necessary to fulfill its purpose.

The Board shall employ and supervise a staff including a solicitor, as necessary. The Board shall adopt procedures and rules necessary to fulfill its purpose. City Council may by ordinance adopt regulations to effectuate this Charter provision.

230. RESPONSE TO RECOMMENDATIONS OF INDEPENDENT CITIZEN REVIEW BOARD.

Within thirty (30) days of submission of a recommendation by the Board to the Mayor and the chief of Police, they shall respond in writing as to whether such recommendations are accepted, rejected or will be implemented with modifications.

ARTICLE 3 LEGISLATIVE BRANCH

301. THE COUNCIL

The legislative power of the City shall be vested in a council.

302. COMPOSITION

Council shall consist of nine members. All members shall be elected by districts. Each of the districts shall be represented by one member who shall reside in that district.

303. QUALIFICATIONS OF COUNCIL MEMBERS

A council member shall have been a resident of his or her respective district one year next before his or her election, unless absent on the public business of the United States or this Commonwealth,

and shall reside in said district of the City while serving as a council member.

304. TERMS

Council members shall serve for a term of four years from the first Monday of January following their election. Terms of council members shall be staggered so that four are elected at the same time as the mayor.

305. ORGANIZATION OF COUNCIL

Council shall organize on the first Monday of January following each municipal election. At its organization meeting, council shall, by a majority vote of all council members, elect one member to serve as president for the ensuing legislative term of council. Council shall have the power to remove the president by a 2/3 majority vote in the event of misfeasance, malfeasance or nonfeasance, after due notice and an opportunity to be heard. Council shall fill any vacancy in the office of President by a like vote.

306. POWERS OF COUNCIL PRESIDENT

The powers of the council president shall be:

- a. to preside at all meetings of council and to refer all proposed legislation to the proper committee;
- b. to establish and appoint all committees of council and appoint the chairperson of all committees;
- c. to dissolve a committee at any time;
- d. to schedule public hearings of council and preside at them;

e. to endorse all rules adopted for the government of council; and,

f. to perform other duties which council may assign to the office.

307. COMMITTEES

The president of council shall promptly following election appoint any necessary committees. Committees shall be composed of at least three members, who shall serve for the term of the council president unless the committee is earlier dissolved by the president. All members of council may attend and participate in committee meetings, but only committee members shall be permitted a vote.

308. PROHIBITIONS

Members of council shall not:

- a. hold any office, position or employment in any corporation holding or applying for franchises from the City;
- b. have a personal or private interest in any legislation proposed or pending before council, unless they;
 1. disclose the fact to council; and,
 2. refrain from voting or participating in the discussion of the matter;
- c. hold any other office, position or employment in the government of the United States, the Commonwealth of Pennsylvania, the City of Pittsburgh or Allegheny County; except:
 1. officer or member in the federal reserve;

2. officer or member in the National Guard of Pennsylvania; or

3. member of any authority as limited by section 220.

Members of Council who violate any of the above provisions shall immediately forfeit their office.

309. VACANCIES

A vacancy on Council shall be filled in a special election within one hundred twenty (120) days of the filing of a Writ of Election.

Within three (3) calendar days of the death, resignation, or removal of a Member of Council, the Council President shall instruct the City Clerk to issue a Writ of Election.

The Clerk shall issue the Writ of Election within four (4) calendar days for a special election to be held within sixty (60) days of the issuance of the writ,

Providing that:

The Writ of Election shall not be issued on the day of a primary, municipal or general election.

A Writ of Election shall not be issued less than sixty (60) days prior to primary, municipal or general election.

A Writ of Election issued to fill a vacancy occurring less than one-hundred (120) days but more than fifty-nine (59) days prior to a primary, municipal or general election shall direct that the special election shall coincide with said primary, municipal, or general election.

The special election shall be held on any day other than a weekend or an official federal, state, or local holiday.

The person elected shall take office as soon as possible after certification of election and shall serve the unexpired portion of the vacated term.

310. POWERS OF COUNCIL

Council shall have the following additional powers:

a. to employ or retain its own staff and consultants including a city clerk and an attorney qualified to practice law before the Supreme Court of Pennsylvania, who may act as legal advisor to council, and may represent council as a body in legal proceedings. Council's attorney shall not represent the City as a municipal corporation in any legal proceeding;

b. to conduct investigations in accordance with the provisions of this charter;

c. to approve appointments as provided by this charter, except as otherwise mandated by law;

d. to exercise the power of removal as provided by this charter;

e. to override the veto of the mayor by a two-thirds vote of all the members;

f. to call a meeting at any time between council and the mayor jointly to discuss legislation or the business of the City in general, and to compel the attendance of the mayor at a council hearing;

g. to authorize the sale of city services outside the City so long as services to the City are not impaired;

h. to fix, by resolution, the salary of all elected city officials, but no elected city official shall receive a salary increase that exceed the average percentage of increase in salaries and wages paid to all city employees as based on the previous year's salary. Further, the salary paid to elected city officeholders shall not be diminished during their term of office.

i. to exercise other powers conferred by this charter, by law or ordinance, consistent with the provisions of this charter.

311. REMOVAL POWER

Council shall have the power to remove from office for cause any person appointed to office with the required approval of council. Commission of any corrupt act or practice, malfeasance, or the willful commission of any fraud upon the City shall constitute cause for removal. Council shall give any person charged due notice and an opportunity to be heard. Removal shall be effective upon passage of a resolution which receives the affirmative vote of a majority of all council members.

312. INVESTIGATIONS

Council shall have the power, by resolution, to authorize investigations to be conducted by council or by a committee of council. Investigations may deal with legislative or administrative matters. The subject of the investigation shall be stated in the resolution authorizing the investigation. Council may reopen the budget to provide funds for the investigation. The presiding officer of council or the committee shall have the power to administer oaths to witnesses.

313. PUBLIC MEETINGS

Council and its committees shall exercise its powers only at meetings which shall be open for public attendance.

314. ROLL CALL VOTES

All final action in adopting legislation shall be by roll call vote, and the vote of each member of council shall be entered in the minutes of the meeting.

315. CONDUCT OF BUSINESS

Council shall conduct and hold meetings at which legislation may be introduced and passed at least fifty weeks during the calendar year.

316. LEGISLATION

Council may legislate by ordinance or resolution. Ordinances shall deal with general rules of continuing effect. Resolutions shall deal with specific matters such as authorization of contracts, salaries, appropriations and budget transfers. All ordinances and resolutions introduced shall be kept in a place accessible to the public at all reasonable times.

317. LEGISLATION REQUIREMENTS IN GENERAL

Every ordinance shall have a title clearly expressing its subject. Every ordinance and resolution shall contain only one main subject, shall contain the date of its enactment and shall be signed by the presiding officer of the meeting at which final action is taken. Failure of the presiding officer to sign an ordinance or resolution shall not in any way invalidate an otherwise valid ordinance or resolution.

318. TIME AND NOTICE REQUIRED BETWEEN INTRODUCTION AND FINAL PASSAGE OF LEGISLATION

Council shall not take final action on any legislation until a minimum of seven days has elapsed from the date of its introduction, unless council finds and declares that an urgent reason exists requiring earlier final action. Council shall give public notice of the introduction of legislation within twenty-four hours after it is introduced. Notice shall consist of posting the proposed legislation or its title in a conspicuous public place readily observable by citizens entering the building occupied by council and also by posting in the office of the city clerk.

319. LEGISLATION REQUIRING PRIOR PUBLIC HEARING

Council shall not take final action on the following types of legislation without a public hearing which shall be held not less than ten days following public notice published in a newspaper circulated generally in the City:

- a. salary;
- b. appropriation or budget matter;
- c. land use control, such as zoning, subdivision or planning;
- d. new taxes or increases in the rate of existing taxes;
- e. creation of an authority or quasi-public agency;
- f. increase in the amount making a sealed bid procedure unnecessary on contracts; or
- g. election of all council members at large or by district.

320. CITIZENS RIGHT TO BE HEARD

Council shall grant a public hearing to residents of the City:

a. on pending legislation, if they deliver a petition requesting a public hearing to the city clerk no later than three days, after notice of the introduction of the proposed legislation, signed by at least twenty-five qualified electors who reside in the City which includes a statement that all petitioners intend to attend the public hearing. Council shall not vote on the proposed legislation until a public hearing is held in response to a properly submitted petition.

b. on any matter other than pending legislation providing they deliver a petition meeting all of the above requirements to the city clerk. Council shall schedule the public hearing within a reasonable time after the petition is received by the city clerk.

321. SUBMISSION OF LEGISLATION TO MAYOR AND VETO POWER

Council shall submit all proposed legislation to the mayor for approval prior to its effective date. The mayor shall sign the legislation within ten days if approved, but if not, shall return it to council stating objections. Council, at its next meeting, shall reconsider any legislation disapproved by the mayor and may pass it in spite of the mayor's disapproval by a two-thirds vote of all the members. If the mayor fails to sign or return legislation to council with reasons for disapproval, it shall become law as of its effective date, ten days after submission to the mayor. The mayor may disapprove any item in the operating budget or capital budget, subject to reconsideration by council in the same manner as other legislation.

322. PUBLICATION AND EFFECTIVE DATE OF LEGISLATION

The effective date of an ordinance or resolution shall be the date of recording in the

permanent ordinance or resolution record book. Provided, however, that the effective date may be a later date if specifically provided in the ordinance or resolution. Within thirty days after passage, the title or a general summary of each ordinance, conditional use and historic preservation resolution shall be published once in a newspaper circulating generally within the City.

323. RECORDING OF LEGISLATION

All ordinances and resolutions shall be contained verbatim in permanent separate record books. However, any ordinance may incorporate by reference any standard technical regulation or code or part thereof provided that at least one copy is kept with the permanent record books. The ordinance book and resolution book shall be open and available for inspection by the public during regular business hours.

324. CODIFICATION OF ORDINANCES

Within two years after the effective date of this charter, the city solicitor shall review all general ordinances of the City and submit recommendations to council for change or repeal. The city solicitor shall also submit a proposed city code to council for adoption based on the review and recommendations. Following adoption of the code, council shall, with the assistance of the city solicitor, classify all proposed ordinances for inclusion in the code.

325. PUBLICATION OF CODE AND CHARTER

Council, after approval, shall publish the city code. Council shall at least annually thereafter publish supplements to the code. Council shall make the code and its supplements available for distribution to any interested citizen. Council shall supply a copy of the city's charter upon request without charge to any citizen of the City.

ARTICLE 4 CONTROLLER

401. CREATION OF OFFICE

There shall be an office of controller.

402. QUALIFICATIONS OF THE CONTROLLER

The controller shall have been a resident of the City for at least three years immediately preceding election, unless absent on the public business of the United States or this Commonwealth, and shall reside in the City while serving as controller.

403. ELECTION AND TERM

The controller shall be chosen by the qualified electors of the City at a non-mayoralty municipal election. The controller shall serve for a term of four years from the first Monday of January following election until a successor is elected and qualified.

404. POWERS AND DUTIES

The controller shall have the following powers and duties:

- a. to inspect, revise and prescribe the form of reports and accounts of council, all units of government and trusts;
- b. to audit the accounts of council, units of government and all agencies and trusts;
- c. to conduct performance audits of all agencies, trusts, council and units of government whenever the controller decides it is necessary or is directed to conduct such an audit either by the mayor or by

council, but in any event no less than once every four years;

d. to submit an annual verified report to council showing revenues, receipts and expenditures; the sources from which the revenues and funds are derived and how they have been disbursed no later than May 1 of each year. All agencies, trusts and units of government shall comply in a timely manner to requests from the Controller's Office for financial records, statements and any other information required to complete the audit;

e. to conduct at least once each fiscal year an audit of the annual inventory required by the charter and submit a verified report of the audit to council and the mayor;

f. to keep separate accounts for each item or appropriation for council and each unit of government and require all warrants to state specifically against which item the warrant is drawn;

g. to accompany each account by a statement in detail of each appropriation, the amount drawn on each appropriation, the unpaid contracts charged against it and the balance outstanding;

h. to make certain that no appropriation is overdrawn and that no appropriation for one item is used for any other purpose or by any unit of government other than that authorized;

i. to make certain that sufficient funds from which the warrant is payable are actually on hand; and

j. to audit, except for election of the controller, preliminary accounts of campaign contributions and expenses required in section 802 of this charter; the controller shall publish the results of these audits and inform the proper authorities of any violation of law revealed by the audit.

405. NOTICE OF DISAPPROVAL

No warrant shall be paid unless approved by the controller. If any warrant presented to the controller is disapproved for any reason the controller shall notify the appropriate official.

406. LIABILITY

The controller and all sureties shall be jointly and severally liable if a warrant is approved contrary to law, this charter, ordinance or resolutions.

407. EXAMINATION OF CLAIMS

The controller may require evidence that the amount of a claim is justly due and for that purpose may summon any officer, agent or employee of any unit of government or any other person and examine them under oath or affirmation.

408. MONTHLY STATEMENTS

Council and each unit of government shall provide detailed statements of receipts and expenditures to the controller on the third Monday of each month.

409. AUDIT OF OFFICER'S ACCOUNT

The controller shall audit the accounts of all elected officials and officers upon their death, resignation, removal from office or expiration of their term and at the end of each fiscal year. If an elected official or officer should be indebted to the City, the controller shall take appropriate legal action to secure repayment of the indebtedness.

410. DEPUTY CONTROLLER

The controller shall appoint a deputy controller who in case of a vacancy in the office or the illness, absence or inability of the controller to act shall have the same powers and perform the same duties as the controller.

411. SOLICITOR

The controller may appoint a solicitor who shall hold office at the pleasure of the controller and shall be an attorney qualified to practice law before the Supreme Court of Pennsylvania. The solicitor shall act as legal adviser to the controller and shall at the controller's request represent the controller in any litigation involving that office.

ARTICLE 5 BUDGET AND FISCAL MATTERS

501. FISCAL YEAR

The fiscal year of the City shall begin on the first day of January and end on the last day of December on each year unless changed by ordinance.

502. OPERATING AND CAPITAL BUDGET

There shall be an annual balanced operating budget and an annual capital budget.

503. FORM OF OPERATING BUDGET

The proposed operating budget shall be a line item budget or another type of budget authorized by ordinance and shall contain sufficient information on intended accomplishments to allow adequate appraisal of the work of each unit of government during the fiscal year.

504. PREPARATION OF OPERATING AND CAPITAL BUDGETS

The operating and capital budgets shall be prepared by the mayor. The mayor or a representative of the mayor shall conduct public hearings to obtain the advice of other officials and citizens as part of the preparation of both budgets. The mayor shall, at least ten days in advance of the commencement of public hearings, provide notice of the time and place of the hearings by publication in a newspaper circulated generally in the City.

505. PRESENTATION AND ADOPTION OF BUDGETS

On the second Monday of the eleventh month of each fiscal year, the mayor shall present both proposed budgets to council with a message explaining them. Council shall adopt by resolution an operating budget and a capital budget before the end of each fiscal year.

506. EFFECT OF BUDGET ADOPTION

The adoption of the capital or operating budget shall constitute an appropriation or setting apart of funds from general resources of the City for the purpose set forth in the budget.

507. AMENDMENT OF BUDGET

Council may amend by resolution the operating budget within five weeks after the close of the fiscal year, but not thereafter except with the approval of the mayor. Council at all times may by resolution transfer funds from one code account to another if the total budget amount is not exceeded. The operating budget shall, in any event, remain balanced at all times. The capital budget may by resolution be amended by council at any time.

508. CAPITAL PROGRAM

The capital budget shall be based on a proposed six year capital program which shall be updated each year and submitted to council by the mayor at least thirty days prior to the day the capital budget is submitted.

509. JOINT TAX COLLECTION

The city may cooperate and join with other governments in collecting taxes.

510. CONTRACTS

Every contract relating to city affairs shall be authorized by resolution of council. No contract shall be entered into or executed directly by council or any committee of council.

511. COMPETITIVE BIDS

All contracts shall be awarded to the lowest responsible bidder except:

- a. purchases at public sale or governed by tariffs on file with Pennsylvania Public Utility Commission;
- b. contracts for personal or professional services;

c. contracts with political subdivision, the Commonwealth of Pennsylvania, the United States Government, or any quasi-public agency or authority; or

d. purchases of personal property where by reason of patents or copyrights the required type of item is available from only one seller.

512. BIDDING PROCEDURE

Unless the amount is increased by ordinance, each contract subject to competitive bids exceeding two thousand dollars shall be awarded by sealed bid procedure. Invitations for bids shall include reasonable public notice by advertisement in a newspaper circulated generally in the City. All bids shall be filed sealed in the controller's office and shall be opened for the first time and announced publicly at the time and place designated in the notice. Unless the amount is increased by ordinance, a contract subject to competitive bids involving two thousand dollars or less may be awarded on oral or letter bids, or on specific prices set forth in the seller's literature.

513. ENFORCEABILITY OF CONTRACTS

No contract entered into by the city after the effective date of this charter shall be enforceable in any manner against the City unless the contract is in compliance with law and the provisions of this charter. However, council, by resolution approved by two-thirds of its members and the mayor, may authorize payment of a claim for services rendered or materials furnished in reliance on contracts made by city officers or agents in good faith without authority or in excess of authority so long as the contract could have been properly authorized.

514. WAIVER OF PERFORMANCE

Council, by ordinance, may establish standards for the waiver of any performance bond required of a contractor provided that the contractor is responsible and pays to the City upon award of the contract an amount equal to the prevailing premium rates. All payments shall be deposited in the general fund of the City.

515. DESIGNATION OF EMPLOYEES IN COVERED CONTRACTS

Thirty-five percent (35%) of all employee works hours performed under Covered Contracts shall be performed by City residents.

Covered Contracts are construction contracts exceeding \$200,000 where the City is a party, funded by City or non-City funds.

The City shall encourage employment goals consistent with its current equal opportunity practices.

516. ESTABLISHMENT OF EQUAL OPPORTUNITY REVIEW COMMISSION

Council shall, by ordinance, designate and establish an Equal Opportunity Review Commission, enumerating its powers and duties, to review and approve construction contracts and contractors' compliance with city policies regarding minority and women participation.

ARTICLE 6 COMMUNITY ADVISORY BOARDS

601. DESIGNATION OF COMMUNITY ADVISORY BOARD DISTRICTS

Within one year after the effective date of this charter, the mayor shall submit to council a recommended division of the City into community advisory board districts for the purpose of establishing community advisory boards. The division shall be in accordance with the following criteria:

a. In designing districts, the mayor shall consider areas of the City recognized as neighborhoods because of historical, geographic or other factors.

b. Each community advisory board district shall consist of an entire voting district or contiguous undivided voting districts.

Council may reject or adopt the mayor's recommendations but shall adopt, by ordinance, only a division recommended by the mayor.

602. ESTABLISHMENT OF COMMUNITY ADVISORY BOARDS

Council shall, by ordinance, designate and establish a community advisory board, after receipt of a petition for establishment of a community advisory board for a district designated by ordinance under section 601 which is signed by the qualified electors residing within the district at least equal to ten percent of those who voted in the last preceding municipal election.

603. ORGANIZATION OF A COMMUNITY ADVISORY BOARD

An ordinance establishing a community advisory board shall prescribe its organization, including the number of board members and other offices as stated in a general ordinance adopted in accordance with this section. Various community advisory boards may have different number of

members, and community advisory board districts may contain differing populations, but throughout the City each elected member of a community advisory board shall represent approximately the same number of residents of a community advisory board district. Following each federal census, the mayor shall promptly review each community advisory board district and recommend changes to council in the number of elected members of community advisory boards needed to maintain equality. Council shall then amend the appropriate community advisory board ordinance so that equality is maintained in this regard. In addition to elected members, each community advisory board shall have delegated board members appointed or elected by community organizations of the district. The number of delegated board members and the recognition of community organizations shall be as stated in the general ordinance, which shall also provide for periodic review of the recognition of community organizations. A delegated board member shall have a vote equal to that of an elected board member.

604. ELECTION AND QUALIFICATIONS OF COMMUNITY ADVISORY BOARD MEMBERS

Each elected member of a community advisory board shall be chosen at a municipal election to serve for a term of two years. An elected member shall take office on the first Monday of January following the election. No member of a community advisory board shall have held, with the year immediately preceding commencement of a term, any other elected position with the city, county or state governments. No person who was a candidate for city or county office may be a member of a community advisory board until after the expiration of one year following the election in which that person was a candidate. Elected community advisory board members shall reside in the community board district which they serve.

605. POWERS AND DUTIES OF COMMUNITY ADVISORY BOARDS

The powers and duties of each community advisory board shall be:

- a. to review and advise council and the mayor on proposed zoning changes in the district;
- b. to review and advise council and the mayor on the social and physical plans for the district;
- c. to review and advise council and the mayor on the distribution of city services to the district;
- d. to meet annually with the mayor and council to discuss problems, needs and public affairs of the districts;
- e. to mandate, by a majority vote of all its members, a meeting within two weeks with the appropriate head of a major administrative unit of the City to discuss a specific district problem.

Council may, by ordinance, give additional powers and duties to community advisory boards. Each community advisory board shall hold public meetings, after reasonable public notice within the district, not less than four times each year to afford an opportunity to district residents to make known their views and needs.

606. PROCEDURES OF COMMUNITY ADVISORY BOARDS

Council shall, by general ordinance, prescribe procedures for the exercise of the powers and duties of community advisory boards.

607. FUNDS AND EXPENSES OF COMMUNITY ADVISORY BOARDS

Community advisory boards shall receive no grants from city tax funds and community advisory board members shall serve without compensation. Community advisory boards may, however, accept donations and grants from any other source.

608. REVISION OF COMMUNITY ADVISORY BOARDS

Council may, upon receipt of a petition with signatures as required in section 602, amend the appropriate ordinance to revise the organization and procedures of a community advisory board. District boundaries shall be revised only as provided by section 601.

609. DISSOLUTION OF COMMUNITY ADVISORY BOARDS

Council may, by ordinance, dissolve all community advisory boards as of the end of any fiscal year. A particular community advisory board shall be dissolved only by a petition signed by the same number of qualified electors residing in the community advisory board district required by section 602 and an ordinance adopted after a public hearing by council with public notice to that community advisory board district.

(Note: Ordinance 25 of 2000 dissolved Community Advisory Boards.)

ARTICLE 7. PERSONNEL

701. PERSONNEL SYSTEM

The mayor shall propose a personnel system to council for approval and adoption by ordinance. The system shall be uniform for all employees. It

shall include written procedures for appointment, promotion and removal based on merit and fitness as demonstrated by examination or other evidence of competence, with due consideration for seniority, insofar as permitted by law. Appointments, promotions and removals of subordinate officers and employees within major administrative units shall be made by the major administrative unit head on the basis of the system adopted. The right of collective bargaining for employees is recognized in accordance with law.

702. APPEALS BOARD

The personnel system shall include an appeals board which, unless changed by ordinance, shall consist of three persons: one appointed by the mayor, one by council and one by the controller. Appeals board members shall be removed only for just cause and with the approval of two of the three appointing authorities.

703. AGE RESTRICTIONS

No person who has reached the age of eighteen shall be denied employment by the City because of age.

704. RECRUITMENT

In order that every eligible citizen of Pittsburgh has the opportunity of being employed by the City, council and all units of government shall recruit for employment, persons from every sector of the City's population, with special effort towards the recruitment of women, handicapped persons and persons from disadvantaged minority groups until such time as the human relations commission finds that no city resident is denied employment for any other reason than inability to perform the job sought.

705. POLITICAL ACTIVITY OF EMPLOYEES - GIFTS

Employees of the City are prohibited from engaging in political activity during working hours and at all times in city offices. City employees may not hold an elected public office wherein they would receive an annual salary, unless a leave of absence is taken without pay. Certain described classes of city employees and officers may be required, by ordinance, to take a leave of absence without pay while a candidate for elected public office. City employees shall not be permitted to accept any gift or thing of value in connection with their employment other than their salary, nor be compelled to contribute to any fund other than that required by law. No solicitation shall be made of a city employee for any purpose during working hours. Nothing contained in this section shall affect the right of city employees to support a political party, to vote as they choose, to hold party office or to express publicly and privately their opinions on political subjects and to attend political meetings.

706. PROHIBITIONS IN GENERAL

No elected official, officer or employee shall in any manner receive benefit from the profits or emoluments of any contract, job work or service for the City, or accept any service or thing of value directly or indirectly upon more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the City. No elected official, officer, or employee shall solicit or receive any compensation, gratuity or other thing for any act done in the course of public work. This section shall be broadly construed and strictly enforced. Any violation of this section shall cause the offending official, officer, or employee to forfeit office or employment.

707. MULTIPLE EMPLOYMENT PROHIBITED

No person shall hold more than one compensated position in City government and no compensated city employee shall hold a compensated position in any other government except as follows:

- a. officer or member of the Pennsylvania National Guard or federal reserve:
- b. the controller may also serve as controller for the city school district; and the deputy controller may also serve as deputy controller for the city school district.
- c. a treasurer, or person serving in that capacity, may also serve as treasurer for the city school district.
- d. member or employee of any sinking fund commission or pension board.
- e. Pittsburgh public school employees between the months of May and September of each year.

708. POLITICAL OFFICIALS - CIVIL SERVICE GRADE

Any police officer appointed to a higher position exempt from tenure protection, other than the position of police chief or its equivalent from a position having tenure protection, shall, in the event of subsequent removal from the higher position, retain the tenure right in the former position.

709. OATH OF OFFICE

Every elected official and officer and every appointee before commencing official duties shall take and subscribe the following oath: "I do solemnly swear or affirm that I will support the Constitution of the United States and of this state and the charter of this City and that I will faithfully discharge the duties of office to the best of my ability," and shall file this

oath duly certified before the officer before whom it was taken, in the office of council.

710. ETHICS TRAINING REQUIREMENTS

Every elected official and every public official and public employee required to file a Statement of Financial Interests shall be provided a copy of the Pennsylvania Ethics Act and supporting material upon his or her assumption of office or upon his or her initial appointment and every elected official and every public official and public employee required to file a Statement of Financial Interests shall attend a seminar provided by the Pennsylvania Ethics Commission within ninety (90) days of his or her assumption of office or his or her initial appointments as soon thereafter as practicable.

711. RESIDENCY REQUIREMENTS FOR ALL CITY EMPLOYEES

All City employees and officials, including Police and Fire Bureau personnel, shall be domiciled in the City at the time of their initial appointment and shall continuously maintain their domicile within the City throughout their terms of employment with the City.

ARTICLE 8 GENERAL PROVISIONS

801. DISCLOSURE OF INTERESTS

All elected officials of the City shall, on or before January 15, of every year during their term of office, file a disclosure, as of January 1 of that year, with the controller, which shall be available for public inspection and shall contain the following information:

a. the names of all business or non-profit corporations, associations, partnership, joint ventures, estates, proprietorships, trusts business activities and

organizations, other than religious organizations and religious corporations:

1. with which the official has any connection as an owner, officer, employee, consultant, contractor, creditor, shareholder, member, partner, joint venture, trustee, beneficiary or participant; or

2. in which the official has any financial or property interest in any form, whether a legal interest or equitable interest or otherwise: stating as to each name, the nature of the connection or interest:

b. a brief description of all legal and equitable interests of any degree in real property held by the official;

c. a statement of the remaining amounts of any funds and contributions related to the officials most recent nomination and election, and by whom and how held; and

d. the names of all creditors of the official and debts as to which the official is co-signer, surety or guarantor in excess of \$1,000.

802. CAMPAIGN CONTRIBUTION AND EXPENSES

In connection with every election city office, each candidate for nomination or election, and every treasurer of a political committee or person acting as treasurer, shall file a public preliminary account or receipts and expenses five days prior to the election. The preliminary account shall be in the same form and contain the same information as required by law to be filed following an election except that the information shall be provided as of a time seven days prior to election.

803. VACANCIES

The office of any elected official shall become vacant upon death, resignation or upon removal from office in any manner authorized by law or this charter or upon forfeiture or failure for any reason to assume office within forty-five days after commencement of the term.

804. FORFEITURE OF OFFICE

Elected officials of the City shall forfeit their office if they:

- a. at any time during their term lack any qualification for the office prescribed by this charter or by law, or
- b. are convicted of first degree murder or felony of the first or second degree as set forth in the penal code of this Commonwealth and all appellate remedies exhausted, or
- c. falsify or fail to make an annual disclosure of interests as required by section 801 of this charter, or
- d. falsify or fail to make a preliminary account of campaign contributions and expenses as required by section 802 of this charter.

805. PENALTIES

Council shall by ordinance, determine the penalty for any violation of any provision of this charter except where the charter expressly provides a penalty.

806. GROUNDS FOR REMOVAL -IMPEACHMENT

Every elected official or officer pursuant to impeachment proceedings may be impeached,

suspended or removed from office in the event of mental incapacity, incompetency, neglect of duty, malfeasance, mismanagement or for any corrupt act or practice.

807. IMPEACHMENT PROCEEDING

Impeachment proceedings may be initiated by presentation of a written petition to the Court of Common Pleas signed by at least twenty qualified electors who reside in the City. If in the opinion of the court, reasonable grounds are set forth in the petition, the court shall appoint a citizen investigating committee to make a written report to the court. If the committee reports the charges well founded, council shall sit as a court and the president judge of the Court of Common Pleas shall preside. Except in cases where the city solicitor or the mayor is accused, the city solicitor shall act as prosecuting attorney. If the City solicitor or the mayor is accused, or the city solicitor is unable to serve as prosecuting attorney, the solicitor for the controller shall act as prosecuting attorney. The decision shall be filed in the Court of Common Pleas. If the accused is found guilty of any charge specified, the court shall enter an appropriate judgment and declare the accused office vacant.

808. SUBPOENA POWER

In any case where an elected official, officer, or unit of government has the power to conduct public hearings the elected official, officer or unit of government shall have the authority to issue subpoenas for the attendance of witness and to compel testimony and the production of documents and other evidence. The subpoena shall issue in the name of the City and shall be signed by the elected official, officer or presiding officer of the unit of government. Any witness who refuses to obey a subpoena, or who refuses to testify under oath or affirmation, may be cited for contempt in any Court of Common Pleas having jurisdiction.

809. ANNUAL INVENTORY

The executive branch shall conduct and maintain an annual inventory of all city property which shall be readily accessible to all units of government.

810. PUBLIC RIGHT TO INSPECT RECORDS

City records, the disclosure of which would invade a person's right to privacy, hinder law enforcement, endanger the public safety, or breach a legally recognized duty or confidence or the nondisclosure of which is legally privileged, or which have been prepared for or by the city solicitor for use in actions or proceedings to which the City is or may be a party, shall not be available for public inspection. All other city records shall be open for public inspection, but the officer, unit head, board or commission or other governmental agency of the City having the care and custody of such records may make reasonable regulations governing the time, place and manner of their inspection. For the purposes of preservation, copies of city records may be substituted for inspection in lieu of original records.

811. SEVERABILITY

In the event this charter cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding invalid any provision, the remaining provisions of the charter shall be given full force and effect as completely as if the provision held invalid were not included.

812. EFFECT OF CHARTER ON EXISTING LAWS

Subject to pertinent enabling legislation authorizing a home rule charter, this charter shall supersede any existing charter and all acts or parts of acts, local special or general and all ordinances and resolutions of the City to the extent that they are inconsistent or in conflict with this charter. All existing acts of parts of acts and ordinances affecting the organization, government and powers of the City, not inconsistent or in conflict with this charter shall remain in full force and shall be construed as if enacted under this charter, but as of the date of their original enactment. No contract existing on the effective date of this charter shall be affected by it. Council by ordinance or resolution may supersede any act of the general assembly insofar as permitted by pertinent enabling legislation and this charter.

813. EFFECTIVE DATE AND SCHEDULE

This charter shall become effective on the first Monday of January 1976, except in the following particulars:

a. Members of council shall be elected in 1975 under the provisions of this charter, and for that purpose all sections of this charter relating to election of members of council shall become effective immediately upon the adoption of this charter by the electors.

b. Council seats filled in the 1973 municipal election which become vacant for any reason after the adoption of this charter shall be filled in accordance with the provisions of this charter except for the first vacancy which shall remain unfilled.

c. Appropriations shall be made for the year 1976 so as to implement fully the provisions of this charter. Council shall as promptly as possible adopt any legislation necessary to implement all provisions of this charter.

COMMENTARY TO CHARTER

PREAMBLE

The Preamble sets forth the basic rights and duties of the citizens of the City of Pittsburgh and is an integral part of the charter. City government has responsibility for the human needs of its people, and may fulfill these responsibilities by arrangements with other governments and non-governmental organizations, as well as by its own direct services.

ARTICLE ONE

101. Full home rule powers are conferred on the City. In accordance with the Home Rule Charter and Optional Plan Law of 1972 (Act 62 of 1972, as amended, 53 P.S. 1-101, et seq.) and any subsequent enabling legislation, the city government assumes all powers not expressly denied it. Previously, the City exercised only those powers expressly granted to it.

102. Major administrative units include departments and bureaus, the heads of which report directly to the mayor.

103. The Government Study Commission preparing this charter was prohibited by state law from proposing any changes to the territorial boundaries of the City. As of the writing of this charter they encompass 55.525 square miles, and have been largely unchanged since August 19, 1955.

ARTICLE TWO

201. The basic form of government is to be the "strong mayor" form. This form is one in which the mayor controls and has wide powers of appointment over the units of city government, the power to initiate and veto legislation and to propose the City's budget to which council must react within a definite time.

202. The Mayor should be personally familiar with the opportunities, needs and problems of the City.

203. The detailed regulations under which the Mayor is elected are set forth in the state election code.

204. The mayor is charged with executing and enforcing law, ordinances, resolutions, and the provisions of this charter. A distinction is intended. Execution refers to affirmative action by the mayor to carry out legislation mandates. Enforcement refers to ensuring compliance with legislation by those affected. The mayor, like any other citizen, may submit proposed legislation to a member of council for introduction.

Included specifically are the powers and duties to promote intergovernmental relations, and to ensure all citizens, including minorities and disadvantaged, and equal opportunity to obtain city contracts.

205. The Mayor is to keep citizens fully informed about their city government including all major administrative units, boards, commission, authorities, magistrate court and community advisory boards. The annual report should include a current assessment of employment and economic development, neighborhood conditions, human relations, police-community relations, crime prevention and human service needs.

206. Any vacancy in the office of mayor is to be filled as soon as possible by election of the voters of the City. At the time of the writing of this charter state law did not permit a special election to fill a vacancy in the office of mayor. It was recommended that the state law be amended to allow special elections to fill vacancies in the executive branch.

207. The deputy mayor should be committed to the policies of the mayor. The controller cannot serve as deputy mayor.

208. To provide flexibility, there is no required structure for the executive branch. With some exceptions, this is left to mayor and council. Changes can be made, as required, by the ordinance process, which is relatively simple compared to a change made by charter amendment or act of the General Assembly.

209. In keeping with the strong mayor form, the mayor is empowered to appoint the chief officer of any major administrative unit. Such an appointment is subject to confirmation by council. The heads of the City's police and fire forces are subject to confirmation if they report directly to the mayor. The mayor's staff is exempt from confirmation.

210. The mayor's power to appoint and remove administrative unit heads is a traditional provision, long part of the law regulating Pittsburgh's government.

211. Open government is sought with a maximum of information freely available to officials and the public.

213. This charter authorizes council, the human relations commission and the controller to retain their own legal counsel. These units have a choice of utilizing the city solicitor or their own counsel for legal assistance. The city solicitor is otherwise charged with the responsibility for legal representation of all units of government and council.

216. The human relations commission is the only commission mandated by this charter. It is an essential unit of government, which has proven its usefulness over a long period of years.

Some independence is granted its members by providing for a four year term.

217. The human relations commission hires and controls its own staff.

218. During their four year term, human relations commission members may be removed only for a serious reason.

219. Authorities exist pursuant to state law. Appointment of their members is controlled by law, unlike boards and commissions which are established pursuant to this charter. Unless state law mandates a different method of appointments, all appointments are to be in accordance with this charter.

The Government Study Commission writing this charter recommended that state law be revised to allow absorption of authorities into city government as soon as feasible. The Commission further urged that future mayors and council continuously work for the elimination of independent authorities.

220. By the power of appointment, the mayor has representation on authorities. This section provides council with representation on each authority.

222. The authorities have small boards, and prolonged vacancies can be harmful. In the case of a new authority, board or commission, an unfilled office of a member becomes vacant beginning on the day following the first legal date on which members may be appointed.

223. Magistrates are provided with some independence. It is recommended, but not necessary, that the magistrates be attorneys.

224. The magistrate courts are part of the state judiciary system. They are subject to the rules that govern that system, and should maintain dignity required of other courts in the system.

225. This charter, in sections 806 and 807, provides for an impeachment process by which a

magistrate can be removed: or one could be removed in accordance with the Pennsylvania rules of conduct for justices of the peace of the Supreme Court of the Commonwealth.

226. The law governing the organization and jurisdiction of magistrate courts is found in the schedule of the judiciary article of the Constitution of Pennsylvania, article 5, section 21, and in the Pennsylvania rules of conduct for justices of the peace of the Supreme Court.

227. Section 208 allows the mayor and council flexibility in creating and abolishing units of government. It is essential that knowledge of the current units and their functions be accessible to the public. Filing the table of organization will be the responsibility of the mayor or designated representative on behalf of the executive branch.

ARTICLE THREE

301. Council is established as a separate branch of government with important policy making power. It serves the traditional check and balance function. The legislative power includes the power to levy taxes and make all appropriations.

302. By referendum question of May 19, 1987, each of the nine members of Council shall be elected by districts.

303. Council members are to be personally familiar with the opportunities, needs and problems of the City.

304. A majority of council members are elected at a different time than the mayor. This allows for effective public expression of approval or disapproval for the policies of city government at two year intervals.

306. The president of council is an important official in the city government, and is to play a strong leadership role in council.

307. While discretion is allowed the president as to size of any committee, the appointment of small committees probably provides more visibility and more accountability.

308. Members of council are to avoid any conflict of interest.

309. It is possible for a vacancy of as long as 8 months to occur, but this disadvantage is more than offset by the encouragement to council members to serve their full terms. In the past it has been a practice for retiring council members to resign their position so some favored candidate could be given the advantage of incumbency by appointment to the vacancy. This section is subject to the exception in Section 813.

310. Council is given broad powers. Council is authorized to employ a professional staff. Such a staff is essential to the council performing its duties properly. Council is authorized to have its own legal counsel. Such counsel cannot act on behalf of the City as a corporation since that power belongs only to the city solicitor. To have two attorneys empowered to represent the City as a corporation could lead to legal chaos.

Council is given sufficient powers to perform a both leadership role and a check and balance role in city government.

311. Council may remove city officers but only for serious cause.

312. Council is expected to conduct frequent and careful investigations of the City's problems, needs, and opportunities so as to be well prepared at all times to assist effectively in making wise and progressive policy.

313. Council is expected to keep the public well informed of its activities.

315. The City's business requires frequent council meetings without long intervals between meetings. Members are expected to stagger their vacations so that a quorum will be present at all meetings.

316. Council performs its principal policy making power through legislation. Ordinances and resolutions are distinguished since they have different purposes and requirements. Only members of council can introduce legislation.

317. Each proposed act of council is to be in writing and clearly focus on one question. This prevents legislation from containing unrelated matters, and helps to ensure that the subject of an ordinance is known from its title.

318. The public is to be given reasonable opportunity to be aware of the legislative activities of council.

To waive the seven day rule, council must have a serious reason. It would be useful for council to mail agendas of its meetings in advance to all who might ask for such notice, perhaps with a modest charge for the service.

319. The public is to be provided published notice and hearing on proposed legislation concerning certain very important policy questions listed in this section.

320. Citizens are mandated a public hearing provided a petition is presented with at least 25 signatures. The subject matter of a hearing can be proposed legislation or any appropriate matter of concern to citizens.

Council has traditionally followed the practice of granting a hearing to any citizen or group of

citizens who make a reasonable request in writing. It is hoped this tradition will continue and that the provisions of this section will not have to be applied formally. But the guarantee is set forth, if ever needed to protect citizens.

321. The mayor is granted veto power over legislation, and a veto may be overridden only by six or more votes of a nine member council. The mayor is given a line-item veto over the budgets which means the mayor may veto parts of a budget while approving and signing other parts. These powers help provide for a "strong mayor".

322. Legislation becomes effective when recorded in ordinance or resolution record book.

323. All legislation is to be recorded in writing in a place accessible to the public.

324. Over the years numerous ordinances of council have been accumulated. These are to be sorted out to determine those still useful to the City. Those determined useful are to be codified in a form which is indexed and readily accessible to all. This newly organized city code is to be kept up-to-date as new ordinance are enacted.

325. The city code and its supplements are to be published and made available to the public. Council may determine a reasonable fee. This charter is to be available to citizens without charge. It is recommended council publish the charter with a detailed table of contents and index.

ARTICLE FOUR

401. An elected controller is mandated to ensure an independent check on the use of city resources.

404. The controller is given broad powers to perform his role as independent monitor of the executive and legislative branches This includes

mandatory periodic performance audits which are a determination as to whether city resources have been efficiently and effectively used in achieving intended accomplishments, as stated in the budgets. Traditionally, the controller has recognized and responded to citizen complaints and nothing in this charter prevents a controller from continuing this practice.

In addition to an authority, the term "agencies" include any organization such as a library, arts festival, symphony orchestra, non-profit development corporation, and the like which receive city funds.

405 to 409

These additional powers and requirements provide further protections further protections for the safeguarding of public resources.

410. Continuity of operation and policy is provided by a deputy controller.

411. The independence of the controller is further protected by the office having its own solicitor.

ARTICLE FIVE

501. Council is given power to change the fiscal year, Council may reexamine this question periodically in connection with the fiscal years of other governments.

502. Two kinds of budgets are required: an operating budget to provide for salaries, supplies, short-lived equipment and debt amortization: and a capital budget to provide for long-lived equipment and public works.

503. The operating budget is to list in detail proposed expenditures for each agency of city government, and to state the specific activities to be carried out by these proposed expenditures. Such activities might include number of miles of streets to

be swept weekly, number of fire prevention inspections to be made, miles to be patrolled by police, number of playgrounds to be in use, abandoned buildings to be demolished, and the like.

504. As a basic power to provide for a strong mayor form of government, initiation of the budgets is assigned to the executive branch. In order for all city officials and officers, and citizens of the City, to have access to the budget making process, an executive public hearing is required while the budgets are in preparation.

505. Council is to have six to seven weeks for legislative hearings and consideration of the budgets. This is two to threes weeks more time than was provided prior to the enactment of this charter.

507. Council has five weeks from the beginning of a fiscal year to make corrections to the operating budget. After that time a reopening should be only for an emergency, and requires the approval of the mayor.

508. A six-year capital program is the plan of the City to receive and expend funds for capital improvement projects during the six ensuing fiscal years.

509. The City may join with the county or other levels of government for tax collection purposes where it would be to the advantage of the City.

510. Council approves contracts, but only the mayor can negotiate and execute a contract. This is consistent with the strong mayor government.

511. Some flexibility is allowed in contract making. This section recognizes the City's right to contract with other governments. This might be useful in such areas as contracting with the county for modern record keeping services.

513. Ratification of contracts, after the fact, is provided for under certain, carefully prescribed circumstances. This procedure is to be utilized only when absolutely necessary.

514. This section intends to provide a way that responsible contractors, discriminated against by bonding companies, may be able to bid for city contracts on an equal basis with other contractors.

ARTICLE SIX

601. The mayor, after study, is to recommend boundaries for the advisory board districts. The criteria are to include history and geography. This means consideration of any former municipal boundaries once possessed by areas now part of the City, boundaries of neighborhood organizations, topography, and research on neighborhood boundaries done by private and public groups currently and in the past. It is expected the mayor would consult public opinion before making recommendations. There is no minimum size for a district as long as it includes contiguous whole voting districts, but it may be useful if the districts are of a shape (pattern, configuration) and size to facilitate the delivery of public services. No traditional neighborhoods should be split in drawing district lines.

602. Neighborhoods demonstrating a strong desire to do so may establish a community board. The purpose is to improve citizen communication with the government of the City, and to provide immediate access when necessary for citizens.

603. Existing voluntary neighborhood organizations are to have representation on any board for the neighborhood. Council is to provide criteria for determining which organizations in a neighborhood are eligible. It is expected the criteria might include, but not limited to, purposes, size of membership, age of the organization, openness of its membership policy, and level of program activity.

604. The community boards open elected governmental service to many citizens who never before have had the opportunity to serve.

605. The community boards begin with only advisory powers. As they demonstrate usefulness and responsibility, the mayor and council may take action to grant them other powers and duties.

The board from each organized district is to have the opportunity to discuss its problems, opportunities, and needs directly with the mayor. However, the mayor may fulfill this requirement for several boards at a single meeting.

It is expected that any time council is considering legislation which would have impact on a community advisory board district, that the views of the board would be sought, given publicity, and due consideration by council.

606. While it does not exercise direct control over individual boards council does set general guidelines for all boards.

607. Council and mayor cannot grant city tax funds to any board. The boards are encouraged to raise funds from within their own neighborhood, from foundations, and other sources.

608. Voters of a neighborhood, can petition for changes in the structure or procedures under which their board operates. It is expected council would hold a public hearing on such a request to help determine whether the changes should be made.

609. The community advisory board has a relationship to council somewhat similar to the relationship of the municipality to the General Assembly. It is expected that council will contribute to the development and stability of advisory boards as the General Assembly over time has supported the development and stability of municipalities.

ARTICLE SEVEN

701. A system of personnel based on merit and qualification of the employee is mandated.

While the system is to be as uniform as possible, it is expected that certain classifications of employees will be necessary for the order and organization of the system.

702. An independent appeals board is established to hear employee appeals to the decisions of major administrative unit heads and other officers and officials.

703. Council is not prohibited from legislating on retirement age, and, the City is not prohibited from hiring persons under 18 where such employment is proper and appropriate.

704. Aggressive recruitment to insure a more effective open employment system is mandated. This might include such activities as advertising for applicants in neighborhood, ethnic and minority newspapers, recruiters speaking at all types of organization meetings in all parts of the City, bringing seniors from all high schools in the City to the City's offices to be told first-hand about employment opportunities and the like. "Minority group" means any group in the City that is not a majority of the population.

705. "Campaigning" or being "a candidate" begins on the first day a person takes out a nominating petition for public office, and ends either on primary election day in the case where the candidate loses the primary, or on election day. A party office is not a public office.

This section seeks to end the practice of involuntary political contributing, better known as macing.

706. Any person paid for work by the City is not to receive any other compensation for this work. This is an anti-corruption provision and provides a stiff penalty for violators.

707. Persons paid by the City may not hold other paid governmental employment with certain exceptions. For many years the controller and treasurer have served the City school district in like capacities as a matter of convenience and efficiency to both governments.

708. Police officials in certain high ranks are considered to be administrative officials with their ranks not protected by the personnel system. In case of removal from the high rank for an administrative reason, such officers shall return to the highest protected rank held, and not be forced to start over again at the lowest rank. This enables the administration to promote able officers without their having to give up their job protection.

710. Every public official and public employee required to file a Statement of Financial Interests shall attend a seminar provided by the Pennsylvania Ethics Commission within ninety (90) days of his or her assumption of office or his or her initial appointment as soon thereafter as practicable.

711. All City employees and officials, including Police and Fire Bureau personnel, shall be domiciled in the City at the time of their initial appointment and throughout their terms of employment.

ARTICLE EIGHT.

801. Elected officials are required to make a full disclosure of all interests. This is done to reveal any conflicts with the interests of the City.

802. This section seeks to help free officeholders from control by large campaign contributors. It seeks also to help equalize the opportunity to win public office for candidates without access to large funds. It

is intended that the preliminary reports become campaign issues.

805. Throughout this charter are set forth various requirements and prohibitions. Council is directed to set penalties for violations of these, where the charter does not already set a penalty.

806. These impeachment provisions adopt, for the most part, long existing statutory provisions (53 P.S. 22331 et.seq.). Concealment of a fraud is within the definition of "neglect of duty". Suspension may occur while charges are pending in accordance with the traditional procedure set forth by statute. (53 P.S. 22334).

807. A major difference in impeachment proceedings compared to other removal provisions of this charter, is that citizens initiate the action.

808. Included among those who can issue subpoenas are the mayor, council, the controller, and the human relations commission, subject to ultimate review by the courts.

809. This section seeks to assure that idle and excess city supplies, equipment and other property is put to use or sold, and that loss and theft are minimized. The annual inventory shall be the responsibility of the mayor or designated representative on behalf of the executive branch.

810. The public's "right to know" is recognized and acknowledged.

811. If any section of this charter is found to be illegal or unconstitutional, it becomes null and void, but does not affect the legality of other sections of the charter, and they remain in force.

812. All ordinances, resolutions, and laws not applicable to all municipalities in the state, which

might be in conflict with this charter, are overridden and superseded. All others remain in force.

813. This charter is effective January 5, 1976, with certain exceptions. Five council members shall be elected at the 1975 municipal election under the terms of this charter.

To implement this charter, capital and operating budgets for the 1976 fiscal year shall be prepared and enacted during 1975.

MINORITY REPORTS

I am compelled by the conscience not to support the final version of the Pittsburgh Home Rule Charter. There is in my mind a firm conviction that the majority of witnesses who testified before us at the hearings was ignored to satisfy a favored few.

Council elected at large is perhaps the most glaring example of this. At our hearings in the communities, 43 people speaking as private citizens and representatives of city wide and neighborhood organizations approved the proposed election of nine council members by district and two members elected at large. Thirteen approved district elections were against the proposed nine and two. Twenty seven witness recommended a city council at large. Some of the twenty seven changed their minds at a later hearing and advocated elections by districts.

My final word on city council in reference to newspaper reports that I advocated mandated Black council people is that the recorded tapes of our meetings will prove that this is not true. Black people have proven many times in the areas of education, science, business, sports and entertainment that given a fair chance, they will win. While I do not favor a mandate for Black council members, I most urgently recommend that minority party candidates, independent Democrats and people in poor neighborhoods, be given a much better chance of

being elected to public office, than they are given now. The new Charter has done nothing to help the people in these categories.

My second concern is that the Study Commission has not mandated one department. Other Study Commissions throughout the state and the country have mandated many departments in their Charters.

This Pittsburgh Study Commission deleted a department of Economic Development and a department of Job Development that they had approved earlier. This power, to establish these two departments, was given to the Mayor and City Council despite the fact that not any Mayor or City Council has shown any interest in doing this in previous years. Also, the wavier of performance bond provision was weakened so badly that it would be best left out of the Charter entirely.

The original provision read - Council by Resolution may waive any Performance Bond ordinarily required of a contractor provided that:

A. The contractor is responsible and a member of a class of persons which by reason of social or economic factors is unable to obtain a Performance Bond at prevailing premium rates.

B. Upon award of the contracts, the contractor shall pay to the City an amount equal to the prevailing premium rates and the payment deposited in the general revenue fund of the City.

Commentary: This section seeks to provide an equal opportunity for small business people; especially new ones, with little capital, to bid on City contracts - but no more than an equal opportunity.

The final version of this article reads: Council, by ordinance, may establish standards for the wavier of any performance bond required of a contractor provided bond that the contractor is

responsible and pays to the City upon award of the contract an amount equal to the prevailing premium rates. All payments shall be deposited in the general fund of the City.

I question the way the Community Advisory Board was written into the Charter. As part of a package, they did not receive the six majority votes required by Act 62.

At the very next meeting a similar package was ruled out of order.

I am submitting this report as a minority report in an honest effort to discharge my duties as a member of this commission. For the reason I have stated, I cannot support the proposed final version of this Charter as it now reads.

Arthur C. Holloway,
Commission Member

My first concern is the concept of Community Advisory Boards. This concept was put into the charter illegally, perhaps not technically illegal, but certainly morally illegal and contrary to the spirit of the law. This points up the fault in the Study Commission's deliberations. An effort was always made to complicate, use parliamentary maneuvers, doubtful legal concepts and actual devious methods.

The State law that the Commission operates under states, "No recommendation of said Commission shall have any legal effect unless adopted by a majority of the whole number of the members of the Commission." The Community Advisory Boards provision was put into the charter in a devious illegal way by combining into a package, "Nine Council members elected at large - the elected at-large council to decide whether Council from then on should be elected from districts." Although totally

unrelated to at-large council, the concept of Community Advisory Boards was also added to this package, but had to be voted as a whole. The concept of Community Boards as proposed in the discussion Draft, was rejected by 57 opposed, 34 favor and 8 conditionally approved in the public hearings.

Since then, the Boards have been weakened to being advisory only and being elected on a voluntary basis. If this new concept were presented to the public, the opposition would be even greater.

My second concern would be district elected council. In the Discussion Draft, the Commission voted 7 to 3 for nine district and two at-large council members and in public hearings - the tally was 44 in favor, 27 opposed and 13 conditionally approved the nine districts and two at-large council. At this point however, the party leaders and special interest people must have realized they had inadvertently created a monster in allowing the Study Commission to exercise such independent thought.

The charter as a whole got progressively worse as far as the people's interests were concerned from then on.

District elected council was the one important change in City government, but this would fragment party control, and make it difficult for special interest groups to influence City government. Without district elected council, home rule will be meaningless. For example: Imagine our Study Commission which was elected at-large as members of a future City Council, then it would be likely to enact new local laws that were favorable to party loyalty or special interest people and certainly not in the interest of the people.

A later development of the Commission saw the need to add certain public relation gimmicks to offset the criticism of many concerned citizens who became alarmed at the loss of the intent of the home rule charter.

In good conscience, I cannot support the City charter unless consideration is given to the election of City Council by districts.

Robert E. Kennedy,
Commission Secretary

RECOMMENDATIONS

During its more than 16 months of work, the Pittsburgh Government Study Commission discovered some problems which could not be solved by the new charter, since the Commission was limited by state law from treating matters such as election laws and abolition of authorities. Some of the unresolved matters are of sufficient importance for the Commission to offer the recommendations which follow.

Recommendations to the General Assembly:

Authorities:

- Municipalities should be empowered to absorb authorities.
- Consideration should be given to merging the city and county housing authorities.

Elections:

- Municipalities should be empowered to impose limits on campaign expenses of candidates running for city office.
- Every election should be available, without limitation, for filling a vacancy in any municipal election.
- Recommendation to Pittsburgh Mayors and Councils;
- Mayors and Councils, present and future, should continuously seek to absorb authorities into city government.

STATEMENT OF EXPENSES

Through April 18, 1974

STAFF SALARIES 54,901.95

- 1) Executive Director
- 2) Solicitor-Legislative Draftsman
- 3) Office-Manager
- 4) Clerk-Typist
- 5) Organizer-Researcher
- 6) Public Information Consultant

Part Time Servicers (1) 6,323.63

OPERATING COSTS

Office Equipment and
Supplies (2) 1,926.30
Telephone (3) 649.09

PUBLIC INFORMATION COSTS (4) 5,509.10

RESEARCH COSTS (5) 10,834.49

COMMISSIONER'S EXPENSES 887.09

MISCELLANEOUS

Meeting Expense (6) 1,733.36
Insurance (7) 249.00
Advertising (8) 555.44
Taping of Public
Hearing (9) 557.81

84,127.26

Purchases of supplies from
the City Warehouse 1,096.52

EXPENSES INCURRED THRU
APRIL 18, 1974 85,223.78

STATEMENT OF IN-KIND SERVICES

DONATED

Thru April 18, 1974

FROM THE CITY OF PITTSBURGH:

Office Space 3,000.00
Printing Office Services 6,000.00

Postage	11,000.00
Clerk-Typist (Summer)	700.00
Use of Typewriter and	
Xerox Machine	1,100.00
Telephone	1,800.00
Office Furniture	<u>500.00</u>

24,100.00

FROM CONSULTANTS:

Includes value of all volunteer consulting work done for the Commission, including work performed by student interns whose services were free of charge	7,575.00

<u>VOLUNTEER CLERICAL HELP</u>	750.00

OTHER

Office Furniture (10)	1,000.00
Historical Display Item (11)	
	1,000.00
Donated Meeting Room Space Throughout the City	3,000.00
Individual donations by Commissioners	<u>1,000.00</u>

6,000.00

PLEASE NOTE: All in-kind
expenses are estimated.

IN-KIND TOTAL - \$38,425.00

In addition to the above donated services, hundreds of citizens gave freely of their time and efforts in organizing meetings and public hearings, by discussing and offering solutions to the City's problems and reporting on their analysis of the home rule charter. The communications media gave a substantial amount of time and space to the reporting of the Commission's work to the public. It is impossible to estimate the value of all these important donated services.

All financial records of the Commission are subject to audit by the Controller of the City of Pittsburgh, and are open for public inspection.

John H. Bingler, Chairperson
Edith Elaine Abdullah, Vice Chairperson
Robert E. Kennedy, Secretary
Robert L. Martin, Treasurer
David W. Craig
William P. Gallagher
Mary Hall
Arthur C. Holloway
Gabor Kish
Joseph A. Madden
Sister Michele O'Leary, RSM

**COMMONWEALTH OF PENNSYLVANIA
COUNTY OF ALLEGHENY**

AFFIDAVIT

BEFORE ME, the unsigned authority, personally appeared the persons whose names are affixed hereto, who first being duly sworn according to law, depose and say that the foregoing Financial Report is true and correct to the best of their knowledge, information and belief.

Sworn to and subscribed before
me the 24th day of April, 1974
CHARLOTTE J. FOSTER,
Notary Public
Pittsburgh, Allegheny County

Notary Public

SUPPLIERS

(1) Goehring, Rutter and Boehm
H.K. Delivery Systems
Kelly Services, Inc.
Purolator Courier
Corporation

(2) E.W. Curry Company, Inc
Darragh Paper Company
IBM Corporation
Keller Office Equipment
Jas. H. Matthews and Company
P.O. Naly Company
Standard Office Supply
Stenotype Supplies
Company Inc.
The Tydings Company

(3) Bell of Pennsylvania

(5) Center for Governmental Studies, Institute
for Urban Policy and Administration - University of
Pittsburgh,
Pittsburgh Neighborhood Alliance-
Neighborhood Atlas Program

(6) George Aiken's Catering
Chatham Center
Chinatown Inn
Howard Johnson's
Kelson's Catering
Sarah's Resturant
Southern Platter
Young Women's Christian
Association of Greater Pittsburgh

(4) Addressgraph Multigraph
American Enterprise Institute
American Society for
Public Administration
Center for Governmental Studies
Chatfield and Woods
City of Philadelphia
Committee for Economic
Development
Copy Cat
Darragh Paper Company
General Binding Corporation
League of Women Voters of Pennsylvania
A.H. Mathias and Company
Modern Reproductions, Inc.
National Municipal League
Dale E. Peters Printing
School of Social Work -
University of Pittsburgh
West Publishing Company
(7) Joseph J. Robino Insurance

(8) The Pittsburgh Press
The Pittsburgh Post Gazette
WQED - Metro-Pittsburgh Public Broadcasting

(9) The University Libraries
University of Pittsburgh

(10) Baskin, Boreman, Wiln
Sachs, Gondelman, and
Craig

(11) Pittsburgh History and Landmarks Foundation

HISTORY OF THE COMMISSION

The roots of the Government Study Commission of the City of Pittsburgh go back to 1967 and the State Constitutional Convention. The men and women of the Convention proposed to give the State Legislature the power to permit local municipalities to have home rule. Voters of the Commonwealth approved this in 1968.

In early 1972, the Legislature wrote and passed the Home Rule Charter and Optional Plans Law, generally known as Act 62. This act allows municipalities to set up government study commissions to examine their local government, and to write new charters if they so choose.

In accordance with Act 62, several citizens' groups in 1972 united to gather sufficient signatures on petitions to place the question of a commission for Pittsburgh on the ballot. Council President Louis Mason, and Council member Richard Caliguiri supported this citizen effort. They made the petition unnecessary by introducing a bill before Council in late July 1972, which authorized the question to appear on the ballot in November, 1972. The voters approved establishment of the commission by a vote of 61,183 to 20,367, and at the same time elected the eleven member Commission. The Commission organized on November 27, 1972, and thereafter held over one hundred meetings and hearings, with Commission members serving without salary. The Commission has carried out extensive research into city government, including studies of comparable cities. It has utilized experts and sought the views of citizens.

From the beginning the Commission acted to ensure that the people of Pittsburgh had the opportunity to participate in writing the charter. Soon after organizing, the Commission voted to make all its meetings public, and hired a staff to maintain daily contact with citizens, an information center was opened in the City-County building, and a newsletter, *New City*, was published. Funds, space and supplies were furnished as needed by the mayor and council.

Widespread publicity was supplied by the print and electronic media, with detailed coverage provided by Lawrence Walsh of the Pittsburgh Press and David Leherr of the Pittsburgh Post Gazette. Three sets of hearings, including a total of 29 sessions, were held in various parts of the City. One series was held in March of 1973 to learn if the people wanted a new home rule charter written or some lesser action taken to improve government.

Because the answer was overwhelmingly favorable to a new home rule charter, a second series of eleven hearings was held. With the help of a field organizer, this second series was held in late spring and early summer to learn what people wanted in the new charter. One hundred thirty people testified. Most of them were representatives from organizations. They firmly supported Pittsburgh's strong mayor form of government, but asked for more access into that government. They suggested many specific improvements to city government and repeated their desires for home rule.

After these hearings, the Commission met throughout the summer months of 1973 to prepare a "Discussion Draft" of the charter. The "Discussion Draft" includes many of the ideas expressed at the eleven hearings, and others suggested by consultants, staff, and Commission members. It was intended to provoke widespread discussion debate, and public choice.

In September, the Commission released the Draft. Fourteen public hearings were held in October and November to hear people's opinions of the Draft. Four of these hearings were televised live on WQED, the local public broadcasting station, while almost 10,000 copies of the Draft were distributed throughout the City. Many high school classes studied it. Hundreds of citizens reacted to the Draft, in person or in writing.

During the first three months of 1974, the Commission modified and shorten the Draft in

accordance with what it had learned at the fourteen hearings.

Sixteen months after the Commission began its work, the new home rule charter was ready for submission to the people. A day-long "Public Dialogue" was held on March 30, 1974 for final reaction, before this report went to press.

The proposed charter contained in this report emphasizes Pittsburgh as a responsible city, which

means a city with a government alert and active to ensure that the needs of citizens are provided for, regardless of which levels of government or private organizations do the providing.

This charter seeks to mandate an efficient strong mayor government with sound checks and balances, and adequate means of access and participation for all citizens.

STATEMENT OF ADOPTION

The Government Study Commission of the City of Pittsburgh formally adopted this Report on May 2, 1974, and directed the question of approval of the proposed Home Rule Charter, as prepared by the Commission in accordance with the Home Rule Charter and Optional Plans Law of 1972, be submitted to the voters for referendum on November 5, 1974. The form of the question to appear on the ballot is to be as follows:

"Shall the Home rule Charter contained in the Report, dated May 6, 1974 of the Government Study Commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by the City of Pittsburgh?"

As authorized by Section 215 of the Home Rule Charter and Optional Plans Law of 1972, the Commission also directed that this interpretive statement accompany the above question:

"The adoption of this charter would permit the people of the City of Pittsburgh to govern themselves through their elected representative, with only limited control by the State General Assembly in Harrisburg."

John H. Bingler, Jr.
Chairperson