

An Act

An act to incorporate the city of Pittsburg.

Section 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the inhabitants of the borough of Pittsburg, in the county of Allegheny, as the same extends and is incorporated between the rivers Allegheny and Monongahela, and also to the middle of each of the said rivers, and as far down the river Ohio, to such point in the same, at which two lines, one running down the middle of each of the said two first mentioned rivers, shall intersect, which is hereby added to and incorporated with the original boundaries of said borough, are hereby constituted a corporation and body politic, by the name and style of "The Mayor, Aldermen and Citizens of Pittsburg," and by the same name shall have perpetual succession, and they and their successors, by such name, shall, at all times forever, be able and capable, in law, to have, purchase, receive, possess and enjoy lands, tenements and hereditaments, liberties, franchises and jurisdictions, goods, chattles and effects, to them and their successors for ever, or for any other or less estate, and the same lands, tenements, hereditaments, goods, chattels and effects, by such name, to grant, bargain, sell, alien, convey, mortgage, pledge, charge and encumber, or demise and dispose of at their will and pleasure, and by the said name shall be able and capable, in law, to sue or be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts of record and elsewhere, in all manner of suits, actions, complaints, pleas, causes, matters and things that to the said city, as a body politic and corporate, in law and in fact, shall and may appertain, and for that purpose shall have and use one common seal, and the same from time to time may change, alter, deface and make a new.

Section 2. And be it further enacted by the authority aforesaid, That the freemen of the city of Pittsburg, citizens of this state or of the United States, who have resided within the bounds of the said city at least one year immediately preceding the election, and within that time paid a borough or city tax, shall meet together on the first Tuesday in July next, and on the first Tuesday of January yearly thereafter, and elect, by ballot, fifteen persons, qualified to serve as members of the house of representatives of this commonwealth, to be members of the common council for the said city for the year in which they shall be elected, and also at the first election, nine persons qualified to serve as senators of this commonwealth, to be members of the select council of the said city, who shall forthwith, after their election, divide themselves by lot into three classes, the seats of the first class shall be vacated at the expiration of the first year, of the second class at the expiration of the second year, and of the third class at the expiration of the third year, so that one third may be chosen every year after such first election: and the first election to be held under this act, shall be held and conducted by the burgess and town council of the borough of Pittsburg, and all future elections of select and common council men, to be had and held in pursuance of this act, shall be held and conducted by the recorder and aldermen of the said city, or any four of them; and the said persons hereby authorised to hold and conduct any such election, shall take

the usual oaths or affirmations as prescribed by the general election laws of this commonwealth, to be taken by the judges and inspectors of the general elections, and shall have power to appoint clerks of such elections, and to administer the necessary oaths to such clerks: And when each election, to be had and held in pursuance of this act, shall be closed, and the number of votes for each candidate or person voted for, shall be counted and ascertained, the persons herein authorised to hold and conduct such elections, or a majority of them, shall prepare and make, under their respective hands and seals, a return thereof, containing the names of each select and common council man elect, as the case may be, with the number of votes in favor of each of them, and shall, within twenty-four hours after the closing of each of the said elections, give notice, in writing, to each of the said select and common council men elect, of their respective elections to the office of select or common council man, as the case may be, and shall also deliver, or cause to be delivered, such return to the select council or to the common council elect, as the case may be, at the times and places in and by this act appointed for them respectively to meet and receive the same, and the said returns shall thereafter be deposited and preserved in the office of the clerk of the city court.

Section 3. And be it further enacted by the authority aforesaid, That the said select and common council men elect, shall meet at such place in the said city, as the said councils, each for its own body, may after the first election agree upon, and afterwards at such place as by any ordinance duly passed, may be fixed for that purpose, between the hours of ten and twelve of the clock in the forenoon, on the Friday next following each and every election of select and common council men, to be held in pursuance of this act, and shall then and there received the returns aforesaid, and shall forthwith proceed to examine the same, and to judge and determine thereon, and for that purpose, and to the end and intent that this act or the provisions herein contained, may not be ineffectual, and said select or common council men elect, as the case may be, who shall be elected and returned as aforesaid, or a majority of them, who shall be a quorum for all business, shall be judges of their own elections, and shall have full power and authority to approve thereof, or to set aside the same, or afterwards to vacate the seat of any member for misbehaviour, neglect of duty or other misdemeanor, and to order new elections, as the law may require, to be held at such times as shall be by such council respectively appointed, of which they shall give at least six days previous notice in one or more of the public newspapers printed in the said city, which election shall be held by the persons herein authorised to hold and conduct the annual elections of said city, who are hereby enjoined to do and perform the duties herein required of them at such special or occasional election, and to make return of such election in manner as aforesaid, and so in like manner as often as the occasion may require, upon the death or resignation of a member or members of either of the said councils.

Section 4. And be it further enacted by the authority aforesaid, That each and every select and common council man, who shall be elected, chosen and returned in manner aforesaid, and whose election shall be so as aforesaid approved of, shall, before he enters on the execution of his office, take a solemn oath or affirmation, before the president or one of the judges of the court of common pleas of the county of Allegheny, or before the mayor or recorder of the said city for the time

being, "well and faithfully to execute the office of a select council man or of a common council man (as the case may be) of said city," and shall, thereupon, without any further or other commission, enter upon the duties thereof, and shall hold and exercise the same until the term of office therein shall expire, as directed in and by this act.

Section 5. And be it further enacted by the authority aforesaid, That the power of the corporation of the said city shall be vested in the said select and common councils, who shall, in common councils assembled, have full power and authority to make, ordain, constitute and establish such and so many laws, ordinances, regulations and constitutions (provided the same shall not be repugnant to the laws and constitution of the United States or of this commonwealth) as shall be necessary or convenient for the government and welfare of the said city, and the same to enforce, put in use and execution, by constables and other proper officers (whom they shall have the power to appoint,) and at their pleasure to revoke, alter and make anew, as occasion may require, and shall have, hold and enjoy, in addition to the powers now vested in the borough of Pittsburg, which are hereby transferred to and vested in the said councils, all the powers and authorities now vested by law in the select and common councils of the city of Philadelphia.

Section 6. And be it further enacted by the authority aforesaid, That in order that a knowledge of the said laws, ordinances, regulations and constitutions may at all times be had and obtained, and the publications thereof at all times be known and ascertained, such and so many of them as shall not be published in one or more of the public newspapers published in the said city, within fifteen days from and after their being severally passed, ordained and established, and also recorded in the office of recorder of deeds in and for the county of Allegheny, (who shall keep a separate book for that purpose, and shall be allowed and paid for recording thereof at the same rate as is allowed by law for recording deeds,) within thirty days from and after their being so as aforesaid passed, ordained and established, shall be null and void, and before any of the said laws, ordinances, regulations and constitutions shall be so as aforesaid recorded, the publications thereof respectively, with the times thereof, shall be proved by the oath or solemn affirmation of some credible person, which said oath or affirmation shall be recorded therewith, and at all times be deemed and taken as sufficient evidence of the time of such publication.

Section 7. And be it further enacted by the authority aforesaid, That the doors of the respective halls of the said select and common councils shall be open, for the admission of all peaceable and orderly persons, who shall be desirous of being present at the discussion of any by-laws, ordinances, rules or regulations for the welfare and good government of the said city.

Section 8. And be it further enacted by the authority aforesaid, That the governor shall appoint one recorder and twelve aldermen for the said city, who shall hold their offices during good behaviour, and shall severally and respectively have all the jurisdictions, powers and authorities of justices of the peace, and justices of oyer and terminer and jail delivery, of and for the said city, and shall act therein accordingly, jointly or severally, as fully and amply as any justice or justices of the peace or of oyer and terminer or jail delivery of or for any county within this commonwealth,

may or can do in and for such county: and the justices of the peace at present commissioned in and for the borough of Pittsburg, shall be aldermen of the said city, and the governor shall appoint such number of aldermen, in addition to the said justices, as shall complete the number herein directed and limited, and in case of vacancy, by death, resignation, removal from the said city or otherwise, of any of the said aldermen, fill up and supply such vacancy as soon as may be; and the said recorder and aldermen and every of them, before he enters on the duties of his said office, in pursuance of this act, shall take a solemn oath or affirmation, before the president or one of the associate judges of the common pleas of Allegheny county, or before the mayor of the said city for the time being, "well and faithfully to execute and perform the office of recorder (or alderman, as the case may be) of the said city."

Compiler's Note: Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

Section 9. And be it further enacted by the authority aforesaid, That the members of the select and common councils shall, on the second Tuesday in July next, and on the second Tuesday in January yearly thereafter, meet together and elect viva voce one of the said aldermen as mayor of the said city, whose duty (beside that of an alderman of the said city) shall be to preside in the mayors court, when present to promulgate the by-laws, rules and ordinances of the corporation, and specially to attend to the due execution and fulfilment of the same, and who shall be entitled to receive, hold and enjoy all the emoluments which by he laws and ordinances of the corporation may hereafter be annexed and attached to the office of mayor; and the mayor elect shall take a solemn oath or affirmation, before the president or an associate judge of the court of common pleas of Allegheny county, or the recorder of the said city for the time being, "well and faithfully to execute the office of mayor of said city," and shall, thereupon, enter upon and perform the duties of the said office without any further or other commission, and shall continue in office until a successor shall be duly elected and qualified, and in case of the death, resignation or removal of the mayor or other vacancy in the said office, such vacancy shall be filled by a new election for the remainder of his term in office, by the said councils, within ten days thereafter, and at least five days notice shall be given in the public newspapers of the city, of the time of holding the same.

Section 10. And be it further enacted by the authority aforesaid, That each and every mayor, recorder and alderman of the said city, who shall misdemean himself in office, shall be liable to be removed from office in the same manner that justices of the peace are by the constitution and laws of this commonwealth removable for misconduct in office, by the general assembly.

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Section 11. And be it further enacted by the authority aforesaid, That the said mayor, recorder and aldermen, or any four or more of them (whereof the mayor or recorder for the time being shall be one) shall have full power and authority,

and they are hereby vested with full power and authority to enquire of, hear, try and determine, agreeably to the laws and constitution of this commonwealth, all forgeries, perjuries, larcenies, assaults and batteries, riots, routs and unlawful assemblies, and all other offences which have been committed or shall be committed within the said city, which would be cognisable in any county court of quarter sessions of the peace of or for any county within this commonwealth, had the same offences, or any of them, been committed within any such county, and to punish all persons who shall be convicted of the same offences, or any of them, agreeably to the laws of this commonwealth, and also to enquire of, hear, try and determine all offences which shall be committed within the said city against any of the laws, ordinances, regulations or constitutions that shall be made, ordained and established in pursuance of this act, and to punish the offender and offenders, as by the said laws, ordinances, regulations or constitutions shall be prescribed or directed, also to impose fines on jurymen and others, according to law, and levy the same, and to award process, take recognizances for keeping the peace, for being of good behaviour, and for appearance or otherwise, or to commit to prison, as occasion shall lawfully require, without being accountable to the commonwealth for any fines or amercements to be imposed for the said offences, or any of them, except such as are or shall be by law made payable into the state treasury for offences against this commonwealth, and generally to do all such matters and things within the said city, as any court of quarter sessions of the peace, oyer and terminer and jail delivery of and for any county within this commonwealth may or can do within any such county, and to the ends and intents, and for the purposes aforesaid, and for such other ends, intents and purposes as are in and by this act declared or mentioned, the said mayor, recorder and aldermen, or any four of them, (whereof the mayor or recorder for the time being shall be one) shall have full power and authority, and they are hereby vested with full power and authority to hold and keep a court of record within the said city four times in each year, by the name, style, and title of "The Mayors Court for the City of Pittsburg," for the enquiring, hearing, trying and determining of the pleas and matters aforesaid, and for the punishing of those who shall be found guilty thereof, and for the causing all encroachments in the streets of said city, and all nuisances to be removed, and for the punishing of offenders as the law in such cases requires, and for the doing and performing all such other matters and things as are in and by this act made cognizable by them or any of them.

Section 12. And be it further enacted by the authority aforesaid, That if any person or persons shall find him, her or themselves aggrieved by any judgment of the said court of record, it shall and may be lawful for the party or parties so aggrieved to sue out and obtain his, her or their writs of error, which shall be granted in like manner and under the same regulations and restrictions as other writs of error in similar cases are or may be granted and made returnable, in the western district of the supreme court of this commonwealth, and shall be proceeded in under the same rules and regulations: Provided always, That when any writ of error shall be granted, on any judgment to be given in the said court of record, the said mayor, recorder and aldermen, or their successors, shall not be compelled thereby, or by any other writ or writs to them directed, to remove, send or certify into the said supreme court or elsewhere, any of the indictments or presentments, but only

the tenors or transcripts thereof, and of the records touching and concerning the same, and of the proceedings thereon, under their common seal: and after such judgments shall be reversed or affirmed, it shall and may be lawful for the said mayor, recorder and aldermen, and their successors, to proceed to execution or otherwise, as shall, according to law, appertain.

Section 13. And, to the end and intent that such persons, indicted and outlawed for felonies and other offences, supposed by such indictments or outlawries to have been committed within the said city, as shall dwell, remove, lurk or be received without the bounds and limits of the said city, may be brought to justice,

Be it further enacted by the authority aforesaid, That the mayor or recorder of the said city for the time being, shall and may, as often as occasion may require, issue his writ or writs of capias to the sheriff or sheriffs or other officer of any county or counties, city or town corporate within this commonwealth, directed, commanding him or them to take and bring the body or bodies of any such person or persons as shall be so as aforesaid, indicted or outlawed before him, the said mayor or recorder, or either of them, to be dealt with according to law; and every sheriff and other officer to whom any such writ or writs of capias shall be directed and delivered, is hereby enjoined and required to use due diligence to execute the same, under such pains and penalties as are by law incurred by any sheriff or other officer, for refusing or neglecting to obey and execute any capias or other process to him directed and delivered.

Section 14. And, to the further end and intent, that there may not be a failure of justice within the said city, by reason of any person or persons who may be charged with having committed any offence or offences, therein lurking or being in secret or other places in the neighborhood thereof,

Be it further enacted by the authority aforesaid, That it shall be lawful for any constable or constables of the said city, to whom any warrant, under the hand and seal of the said mayor, recorder or aldermen, or any of them, shall be delivered, commanding him or them to take any person or persons who shall have been charged with having committed any offence within the said city, and to bring him her or them before the said mayor, recorder or aldermen, or any of them; and he and they are hereby enjoined and required to execute the same, by making of the arrest, if the same can be done, at any place within the county of Allegheny, and also by bringing such offender or offenders before the said mayor, recorder and aldermen, or some of them.

Section 15. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said mayor, recorder and aldermen, before whom any complaint, indictment, plea, matter or thing of a criminal or civil nature within his or their jurisdiction, shall be made or depending, to issue their subpoena, in common form, to any person or persons within this commonwealth, commanding him or them to appear and give evidence therein, and every person to whom the same shall be directed, and on whom service thereof shall be duly made, shall attend accordingly and give evidence, under such pains and penalties as are by law incurred by any person or persons refusing to attend and give evidence when duly subpoenaed for that purpose.

Section 16. And be it further enacted by the authority aforesaid, That the sheriff of Allegheny county, for the time being, is hereby enjoined and required to execute all the lawful process of the said court, and to carry in to effect the

sentences and judgments of the said court in all such cases, as he is bound to do under any order, process, sentence or judgments of the county court of quarter sessions, and to take and receive into his custody, the body or bodies of any and all such persons, who may be so committed to him, and to keep them in safe custody in jail of the said county, until lawfully discharged therefrom, and to receive and keep in safe custody in the jail of the said county, until legally discharged therefrom, any person or persons who may be committed by virtue of lawful process from the mayor, recorder or any alderman or aldermen of the said city, in the same manner and under the same penalties as if he, she or they had been committed by the court of quarter sessions or any judge thereof; and all neglect of duty or wilful misbehaviour in the said sheriff or the jailer of the said jail, towards such prisoners, or any of them, shall be and the same is hereby made cognizable and punishable in the mayors court of the said city, in the same manner and under the same penalties as the same offences would be punishable in the court of quarter sessions within its jurisdiction.

Section 17. And be it further enacted by the authority aforesaid, That the sheriff and commissioners of the county of Allegheny, shall provide one wheel for jurors for the trial of causes in the said city, and the like proceedings shall be had by the aforesaid officers in the selecting, depositing, drawing and summoning and returning jurors, as is provided for the county courts, and the jurors shall be compensated out of the county stock; but the selection of said jurors for the court, shall be made from the citizens residing within the bounds of the said city.

Section 18. And be it further enacted by the authority aforesaid, That the mayor and aldermen of the said city, for the time being, shall have the same jurisdiction, in all civil cases, as justices of the peace of the county have, and shall proceed therein in like manner, for the like fees and costs, and with the like powers and authorities, and under and subject to the like rules, regulations and restrictions, and to the like relief for insolvent debtors, and to the like means, process and execution as in cases of debt or other demand, or in case of damage, trespass and trover, before any justice of the peace within the commonwealth, with the like appeal, by the party aggrieved, to the court of common pleas of the county of Allegheny.

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Section 19. And be it further enacted by the authority aforesaid, That the court of quarter sessions of and for the county of Allegheny, shall not, in any matter or thing have any further or other powers or jurisdictions within the said city, than the said mayors court may or can have in the said county and without the bounds and limits of the said city.

Section 20. And be it further enacted by the authority aforesaid, That the governor shall appoint a clerk for the mayors court of the said city, who shall receive the like fees and emoluments as the clerk of the court of quarter sessions of the county of Allegheny is entitled to receive for similar services, and who shall give the like security, do and perform the like services within the city, and shall account to the commonwealth for the surplus fees, in as full and ample a manner

as the said clerk of the court of quarter sessions is bound by law to do.

Section 21. And be it further enacted by the authority aforesaid, That the recorder of the said city shall be entitled to receive, hold and enjoy such salary and emoluments as by the laws and ordinances of the corporation may hereafter be annexed and attached to the office of recorder of said city.

Section 22. Mayor, recorder, and alderman of Pittsburgh
The mayor, recorder and aldermen, or any of them, shall and may take and receive the acknowledgment and probate of all deeds and written instruments, and receive the legal fees therefor, which acknowledgments and probates shall be as valid, and have the like force and effect, as if the same were acknowledged before a Judge of the Supreme Court, or any Judge of the court of Common Pleas within this Commonwealth. 1816, March 18, P.L. 160, 6 sm.L. 357, Sec. 22.

Section 23. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the select and common councils, in common council assembled, from time to time, to permit and license such and so many brokers within the said city, and under such rules and regulations as they may think proper, and to prohibit all other persons from using and exercising the business of broker therein, under such pains and penalties as shall, from time to time, be ordained and established.

Section 24. And be it further enacted by the authority aforesaid, That it shall be lawful for the select and common councils, when duly assembled, from time to time, by any ordinance duly enacted, to vest in the mayor of said city for the time being, the appointment of such officers within the said city as they may think expedient for the well-ordering and governing the same, and to remove the same from such offices or appointments for misbehaviour or otherwise as may be necessary; all which officers shall take an oath or affirmation, before the said mayor, recorder or alderman, well and faithfully to perform the duties of the offices or appointments to them respectively committed; and the said councils may require security to be given by such officers, or any of them, and prescribe the sum and the form in which such security shall be given, and the said officers and their sureties may be sued and recovery had against them in the city court, for breach of official duty; and for the recovery of fines, forfeitures, penalties, debts and other demands, cognizable in the city court, the ordinary forms of law shall be pursued in the process, judgment and several kinds of execution, as if the same were made cognizable and recoverable in the courts of the county; and all officers and jurors of the said city shall be competent to hear, try and determine all matters and things within their jurisdiction, and all citizens to give testimony, notwithstanding any fine or penalty be made payable for the use of the said city.

Section 25. And be it further enacted by the authority aforesaid, That no alderman of the said city, nor any person holding an office of trust or profit under the laws of this commonwealth, or the ordinances of the select and common councils, the emoluments whereof is paid out of the treasury of the said city, shall be competent to serve as a member of the select or common councils.

Section 26. And be it further enacted by the authority aforesaid, That all the property and estate whatsoever, real and personal, of the borough of Pittsburg, are hereby severally and respectively vested in the corporation or body politic of

the city of Pittsburg and their successors, in and by this act established, by the name, style and title aforesaid, to and for the use and benefit of the said citizens for ever; and until the corporation of the said city shall be duly organized under this act, the present charter of the borough of Pittsburg shall continue in full force and operation, and all officers under the same shall be appointed and hold their offices as they now may or can do by law; and as soon as this act shall go into operation, all suits, prosecutions, debts and claims whatever, shall, by force thereof, become transferred to the said city, and be under the management and control thereof as fully and completely as if no alteration had been made in the said charter.

Section 27. And be it further enacted by the authority aforesaid, That the said select and common councils shall, once in every year, cause to be published a just and true account of all the monies which shall have accrued to them in their corporate capacity during the year preceding such publication, and also of the disposition thereof, and shall also lay a copy thereof before the general assembly.

Section 28. And be it further enacted by the authority aforesaid, That as often as any doubts shall arise touching this act, the same shall, in all courts of law and equity and elsewhere, be construed and taken most favorably for the said corporation: And provided also, That this act and the powers and authorities herein vested in the said city, shall not be impaired, affected, defeated or destroyed by any neglect or omission to appoint all or any of its officers, at the time or times allotted for the same, and in case of any such defect or omission, the recorder and aldermen of the said city, or a majority of them, shall forthwith take all necessary measures to cure and supply such defects and omissions, giving due notice thereof in the public newspapers of the said city.