

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1702 Session of  
2011INTRODUCED BY GINGRICH, ROSS, CREIGHTON, FREEMAN, SANTARSIERO  
AND CALTAGIRONE, JUNE 21, 2011AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
DECEMBER 14, 2011

## AN ACT

1 Reenacting and amending the act of February 1, 1966 (1965  
2 P.L.1656, No.581), entitled "An act concerning boroughs, and  
3 revising, amending and consolidating the law relating to  
4 boroughs."

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10 Section 3501. Acts of Assembly Repealed; Saving Clause.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Article I heading and section 101 of the act of  
14 February 1, 1966 (1965 P.L.1656, No.581), known as The Borough  
15 Code, are reenacted to read:

16 ARTICLE I

17 PRELIMINARY PROVISIONS

18 Section 101. Short Title.--This act shall be known and may  
19 be cited as "The Borough Code."

20 Section 2. Sections 102 and 103 of the act are amended to  
21 read:

22 Section 102. Excluded Provisions.--This act does not include  
23 any provisions, and shall not be construed to repeal any acts,  
24 relating to:

25 (1) The assessment and valuation of property and persons for  
26 the purpose of taxation and the collection of taxes, except as  
27 provided herein.

28 (2) The collection of municipal claims by liens.

29 (3) The method of incurring or increasing indebtedness.

30 (4) Conduct of elections.

(5) Public schools.

(6) [Borough] The powers and duties of borough and ward constables.

(7) [Justices of the peace] Magisterial district judges.

(8) The giving of municipal consent to public [utility corporations] utilities.

(9) State highways.

(10) Validations of elections, bonds, ordinances, and acts of corporate officers.

(11) Any of the provisions of [The Penal Code] 18 Pa.C.S. (relating to crimes and offenses).

(12) Any of the provisions of 75 Pa.C.S. (relating to vehicles).

Section 103. Construction of Act Generally.--(a) The provisions of this act, so far as they are the same as those of existing laws, are intended as a continuation of [such] existing laws and not as new enactments. The repeal by this act of any act of Assembly, or part thereof, shall not revive any act or part thereof heretofore repealed or superseded, nor affect the corporate existence of any borough heretofore incorporated. The provisions of this act shall not affect any act done, liability incurred, or right accrued or vested, or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of [such] the repealed laws. All ordinances, resolutions, regulations, and rules made pursuant to any act of Assembly repealed by this act, shall continue with the same force and effect as if [such] the act had not been repealed to the extent that [such] the ordinances, resolutions, regulations and rules could have been made pursuant to this act. Any person holding office under any

1 act of Assembly repealed by this act shall continue to hold  
2 [such] office until the expiration of the term thereof, subject  
3 to the conditions attached to [such] the office prior to the  
4 [passage] enactment of this act.

5 (b) Borough council shall have the corporate powers and  
6 duties and borough officials shall have the powers and duties  
7 not only as set forth in this act but also as provided in other  
8 laws to the extent that the powers and duties are not repealed  
9 by this act.

10 Section 3. Section 104 of the act is reenacted to read:

11 Section 104. Constitutional Construction.--The provisions of  
12 this act shall be severable and, if any of the provisions shall  
13 be held to be unconstitutional, such decision shall not affect  
14 the validity of any of the remaining provisions of this act. It  
15 is hereby declared as a legislative intent that this act would  
16 have been adopted had such unconstitutional provision not been  
17 included therein.

18 Section 4. Sections 105, 106 and 107 of the act are amended  
19 to read:

20 Section 105. Construction of References.--Whenever in this  
21 act reference is made to any act by title[, such] or otherwise,  
22 reference shall also apply to and include any codification  
23 wherein the provisions of the act referred to are substantially  
24 reenacted.

25 Section 106. Boroughs to Which Act Applies.--(a) This act  
26 shall apply to all boroughs, including:

27 (1) all boroughs incorporated under general laws[, and to];

28 (2) all boroughs incorporated under special law which have  
29 accepted the provisions of the act of April 3, 1851 [(P.L.320)]  
30 (P.L.320, No.218), entitled "An act regulating boroughs[," and

1 also to]";

2 (3) all boroughs incorporated either prior to or since April  
3 3, 1851, by special act of Assembly which by the act of  
4 incorporation have been given the general powers of boroughs  
5 under the general law[, and also to];

6 (4) all boroughs incorporated under or which have accepted  
7 the provisions of[, the act of May 14, 1915 [(P.L.312)]  
8 (P.L.312, No.192), entitled "An act providing a system of  
9 government for boroughs, and revising, amending, and  
10 consolidating the law relating to boroughs[, " and also to]"; and

11 (5) all boroughs incorporated under or which have accepted  
12 the provisions of, the act of May 4, 1927 [(P.L.519)] (P.L.519,  
13 No.336), known as "The Borough Code."

14 (b) This act shall not annul or repeal any local or special  
15 act in force at the date of the [passage] enactment of this act,  
16 or any provision thereof[, nor shall this act repeal any act so  
17 far as any such act applies to, or may have heretofore applied  
18 to, any boroughs incorporated under special acts of Assembly,  
19 and to which boroughs, as limited by the provisions of this  
20 section, this act does not apply].

21 The provisions of this act, in so far as similar provisions  
22 of the [said] act of May 14, 1915 [(P.L.312)] (P.L.312, No.192),  
23 and in so far as similar provisions of the [said] act of May 4,  
24 1927 [(P.L.519)] (P.L.519, No.336), were extended to boroughs  
25 acting under local laws, shall apply to [such] the boroughs  
26 incorporated under local laws. If a provision in this act  
27 conflicts with a special or local law applicable to a borough  
28 that has not otherwise been surrendered, the two shall be  
29 construed, if possible, so that effect may be given to both. If  
30 the conflict between the two provisions is irreconcilable, the



1 provision in the local or special law shall prevail.

2       Section 107. Acceptance of Act by Boroughs [and Incorporated  
3 Towns.--Any].--(a) A borough [or incorporated town,]  
4 incorporated or acting under any local or special act of  
5 Assembly, may surrender the provisions of its special and local  
6 acts in their entirety, or so far as they are inconsistent with  
7 this act, and be governed by the provisions of this act, by  
8 presenting a petition to the court of [quarter sessions] common  
9 pleas of the county setting forth the desire of [such] the  
10 borough [or incorporated town] to accept the provisions of this  
11 act. The petition shall also set forth whether it is the desire  
12 of the petitioners to surrender all of the provisions of its  
13 special and local acts or to retain [such] the provisions of its  
14 special and local acts as are not inconsistent with this act.  
15 [Such] If the petition sets forth a desire to retain provisions  
16 of local or special acts, it shall set forth the provisions of  
17 the local or special acts to be retained. The petition shall be  
18 made by the council or by at least ten percent of the registered  
19 electors of the borough [or incorporated town] as of the date  
20 the petition is filed.

21       **(b)** Upon the presentation of the petition, the court shall  
22 fix a day for hearing, of which [such] notice shall be given as  
23 may be directed by the court. At [such] the hearing, any  
24 inhabitant of the borough [or incorporated town] may remonstrate  
25 against the granting of the petition, and the court may grant or  
26 refuse the petition as to it appears just and proper.

27       If the court [grant] grants the petition, the decree of the  
28 court shall be recorded in the office for the recording of  
29 deeds, and thereafter the borough [or incorporated town] shall  
30 be subject to all the provisions of this act, and any [such

1 incorporated town shall become a borough and the local and  
2 special acts of Assembly in force in any such boroughs or  
3 incorporated town shall be annulled in their entirety, or so far  
4 as they are inconsistent with the provisions of this act, as may  
5 be set forth in the petition in the particular case. When any  
6 incorporated town accepts the provisions of this act, the decree  
7 of the court permitting such acceptance shall set forth the  
8 title of the new borough.] local or special acts of Assembly  
9 retained as set forth in the petition. From the date of the  
10 decree, any local or special act of Assembly applicable to the  
11 borough shall be of no force and effect to the extent it is  
12 inconsistent with this act or has been surrendered.

13 (c) When [any] a borough [or incorporated town] shall accept  
14 the provisions of this act, as provided by this section, all  
15 liabilities incurred, rights accrued or vested, obligations  
16 issued or contracted, and all suits and prosecutions pending or  
17 to be instituted to enforce any right or penalty accrued or  
18 punish any offense committed prior to [such] the acceptance, and  
19 all ordinances shall continue with the same force and effect as  
20 if no [such] acceptance had been made.

21 Section 5. The act is amended by adding a section to read:

22 Section 107.1. Acceptance of Act by Incorporated Towns.--(a)  
23 An incorporated town incorporated or acting under a local or  
24 special act of Assembly may, by ordinance, elect to be governed  
25 by provisions of this act, and shall surrender any provisions of  
26 its special and local acts, in whole or in part, that are  
27 inconsistent with the provisions of this act adopted by the  
28 incorporated town. The ordinance shall set forth, at length or  
29 by reference, the provisions of this act to be adopted and, to  
30 the extent applicable, those provisions of its special and local

1 acts to be surrendered. As of the effective date of the  
2 ordinance and until such time as the ordinance may be repealed  
3 or amended, the provisions of this act as set forth in the  
4 ordinance shall be the law applicable to the incorporated town  
5 and the provisions of any local or special acts of Assembly, to  
6 the extent surrendered as set forth in the ordinance, shall be  
7 of no force and effect to the extent they would otherwise apply  
8 to the incorporated town.

9 (b) An incorporated town incorporated or acting under any  
10 local or special act of Assembly may elect to accept the  
11 provisions of this act in their entirety and surrender all local  
12 and special acts by petition as set forth in section 107. When  
13 an incorporated town accepts the provisions of this act in their  
14 entirety and surrenders all local and special acts, the  
15 incorporated town shall become a borough and the decree of the  
16 court permitting the acceptance shall set forth the name of the  
17 new borough.

18 (c) When an incorporated town shall accept the provisions of  
19 this act, as provided by this section, all liabilities incurred,  
20 rights accrued or vested, obligations issued or contracted, and  
21 all suits and prosecutions pending or to be instituted to  
22 enforce any right or penalty accrued or punish any offense  
23 committed prior to acceptance, and all ordinances shall continue  
24 with the same force and effect as if no acceptance had been  
25 made. An incorporated town shall not have the power to alter or  
26 amend any provision of this act that has been adopted in  
27 accordance with this section or section 107.

28 Section 6. Section 108 of the act is reenacted to read:

29 Section 108. Effective Date.--This act shall take effect  
30 January 1, 1966.

1 Section 7. Section 109 of the act is amended to read:

2 Section 109. Publication of Notices.--(a) Wherever, in any  
3 of the provisions of this act, notice is required to be given in  
4 one newspaper of general circulation [in the borough, such], the  
5 notice shall be published in a newspaper of general circulation  
6 as defined [by the act of May 16, 1929 (P.L.1784), known as the  
7 "Newspaper Advertising Act," and its amendments,] in 45 Pa.C.S.  
8 § 101 (relating to definitions) which is published and  
9 circulated in the borough or boroughs affected, or [such] a  
10 newspaper of general circulation, circulated in the borough or  
11 boroughs affected, which has bona fide paid circulation equal to  
12 or greater than any newspaper published in the borough or  
13 boroughs affected by the notice. [Such notice]

14 (b) Unless dispensed with by special order of court, notice  
15 required to be published in a newspaper of general circulation  
16 shall also be published in the legal [journal, if any,  
17 designated by the rules of court for the publication of legal  
18 notices and advertisements,] newspaper for the county of the  
19 borough affected, if a legal newspaper exists, when [such] the  
20 notice refers to any proceeding in any court or the holding of  
21 elections for the increase of indebtedness or the sale of  
22 bonds[, unless such publication is dispensed with by special  
23 order of the court].

24 Section 8. Section 110 of the act is reenacted to read:

25 Section 110. Terms of Existing Officers Saved.--This act  
26 shall not be construed as affecting or terminating the term of  
27 any officer of a borough holding office at the time the same  
28 becomes effective.

29 Section 9. Section 111 of the act is amended to read:

30 Section 111. Definitions.--As used in this act, unless the

context clearly indicates otherwise, the following words and terms shall be construed as follows:

(1) "Abutting property," or "abutting real estate" in reference to any street shall mean any property physically adjoining [such] the street, regardless of what the reversion rights in [such] the street may be and regardless of where the lot lines may be in relation to [such] the street.

[(2) "Corporate authorities" means the borough council even though the action taken is by ordinance which is subject to the approval or veto of the mayor.]

[(3)] (2) "Department of [Highways] Transportation" means the Pennsylvania Department of [Highways] Transportation.

[(4)] (3) "Highway" means a State highway of the Commonwealth of Pennsylvania.

[(5)] (4) "Latest official census" shall be either the most recent decennial census of the United States or a later census conducted by the United States Bureau of the Census, whichever shall be the later.

(5) "Municipal corporation" means a city, borough, incorporated town, township of the first or second class or any home rule municipality other than a county.

(6) "Municipality" means a municipal corporation or a county.

(7) "Pennsylvania Municipalities Planning Code" means the act of July 31, 1968 (P.L.805, No.247), known as the "Pennsylvania Municipalities Planning Code."

[(6)] (8) "Street" means and includes any street, road, lane, court, cul-de-sac, alley, public way and public square.

Section 10. Article II heading of the act is amended to read:

1 ARTICLE II

2 CREATION AND ALTERATION OF BOROUGHS

3 Section 10.1. Article II subdivision (a) heading of the act  
4 is reenacted to read:

5 (a) Incorporation of Boroughs

6 Section 11. Section 201 of the act, amended December 18,  
7 1992 (P.L.1650, No.181), is amended to read:

8 Section 201. Areas May be Incorporated.--The courts of  
9 common pleas may incorporate as a borough any contiguous area  
10 from one or more townships within their jurisdiction[, not  
11 already incorporated or a part of an incorporated municipality  
12 and] having a population of at least 500 residents[, as a  
13 borough, which, after]. After having been [so] incorporated[,]  
14 as a borough, the area shall be a body corporate and politic  
15 [by] and shall have the name [which shall be] decreed by the  
16 court. "Township" as used in this subdivision shall mean a  
17 township of the second class.

18 Section 12. Section 202 of the act, amended July 10, 1981  
19 (P.L.247, No.80) and December 18, 1992 (P.L.1650, No.181), is  
20 amended to read:

21 Section 202. Applications for Incorporation.--(a) The  
22 application for incorporation shall be by a petition signed by a  
23 majority of the freeholders residing within the limits of the  
24 proposed borough and by the freeholders of a majority of the  
25 territory within the limits of the proposed borough, when all  
26 parts of the proposed borough are in the same township[, and,  
27 where]. Where portions of the proposed borough are in different  
28 townships, the petition shall be signed by a majority of the  
29 freeholders residing in each of [such] the separate portions and  
30 by the freeholders of a majority of the territory in each of

1 [such] the separate portions. The signatures must be secured  
2 within three months immediately preceding the presentation  
3 thereof to the court. [Such] The petition shall be subscribed by  
4 and sworn to by at least one of the signers. The number of  
5 signers required to sign the petition shall be ascertained as of  
6 the date the petition was presented to court.

7 [(b) The court shall establish a Borough Advisory Committee  
8 which shall consist of two residents of the proposed borough,  
9 two residents of the existing governmental unit or units  
10 recommended by the respective governing body of the unit or  
11 units and not residing within the proposed borough and one  
12 resident of the county not residing in either area who shall  
13 serve as the chairman of the committee. Such a committee shall  
14 be established when a petition is received by the court for the  
15 creation of a borough. Pursuant to this act, the members of such  
16 committee shall be appointed by and shall serve at the pleasure  
17 of the court. The members shall serve without salary, but the  
18 court may entitle each such member to reimbursement for his  
19 actual and necessary expenses incurred in the performance of his  
20 official duties. The director of the County Planning Commission  
21 shall serve as advisor to the committee.

22 (c) Such committee shall, within sixty days of its creation,  
23 advise the court in relation to the establishment of the  
24 proposed borough. In particular, the committee shall render  
25 expert advice and findings of fact relating to the desirability  
26 of such an incorporation, including, but not limited to, advice  
27 as to:

28 (1) the proposed borough's ability to obtain or provide  
29 adequate and reasonable community support services such as  
30 police protection, fire protection and other appropriate

1 community facility services;

2 (2) the existing and potential commercial, residential and  
3 industrial development of the proposed borough; and

4 (3) the financial or tax effect on the proposed borough and  
5 existing governmental unit or units.

6 (d) After receiving the findings-of-fact and the advice of  
7 the committee, the court shall set a date for a hearing on the  
8 proposed incorporation and shall hear the parties interested and  
9 their witnesses. The court shall certify the question of the  
10 proposed incorporation to the board of election of the county  
11 for a referendum vote of the residents of the proposed borough  
12 only if it finds that the conditions prescribed by this section  
13 have been complied with and that the desirability of the  
14 proposed incorporation is supported by a preponderance of the  
15 evidence submitted at the hearing and by the committee. Upon  
16 receipt of the certified election results, the court shall enter  
17 a final decree granting or denying the prayer of the  
18 petitioners.] For purposes of this subsection, the residence of  
19 freeholders shall be established by evidence of domicile in a  
20 permanent structure.

21 (e) Upon presentation to the court, the petition shall be  
22 filed with the clerk of court, and notice of the petition shall  
23 be published in one newspaper of general circulation and in the  
24 legal newspaper, as defined in 45 Pa.C.S. § 101 (relating to  
25 definitions), if any, once a week for four consecutive weeks  
26 immediately following the filing of the petition, during which  
27 time exceptions may be filed to the petition by any person  
28 interested. The notice shall state when and where the petition  
29 was filed and the time during which exceptions may be filed to  
30 the petition.



1     (f) The petition shall set forth the name of the proposed  
2 borough, with a particular description of the boundaries of the  
3 borough, and be accompanied with a plot of the proposed borough.  
4 If the boundaries of the proposed borough are not the same as an  
5 existing township or townships, the description shall include  
6 the courses and distances of the boundaries. If the boundaries  
7 of the proposed borough are the same as an existing township or  
8 townships, the description need not contain the courses and  
9 distances of the boundaries but shall refer to the name and  
10 location of the existing township or townships.

11     Section 13. The act is amended by adding sections to read:

12     Section 202.1. Borough Advisory Committee.--(a) The court  
13 shall establish a Borough Advisory Committee when a petition is  
14 received by the court for the creation of a borough. The  
15 committee members shall be appointed by and shall serve at the  
16 pleasure of the court, and shall consist of two residents of the  
17 proposed borough, two residents from each of the existing  
18 townships recommended by the respective governing body of the  
19 township or townships and not residing within the proposed  
20 borough and one resident of the county not residing in either  
21 area who shall serve as the chair of the committee. The members  
22 shall serve without salary, but the court may entitle each  
23 member to reimbursement for the member's actual and necessary  
24 expenses incurred in the performance of the member's official  
25 duties. The members may consult with the director of the County  
26 Planning Commission who may advise the committee.

27     (b) The committee shall, within sixty days of its creation,  
28 advise the court in relation to the establishment of the  
29 proposed borough. In particular, the committee shall render  
30 expert advice and findings of fact relating to the desirability

of an incorporation, including, but not limited to, advice as to:

(1) the proposed borough's ability to obtain or provide adequate and reasonable community support services such as police protection, fire protection and other appropriate community facility services;

(2) whether the proposed borough constitutes a harmonious whole with common interests and needs that can best be served by a borough government. In examining this factor, the committee shall consider whether the proposed borough represents a distinct community with features different from those of the existing township or townships;

(3) the existing and potential commercial, residential and industrial development of the proposed borough;

(4) whether the proposed borough would provide for land use regulations to meet the legitimate needs for all categories of residents or whether the plan is exclusionary or would result in economic segregation; and

(5) the financial or tax effect on the proposed borough and existing township or townships.

Section 202.2. Advisability of Incorporation; Certification of Question for Referendum; Decree.--(a) After receiving the findings-of-fact and the advice of the committee, the court shall set a date for a hearing on the proposed incorporation and shall hear the parties interested, which shall include, but not be limited to, the holders of any ownership interest in real property within the limits of the proposed borough, and their witnesses. If, after the hearing, the court deems further investigation necessary to determine the advisability of incorporation, it may make an order as is needed to obtain the

1 additional information. When the court has obtained all  
2 reasonably necessary information, and has determined that the  
3 conditions prescribed by this section have been complied with,  
4 the court shall determine the desirability of the proposed  
5 incorporation based upon the evidence submitted at the hearing  
6 and by the committee, any additional information obtained after  
7 the hearing, and any other applicable factors the court deems  
8 relevant.

9     (b) If the court determines that the desirability of the  
10 proposed incorporation is not supported by a preponderance of  
11 the evidence, the court shall enter a final decree denying the  
12 request of the petitioners and no other proceedings shall be  
13 had. If the court determines that the desirability of the  
14 proposed incorporation is supported by a preponderance of the  
15 evidence, the court shall certify the question of the proposed  
16 incorporation to the board of election of the county for a  
17 referendum vote of the residents of the proposed borough. Upon  
18 receipt of the certified election results, the court shall enter  
19 a final decree granting or denying the request of the  
20 petitioners.

21     (c) The petition and the final decree either granting or  
22 denying the petition shall be recorded in the recorder of deed's  
23 office of the county at the expense of the petitioners, who  
24 shall also pay all other expenses and costs in connection with  
25 the proceedings.

26     Section 14. Section 203 of the act, amended November 30,  
27 1967 (P.L.657, No.304), is repealed:

28     [Section 203. Contents of Petition.--The petition shall set  
29 forth the name of the proposed borough, with a particular  
30 description of the boundaries thereof, and be accompanied with a

1 plot of the same. If the boundaries of the proposed borough are  
2 not the same as an existing political subdivision, the  
3 description shall include the courses and distances of the  
4 boundaries. If the boundaries of the proposed borough are the  
5 same as an existing political subdivision, the description need  
6 not contain the courses and distances of the boundaries but  
7 shall refer to the name and location of the existing political  
8 subdivision.]

9 Section 15. Section 204 of the act is repealed:

10 [Section 204. Filing of Petition; Notice; Decree; Costs.--  
11 Upon presentation to the court, the petition shall be filed with  
12 the clerk, and notice thereof shall be given in one newspaper of  
13 general circulation in the county and in the legal journal, if  
14 any, for a period of not less than thirty days immediately  
15 following the filing thereof, during which time exceptions may  
16 be filed to the petition by any person interested. The notice  
17 shall be published once a week for four consecutive weeks. The  
18 notice shall state when and where the petition was filed and the  
19 time during which exceptions may be filed to the petition. The  
20 court, if it shall find, after hearing, that the conditions  
21 prescribed by this article have been complied with, may grant  
22 the prayer of the petitioners and make a decree accordingly,  
23 but, if the court shall deem further investigation necessary, it  
24 may make such order thereon as to right and justice shall  
25 appertain. The petition and the decree shall be recorded in the  
26 recorder's office of the county, at the expense of the  
27 petitioners, who shall also pay all other expenses and costs in  
28 connection therewith.]

29 Section 16. Sections 205 and 206 of the act are amended to  
30 read:

1       Section 205.   When Borough Government Becomes Effective;i  
2   Requisites of Charter.--[When the petition and decree have been  
3   recorded, such] (a)   When both the petition and the final decree  
4   granting the petition have been recorded, the area shall become  
5   an incorporated borough, and shall be entitled to the several  
6   rights, privileges and immunities conferred by this act,  
7   subject, however, to the provisions of section 211 [of this  
8   act].

9       (b)   The final decree of the court granting the petition  
10   shall constitute the charter of the borough. All charters  
11   granted under this act shall set forth:

12       (1)   The corporate name of the borough.

13       (2)   The boundaries of the borough.

14       Section 206.   Exclusion of Farm [and Unsettled] Lands.--When,  
15   in any petition for the incorporation of a borough, the  
16   boundaries fixed by the petitioners shall embrace lands  
17   exclusively used for the purposes of farming [or other large and  
18   unsettled lands], the court may, if it deems such land does not  
19   properly belong to the proposed borough, at the request of any  
20   party aggrieved, change the boundaries so as to exclude  
21   therefrom the land used for farming [or such other purposes].

22       Section 17.   Section 207 of the act is reenacted to read:

23       Section 207.   Corporate Name.--The corporate name of  
24   boroughs, incorporated under this act, shall be "The Borough  
25   of....."

26       Section 18.   Section 208 of the act is repealed:

27       [Section 208.   Requisites of Charter.--The decree of the  
28   court shall constitute the charter of the borough. All charters  
29   granted under this act shall set forth:

30       (1)   The corporate name of the borough.

(2) The boundaries thereof.]

Section 19. Section 210 of the act, amended October 9, 1967 (P.L.399, No.181), is amended to read:

Section 210. Certificates of Clerk of Court; Fees; Penalty.--When a borough is created, the [clerk of the court of quarter sessions] recorder of deeds in each county affected shall within thirty days [shall] certify to the [Department of Highways and to the Department of Community Affairs] Department of State, the Department of Transportation, the Department of Community and Economic Development and the county planning commission a copy of the decree of court incorporating [such] the borough. For [such] the services the clerk shall be allowed a fee of three dollars and fifty cents (\$3.50) to be paid as part of the costs of the proceeding.

Any clerk of the court, who shall fail, neglect or refuse to furnish [such] the certifications or either of them, as herein provided, shall upon conviction in a summary proceeding be sentenced to pay a fine of not more than fifty dollars (\$50).

Section 20. Sections 211 and 212 of the act are amended to read:

Section 211. Existing Government Preserved Temporarily; Organization of Borough; Election of Borough Officers.--(a) The [said] newly incorporated area shall continue to be governed as before [said] the incorporation until the first Monday of January following the municipal election after the issuance of the final decree establishing [such] the new borough, at which time the officers of [said] the borough [chosen] who are elected, in accordance with section 805 [of this act], at [such] the municipal or special election shall enter upon their respective terms of office, and the borough government shall be

1 duly organized under this act.

2 (b) Borough officers shall be [chosen] elected at the next  
3 municipal election occurring at least ninety days following the  
4 issuance of the decree establishing the borough, or at the  
5 request of the petitioners, at a special election called by the  
6 court of [quarter sessions] common pleas.

7 (c) [The] If a special election is to be held, the court  
8 shall fix the time, place and manner of holding the special  
9 election, and shall designate a person to give notice of [such]  
10 the special election and the manner thereof, and appoint from  
11 among the electors of the newly established borough a judge and  
12 inspectors to hold the election.

13 (d) Municipal officers [chosen] elected at [such] the  
14 special election shall serve until the first Monday in January  
15 following the next succeeding municipal election at which time  
16 their successors shall be elected in the manner provided in  
17 section 805 [of this act] and shall take office.

18 Section 212. Marking Borough Boundaries.--The boundaries of  
19 the borough shall, as soon as practicable after its  
20 incorporation, be appropriately marked, due notice being first  
21 given, as directed by the court, to the [commissioners and  
22 supervisors of adjoining townships and to the corporate  
23 authorities of adjoining municipalities] governing bodies of  
24 adjoining municipal corporations.

25 Section 21. Section 213 of the act, amended October 9, 1967  
26 (P.L.399, No.181), is amended to read:

27 Section 213. Agreement to Adjust Indebtedness Where Borough  
28 Created.--[Whenever a borough is created out of a township, the  
29 commissioners or supervisors of the township and the council of  
30 the borough] (a) After the election of borough council under

1 section 211 when a borough is newly incorporated, the borough  
2 council and the governing body of the township or townships from  
3 which the borough was created shall make a just and proper  
4 adjustment and apportionment of all the public real and personal  
5 property owned by the township or townships at the time of the  
6 incorporation of the borough[, both real and personal,  
7 including]. The property to be adjusted and apportioned between  
8 the borough and the township or townships shall include funds,  
9 as well as indebtedness [between the borough and township:  
10 Provided, That] provided that in adjusting property and  
11 indebtedness, streets, sewers, and utilities shall not be  
12 considered except to the extent that current and unpaid  
13 indebtedness was incurred for the construction and improvement  
14 thereof.

15 (b) In making [such] the adjustment and apportionment under  
16 subsection (a), the [taxable] borough shall be entitled to a  
17 division of the property and indebtedness in the same proportion  
18 that the assessed valuation of the taxable real estate included  
19 within the territorial limits of the newly incorporated borough,  
20 bears to the assessed valuation of the taxable real estate in  
21 the entire township or townships immediately prior to the  
22 incorporation of [such] the borough, and the township or  
23 townships shall be entitled to the remainder of [such] the  
24 property and indebtedness[: Provided, That where]. Where  
25 indebtedness was incurred by the township or townships for an  
26 improvement located wholly within the territorial limits of the  
27 newly incorporated borough, [such] the indebtedness shall be  
28 assumed by the borough[, and where any]. Where only part of  
29 [such] the improvement is located within the newly incorporated  
30 borough, the part of [such] the indebtedness, representing the



1 part of the improvement located within the borough, shall be  
2 assumed by the borough and the adjustment and apportionment of  
3 any remaining debt [and the public property of the township  
4 shall be made as above provided] shall be retained by the  
5 township or townships.

6 (c) The adjustment and apportionment [as] made pursuant to  
7 this section shall be reduced to writing, and shall be duly  
8 executed and acknowledged by the secretary or clerk of the  
9 township or townships and by the secretary of the borough, and  
10 shall be filed in the office of the clerk of the court of  
11 [quarter sessions] common pleas of the county, and a copy  
12 [thereof] shall also be filed with the Department of Community  
13 [Affairs of the Commonwealth] and Economic Development.

14 Section 22. Sections 214 and 215 of the act are amended to  
15 read:

16 Section 214. Judicial Adjustment on Failure of Agreement.--  
17 [In case the township] If the governing bodies of the township  
18 or townships and the borough [authorities] cannot make an  
19 amicable adjustment and apportionment of the property and  
20 indebtedness within six months after the government of the newly  
21 incorporated borough is established, then the [commissioners or]  
22 supervisors of the township or townships or the council of the  
23 borough may present a petition to the court of [quarter  
24 sessions] common pleas. The court shall then appoint three  
25 disinterested commissioners, all residents and taxpayers of the  
26 county, but [none residing in or owners of] who do not reside in  
27 or own real estate in the township or townships or borough, who,  
28 after hearing, notice of which shall be given to the township or  
29 townships and borough as the court shall direct, shall make  
30 report to the court making an adjustment and apportionment of

1 all the property as well as the indebtedness between the  
2 township or townships and the borough. The report shall state  
3 the amount that shall be due and payable from either the borough  
4 [to] or the township[, or from the township to the borough] or  
5 townships, to the other and vice versa, and the amount of  
6 indebtedness that shall be assumed by [the borough or the  
7 township or both of them] any or all of them.

8 Section 215. Proceeding on Judicial Adjustment Award.--The  
9 [commissioner] commissioners shall give the township or  
10 townships and the borough at least five days' notice of the  
11 filing of their report. Unless exceptions are filed to [such]  
12 the report within thirty days after the date of the filing, the  
13 report shall be confirmed by the court absolutely. Any sum  
14 awarded by [said] the report to the township or townships or  
15 borough shall be a legal and valid claim in its favor against  
16 the borough or township or townships charged [therewith] with  
17 the sum. Any [property] real or personal property given to the  
18 township or townships or borough shall become its respective  
19 property. Any claim or indebtedness charged against the borough  
20 or township or townships may be collected from it.

21 Section 23. Section 216 of the act, repealed in part June 3,  
22 1971 (P.L.118, No.6), is reenacted to read:

23 Section 216. Exceptions to Report.--In case exceptions are  
24 filed to the report of the commissioners, the court shall  
25 dispose of the same, taking testimony therein if it deems the  
26 same advisable. The court shall enter its decree confirming the  
27 award of the commissioners, or modifying the same as to it  
28 appears just and proper.

29 Section 24. Sections 217, 218 and 219 of the act are amended  
30 to read:

1       Section 217. Compensation and Expenses of Commissioners;  
2 Costs.--The commissioners shall be allowed [such] compensation  
3 and expenses for their services as the court shall fix. The  
4 costs of the proceedings, including the compensation and  
5 expenses of the commissioners, shall be apportioned by the court  
6 between the borough and township or townships as it deems  
7 proper.

8       Section 218. Where Territory of Borough [or Annexed  
9 Territory] is Located in Two or More Counties.--In case the  
10 territory, included within the limits of a newly incorporated  
11 borough is located in two or more counties, the court of  
12 [quarter sessions] common pleas of the county where the larger  
13 part of the territory of the borough is located shall have  
14 exclusive jurisdiction over the proceedings to adjust and  
15 apportion the indebtedness between the borough and township or  
16 townships.

17       Section 219. Bond Issues; Taxation.--In any [such]  
18 proceeding to adjust and apportion indebtedness, the township or  
19 townships or the borough shall have power to issue and deliver  
20 to the borough or township or townships interest-bearing bonds  
21 in liquidation of the indebtedness ascertained, to be its  
22 proportionate share payable, if [such] the bonds are acceptable  
23 to the borough or township or townships entitled to receive the  
24 [same] bonds. The court may also make all [needful] necessary  
25 orders for the collection and payment by the township or  
26 townships or borough of the amount needed to pay its share of  
27 any indebtedness apportioned to it by special taxes to be  
28 collected in one year, or by annual installments[, the amount  
29 needed to pay the share of any indebtedness apportioned to it].

30       Section 25. Article II subdivision (b) heading of the act is

1 repealed:

2 (b) Consolidation of Boroughs

3 Section 25.1. Article II subdivision (c) heading of the act  
4 is reenacted to read:

5 (c) Creation of Boroughs from Cities of the Third Class

6 Section 26. Sections 231, 232 and 233 of the act are amended  
7 to read:

8 Section 231. Petition for Creation of Borough from a City of  
9 the Third Class.--The court of [quarter sessions] common pleas  
10 shall, upon petition of at least ten percent of the registered  
11 electors of any city of the third class, setting forth that the  
12 inhabitants of the city desire to change the charter of [such]  
13 the city to a borough charter and be governed by the laws of the  
14 Commonwealth relating to boroughs and that [such] the city has  
15 had the city form of government for a period of at least five  
16 years, order an election to be held [on] at the next [day  
17 appointed for the holding of a] general, municipal or primary  
18 election, occurring at least ninety days after the presentation  
19 of [such] the petition. At [such] the election the electors  
20 shall vote for or against the change of the charter of the city  
21 to a borough charter, and the adoption of the borough form of  
22 government. The petition shall set forth the name of the  
23 proposed borough. The number of registered electors required to  
24 sign the petition shall be determined as of the date the  
25 petition is filed.

26 Section 232. Filing Petition; Notice of Election; Return.--  
27 Upon the presentation of [any such] a petition pursuant to  
28 section 231, the court shall determine whether the petition is  
29 in due form and properly signed, and if the court so finds, it  
30 shall enter an appropriate order and direct that the petition

1 shall be filed with the clerk of the court and that a copy of  
2 the petition and order of court shall be filed with the county  
3 board of elections. The county board of elections shall frame  
4 the proper question to be submitted to the electors at the  
5 election ordered by the court. Notice of [such] the time and  
6 purpose of the election shall be given in at least one newspaper  
7 of general circulation of the proper county once a week for four  
8 consecutive weeks [of the time of such election and the purpose  
9 thereof]. The publication of the notice shall be made on behalf  
10 of the petitioners and shall be in the form [as the court may  
11 approve] approved by the court.

12 The county board of elections shall make return of the vote  
13 cast on the question submitted to the clerk of the court of  
14 [quarter sessions] common pleas, which return shall be filed  
15 with the petition. If a majority of those voting on the question  
16 submitted were in favor of the change of the charter of the city  
17 to a borough charter, the court shall order that the record of  
18 the proceedings be recorded in the office for the recording of  
19 deeds of the county, which record shall constitute the charter  
20 of the borough under the name set forth in the petition. The  
21 recorder of deeds in each county affected shall certify to the  
22 Department of State, the Department of Transportation, the  
23 Department of Community and Economic Development and the county  
24 planning commission a copy of the record constituting the  
25 charter of the borough. If a majority of those voting on the  
26 question were against the change of the city charter no further  
27 proceedings shall be had, and the same question shall not again  
28 be submitted for a period of five years following [such] the  
29 election.

30 Section 233. When Borough Government Effective.--Upon the

1 recording of the record of the proceedings as [above] provided  
2 in section 232, the city form of government shall continue in  
3 operation until the first Monday of January next succeeding the  
4 first municipal election, occurring at least ninety days after  
5 the recording of the record, at which time the borough  
6 government shall be organized by the officers elected at [said]  
7 the municipal election in accordance with section 805 [of this  
8 act].

9 Section 27. Section 234 of the act, amended June 25, 2001  
10 (P.L.651, No.56), is amended to read:

11 Section 234. Property; Assets; Liabilities; Ordinances;  
12 Wards; Election Districts and Certain Officers.--Upon the  
13 formation of the borough government, all of the property and  
14 assets of the city shall become the property of the borough, and  
15 [such] the change of government shall not in any way affect any  
16 liabilities incurred, rights accrued or vested, obligations[,]  
17 issued or contracted, or any suits or prosecutions pending or  
18 instituted to enforce any right or penalty accrued, or punish  
19 any offense committed prior to [such] the change. All ordinances  
20 of the former city shall continue in force in the new borough  
21 until altered or repealed in the manner provided by law. The  
22 wards and election districts of the city shall become the wards  
23 and election districts of the borough until altered or changed  
24 as may be provided by law. [And in] In the election of members  
25 of council from the several wards, two members of council shall  
26 be elected from each ward, unless thereafter changed as provided  
27 by law. All constables[, aldermen] and election officers in  
28 office in the city, when the borough government is organized,  
29 shall remain in office until the expiration of their respective  
30 terms of office.

1 Section 28. Section 235 of the act is reenacted to read:

2 Section 235. Costs and Expenses.--Where proceedings are had  
3 to change the charter of a city to a borough, and the vote of  
4 electors is in favor of the change, the costs and expenses of  
5 the proceeding, including all costs of advertising, shall be  
6 paid by the city, otherwise such costs and expenses shall be  
7 paid by the petitioners.

8 Section 29. Article II of the act is amended by adding a  
9 subdivision to read:

10 (d) Consolidation or Merger of Boroughs and  
11 Change of Corporate Name

12 Section 241. Consolidation or merger.

13 A borough may be merged or consolidated into a new or  
14 existing municipal corporation in accordance with the provisions  
15 of 53 Pa.C.S. Ch. 7 Subch. C (relating to consolidation and  
16 merger).

17 Section 242. Change of corporate name.

18 (a) General rule.--Where the corporate name of any borough  
19 shall differ from the name in general usage or from the post  
20 office designation by reason only of minor discrepancies in  
21 spelling, in capitalization or in the manner of compounding the  
22 elements of the name, the court of common pleas, upon petition,  
23 may change the name of the borough to conform to the name in  
24 general usage or to the post office designation. The petition  
25 may be presented by council, pursuant to a resolution, or by at  
26 least 5% of the registered electors of the borough.

27 (b) Petition.--Upon the presentation of the petition, the  
28 court shall fix a day for hearing of which notice shall be given  
29 as directed by the court. At the hearing, an inhabitant of the  
30 borough may remonstrate against the granting of the petition,

1 and the court may grant or refuse the petition as appears just  
2 and proper to the court. If the court grants the petition, the  
3 decree of the court shall be recorded in the office for the  
4 recording of deeds and the corporate name of the borough from  
5 the date of the recording shall be as set forth in the petition.

6 (c) Dissemination of decree.--The recorder of deeds in each  
7 county affected shall certify to the Department of State, the  
8 Department of Transportation, the Department of Community and  
9 Economic Development and the county planning commission a copy  
10 of the decree changing the corporate name of the borough.

11 (d) Liabilities not affected.--A change of corporate name  
12 shall not in any way affect any liabilities incurred, rights  
13 accrued or vested, obligations issued or contracted or any suits  
14 or prosecutions pending or instituted to enforce any right or  
15 penalty accrued or to punish any offense committed prior to the  
16 change regardless of whether the old or the new name of the  
17 borough shall have been used therein.

18 Section 30. Article III heading, sections 301, 302, 303, 304  
19 and 305, Article IV heading, subdivision (a) heading, sections  
20 401, 402, 403, 404, 405 and 406, subdivision (b)(1) heading,  
21 sections 411, 412, 413 and 414, subdivision (b)(2) heading,  
22 sections 416, 417, 418, 419, 420 and 421, subdivision (c)  
23 heading, sections 426, 427 and 428 and subdivision (d) heading  
24 of the act are repealed:

25 [ARTICLE III

26 ANNULMENT OF CHARTERS AND CHANGE

27 OF CORPORATE NAMES

28 Section 301. Petitions for Annulment of Charters or Change  
29 of Corporate Names.--The court of quarter sessions shall, upon  
30 petition of at least ten percent of the registered electors of



1 any borough setting forth that the inhabitants of such borough  
2 desire to annul the charter of the borough or to change the  
3 corporate name of such borough, order an election to be held on  
4 the next day appointed for the holding of a general, municipal  
5 or primary election, occurring at least ninety days after the  
6 presentation of such petition, at which election the electors of  
7 the borough shall vote for or against the annulment of the  
8 charter or the change of name of the borough, as the case may  
9 be. In the case of an annulment of charter, such petition shall  
10 set forth that the petitioners desire that the territory  
11 embraced within such borough shall revert to and become a part  
12 of the township from which it was taken or that it shall be  
13 created a new township of the second class, in which case the  
14 petition shall also set forth the proposed name of the new  
15 township.

16 Section 302. Filing Petition; Notice of Election; Return.--  
17 Upon presentation of such petition for annulment or change of  
18 corporate name to the court, and the entry of the court order  
19 thereon, after determination by the court that the petition is  
20 in due form and properly signed, it shall be filed with the  
21 clerk, and a copy of the petition and order of court shall also  
22 be filed with the county board of elections, which shall frame  
23 the proper question to be submitted to the electors at the  
24 election ordered by the court. Notice of the election shall be  
25 given in at least one newspaper of general circulation in the  
26 borough once a week for four consecutive weeks of the time of  
27 such election and the purpose thereof. The publication of the  
28 notice shall be made on behalf of the petitioners in form as the  
29 court may approve. The county board of elections shall make  
30 return of the vote cast on the question submitted to the clerk

1 of the court of quarter sessions, which return shall be filed  
2 with the petition. If a majority of those voting on the question  
3 submitted were in favor of the annulment of the charter or the  
4 change of the corporate name, as the case may be, the court  
5 shall order that the record of the proceedings shall be recorded  
6 in the office of the recorder of deeds, otherwise no further  
7 proceedings shall be had.

8       Section 303. Territory to Revert to Township; Corporate Name  
9 Changed; Indebtedness.--Upon recording of the record as above  
10 provided, in case of an annulment of charter, the lands embraced  
11 within the limits of such borough, the charter of which is  
12 annulled, shall thereupon in accordance with the prayer in the  
13 petition, either revert to and become a part of the township  
14 from which it was taken, and be under and subject to its  
15 government and control or shall become a new township of the  
16 second class under the name set forth in the petition. In cases  
17 where a borough reverts to the township from which its territory  
18 was taken, the government of the borough shall cease and  
19 terminate on the first Monday of January next succeeding the  
20 election on the question of the annulment of the charter, and  
21 the property and assets of the borough, including all  
22 uncollected taxes and liens, shall be converted into cash by the  
23 township supervisors, and shall be applied only to the payment  
24 of the outstanding indebtedness of the borough, but any moneys  
25 not needed for such purposes shall revert to the township, and  
26 any borough indebtedness not paid as above provided shall be  
27 paid from the taxes assessed and collected from that portion of  
28 said township formerly included within the limits of such  
29 borough. In the case of a change of the corporate name, the  
30 corporate name of said borough shall from the date of the

1 recording of the record of the proceeding be as set forth in  
2 said petition, but such change shall not in any way affect any  
3 liabilities incurred, rights accrued or vested, obligations  
4 issued or contracted, or any suits or prosecutions pending or  
5 instituted to enforce any right or penalty accrued or punish any  
6 offense committed, prior to such change.

7 All costs and expenses incident to the proceedings for the  
8 annulment of the charter or change of the name, as aforesaid,  
9 shall be paid by the petitioners. To secure the payment of costs  
10 and expenses, the court may require the petitioners to file a  
11 bond in such sum as it may fix.

12 Section 304. Officers Where a New Township is Created.--  
13 Where a new township of the second class is created by the  
14 annulment of the charter of a borough, officers for such  
15 township shall be provided in the manner provided by the laws  
16 relating to townships of the second class for such cases and the  
17 new township government shall become effective on the first  
18 Monday of January next succeeding the municipal election,  
19 occurring at least ninety days after the recording of the  
20 proceedings, at which time the officers of the new townships  
21 shall be elected as provided by the laws relating to townships  
22 of the second class for such cases.

23 Section 305. Change of Corporate Name to Conform to General  
24 Usage or to Post Office Designation.--Where the corporate name  
25 of any borough shall differ from the name in general usage or  
26 from the post office designation by reason only of minor  
27 discrepancies in spelling, in capitalization or in the manner of  
28 compounding the elements of such name, the court of quarter  
29 sessions may change the name of such borough to conform to the  
30 name in general usage or to the post office designation upon

1 petition. Such petition shall be presented by the council of the  
2 borough, pursuant to a resolution of the council, or by at least  
3 five percent of the registered electors of the borough. Upon the  
4 presentation of the petition, the court shall fix a day for  
5 hearing of which such notice shall be given as may be directed  
6 by the court. At such hearing, any inhabitant of the borough may  
7 remonstrate against the granting of the petition, and the court  
8 may grant or refuse the petition as to it appears just and  
9 proper. If the court grants the petition, the decree of the  
10 court shall be recorded in the office for the recording of deeds  
11 and the corporate name of the borough from the date of such  
12 recording shall be set forth in such petition, but such change  
13 shall not in any way affect any liabilities incurred, rights  
14 accrued or vested, obligations issued or contracted, or any  
15 suits or prosecutions pending or instituted to enforce any right  
16 or penalty accrued or to punish any offense committed prior to  
17 such change regardless of whether the old or the new name of the  
18 borough shall have been used therein.

#### 19 ARTICLE IV

#### 20 CHANGE OF BOROUGH LIMITS

21 (a) Annexation of Townships of First Class or Parts Thereof  
22 Section 401. Petition For Annexation of a Township of the  
23 First Class or Parts Thereof.--Registered electors equal to at  
24 least ten percent of the registered electors in any township of  
25 the first class contiguous to a borough, or ten percent of the  
26 registered electors residing within any part of a township of  
27 the first class contiguous to a borough, may petition the  
28 council of such borough for the annexation of the township of  
29 the first class, or part thereof, as the case may be, to the  
30 contiguous borough, and for a referendum on the question of such

1 annexation. The number of registered electors required to sign a  
2 petition shall be determined as of the date the petition is  
3 filed. All petitions shall be accompanied by a plot or plots of  
4 the territory to be annexed, showing all streets and highways,  
5 municipal improvements and public buildings. All petitions for  
6 the annexation of a part of a township of the first class shall  
7 include a description of the part of the township sought to be  
8 annexed.

9       Section 402. Referendum in Township and Borough.--The  
10 council of the borough shall cause a question to be submitted at  
11 the first general, municipal or primary election, occurring at  
12 least sixty days after the petition has been filed with it, by  
13 certifying an ordinance duly adopted to the county board of  
14 elections in which any part of the township or borough is  
15 located, for the submission of a proper question on the ballot  
16 or on voting machines at such election in such township, and in  
17 the borough to which the annexation is to be made as provided by  
18 the Pennsylvania election code. Where a part of a township is  
19 involved, the question submitted shall give a brief description  
20 of the territory to be annexed to the borough.

21       Section 403. Result of Election.--If a majority of the  
22 persons voting on such question in the entire township and a  
23 majority of the persons voting on such question in the borough  
24 shall vote in favor of the annexation, then the township of the  
25 first class, or part thereof, as the case may be, shall on the  
26 first Monday of January next following be and become a part of  
27 the borough. If the majority of the votes cast on the question  
28 in either the entire township or in the borough was against  
29 annexation, then the annexation proceeding shall fail and the  
30 question of such annexation shall not again be voted upon for a

1 period of two years from the date of such election.

2 Section 404. Wards.--Until changed in the manner provided by  
3 law, the township of the first class, or part thereof annexed to  
4 the borough, if not divided into wards, shall constitute a  
5 separate new ward of the enlarged borough, if such borough is at  
6 the time divided into wards. If the township, or part of the  
7 township, at the time of annexation was divided into wards, then  
8 each ward of the township, or part of the township, shall  
9 constitute a separate ward of the enlarged borough (if divided  
10 into wards) and shall be consecutively numbered or otherwise  
11 appropriately designated by the council of the borough:

12 Provided, that in any case where a part of a township only is  
13 annexed to a borough divided into wards, the court, in the order  
14 annexing such part of a township to such borough, may include a  
15 provision that such annexed territory shall be attached to an  
16 existing ward or wards of such borough.

17 Section 405. Election Districts and Election Officers.--  
18 Until changed in the manner provided by law, all election  
19 districts in the former township of the first class or part  
20 thereof shall remain as constituted at the time of the  
21 annexation and shall become election districts of the enlarged  
22 borough. All election officers of such election districts in  
23 office at the time of the taking effect of the annexation shall  
24 continue in office until the expiration of their respective  
25 terms, unless sooner removed as provided by law.

26 Section 406. Government Where Lands Lie In Two or More  
27 Counties.--If the lands annexed to the borough are located in a  
28 county or counties different from that of the borough, they  
29 shall be governed for borough purposes as part of the borough to  
30 which annexed, and for county and institution district purposes

1 as part of the county and institution district in which actually  
2 situated, in the manner provided by law in such cases.

3 (b) Annexation of a Township of the Second Class or Part  
4 Thereof by Petition to Court

5 (1) Where territory is in one county:

6 Section 411. Annexation by Court; Decree.--The court of  
7 quarter sessions, may, upon petition, change the limits of any  
8 borough by the annexation of adjacent territory located in a  
9 township of the second class.

10 Section 412. Notice of Application.--Personal notice of the  
11 intended application shall be given to the mayor and council of  
12 the borough, and to the supervisors of the township in which the  
13 petitioners reside. Notice of such application shall also be  
14 given in one newspaper of general circulation of the county,  
15 immediately before the presentation of the petition by  
16 publication once a week for four consecutive weeks.

17 Section 413. Signing and Contents of Petition.--Where the  
18 territory to be annexed is all or part of a second-class  
19 township, the petition shall be signed by a majority in number  
20 of all the freeholders of the territory to be annexed. The  
21 petition shall set forth a description, of the territory to be  
22 annexed and be accompanied with a plot, showing the courses and  
23 distances of the boundaries of the borough before and after the  
24 proposed annexation.

25 Section 414. Decree of Court; Costs; Limitation of  
26 Subsequent Proceedings.--The court after hearing may make such  
27 order on the petition as to right and justice shall appertain.  
28 If the court shall confirm the petition, the said petition and  
29 decree shall be recorded in the recorder's office of the county,  
30 at the expense of the petitioners, who shall pay all other

1 expenses and costs in connection with said petition and decree.  
2 Thenceforth the territory so annexed shall be a part of the  
3 borough, and shall become a part of the contiguous ward or wards  
4 of the borough, or constitute a new ward or wards of the borough  
5 as the court in its order may prescribe. If the court shall not  
6 confirm the petition, no other proceeding for the annexation of  
7 the same territory, or any part thereof, shall be had within  
8 five years thereafter.

9 (2) Where territory is in two or more counties;

10 Section 416. Petition For Annexation.--The court of quarter  
11 sessions may, upon petition, annex to any adjacent borough,  
12 territory in a township or townships of the second class  
13 situated in a county or counties different from that of the  
14 borough.

15 Where the territory to be annexed is all or part of a second-  
16 class township, the petition shall be signed by a majority in  
17 number of all of the freeholders of the territory to be annexed,  
18 and shall be presented to the courts of quarter sessions of all  
19 the counties in which the territory to be annexed and the  
20 borough are situated.

21 Section 417. Notice of Application.--Notice of the intended  
22 application shall be given in one newspaper of general  
23 circulation in the territory to be annexed and in the borough  
24 immediately before the presentation of the petition to any of  
25 the courts by publication once a week for four consecutive  
26 weeks.

27 Section 418. Appointment of Commissioners; View; Report.--  
28 Upon presentation of the petition, the several courts shall each  
29 appoint one person as commissioner, and the commissioners so  
30 chosen shall select an additional one who shall be a surveyor or



1 registered engineer.

2 The commissioners shall be severally sworn or affirmed,  
3 within sixty days from their appointment and selection, and  
4 shall view the territory sought to be annexed. They shall report  
5 to the several courts, as soon thereafter as possible. The  
6 report shall state that the commissioners were sworn or  
7 affirmed, and that they were all present at the view. If the  
8 commissioners favor the proposed annexation, they shall  
9 accompany their reports with a plot, showing the courses and  
10 distances of the boundaries of the territory proposed to be  
11 annexed and the quantity of land therein contained and the ward  
12 or wards of the borough of which such territory shall be a part  
13 or that it shall constitute a new ward or wards.

14 Section 419. Rules On Petitioners.--Any person interested  
15 may petition any of the courts for a rule on the petitioners to  
16 show cause why the report should not be approved. The rule shall  
17 be returnable within such time as the court may fix. If the rule  
18 is confirmed, the persons signing the original petition shall  
19 pay the costs of the entire proceedings; if such rule is  
20 discharged, the costs shall be paid by those petitioning for its  
21 issue.

22 Section 420. Approval by Court; Compensation of  
23 Commissioner; Limitation of Subsequent Proceedings.--If each of  
24 the courts shall approve the report of the commissioners, the  
25 whole proceeding shall be entered on the record of each court,  
26 and the territory annexed shall be part of the borough. Each  
27 commissioner shall receive such compensation for his services as  
28 the court shall allow to be paid by the original petitioners. If  
29 the commissioners shall not favor or if either court shall not  
30 approve the annexation, no other proceeding for the annexation

1 of the same territory, or any part thereof, shall be had within  
2 five years thereof.

3 Section 421. Government of Territory.--Where territory is so  
4 annexed to a borough of an adjoining county, such territory so  
5 annexed, shall be governed, for borough purposes, as a part of  
6 the borough to which they are annexed, and for county and  
7 institution district purposes, as a part of the county and  
8 institution district in which actually situated, in the manner  
9 provided by law in such cases.

10 (c) Annexation of Lands in Townships of the Second Class  
11 by Petition to Council

12 Section 426. Annexation; Ordinance; Limitation of Subsequent  
13 Proceedings.--Any borough may, by ordinance, annex adjacent land  
14 situate in a township of the second class in the same or any  
15 adjoining county, upon petition, and may attach such annexed  
16 territory to an existing ward or wards. The petition shall be  
17 signed by a majority in number of all of the freeholders of the  
18 territory to be annexed. If an ordinance to make such annexation  
19 is defeated, no other proceeding for the annexation of the same  
20 territory, or any part thereof, shall be had within five years  
21 thereof.

22 Section 427. Procedure.--A certified copy of any ordinance,  
23 adopted together with a description of the land to be annexed  
24 and a plot showing the courses and distances of the boundaries  
25 of the borough before and after such proposed annexation, shall  
26 be filed in the court of quarter sessions of the county, or, in  
27 case the land proposed to be annexed is situate in an adjacent  
28 county, then in the courts of both counties. A notice of such  
29 filing shall also be filed in the office of the county board of  
30 elections of the proper county. Thereupon the territory proposed

1 to be annexed shall be a part of the borough; except when any  
2 ordinance and plot are filed in the office of the clerk of the  
3 court of quarter sessions within two months of any general,  
4 municipal, or primary election, in which case the property  
5 proposed to be annexed shall not become a part of the borough  
6 until the day succeeding such election.

7 Section 428. Government of Territory.--Where territory is  
8 annexed to a borough of an adjoining county, such territory so  
9 annexed, shall be governed, for borough purposes, as a part of  
10 the borough to which it is annexed, and, for county and  
11 institution district purposes, as part of the county or  
12 institution district in which actually situated, in the manner  
13 provided by law in such cases.

14 (d) Annexation of Adjacent Territory Owned by a Borough]

15 Section 31. Section 429 of the act, amended June 24, 1968  
16 (P.L.246, No.115), is repealed:

17 [Section 429. Annexation by Ordinance; Procedure.--(a) Any  
18 borough which, on or before May 1, 1967, owned territory in a  
19 township, which territory is contiguous to the borough, and is  
20 used by the borough for recreational or park purposes, may annex  
21 such territory by ordinance, such ordinance to set forth a  
22 description of the territory to be annexed and the courses and  
23 distances of the boundaries of the territory. A copy of such  
24 ordinance shall be certified to the Department of Community  
25 Affairs.

26 (b) Upon such annexation by ordinance, a plan of the  
27 territory annexed shall be filed by the borough council in the  
28 office of the county commissioners and with the clerk of the  
29 court of quarter sessions and, thereupon, the annexation shall  
30 become effective. The annexation proceedings authorized by this

1 section are in addition to, and not in substitution of,  
2 proceedings otherwise provided by law for annexation of  
3 territory, and may be followed without reference to or  
4 compliance with any other such provisions.]

5 Section 32. Article IV subdivision (e) heading, sections  
6 431, 432 and 433 and subdivision (f) heading of the act are  
7 repealed:

8 [(e) Detachment of Territory

9 Section 431. Petitions to Detach Territory.--The court of  
10 quarter sessions, upon petition, may change the limits of any  
11 borough by detaching territory therefrom and annexing the same  
12 to a contiguous township or borough in cases where the line  
13 between a borough and a township or another borough shall  
14 separate the lands of any person, or where the territory of any  
15 borough is divided by reason of natural or artificial causes, or  
16 where any part of a borough is so located that access to the  
17 remaining portion can be had only by passing through some other  
18 township or borough, or where any part of a borough is so  
19 located that the convenience of the inhabitants thereof would be  
20 served by the detachment of such part.

21 Section 432. Signing and Contents of Petition.--The petition  
22 shall be signed by a majority in number of the freeholders in  
23 the territory to be detached. The petition shall contain the  
24 names of the contiguous township or borough to which the  
25 territory is proposed to be annexed, and shall set forth a  
26 description of the territory to be detached, and be accompanied  
27 with a plot showing the courses and distances of the boundaries  
28 of such township or borough before and after the annexation of  
29 the detached territory.

30 Section 433. Filing Petition; Notice; Decree.--Upon its

1 presentation, the court shall order the petition filed and shall  
2 fix a time for hearing. Notice of the filing of the petition  
3 shall be given to the supervisors of the township and to the  
4 secretary of the borough and president of council of each  
5 borough affected, at least twenty days prior to the date of  
6 hearing. If, after hearing, the court shall determine in favor  
7 of the proposed detachment of territory, it shall state in its  
8 decree to what adjacent township or borough the territory so  
9 detached shall be annexed. The petition and decree shall be  
10 recorded in the office for the recording of deeds of the county  
11 and thenceforth the boundaries of the borough and of the  
12 adjacent township or borough shall be as decreed by the court.  
13 The costs of the proceedings, including the cost of the  
14 recording of the petition and decree, shall be paid by the  
15 petitioners.

16 (f) Adjustment of Indebtedness and Public Property]

17 Section 33. Section 441 of the act, amended October 9, 1967  
18 (P.L.399, No.181), is repealed:

19 [Section 441. Adjustment of Indebtedness and Public Property  
20 Where Part of Township Annexed.--Whenever a part of any township  
21 is annexed to any borough, the borough council and the governing  
22 body of the township shall make a just and proper adjustment of  
23 all the public property, both real and personal, owned by the  
24 township at the time of such annexation, including funds, as  
25 well as indebtedness, between the township and the borough.

26 In adjusting property and indebtedness, streets, sewer and  
27 utilities shall not be considered except to the extent that  
28 current and unpaid indebtedness was incurred for the  
29 construction and improvement thereof. In making such adjustment  
30 and apportionment, the township shall be entitled a division of

1 the property and indebtedness in proportion that the assessed  
2 valuation of the taxable real estate in the annexed portion of  
3 the township bears to the assessed valuation of the taxable real  
4 estate in the entire township immediately prior to the  
5 annexation and the borough shall be entitled to the remainder of  
6 such property and indebtedness. Where indebtedness was incurred  
7 by the township for an improvement located wholly within the  
8 limits of the territory annexed to the borough, such  
9 indebtedness shall be assumed by the borough and where any part  
10 of such improvement is located partly within the limits of such  
11 annexed territory, the part of such indebtedness representing  
12 the part of the improvement located within such annexed  
13 territory shall be assumed by the borough, and the adjustment  
14 and apportionment of any remaining debt and public property of  
15 the township shall be made as hereinabove provided. Such  
16 adjustment and apportionment shall be reduced to writing, and  
17 shall be duly executed and acknowledged by the clerk or  
18 secretary of the borough and shall be filed with the clerk of  
19 the court of quarter sessions of the county or counties in which  
20 the borough and the township are located, and a copy thereof  
21 shall also be filed with the Department of Community Affairs of  
22 the Commonwealth.]

23 Section 34. Sections 442 and 443 of the act are repealed:

24 [Section 442. Judicial Adjustment on Failure of Agreement.--  
25 In case the borough council and the governing body of the  
26 township cannot, within six months after an annexation becomes  
27 effective, arrive at a determination of the cost of value of  
28 certain improvements as required by the act of July 20, 1953  
29 (P.L.550), entitled "An act providing for and regulating the  
30 annexation of parts of a second class township to boroughs,

1 cities and townships," or of the adjustment of indebtedness and  
2 public property as required by section 441 of this act, the  
3 borough council or the governing body of the township may appeal  
4 to the court of quarter sessions of the county in which the  
5 borough is located. The court shall then appoint three  
6 disinterested commissioners, all residents and taxpayers of the  
7 county, but none residing in or owners of real estate in the  
8 township or the borough. Such commissioners, after hearing,  
9 notice of which shall be given to the township and the borough  
10 as the court shall direct, shall make report to the court,  
11 stating the cost and value of improvements and/or making an  
12 apportionment and adjustment according to the provisions of this  
13 article, of all the property, as well as the indebtedness, if  
14 any, to and between the borough and the township. Such report  
15 shall state the amount, if any, that shall be due and payable  
16 from the borough, or from the township to the borough, as well  
17 as the amount of indebtedness, if any, that shall be assumed by  
18 the borough or the township, or both of them.

19 Section 443. Proceedings on Judicial Adjustment.--The  
20 commissioners shall give the borough and the township at least  
21 five days' notice of the filing of their report. Unless  
22 exceptions are filed to such report within thirty days after the  
23 date of filing, the report shall be confirmed by the court  
24 absolutely. Any sum awarded by such report to the township or to  
25 the borough shall be a legal and valid claim in its favor  
26 against the borough or township charged therewith. Any property,  
27 real or personal, given to the borough or to the township shall  
28 become its property. Any claim of indebtedness charged against  
29 the borough may be collected from it.]

30 Section 35. Section 444 of the act, repealed in part June 3,

1 1971 (P.L.118, No.6), is repealed:

2 [Section 444. Exceptions to Report.--In case exceptions are  
3 filed to the report of the commissioners, the court shall  
4 dispose of the same, taking testimony thereon if deemed  
5 advisable. The court shall enter its decree confirming the  
6 report of the commissioners, or modifying the same as to it  
7 seems just and proper.]

8 Section 36. Sections 445, 446, 447 and 448, Article IV  
9 subdivision (g) heading and sections 451, 452 and 453 of the act  
10 are repealed:

11 [Section 445. Compensation and Expenses of Commissioners;  
12 Costs.--The commissioners shall be allowed such compensation and  
13 expenses for their services as the court shall fix. The costs of  
14 the proceedings, including the compensation and expenses of the  
15 commissioners, shall be apportioned by the court between the  
16 borough and the township as it deems proper.

17 Section 446. Where Borough Located In Two or More  
18 Counties.--In case the territory of a borough is located in two  
19 or more counties, the court of quarter sessions of the county in  
20 which the most populous part of the territory of the borough is  
21 located shall have exclusive jurisdiction over the proceedings  
22 to determine the cost or value of certain improvements in the  
23 township and to adjust and apportion the indebtedness between  
24 the township and the borough.

25 Section 447. Payment of Amounts Due; Taxation.--The borough  
26 or the township, as the case may be, shall have power to issue  
27 and deliver to the other municipality interest-bearing bonds in  
28 liquidation of the indebtedness ascertained to be its  
29 proportionate share payable, if such bonds are acceptable to the  
30 township or the borough, as the case may be, entitled to receive



1 the same. The court may also make all needful orders for the  
2 collection and payment by the township or the borough, by  
3 special taxes to be collected in one year, or by annual  
4 installments, the amount needed to pay the share of any  
5 indebtedness apportioned to it.

6 Section 448. Collection of Taxes Levied Prior to  
7 Annexation.--All taxes assessed and levied against property in  
8 annexed territory prior to the effective date of the annexation  
9 shall be paid to the township, and the collection and  
10 enforcement thereof shall be as though the annexation had not  
11 taken place.

12 (g) When Territory is Detached

13 Section 451. Appointment of Auditor.--Whenever, the court  
14 shall decree the detachment of territory from a borough, and the  
15 boroughs and townships affected thereby cannot amicably agree as  
16 to the adjustment of indebtedness, if any, between themselves,  
17 the court of quarter sessions, upon petition of either the  
18 borough or township, shall appoint an auditor, who shall give  
19 such notice of a hearing as the court shall direct to all  
20 parties in interest.

21 Section 452. Duties of Auditor.--The auditor shall hear all  
22 parties in interest, make necessary investigation, and report to  
23 the court the total valuation for taxation purposes of the  
24 borough and townships affected, the assessed valuation of the  
25 portion detached, the amount of indebtedness of the several  
26 boroughs and townships, and the value of all property  
27 transferred from the borough to a township or borough. The  
28 auditor shall also report a form of decree, making such  
29 adjustment of the indebtedness of the boroughs and townships  
30 affected as he shall deem equitable.

1       Section 453. Confirmation of Report; Costs.--The report and  
2 decree shall be confirmed nisi by the court, and shall become  
3 absolute unless exceptions be filed thereto. In case exceptions  
4 are filed within thirty days after the report is filed in court,  
5 the court shall dispose of the same taking testimony therein if  
6 it deems the same advisable. The court shall enter its decree  
7 confirming the report of the auditor or modifying the same as to  
8 it appears just and proper. The decision of the court shall be  
9 final. The costs and expenses of the proceedings shall be paid  
10 as the court shall direct.]

11       Section 37. Article V heading of the act is reenacted to  
12 read:

13                               ARTICLE V

14                               BOROUGH BOUNDARIES

15       Section 38. Sections 501, 502, 503, 504, 505 and 506 of the  
16 act are amended to read:

17       Section 501. Stream Boundaries.--Whenever any borough is  
18 bounded by the nearest margin of a navigable stream, and the  
19 opposite [township, borough, or city as the case may be,]  
20 municipal corporation is also bounded by the nearest margin of  
21 the same stream, the middle of [such] the stream shall be the  
22 boundary between [such] the borough and the opposite [township,  
23 borough or city] municipal corporation. Nothing contained in  
24 this section shall be construed to repeal any local or special  
25 law providing to the contrary.

26       Section 502. Petition to Court; Establishment of Disputed  
27 Boundaries.--The court of [quarter sessions] common pleas may,  
28 upon presentation of a petition, [(i) alter the lines of a  
29 borough and any adjoining township, borough or city so as to  
30 suit the convenience of the inhabitants thereof, (ii) cause the

1 lines and boundaries of boroughs to be ascertained and  
2 established, and (iii)] ascertain and establish disputed  
3 boundaries between [two or more boroughs, between boroughs and  
4 cities, or between boroughs and townships] a borough and another  
5 municipal corporation. When [any such] a petition is presented,  
6 the court may require the petitioners to file a bond in  
7 sufficient sum to secure the payment of all costs of the  
8 proceeding.

9 Section 503. [Petition to Court;] Commissioners; Report.--  
10 Upon application by petition, in accordance with section 502,  
11 the court shall appoint three impartial persons as commissioners  
12 [three impartial persons], one of whom shall be a surveyor or  
13 registered engineer[, to inquire into the prayer of the  
14 petition]. After giving notice to interested parties  
15 [interested] and upon publication of the petition, as directed  
16 by the court, the commissioners shall hold a hearing and view  
17 the disputed lines and boundaries[, and they or any two of them  
18 shall make a plot or draft of the lines and boundaries proposed  
19 to be altered, ascertained and established if the same cannot be  
20 fully designated by natural lines and boundaries]. [The] A  
21 majority of the commissioners[, or any two of them,] shall make  
22 their report and recommendations to the court [together with  
23 their opinion of the same], accompanied by a plot or draft of  
24 the lines and boundaries proposed to be ascertained and  
25 established if they cannot be fully designated by natural lines  
26 or boundaries. Upon the filing of [any such] the report, the  
27 same shall be confirmed [nisi] subject to exceptions filed under  
28 section 504, and the court may, by its order, direct publication  
29 of the report and require [such] notice to be given by the  
30 petitioners to the interested parties [interested] as [it] the

1 court deems proper.

2 Section 504. Exceptions and Procedure.--Exceptions to [any  
3 such] the report may be filed by [any] an interested person or  
4 political subdivision [interested], within thirty days after the  
5 filing of the report, and the court [may thereupon fix] shall  
6 set a day for the hearing of [such] the exceptions[, of which  
7 such notice]. Notice of the hearing shall be given as the court  
8 may direct. After hearing, the court [shall have power to] may  
9 sustain [such] the exceptions, [or to] dismiss them and confirm  
10 the report[, or [to] refer the report back to the same or new  
11 commissioners with [like] authority to make another report [on  
12 which like proceedings may be had. Where]. If no exceptions are  
13 filed within thirty days after the filing of the report, the  
14 court shall confirm the [same] report absolutely. When [any] a  
15 report is confirmed absolutely, the court shall enter a decree  
16 [altering or] ascertaining and establishing the lines and  
17 boundaries as shown in [said] the report. The court shall direct  
18 publication of the decree establishing the lines and boundaries.

19 Section 505. Compensation and Expenses of Commissioners;  
20 Costs.--The compensation and expenses of commissioners appointed  
21 to [alter or] ascertain and establish borough boundaries shall  
22 be in [an] a reasonable amount approved by the court. The court  
23 shall by its order provide how the costs and expenses of [such]  
24 the proceedings, including the furnishing and placing of  
25 monuments, shall be paid, and may assess them against the  
26 petitioners, the borough[, township or city interested, or any  
27 of them] or any interested municipal corporation, individually  
28 or in apportioned amounts as the court deems equitable.

29 Section 506. Boundary Monuments.--[Whenever any such borough  
30 line is altered or ascertained and established, the court shall

1 cause the same to be appropriately marked. Following any change  
2 of borough limits pursuant to any procedure set forth in article  
3 IV hereof, the annexing municipality shall be responsible for  
4 making the boundary as newly established.] The court shall cause  
5 a borough line ascertained and established pursuant to this  
6 article to be appropriately marked.

7 Section 39. Article VI heading of the act is reenacted to  
8 read:

9 ARTICLE VI

10 BOROUGH WARDS

11 Section 40. Section 601 of the act, amended June 25, 2001  
12 (P.L.651, No.56), is amended to read:

13 Section 601. Power of [Court] Council to Erect, Abolish and  
14 Change Wards and to Adjust, Alter and Establish Lines.--[The  
15 court of quarter sessions, upon petition, may](a) In addition  
16 to reapportionment initiated in accordance with 53 Pa.C.S. Pt.  
17 II Ch. 9 (relating to municipal reapportionment) and section 11  
18 of Article IX of the Constitution of Pennsylvania, council may,  
19 by ordinance, divide boroughs into wards, erect new wards out of  
20 two or more adjoining wards or parts thereof, consolidate two or  
21 more wards into one ward, divide any ward already erected into  
22 two or more wards, alter the lines of any two or more adjoining  
23 wards or cause the lines or boundaries of wards to be  
24 ascertained or established, or abolish all wards. No borough  
25 shall be divided or redivided into more than thirteen wards.

26 (b) No ward shall be created containing less than three  
27 hundred registered electors [therein] in the ward, and all wards  
28 which now or at any time hereafter shall contain less than three  
29 hundred fifty registered electors [therein] in the ward may[, in  
30 the discretion of the court,] be abolished and [if so

1 abolished,] the territory [thereof] of the ward shall be  
2 distributed among the remaining wards [in such manner as the  
3 court of quarter sessions shall direct] as council shall  
4 determine. All other wards [as heretofore established] shall  
5 remain as [heretofore] established, until altered or divided as  
6 provided in this article.

7 (c) In boroughs [wherein] where any ward shall be abolished  
8 as [herein] provided under this section and the number of wards  
9 shall be reduced to less than five, then the member of council  
10 or members of council in the ward or wards abolished shall  
11 continue in office for the term for which elected and shall  
12 become a member of council or members of council at large from  
13 [such] the borough.

14 [If the latest official census of the United States shall  
15 disclose that in any borough the population of any ward exceeds  
16 by fifty percent or more or is fifty percent or more less than  
17 the average population of all the wards of such borough, the  
18 court of quarter sessions upon application of the borough  
19 council or, in case of failure of the council so to apply, upon  
20 petition of any citizen of the borough, shall adjust the  
21 boundaries of any or all of the wards in such borough, for the  
22 purpose of more nearly equalizing ward populations throughout  
23 the said borough. The provisions of sections 602, 603 and 604 of  
24 this act shall not apply in cases of ward boundary adjustment as  
25 provided for by this paragraph.]

26 (d) All wards in the borough shall be numbered and composed  
27 of compact and contiguous territory as nearly equal in  
28 population as practicable as officially and finally reported in  
29 the latest official census.

30 Section 41. Section 602 of the act, amended October 9, 1967

1 (P.L.399, No.181), is amended to read:

2 Section 602. [Signing Petition; Appointment of  
3 Commissioners; Report.--The petition referred to in the first  
4 paragraph of section 601 of this act shall be presented by the  
5 council of the borough pursuant to a resolution of the council,  
6 or by at least five percent of the registered electors of the  
7 borough, or in case of a proposal affecting only a portion of  
8 the borough by at least five percent of the registered electors  
9 of the ward or wards which would be affected by such proposal,  
10 as the case may be. The court shall thereupon consider and  
11 determine the matter and may appoint three impartial persons,  
12 none of whom shall be residents or property owners in the  
13 borough, as commissioners to inquire into the propriety of  
14 granting the prayer in the petition. The commissioners, or any  
15 two of them, shall make a report to the court, within sixty days  
16 after their appointment and shall accompany it with a plot,  
17 showing the boundaries of the proposed wards of the borough, or  
18 the wards before and after the proposed change, as the case may  
19 be, whenever the same cannot be fully designated by natural  
20 lines, and with information on the population and the number of  
21 registered electors in the borough and in all wards and proposed  
22 new wards with which such report is concerned.] Petition of  
23 Electors.--(a) At least five percent of registered electors of  
24 the borough or, in the case of a proposal affecting only a  
25 portion of the borough, at least five percent of the registered  
26 electors of the ward or wards which would be affected by the  
27 proposal may petition council to initiate proceedings under  
28 section 601 and may present to council a plot showing the  
29 boundaries of the proposed wards of the borough. Council shall,  
30 by motion approved by a majority of council and within ninety

1 days of presentment of the petition, determine whether to  
2 initiate proceedings under section 601.

3 (b) In the event that council has not approved a motion  
4 within ninety days after the presentment of a petition under  
5 subsection (a), any ten registered electors may petition the  
6 court of common pleas and contest the existing apportionment as  
7 violating section 601(b) or (d). The proceedings before the  
8 court shall be conducted in accordance with 53 Pa.C.S. §§ 906  
9 (relating to contest of reapportionment by governing body) and  
10 907 (relating to costs and expenses of contest).

11 Section 42. Sections 603, 604, 605 and 606 of the act are  
12 amended to read:

13 Section 603. [Confirmation of Report; Review.--Upon its  
14 presentation, the court shall confirm the report nisi, and shall  
15 direct that notice of the filing of the report] Notice of  
16 Ordinance.--(a) Notice of an ordinance enacted in accordance  
17 with section 601 shall be given by publication once in a  
18 newspaper of general circulation [stating that exceptions may be  
19 filed to such report within thirty days after the same was  
20 filed. The court shall confirm the report absolutely if no  
21 exceptions are filed or if it dismisses the exceptions. The  
22 court may remand the report to the commissioners for a review,  
23 if in its opinion a better adjudication may thereby be secured].

24 (b) A copy of the ordinance, along with a plot showing the  
25 boundaries of the wards established, shall be forwarded to the  
26 county board of elections.

27 Section 604. [Compensation of Commissioners.--The  
28 commissioners shall each receive such compensation for their  
29 services as the court shall fix.] (Reserved).

30 Section 605. [Payment of Costs; Bond.--Such compensation and



1 all costs and expenses incurred in such proceedings shall be  
2 paid by the borough or the petitioners, as directed by the  
3 court. To secure such reimbursement, the court may require the  
4 petitioners, other than the borough council, to file a bond with  
5 their petition.] (Reserved).

6 Section 606. Terms of Officers.--Whenever [the court]  
7 council shall divide [any] a borough into wards, it shall  
8 request the court of common pleas to appoint for each ward a  
9 judge and two inspectors of election to hold elections until  
10 [such] the officers may be elected as provided by law. In all  
11 other cases, officers in office at the time any changes are made  
12 pursuant to the preceding sections of this article, shall remain  
13 in office until the expiration of the terms for which they have  
14 been elected. In case any vacancy shall occur, the [same]  
15 vacancy shall be filled by the council, until the first Monday  
16 of January next succeeding the election at which [such] the  
17 officers are to be elected, as provided in article VIII [of this  
18 act].

19 Section 42.1. The act is amended by adding a section to  
20 read:

21 Section 606.1. Pennsylvania Election Code.--Nothing in this  
22 article shall be construed as affecting the powers and duties of  
23 the court of common pleas or the county board of elections, and  
24 restrictions on alteration of election districts as provided in  
25 Article V of the act of June 3, 1937 (P.L.1333, No.320), known  
26 as the "Pennsylvania Election Code."

27 Section 43. Section 607 of the act is repealed:

28 [Section 607. Change of Names and Numbers.--Boroughs may, by  
29 ordinance, change the name of any ward to a number, or change  
30 the number of any ward to name. No such ordinance shall go into

1 force until a certified copy thereof is filed with the clerk of  
2 the court of quarter sessions.]

3 Section 44. Article VII heading of the act is reenacted to  
4 read:

5 ARTICLE VII

6 ASSOCIATIONS AND ORGANIZATIONS

7 Section 45. Section 701 of the act, amended February 21,  
8 2002 (P.L.94, No.7), is amended to read:

9 Section 701. State Association of Boroughs.--(a) The  
10 boroughs of the Commonwealth are authorized to organize a State  
11 Association of Boroughs for the purpose of advancing the  
12 interests of the boroughs. [Any] A borough may join the [said]  
13 association by motion of council and payment of the annual dues.  
14 [Council may designate one or more delegates from the elected or  
15 appointed officials of the borough to attend the annual meeting  
16 of the association, which shall be held in the Commonwealth in  
17 accordance with the procedure adopted by the association. In  
18 addition to any compensation allowed by law for each delegate,  
19 the borough may, for each delegate, pay expenses which shall be  
20 limited to the registration fee, mileage for use of personal  
21 vehicle or reimbursement of actual transportation expense going  
22 to and returning from such meeting plus all other actual  
23 expenses that the council may have agreed to pay. Every delegate  
24 attending the annual meeting shall submit to the council an  
25 itemized account of expenses incurred thereat. The council may  
26 authorize borough employes to be compensated at their regular  
27 employe rate during their attendance at the annual meeting. The  
28 borough council solely may authorize the mayor and any council  
29 member who is not employed by the borough to receive total or  
30 partial reimbursement for lost wages or salary while attending

1 the annual meeting, provided that sufficient documentation is  
2 presented to the borough council to justify the reimbursement.  
3 The time spent in attending said meeting shall not be more than  
4 four days, including the time employed in traveling thereto and  
5 therefrom.] Each borough, becoming a member of the association,  
6 shall pay [such] reasonable dues as may be fixed by the  
7 association.

8 (b) The dues and other revenues received by the association  
9 shall be used to pay for services, publications and other  
10 expenses authorized or ratified by the association, or incurred  
11 in behalf of the association, by its officers and committees.

12 Section 46. The act is amended by adding sections to read:

13 Section 701.1. Authorization to Attend and Payment of  
14 Expenses for Attending Meetings, Etc.--(a) Council may, by  
15 motion, designate one or more delegates from the elected or  
16 appointed officers of the borough to attend the annual meeting  
17 of the association, which shall be held in this Commonwealth in  
18 accordance with the procedure adopted by the association.

19 (b) Council may, by motion, designate one or more elected or  
20 appointed officers or employes of the borough to attend the  
21 annual meeting as nondelegates or to attend a conference,  
22 educational training or committee meeting of the association.

23 (c) In addition to any compensation allowed under section  
24 701.2, council may, for each attending delegate, elected or  
25 appointed officer or employe, pay expenses upon receipt of an  
26 itemized account of expenses, which shall be limited to the  
27 registration fee, mileage for use of personal vehicle or  
28 reimbursement of actual transportation expenses going to and  
29 returning from the respective annual meeting, conference,  
30 educational training or committee meeting of the association

1 plus all other actual expenses that council may have agreed to  
2 pay. Notwithstanding the provisions of this subsection, at least  
3 one member of council shall be allowed expenses which shall be  
4 limited to the registration fee, lodging, meals, mileage for use  
5 of personal vehicle or reimbursement of actual transportation  
6 expenses going to and returning from the meeting plus all other  
7 actual expenses that the council may have agreed to pay.

8 Section 701.2. Compensation of Officers and Employees for  
9 Attending Meetings, Etc.--(a) Council may authorize borough  
10 employees, including the mayor and members of council if they are  
11 employees of the borough, to be compensated at their regular  
12 employe rate during their attendance at the annual meeting or a  
13 conference, educational training or committee meeting of the  
14 association.

15 (b) Council solely may authorize the mayor and any council  
16 member who is not employed by the borough to receive total or  
17 partial reimbursement for lost wages or salary, including those  
18 from self-employment, while attending the annual meeting or a  
19 conference, educational training or committee meeting of the  
20 association if sufficient documentation is presented to council  
21 to justify the reimbursement.

22 (c) The maximum time for which a borough employe or mayor or  
23 council member not employed by the borough shall be reimbursed  
24 for lost wages or salary while attending the annual meeting or a  
25 conference, educational training or committee meeting of the  
26 association shall not be more than four days, including time  
27 spent traveling to and from the event.

28 (d) The borough council may authorize a mayor or any council  
29 member employed by the borough to be compensated at their  
30 regular employe rate and a mayor or council member who is not

1 employed by the borough to receive total or partial  
2 reimbursement for lost wages or salary, including those from  
3 self-employment, if they attend a meeting for which the mayor or  
4 council member is an officer, a member of the board of  
5 directors, a member of the executive committee, a member of a  
6 standing committee or a trustee of the association, subject to  
7 the following limitations which shall include time spent  
8 traveling to and from the event:

9     (1) The compensation of a mayor or council member for  
10 attending a meeting of a standing committee of the association  
11 shall be limited to two days per year of regular employe rate  
12 compensation or lost wages or salary, as applicable.

13     (2) The compensation of a mayor or council member for  
14 attending a meeting for which the mayor or council member is a  
15 trustee for the association shall be limited to four days per  
16 year of regular employe rate compensation or lost wages or  
17 salary, as applicable.

18     (3) The compensation of a mayor or council member for  
19 attending a meeting for which the mayor or council member is an  
20 officer, member of the board of directors or a member of the  
21 executive committee of the association shall be limited to  
22 fifteen days per year of regular employe rate compensation or  
23 lost wages or salary, as applicable.

24     (4) A mayor or council member identified under paragraph  
25 (1), (2) or (3) may not be compensated by the borough under this  
26 subsection to the extent that the mayor or council member  
27 receives compensation from the association or a board or  
28 committee of the association for attending the meeting.

29     Section 47. Section 702 of the act, amended February 21,  
30 2002 (P.L.94, No.7), is amended to read:

1       Section 702. County and Regional Associations of Boroughs.--  
2       The boroughs of any county or of two or more adjoining or nearby  
3       counties, may organize a county or regional association of  
4       boroughs, composed of elected and appointed borough [officials]  
5       officers in [such] the county or counties, organized for the  
6       purpose of furthering the interests of the boroughs in the  
7       association and their inhabitants. [Any] A borough may annually  
8       appropriate a sum of money, not exceeding [seventy-five dollars  
9       (\$75)] one hundred dollars (\$100) for the support of [such] the  
10      association. For attendance at a meeting of the county or  
11      regional association of which [such] the borough is a member,  
12      the borough may, for each delegate, pay expenses which shall be  
13      limited to the registration fee, mileage for use of personal  
14      vehicle or reimbursement of actual transportation expense going  
15      to and returning from [such] the meeting plus all other actual  
16      expenses that the council may have agreed to pay. Every delegate  
17      attending the [annual] meeting shall submit to the council an  
18      itemized account of expenses incurred [thereat]. The council may  
19      authorize borough employes to be compensated at their regular  
20      employe rate during their attendance at the [annual] meeting.  
21      The borough council solely may authorize the mayor and any  
22      council member who is not employed by the borough to receive  
23      total or partial reimbursement for lost wages or salary while  
24      attending the [annual] meeting, provided that sufficient  
25      documentation is presented to the borough council to justify the  
26      reimbursement. [Any such] A county or regional association of  
27      boroughs shall have the option of admitting to membership  
28      representatives of political subdivisions other than boroughs  
29      within [such] the county or counties but representatives of  
30      [such] the other political subdivisions shall have no voice or

1 vote in any matter that is or may be of concern solely to  
2 boroughs.

3 Section 48. Section 703 of the act, amended January 28, 1988  
4 (P.L.21, No.10), is amended to read:

5 Section 703. Other Associations and Organizations.--[Any]

6 (a) A borough, by motion of council, may:

7 (1) join other associations and organizations concerned with  
8 municipal or governmental affairs; [may]

9 (2) pay dues to and appropriate moneys for the support of  
10 and participation in [such] the associations and organizations;  
11 and [may]

12 (3) send delegates to meetings or [conventions] conferences  
13 of [such] associations and organizations.

14 In addition to any compensation allowed by law for each  
15 delegate, the borough may, for each delegate, pay expenses which  
16 shall be limited to the registration fee, mileage for use of  
17 personal vehicle or reimbursement of actual transportation  
18 expense going to and returning from [such] the meeting or  
19 conference plus all other actual expenses that the council may  
20 have agreed to pay. Every delegate attending the annual meeting  
21 or conference shall submit to the council an itemized account of  
22 expenses incurred [thereat]. The council may authorize borough  
23 employees to be compensated at their regular employe rate during  
24 their attendance at the annual meeting or conference. The time  
25 spent in attending the meeting or [convention] conference shall  
26 not be more than four days, including the time employed in  
27 traveling [thereto and therefrom] to and from the meeting or  
28 conference.

29 [Any] (b) A borough, by motion of council, may authorize any  
30 of its officers [and/or] and employes to attend meetings of

professional organizations and associations, or [study or] educational training sessions for persons holding the same or similar office or employment, and may pay all or any specified portion of the necessary expenses incident to their attendance at [such] the meetings or sessions.

Every person attending [any convention] a conference, meeting or [study or] educational training session referred to in this section shall submit to the council an itemized account of [his] the person's expenses [thereat], including traveling expenses or mileage, that council may have agreed to pay.

Section 49. Section 704 of the act, amended May 7, 1998 (P.L.347, No.54), is amended to read:

Section 704. Associations and Organizations for Mayors.-- [Any] A mayor may join a mayors' association and borough council shall pay reasonable dues, not to exceed one hundred dollars (\$100), as may be fixed by the association for each mayor belonging to that association. The mayor may attend the annual meeting of the association, which shall be held in [the] this Commonwealth in accordance with the procedure adopted by the association. [Each] A mayor shall be allowed expenses which shall be limited to the registration fee, lodging, meals, mileage for use of personal vehicle or reimbursement of actual transportation expense going to and returning from [such] the meeting plus all other actual expenses that the council may have agreed to pay. Every mayor attending the annual meeting shall submit to the council an itemized account of expenses incurred at the annual meeting. The time spent in attending [said] the meeting shall not be more than four days, including time in traveling to and from the meeting.

Section 50. Section 705 of the act, added June 22, 2000



1 (P.L.325, No.34), is amended to read:

2 Section 705. National or State Lodge of Police Officers.--

3 [Any] a borough council may grant [any] a borough employe, who  
4 is a duly elected representative of [any] a State lodge of  
5 police officers or [any] a local lodge being a part of any  
6 national or State lodge of police officers, a leave of absence  
7 with pay to attend [any] an annual national or State convention  
8 or conference of [such] the lodge, for a period not to exceed  
9 four days, including necessary time for travel to and from  
10 [same. Any] the convention or conference. An employe receiving  
11 time off with pay under this section shall, upon [his] return, submit  
12 to [his] the employe's immediate superior a certificate  
13 testifying to [his] the employe's attendance at the convention  
14 or conference, signed by at least two responsible officers of  
15 the convention or conference. No more than two elected  
16 representatives who are employes of the same borough may attend  
17 [any such] a convention or conference on behalf of [any such] a  
18 lodge under this section.

19 Section 51. Article VIII and subdivision (a) headings of the  
20 act are reenacted to read:

21 ARTICLE VIII

22 ELECTIONS OF OFFICERS

23 (a) General Provisions Relating to Elected Officers

24 Section 52. Section 801 of the act, amended November 29,  
25 2004 (P.L.1337, No.170), is amended to read:

26 Section 801. Electors Only to be Eligible;

27 Incompatibility.--(a) Except as provided in subsection (b),

28 only registered electors of the borough [only] shall be eligible  
29 to elective borough offices. [All] Before being sworn in to  
30 office, each elected borough [officers shall reside] officer

1 shall present a signed affidavit to the borough secretary that  
2 states that the officer resides in the borough from which  
3 elected and [shall have] has resided in the borough continuously  
4 for at least one year immediately before [their] the officer's  
5 election. A school director shall not be eligible to an elective  
6 borough office. No individual shall at the same time hold more  
7 than one elective borough office.

8 (b) A borough with a population of less than one hundred  
9 fifty, incorporated on or after January 1, 1964, may permit  
10 [individuals] residents that have not resided in the borough  
11 continuously for at least one year immediately before the  
12 election to be eligible to hold office.

13 Section 53. Sections 802 and 803 of the act are reenacted to  
14 read:

15 Section 802. Time and Place of Elections.--Elections for  
16 borough officers shall be at the time and place designated by  
17 law for the holding of municipal elections.

18 Section 803. Certificates of Election.--Certificates of  
19 election of all borough officers shall be filed with the borough  
20 secretary and be preserved among the records of the borough for  
21 a period of six years.

22 Section 54. Section 804 of the act, amended June 15, 1978  
23 (P.L.473, No.68), is amended to read:

24 Section 804. Term; Bonds.--Persons elected to borough  
25 offices shall serve for the term for which they were elected,  
26 except where a vacancy in office shall exist for any reason, in  
27 which case the vacancy shall be filled in the manner provided by  
28 this act.

29 Whenever [any] an elected official of a borough is required  
30 to give bond for the faithful performance of [his] the elected

1 official's duties, the borough may pay the premium for [such]  
2 the bond[; except that]. For a tax collector's bond, however,  
3 the borough shall pay a proportionate share of the cost of the  
4 bond [of the tax collector, such] with the share to be in the  
5 same ratio as the amount of borough taxes bears to the total  
6 amount of all taxes indicated by the tax duplicate to be  
7 collected by the tax collector during the year preceding the  
8 date the premium is due.

9 Section 55. Sections 805 and 806 of the act, amended June  
10 25, 2001 (P.L.651, No.56), are amended to read:

11 Section 805. Election of Borough Officers When Boroughs  
12 Created, Etc.--Whenever a borough is incorporated under the  
13 provisions of sections 201 to 219 [inclusive of this act], or  
14 whenever two or more boroughs are consolidated under the  
15 provisions of [sections 221 to 228 of this act] 53 Pa.C.S. Ch. 7  
16 Subch. C (relating to consolidation and merger), or whenever a  
17 borough is created from a city of the third class under the  
18 provisions of sections 231 to 235 [of this act], the officers of  
19 the borough, provided for in section 806 [of this act], shall be  
20 elected at the appropriate municipal election as provided in  
21 [said sections] the law and [such] the officers shall take  
22 office on the first Monday of January succeeding [such] the  
23 election.

24 At [any such] the election, if the borough is not divided  
25 into wards, of the seven members of council to be elected, three  
26 or four members of council, as the case may be, shall be elected  
27 for terms of two years each, and three or four members of  
28 council, as the case may be, shall be elected for terms of four  
29 years each, to coincide with the number of members of council  
30 elected at [such] the election in existing boroughs under the

1 provisions of section 811 [of this act].

2 In the case of the consolidation of two or more boroughs into  
3 one borough, or the creation of a borough from a city of the  
4 third class, and where in either event two members of council  
5 are to be elected from each ward, one member of council shall be  
6 elected from each ward for a term of two years and one member of  
7 council shall be elected from each ward for a term of four  
8 years.

9 In all boroughs coming within the provisions of this section,  
10 three auditors shall be elected, one for a term of two years,  
11 one for a term of four years, and one for a term of six years.

12 All other officers of the borough shall be elected at [such]  
13 the election for terms of two or four years, as the case may be,  
14 to coincide with the terms of officers elected under this act at  
15 [such] the election in the existing boroughs.

16 Section 806. Officers to be Elected.--(a) It shall be  
17 lawful for the electors of the borough to elect:

18 (1) One mayor, who shall be elected at the municipal  
19 election in the year 1969, and every four years thereafter, and  
20 who shall hold office for a term of four years.

21 (2) One tax collector, who shall be elected at the municipal  
22 election in the year 1969, and every four years thereafter, and  
23 who shall be a properly qualified person. No magisterial  
24 district judge may at the same time hold the office of tax  
25 collector.

26 (3) Three elected auditors or one elected controller, unless  
27 the borough instead provides for one appointed auditor pursuant  
28 to section 1005(7). The following shall apply:

29 (i) in boroughs providing for three elected auditors, one  
30 auditor shall be elected at each municipal election for a term

1 of six years; or

2 (ii) in boroughs providing for one elected controller, the  
3 controller shall be elected at the municipal election in the  
4 year 1969, and every four years thereafter, who shall be a  
5 competent accountant and a registered elector of the borough for  
6 at least four years prior to the person's election and shall  
7 serve for a term of four years.

8 [(1)] (4) In boroughs not divided into wards, seven members  
9 of council[, one mayor, one assessor, except in those boroughs  
10 where, under the applicable county assessment law, the office of  
11 elected assessor in boroughs shall have been abolished; a tax  
12 collector and three auditors or one controller except in such  
13 boroughs where there shall be an appointed auditor in lieu of  
14 elected auditors or controller]. In [any] a borough with a  
15 population, as determined by the latest official census, of less  
16 than three thousand, the total number of members of council may  
17 be reduced from seven to five or to three upon petition to the  
18 court of common pleas, as provided in section 818 [of this act].

19 [(2)] (5) In boroughs divided into wards, at least one, and  
20 not more than two members of council in each ward, except in  
21 boroughs where prior to the passage of this act three members of  
22 council were elected in each ward. In [such] those boroughs, the  
23 number of members of council is fixed at three in each ward  
24 until [such] the number is reduced in the manner provided by  
25 this act. Members of council shall be residents of the ward from  
26 which they are elected, and chosen by the electors of the ward[;  
27 also a mayor, a tax collector and three auditors or a  
28 controller, except in such boroughs where there shall be an  
29 appointed auditor in lieu of elected auditors or controller, and  
30 an assessor, except in those boroughs where, under the

1 applicable county assessment law, the office of elected assessor  
2 shall have been abolished who shall be chosen by the electors of  
3 the boroughs at large].

4 (b) The terms of all elected officers under this section  
5 shall begin the first Monday of January next succeeding the  
6 person's election.

7 Section 56. Article VIII subdivision (b) heading of the act,  
8 amended June 25, 2001 (P.L.651, No.56), is reenacted to read:

9 (b) Members of Council

10 Section 57. Sections 811, 812, 813 and 814 of the act,  
11 amended June 25, 2001 (P.L.651, No.56), are amended to read:

12 Section 811. Election of Members of Council.--(a) At the  
13 municipal election to be held in the year 1967, there shall be  
14 elected in each borough a sufficient number of members of  
15 council to equal one-half of the entire number of which [such]  
16 the council is legally composed, to serve for a term of four  
17 years from the first Monday of January next succeeding[, and,  
18 where such] the election. Where the entire number of council is  
19 seven, nine, or eleven, then it shall be sufficient to  
20 [constitute] elect three, four, or five council members, as the  
21 case may be[; the aforesaid members of council, to be]. The  
22 members of council elected in the year 1967, being successors to  
23 those elected in the year 1963, whose terms, as heretofore  
24 provided by law, expire on the first Monday of January, 1968.  
25 All members of council whose terms expire on the first Monday of  
26 January, 1970 shall continue to hold their office until the  
27 first Monday of January, 1970, as now provided, and their  
28 successors shall be elected at the municipal election in the  
29 year 1969, to serve for a term of four years, from the first  
30 Monday of January next succeeding. If for any reason members of

1 council are not elected as [hereinabove] provided under this  
2 section, members of council whose terms end on the same date  
3 shall cast lots to determine who shall serve for a two-year term  
4 and who shall serve for a four-year term. The secretary of the  
5 borough shall certify the results to the appropriate county  
6 board of elections.

7 (b) Biennially thereafter, at the municipal election, a  
8 sufficient number of members of council shall be elected, for a  
9 term of four years from the first Monday of January next  
10 succeeding, to fill the places of those whose terms, under the  
11 provisions of this act, shall expire on the first Monday of  
12 January next following [such] the election.

13 Section 812. Election of Members of Council Where New Wards  
14 Created.--(a) Whenever [the court of common pleas shall]  
15 council shall, by ordinance, divide any borough into wards,  
16 erect new wards out of two or more wards or parts [thereof,] of  
17 wards or divide a ward already erected into two or more wards,  
18 [or create a new ward out of annexed territory, and when the  
19 report, in such case, is confirmed by the court, it shall, at  
20 the same time, decree] the ordinance shall provide for the  
21 election of an equal number of members of council, in each of  
22 the wards, in [such] a manner as not to interfere with the terms  
23 of those [theretofore] previously elected.

24 (b) Where a borough is first divided into wards, the [court]  
25 ordinance providing for the division shall fix the number of  
26 members of council in each ward at not more than two. [In  
27 decreeing such election, when] When the entire number of council  
28 shall be composed of an even number, [the decree shall be so  
29 made that] one-half of the entire number shall thereafter be  
30 elected at each municipal election. When the entire number of

1 council shall be an odd number, the [court shall divide such  
2 council into] ordinance shall establish two classes, and shall  
3 [make its decrees so] provide that one-half of the entire number  
4 of members of council, less one, shall, as soon as possible,  
5 take their office in a year divisible by four, and the remaining  
6 number of members of council shall take their office in an even-  
7 numbered year not divisible by four. The apportionment shall be  
8 [so made by the court that there shall be] equal or as nearly  
9 equal as possible, representation by wards in each class.  
10 Biennially thereafter, at each municipal election, a sufficient  
11 number of members of council shall be elected, for the term of  
12 four years from the first Monday of January next succeeding, to  
13 fill the places of those whose terms shall expire on the first  
14 Monday of [the] January next following [such] the election.

15 Section 813. Fixing Number of Members of Council When Wards  
16 Created.--Whenever upon the division of [any] a borough into  
17 wards, or the creation of a new ward or wards, the number of  
18 members of council cannot be equally divided among the wards of  
19 the boroughs, it shall be lawful for [the court, in decreeing  
20 such division or creation,] council to increase the number of  
21 council to, and not exceeding, [such number as] a number that  
22 will enable [the court to make an] equal apportionment of the  
23 same among the several wards of [such] the borough. But where a  
24 borough is first divided into wards, the number of members of  
25 council provided for a ward shall not exceed two.

26 Section 814. Increase in Number of [Members of Council.--The  
27 court of common pleas, having fixed the number of members of  
28 council, as provided in section 812 of this article,] Ward  
29 Council Members.--Council may, upon petition of at least five  
30 percent of the registered electors of the borough, increase the



1 [same] number of members of council to any number not exceeding  
2 two for each ward. The sufficiency of the number of signers to  
3 [any such] the petition shall be ascertained as of the date when  
4 the petition is presented to [court] council.

5 Section 58. Section 815 of the act, amended May 7, 1998  
6 (P.L.347, No.54), is amended to read:

7 Section 815. Decrease of Number of Ward Council Members.--  
8 Whenever, in any borough divided into wards, the council  
9 consists of more than seven members, at least five percent of  
10 the registered electors of [such] the borough shall have power  
11 to petition [the court of common pleas] council for a decrease  
12 in the number of members of council from each ward, but in no  
13 instance shall the council consist of less than seven members.  
14 The purpose of [such] the decrease may be to achieve any or all  
15 of the following results:

16 (1) a council which is less unwieldy in size;

17 (2) a council which is comparable in size to those in  
18 boroughs not divided into wards;

19 (3) a council consisting of an odd number of members instead  
20 of an even number;

21 (4) a reduction in borough expenditures; and[,]

22 (5) the expedition of the conduct of council meetings.

23 [Said] The petition shall clearly state whether [it is the  
24 prayer of] the petitioners request that the number of members of  
25 [such] the council to be elected in each ward shall be reduced  
26 from two to one, or from three to two or one, and shall further  
27 state the reasons why [such] the reduction in number shall be  
28 desired. The petition may also state whether it is necessary to  
29 add a council member or members to be elected at large in order  
30 to achieve or maintain a council consisting of at least seven

1 members or to achieve or maintain a council consisting of an odd  
2 number of members. The sufficiency of the number of signers to  
3 [any such] the petition shall be ascertained as of the date the  
4 petition is presented to [court] council.

5 The [court] council shall give notice of the filing of [such]  
6 the petition by advertisement in the legal [journal] newspaper  
7 of the county, if one is published in the county, and in one  
8 newspaper of general circulation [in the borough], and in [such]  
9 the notice shall fix a day and time for [hearing] a public  
10 meeting. After [such hearing, the court may] the public meeting  
11 council may, by ordinance, decrease the number of council  
12 members elected from each ward from two to one, or from three to  
13 two or one, and may also provide for the election at large of a  
14 member or members of council. [The court] Council shall, if  
15 necessary, establish a schedule for the subsequent at-large  
16 election of council members. The schedule may provide that the  
17 initial term of one or more of the council members subsequently  
18 elected at large shall be reduced to accommodate a schedule of  
19 staggered at-large elections to eventually insure that, as [near  
20 as may be] nearly as possible, one-half of the members of  
21 council elected at large will be elected at each municipal  
22 election.

23 At each municipal election thereafter in [such] the borough,  
24 where there are two members from each ward, the electors of each  
25 ward shall elect one council member to hold office for a term of  
26 four years from the first Monday of January next succeeding the  
27 election.

28 At each municipal election thereafter in [such] the boroughs,  
29 where there is one member from each ward, the electors from each  
30 of the odd-numbered wards shall, at the first municipal election

1 thereafter, elect one council member for a term of four years,  
2 and the electors from each of the even-numbered wards shall  
3 elect one council member for a term of two years. At each  
4 municipal election thereafter, the electors of the even-numbered  
5 wards, or odd-numbered wards as the case may be, shall each  
6 elect one council member for a term of four years, to take the  
7 place of those whose terms are about to expire. [All such] The  
8 council members shall take office on the first Monday of January  
9 following their election.

10 In any borough where, under the provisions of this section,  
11 the number of council members shall be reduced, the council  
12 members then in office shall remain in office until the end of  
13 their respective terms.

14 Section 59. Sections 816, 817 and 818 of the act, amended  
15 June 25, 2001 (P.L.651, No.56), are amended to read:

16 Section 816. Election of Members of Council Where Wards  
17 Abolished.--(a) Whenever [the court of common pleas shall  
18 abolish all wards in any borough and when the report in such  
19 case is confirmed by the court, it shall, at the same time,  
20 decree] council shall, by ordinance, abolish all wards in a  
21 borough, the ordinance shall provide for the election of seven  
22 members of council at large for the borough in [such] a manner  
23 as not to interfere with the terms of those ward members of  
24 council [theretofore] previously elected. [In decreeing such  
25 election, where] Where there were [theretofore] previously:

26 (1) Seven members of council, the [decree shall be so made]  
27 ordinance shall provide that, at the first municipal election  
28 thereafter the electors shall elect three or four members of  
29 council, as the case may be, the number to be elected to be that  
30 which, when added to the number of members of council already in

1 office whose terms are not about to expire, shall bring the  
2 membership of the council to seven. [Such] The newly elected  
3 members of council shall serve for terms of four years from the  
4 first Monday of January next succeeding [such] the first  
5 municipal election, except that, in any case where the election  
6 of four members of council shall be required to bring the  
7 membership of council to its full complement of seven, and only  
8 three members of council are elected at [such] the municipal  
9 election in the other boroughs of the [State] Commonwealth not  
10 divided into wards, three members of council shall be elected  
11 for four-year terms and one for a two-year term. Thereafter, at  
12 every succeeding municipal election, the electors shall elect  
13 three or four members of council, as the case may be, each to  
14 serve for a term of four years from the first Monday of January  
15 following [such] the municipal election.

16 (2) Eight or more members of council, the [decree shall be  
17 so made] ordinance shall provide that, at the first municipal  
18 election thereafter the electors shall elect a sufficient number  
19 of members of council that, when added to the number of members  
20 of council already in office whose terms are not about to  
21 expire, will bring the membership of the council to seven.  
22 [Such] The newly elected members of council shall serve for  
23 terms of four years from the first Monday of January next  
24 succeeding [such] the first municipal election. At the second  
25 municipal election after [such decree] the effective date of the  
26 ordinance, the electors shall elect a sufficient number of  
27 members of council, that, when added to the number of members of  
28 council elected at the previous municipal election, shall bring  
29 the membership of council to its full complement of seven, some  
30 of [such] the members of council elected at [such] the second

1 municipal election to serve for a four-year term following the  
2 first Monday of January next succeeding, the remainder to serve  
3 for a two-year term, the number in each case to be that required  
4 to bring the number of members of council to be elected in  
5 [such] the borough in succeeding municipal elections into  
6 conformity with the number elected in the other boroughs of the  
7 Commonwealth not divided into wards. In the third and all  
8 subsequent municipal elections following [such decree of court]  
9 the effective date of the ordinance, the electors shall elect  
10 three or four members of council, as the case may be, each to  
11 serve for a term of four years from the first Monday of January  
12 following [such] the municipal election.

13 In any [such] borough where, under the ward system of  
14 electing members of council, the council shall have been so  
15 large that there shall be seven or more members of council whose  
16 terms shall not expire on the first Monday of January following  
17 the first municipal election after [such decree] the effective  
18 date of the ordinance, no members of council shall be elected at  
19 [such] the first municipal election, and the members of council  
20 remaining in office shall constitute [such] the borough council  
21 until the first Monday of January following the second municipal  
22 election following [such decree] the effective date of the  
23 ordinance. At [such] the second municipal election, seven  
24 members of council shall be elected in [such] the borough, some  
25 to serve for a four-year term of office from the first Monday of  
26 January following [such] the second municipal election, the  
27 remainder to serve for a two-year term, the number in each case  
28 [to be such] as necessary to bring the number of members of  
29 council to be elected in [such] the borough in succeeding  
30 elections into conformity with the number elected in other

1 boroughs of the Commonwealth not divided into wards. Thereafter,  
2 at the third and all subsequent municipal elections following  
3 [such decree] the effective date of the ordinance, the electors  
4 shall elect three or four members of council, as the case may  
5 be, each to serve for a term of four years from the first Monday  
6 of January following [such] the subsequent municipal election.

7 (3) Six or fewer members of council, the [decree shall be  
8 made so] ordinance shall provide that at the first municipal  
9 election thereafter, the electors shall elect a sufficient  
10 number of members of council that, when added to the number of  
11 members of council already in office whose terms are not about  
12 to expire, will bring the membership of council to its full  
13 complement of seven. Of [such] the newly elected members of  
14 council, either three or four, as necessary to bring the number  
15 of members of council to be elected in [such] the borough in  
16 succeeding municipal elections into conformity with the number  
17 elected in other boroughs of the Commonwealth not divided into  
18 wards, shall be elected for four-year terms of office, beginning  
19 the first Monday of January following [such] the first municipal  
20 election, and the balance shall be elected for two-year terms.  
21 Thereafter, at the second municipal election following [such  
22 decree] the effective date of the ordinance and at all  
23 subsequent municipal elections, the electors shall elect three  
24 or four members of council, as the case may be, to serve for a  
25 term of four years from the first Monday of January following  
26 [such] the subsequent municipal election.

27 [In any case where a vacancy may occur, at] (b) At any time  
28 following [such decree,] the effective date of the ordinance,  
29 where a vacancy may occur in the office of a member of council  
30 originally elected or appointed from a particular ward, the

1 person appointed to fill [such] the vacancy need not be a  
2 resident of the area formerly comprising [such] the ward, but  
3 [need only be a registered elector of the borough] shall be  
4 otherwise qualified for office as provided in section 801.

5 Section 817. Vacancies Created After a Primary Election.--  
6 Whenever [a decree of court is made after a primary election  
7 and, as a result thereof,] a vacancy is created in the office of  
8 member of council by any ordinance or decree of court as  
9 provided in this subdivision after a primary election, it may be  
10 filled by nomination made by [such] the committee as is  
11 authorized by the rules of the party to make nominations in the  
12 event of vacancies on the party ticket.

13 Section 818. Decrease in Number of Members of Council.--The  
14 court of common pleas may, upon petition of at least five  
15 percent of the registered electors of any borough not divided  
16 into wards, which, according to the latest official census, had  
17 a population of not more than three thousand, reduce the total  
18 number of members of council for [such] the borough from seven  
19 to five or to three. The sufficiency of the number of signers to  
20 [any such] the petition shall be ascertained as of the date when  
21 the petition is presented to court.

22 The court shall give notice of the filing of [such] the  
23 petition by advertisement in the legal [journal] newspaper of  
24 the county, if one is published in the county, and in one  
25 newspaper of general circulation [in the borough], and in [such]  
26 the notice shall fix a day and time for hearing. After [such]  
27 the hearing, the court may decrease the number of members of  
28 council elected in [such] the borough from seven to five or  
29 three, as requested in the petition.

30 At the municipal election following the decrease in the

1 number of members of council in [such] the borough, from seven  
2 to five, if four members of council would otherwise have been  
3 elected, there shall instead be elected three members of  
4 council; if three members of council would otherwise have been  
5 elected there shall instead be elected two members of council.  
6 At the second municipal election following the decrease in the  
7 number of members of council in [such] the borough, if four  
8 members of council would otherwise have been elected, there  
9 shall instead be elected three members of council; if three  
10 members of council would otherwise have been elected, there  
11 shall be elected two members of council. At all following  
12 municipal elections, there shall be elected the proper number of  
13 members of council to correspond to the number of members of  
14 council whose terms are to expire the first Monday of the  
15 following January.

16 At the municipal election following the decrease in the  
17 number of members of council in [such] the borough from seven to  
18 three, if four members of council would otherwise have been  
19 elected there shall instead be elected two members of council;  
20 if three members of council would otherwise have been elected  
21 there shall instead be elected one member of council. At the  
22 second municipal election following the decrease in the number  
23 of members of council in [such] the borough, if four members of  
24 council would otherwise have been elected, there shall instead  
25 be elected two members of council; if three members of council  
26 would otherwise have been elected, there shall be elected one  
27 member of council. At all the following municipal elections,  
28 there shall be elected the proper number of members of council  
29 to correspond to the number of members of council whose terms  
30 are to expire the first Monday of the following January.



1 In any borough where, under the provisions of this section,  
2 the number of members of council shall be reduced, the members  
3 of council then in office shall remain in office until the end  
4 of their respective terms. If [any such] a borough shall  
5 thereafter attain a population in excess of three thousand,  
6 according to the latest official census, the number of members  
7 of council shall automatically be increased from three or five  
8 to seven, following the reverse of the procedure set forth in  
9 the third or fourth paragraph of this section, as the case may  
10 be.

11 Section 60. Article VIII subdivision (c) heading, section  
12 821, subdivision (d) heading, section 831, subdivision (e)  
13 heading, section 841, subdivision (f) heading, section 851,  
14 subdivision (g) heading and section 861 of the act are repealed:

15 [(c) Mayor

16 Section 821. Election of Mayor.--Electors of every borough  
17 shall, at the municipal election in the year 1969, and every  
18 four years thereafter, elect one person as mayor, who shall hold  
19 office for a term of four years from the first Monday of January  
20 next succeeding his election.

21 (d) Auditors

22 Section 831. Election of Auditors.--The qualified electors  
23 in boroughs electing auditors, and not accepting the provisions  
24 of this act providing for the office of controller, shall elect,  
25 at each municipal election, one auditor for a term of six years,  
26 to hold office from the first Monday of January next succeeding  
27 his election.

28 (e) Controller

29 Section 841. Election of Controller.--The qualified electors  
30 in every borough having a controller, and in every borough

1 accepting the provisions of this act relating to the controller,  
2 shall, at the municipal election in the year 1969, and every  
3 four years thereafter, elect as borough controller one person  
4 who shall be a competent accountant and a registered elector of  
5 the borough, for at least four years prior to his election. The  
6 person so chosen shall serve for a term of four years from the  
7 first Monday of January next succeeding his election.

8 (f) Assessors

9 Section 851. Election of Assessors.--At the municipal  
10 election in the year 1967 and at the municipal election every  
11 four years thereafter, the qualified electors of every borough  
12 shall elect a properly qualified person for assessor in such  
13 borough. The provisions of this section shall not apply to those  
14 boroughs where, under the applicable county assessment law, the  
15 office of elected assessor in boroughs has been abolished. No  
16 justice of the peace shall at the same time hold the office of  
17 assessor.

18 (g) Tax Collector

19 Section 861. Election of Tax Collector.--The qualified  
20 electors of every borough shall, at the municipal election in  
21 the year 1969, and every four years thereafter, elect one  
22 properly qualified person as tax collector of the borough. No  
23 justice of the peace shall at the same time hold the office of  
24 tax collector.]

25 Section 61. Article IX heading of the act is reenacted to  
26 read:

27 ARTICLE IX

28 VACANCIES IN OFFICE

29 Section 62. Section 901 of the act, amended June 25, 2001  
30 (P.L.651, No.56), is amended to read:

Section 901. Filling Vacancies in Elective Borough

Offices.--(a) If any vacancy shall occur in the office of the mayor, member of council, auditor, controller, [assessor,] or tax collector, by death, resignation, [removal] termination of residency from the borough, or from a ward in the case of a ward office, or by failure to take the required oath or to give bond as provided by law or ordinance, provide the affidavit required under section 801, or in any other manner whatsoever, the borough council shall fill [such] the vacancy within thirty days by appointing, by resolution, a registered elector of the borough, or of the ward in case of a ward office, to hold [such] the office, if the term [thereof] continues so long, until the first Monday in January after the first municipal election occurring more than sixty days after the vacancy occurs, at which election an eligible person shall be elected to the office for the remainder of the term. [No] Except as provided in section 801(b), no person shall be appointed to fill a vacancy in an elected borough or ward office unless [he or she] the person has resided within the borough, or within the ward in the case of a ward office, continuously for at least one year immediately prior to [his or her] the person's appointment.

[The person appointed shall give bond if required by law or ordinance.]

In cases where the person elected to the office shall fail to give bond, if any, required or to take the required oath, the borough council, before making the appointment, shall declare the office vacant.]

(b) The person appointed shall give bond if required by law or ordinance. In cases where the person elected to the office shall fail to give any bond required, provide the affidavit

1 required under section 801 or to take the required oath, the  
2 borough council, before making the appointment, shall declare  
3 the office vacant.

4     (c) If the council of any borough shall refuse, fail or  
5 neglect, or be unable, for any reason whatsoever, to fill any  
6 vacancy within thirty days after the vacancy happens, as  
7 provided in this section, then the vacancy shall be filled  
8 within fifteen additional days by the vacancy board. [Such] The  
9 board shall consist of the borough council exclusive of the  
10 mayor, and one registered elector of the borough who shall be  
11 appointed by the borough council at the council's first meeting  
12 each calendar year or as soon thereafter as practical and who  
13 shall act as [chairman] chair of the vacancy board. The board  
14 shall appoint a registered elector of the borough, [(]or ward in  
15 the case of a ward office[)], to hold [such] the office, if the  
16 term [thereof] continues so long, until the first Monday in  
17 January after the first municipal election occurring more than  
18 sixty days after the vacancy occurs, at which election an  
19 eligible person shall be elected to the office for the remainder  
20 of the term.

21     (d) If the vacancy is not filled by the vacancy board within  
22 fifteen days, the [chairman] chair shall, or in the case of a  
23 vacancy in the [chairmanship] chair, the remaining members of  
24 the vacancy board shall petition the court of common pleas to  
25 fill the vacancy by the appointment of a registered elector of  
26 the borough [(]or ward in the case of a ward[)], to hold [such]  
27 the office, if the term [thereof] continues so long, until the  
28 first Monday in January after the first municipal election  
29 occurring more than sixty days after the vacancy occurs, at  
30 which election an eligible person shall be elected to the office

1 for the remainder of the term.

2 (e) In the case where there are vacancies in more than a  
3 majority of the offices of council, the court of common pleas  
4 shall fill [such] the vacancies upon presentation of petition  
5 signed by not less than fifteen registered electors of the  
6 borough.

7 Section 63. Section 902 of the act is amended to read:

8 Section 902. Collection of Taxes Where Vacancy in Office of  
9 Tax Collector Not Filled.--Where a vacancy in the office of tax  
10 collector exists and no [resident] registered elector of the  
11 borough has, within thirty days, received the appointment to  
12 fill [such] the vacancy, the county commissioners, the borough  
13 council and the board of school directors of the school district  
14 shall collect the tax for the county, the borough, and the  
15 school district, respectively, through their respective  
16 treasurers, or in the case of school districts at the option of  
17 the district through their secretaries, and in the case of  
18 boroughs, at the option of the borough council, through their  
19 secretaries or borough managers.

20 Section 64. Section 903 of the act, amended June 25, 2001  
21 (P.L.651, No.56), is amended to read:

22 Section 903. Right of Council to Declare Seat of Member  
23 Vacant for Failure to Qualify.--If any person, elected or  
24 appointed as a member of council, who has been notified of  
25 election or appointment, shall refuse or neglect to qualify as  
26 [such] a member of council within ten days next succeeding the  
27 beginning of the person's term of office, unless prevented by  
28 sickness or prevented by necessary absence from the borough, the  
29 borough council, acting without [such] the person, may declare  
30 the person's office as member of council vacant, and may fill

1 [such] the vacancy as provided in section 901 [of this act]. For  
2 such actions a majority of the remaining members of the council  
3 shall constitute a quorum.

4 Section 65. Section 904 of the act, amended June 25, 2001  
5 (P.L.651, No.56), is repealed:

6 [Section 904. Right of Council to Declare Seat of Member  
7 Vacant for Failure to Attend Meetings, Etc.--If any person,  
8 having qualified as a member of council, shall neglect or refuse  
9 to attend two successive regular meetings unless detained by  
10 sickness, or prevented by necessary absence from the borough, or  
11 if in attendance at any meetings shall neglect or refuse to vote  
12 or by withdrawal from council or otherwise refuse to act in the  
13 person's official capacity as a member of council, the borough  
14 council, acting without such person, may declare the person's  
15 office as a member of council vacant, and may fill such vacancy  
16 as provided in section 901 of this act. For such actions a  
17 majority of the remaining members of the council shall  
18 constitute a quorum.

19 No such office shall be declared vacant for failure to attend  
20 meetings of the council until the holder thereof shall have been  
21 given opportunity of hearing before the remaining members of the  
22 council, at which time he shall show cause why he shall not be  
23 removed. He shall be given at least ten days' written notice of  
24 the time and place of such hearing.]

25 Section 66. Section 905 and Article X and subdivision (a)  
26 headings of the act are reenacted to read:

27 Section 905. Temporary Auditor.--If for any reason two or  
28 three vacancies exist in the office of borough auditors, the  
29 council may temporarily appoint and reasonably compensate a  
30 qualified person, who need not be an elector of the borough, who

1 shall have all the powers and duties of the two or three  
2 auditors whose offices are vacated.

3 ARTICLE X

4 POWERS AND DUTIES OF ELECTED

5 BOROUGH OFFICIALS

6 (a) Council

7 Section 67. Section 1001 of the act, amended June 25, 2001  
8 (P.L.651, No.56), March 22, 2002 (P.L.207, No.17) and April 2,  
9 2002 (P.L.236, No.28), is amended to read:

10 Section 1001. Organization of Council; Quorum; Participation  
11 by Telecommunication Device; Voting; Compensation;  
12 Eligibility.--(a) The borough council shall organize on the  
13 first Monday of January of each even-numbered year, by electing  
14 one of their number as president and one of their number as  
15 vice-president, who shall hold [such] the offices at the  
16 pleasure of the council. If the first Monday is a legal holiday,  
17 the meeting and organization shall take place the first day  
18 following. Any action taken by any borough council at any time  
19 between 12:01 o'clock ante meridian on January 1 of an even-  
20 numbered year and the organization of council in that year shall  
21 be subject to reconsideration by the new council at any time  
22 within ten days after [such] organization. The council may at  
23 the organization meeting [elect such] appoint other officers as  
24 may be provided for by law or ordinance, or as may be deemed  
25 necessary for the conduct of affairs of the borough and may  
26 transact [such] any other business as may come before the  
27 meeting. The president, and during the president's absence or  
28 incapacity the vice-president, shall preside over the meetings  
29 of council and perform [such] other duties as are prescribed by  
30 this act or by ordinance.

1     (b) A majority of the membership of council then in office  
2     shall constitute a quorum. Except as provided in subsection (c),  
3     only council members physically present at a meeting place  
4     within the borough shall be counted in establishing a quorum.

5     (c) Council may provide for the participation of council  
6     members in meetings of council by means of telecommunication  
7     devices, such as telephones or computer terminals, which permit,  
8     at a minimum, audio communication between locations, provided  
9     that:

10    (1) A majority of the membership of council then in office  
11    is physically present at the advertised meeting place within the  
12    borough and a quorum is established at the convening or  
13    reconvening of the meeting. If after the convening or  
14    reconvening of a meeting a member has been disqualified from  
15    voting as a matter of law, but is still physically present,  
16    council members participating by telecommunication device in  
17    accordance with this section shall be counted to maintain a  
18    quorum.

19    (2) The telecommunication device used permits the member or  
20    members of council not physically present at the meeting to:

21    (i) speak to and hear the comments and votes, if any, of the  
22    members of council who are physically present as well as other  
23    members of council who may not be physically present and who are  
24    also using a telecommunication device to participate in the  
25    meeting; and

26    (ii) speak to and hear the comments of the public who are  
27    physically present at the meeting.

28    (3) The telecommunication device used permits the members of  
29    council and the members of the public who are physically present  
30    at the meeting to speak to and hear the comments and the vote,



if any, of the member or members of council who are not physically present at the meeting.

(4) Council may only authorize participation by telecommunication device for one or more of the following reasons for physical absence:

(i) illness or disability of the member of council;

(ii) care for the ill or newborn in the member's immediate family;

(iii) emergency; and

(iv) family or business travel.

(5) Nothing in this subsection shall be construed to limit the protections and prohibitions contained in any law or regulation relating to the rights of the disabled.

(d) A member of the council shall not be disqualified from voting on any issue before the council solely because the member has previously expressed an opinion on the issue in either an official or unofficial capacity.

(e) Members of council may receive compensation to be fixed by ordinance [at any time and from time to time] as follows:

(1) In boroughs with a population of less than five thousand, a maximum of eighteen hundred seventy-five dollars (\$1875) a year[; in].

(2) In boroughs with a population of five thousand or more but less than ten thousand, a maximum of two thousand five hundred dollars (\$2500) a year[; in].

(3) In boroughs with a population of ten thousand or more but less than fifteen thousand, a maximum of three thousand two hundred fifty dollars (\$3250) a year[; in].

(4) In boroughs with a population of fifteen thousand or more but less than twenty-five thousand, a maximum of four

1 thousand one hundred twenty-five dollars (\$4125) a year[; in].

2 (5) In boroughs with a population of twenty-five thousand or  
3 more but less than thirty-five thousand, a maximum of four  
4 thousand three hundred seventy-five dollars (\$4375) a year[; and  
5 in].

6 (6) In boroughs with a population of thirty-five thousand or  
7 more, a maximum of five thousand dollars (\$5000) a year.

8 [Such] The salaries shall be payable monthly or quarterly for  
9 the duties imposed by the provisions of this act. Benefits  
10 provided to members of council under section [1202(37)] 1202(26)  
11 shall not be considered pay, salary or compensation, but payment  
12 for all or a part of the premiums or charges for the benefits  
13 shall be in accordance with section [1202(37).] 1202(26). Any  
14 change in salary, compensation or emoluments of the elected  
15 office shall become effective at the beginning of the next term  
16 of the member of council.

17 (f) The population shall be determined by the latest  
18 available official census figures. In no case shall the  
19 compensation for any member of council exceed that of the mayor  
20 in any given borough[: Provided, however, That] but wherever the  
21 mayor's compensation exceeds that authorized by this section for  
22 members of council, the president of council may receive  
23 compensation not to exceed that of the office of mayor.

24 Section 68. Sections 1002, 1003 and 1004 of the act, amended  
25 June 25, 2001 (P.L.651, No.56), are amended to read:

26 Section 1002. Oath of Members of Council.--Before entering  
27 upon the duties of their office, the members of council shall  
28 take and subscribe an oath or affirmation [to support the  
29 Constitution of the United States and of the Commonwealth of  
30 Pennsylvania and to perform the duties of their office with

1 fidelity, together with such loyalty oath as is prescribed and  
2 required by law] of office under 53 Pa.C.S. § 1141 (relating to  
3 form of oaths of office). The oath or affirmation may be taken  
4 before any judge or [justice of the peace] magisterial district  
5 judge of the county, a notary public or before the mayor of the  
6 borough when [he] the person has qualified, and shall be filed  
7 with the borough secretary and be preserved among the records of  
8 the borough for a period of six years.

9 Section 1003. When the Mayor May Preside Over Council and  
10 Vote; Attendance of Mayor at Council Meetings; Breaking Tie  
11 Votes.--The mayor shall preside over the organization of the  
12 council, until it is organized as provided in section 1001, and  
13 [he] shall be deemed a member of council at the organization  
14 meeting if [his] the mayor's membership becomes necessary to  
15 constitute a quorum[, but he]. The mayor, however, shall not  
16 vote [thereat] at the meeting unless [his] the mayor's vote  
17 shall, for any reason [whatsoever], be required to effect the  
18 organization of council, or to elect any officer who is required  
19 to be or may be elected at the organization meeting. In case of  
20 the absence of the mayor at the organization meeting, one of the  
21 members of council[, ] physically present at the meeting and  
22 chosen by the members [present] eligible to vote at the meeting,  
23 shall preside.

24 The mayor may attend any or all regular and special meetings  
25 of council and may take part in the discussions of the council  
26 on matters pertaining to borough affairs, subject to any  
27 restrictions applicable to members of council contained in the  
28 rules of order or bylaws of the council. In all cases where, by  
29 reason of a tie or split vote, the council of any borough shall  
30 be unable to enact or pass any ordinance, resolution, or motion,

1 or to declare any vacancy pursuant to section 903 or fill any  
2 other vacancy in its membership, or in any other borough office,  
3 or to take any action on any matter lawfully brought before it,  
4 the mayor, if in attendance at the meeting, may at [his] the  
5 mayor's option cast the deciding vote, or [request] shall direct  
6 that the matter be tabled until a special meeting of council to  
7 be held within not less than five days or more than ten days at  
8 which time the matter shall be reconsidered by council and, if a  
9 tie or split vote still exists, it shall be the duty of the  
10 mayor at that time to cast the deciding vote. If [such] a tie or  
11 split vote shall occur at any meeting when the mayor is not in  
12 attendance the matter shall be tabled to a special meeting to be  
13 held within not less than five days or more than ten days as set  
14 by the president of council, and the mayor shall be given at  
15 least five days' notice of [such] the meeting, at which meeting  
16 it shall be the duty of the mayor to cast the tie-breaking vote.

17 Section 1004. Failure of Council to Organize.--If the  
18 council of any borough shall fail to organize within ten days  
19 from the time prescribed in this article, the court of common  
20 pleas, upon the petition of at least ten registered electors of  
21 the borough verified by the affidavit of one of the petitioners,  
22 shall issue a rule upon the delinquent members of council to  
23 show cause why their seats should not be declared vacant. The  
24 rule shall be returnable not less than five days from the time  
25 of its issue and, after hearing, the court may declare the seats  
26 of [such] the members of council, as are responsible for [such]  
27 the failure to organize, vacant[,] and shall [thereupon] then  
28 appoint others in their stead, who shall hold office for the  
29 respective unexpired terms.

30 Section 69. Section 1005 of the act, repealed in part July

1 12, 1972 (P.L.781, No.185) and amended November 2, 1979  
2 (P.L.458, No.94) and June 25, 2001 (P.L.651, No.56), is amended  
3 to read:

4 Section 1005. Powers of Council.--The council of the borough  
5 shall have power:

6 (1) To create, by motion, ordinance or resolution, and  
7 appoint a treasurer, a secretary, a solicitor, an engineer, a  
8 street commissioner and [such] other officers as it deems  
9 necessary. The treasurer and the secretary shall not be members  
10 of council. A bank or bank and trust company may be appointed as  
11 treasurer. All officers and employes appointed by the council,  
12 with the exception of those who under the provisions of this, or  
13 any other act are under civil service or have a definite term of  
14 office, shall serve for an indefinite term at the pleasure of  
15 the council.

16 (2) To mitigate or remit fines and forfeitures in reasonable  
17 cases.

18 (3) By resolution, to make temporary loans on the credit of  
19 the borough in anticipation of taxes to be collected, and to  
20 issue certificates of indebtedness [therefor. All such]. The  
21 loans shall be repaid from the first moneys available from taxes  
22 in anticipation of which the [same] loans were made.

23 (4) To appoint and revoke the appointment of one or more  
24 depositories for borough funds and to fix and approve security  
25 to be furnished by [any such] the depository. [Such] The  
26 security may be bonds with corporate or individual securities to  
27 be approved by council, or collateral security consisting of  
28 obligations of the United States or the Commonwealth of  
29 Pennsylvania, or any political subdivision thereof, deposited  
30 with the borough or with any bank or trust company within the

1 Commonwealth of a market value of one hundred twenty percent of  
2 the amount of the deposit to be secured. Any deposit of  
3 collateral shall be under proper agreement and be accompanied by  
4 proper assignment or power of attorney for the transfer of the  
5 collateral. The borough treasurer shall deposit all borough  
6 funds in any depository so designated, and when so deposited,  
7 the borough treasurer shall be released and discharged from  
8 further liability on account of [such] the deposit. [Nothing  
9 herein contained] This paragraph shall not be construed to  
10 require a depository to furnish bond or collateral security to  
11 cover the amount of any deposit to the extent that the same is  
12 insured with the Federal Deposit Insurance Corporation.

13 (5) To secure [such] indemnity bonds or policies of  
14 insurance as it may deem necessary to protect the borough from  
15 loss by reason of fire, flood, windstorm, burglary, larceny,  
16 negligence or dishonesty, insolvency of a depository, or  
17 otherwise, and to pay for [such] the protection the usual or  
18 customary costs.

19 (6) [To (i) make] With respect to investments, to:

20 (i) make investment of borough sinking funds as authorized  
21 by [the act of July 12, 1972 (P.L.781, No.185), known as the  
22 "Local Government Unit Debt Act"; (ii)] 53 Pa.C.S. Pt. VII  
23 Subpt. B (relating to indebtedness and borrowing);

24 (ii) make investment of moneys in the General Fund and in  
25 special funds of the borough other than the sinking funds as  
26 authorized by Article XIII of this act; and [(iii) liquidate any  
27 such]

28 (iii) liquidate any investment, in whole or in part, by  
29 disposing of securities or withdrawing funds on deposit. Any  
30 action taken to make or to liquidate any investment shall be

1 made by the officers designated by action of the borough  
2 council.

3 (7) To provide by ordinance passed by a two-thirds vote of  
4 the entire number of members of council elected, for the  
5 appointment of an independent auditor who shall be a certified  
6 public accountant, registered in Pennsylvania, a firm of  
7 certified public accountants so registered or a competent public  
8 accountant or a competent firm of public accountants. Where  
9 [such] an ordinance has been [so] adopted, an independent  
10 auditor shall be appointed, annually, by resolution before the  
11 close of a fiscal year, to make an independent examination of  
12 the accounting records of the borough for [such] the fiscal year  
13 and [such] the independent auditor shall also perform the other  
14 duties and exercise the powers as conferred upon [him by  
15 subdivision (k) of article XI of this act] the independent  
16 auditor under subdivision (c). When an independent auditor is  
17 appointed as [herein] provided in this paragraph, the office of  
18 elected borough auditor or controller, as the case may be, is  
19 thereby abolished although the borough auditors, or controller,  
20 then in office shall continue to hold their office during the  
21 term for which elected and the borough auditors or controller  
22 shall not audit, settle, or adjust the accounts audited by  
23 [such] the independent auditor but shall perform the other  
24 duties of their office.

25 Whenever any borough has provided by ordinance for the audit  
26 of its accounts by an appointed auditor, the borough shall have  
27 the right at any time to repeal [said] the ordinance, and  
28 [thereupon] then the office of appointed auditor shall be  
29 abolished, as of the date set in [such] the ordinance and [said]  
30 the borough shall have the further right at the next municipal

1 election following the repeal of [said] the ordinance to elect  
2 three auditors, one for a term of two years, one for a term of  
3 four years, and one for a term of six years, from the first  
4 Monday of January succeeding [such] the election, which auditors  
5 so elected shall succeed the appointed auditor and shall have  
6 and possess all the powers and perform all the duties provided  
7 in this act for elected auditors. If at any time after the  
8 effective date of any [such] ordinance abolishing the office of  
9 appointed auditor, there shall be a vacancy in the office of  
10 elected auditor, council shall fill [such] vacancies in the  
11 manner prescribed in section 901 [of this act].

12 (8) To make, authorize and ratify expenditures for lawful  
13 purposes from funds available therefor or from funds borrowed  
14 within legal limits.

15 (9) To pay authorized expenses incurred by elected and  
16 appointed borough officers in connection with their duties or  
17 other borough business.

18 Section 70. Section 1006 of the act, amended April 12, 1976  
19 (P.L.93, No.39) and December 12, 1980 (P.L.1194, No. 220), is  
20 amended to read:

21 Section 1006. Duties of Council.--It shall be the duty of  
22 the borough council:

23 (1) To organize, pursuant to section 1001, in even-numbered  
24 years.

25 (2) To meet statedly at least once a month. Council may  
26 adjourn to a stated time for general business or for special  
27 businesses. If no quorum is present at a regular, special or  
28 [adjourned] reconvened meeting, a majority of those who do meet  
29 may agree upon another date for like business [and may continue  
30 to so agree until the meeting is held] in a manner consistent



1 with 65 Pa.C.S. Ch. 7 (relating to open meetings). Special  
2 meetings may be called by the president of council or upon  
3 written request of at least one-third of the members [thereof]  
4 of council. Members shall have at least twenty-four hours'  
5 notice of [such] the special meetings. The notice shall state  
6 whether it is for general or special purposes, and, if it is for  
7 special purposes, the notice shall contain a general statement  
8 of the nature of the business to be transacted. Presence at a  
9 meeting constitutes waiver of notice. Council may adopt rules  
10 relating to the calling and holding of special meetings, which  
11 rules shall supersede the provisions of this section, provided  
12 that such rules comply with the provisions of 65 Pa.C.S. Ch. 7.

13       [(2)] (3) To make and preserve records of its proceedings.

14       [(3) To enact, revise, repeal and amend such bylaws, rules,  
15 regulations, ordinances and resolutions, not inconsistent with  
16 the laws of the Commonwealth, as it shall deem beneficial to the  
17 borough and to provide for the enforcement of the same. The  
18 legislative powers of boroughs including capital expenditures  
19 not payable out of current funds, shall be exercised by or be  
20 based on an ordinance. All other powers shall be exercised by  
21 vote of the majority of council present at a meeting, unless  
22 otherwise provided.]

23       (4) To enact, revise, repeal and amend ordinances and  
24 resolutions pursuant to Article XXXIII, and bylaws, rules and  
25 regulations, not inconsistent with the laws of this Commonwealth  
26 as it deems beneficial to the borough and to provide for the  
27 enforcement of the same. Unless otherwise provided, all powers  
28 shall be exercised by vote of the majority of council eligible  
29 to vote at a meeting. Routine, ministerial or administrative  
30 purchases and powers may be made and exercised by officers or

1 committees, if authority [therefor] for the action was  
2 previously given, or if the action is subsequently ratified by  
3 council. Whenever any action by the council shall result in a  
4 specific written contract or agreement, [such] the contract or  
5 agreement shall be signed by the president of the borough  
6 council.

7       [(4) Except where otherwise in this act provided, to publish  
8 every proposed ordinance or resolution of a legislative  
9 character once in one newspaper of general circulation in the  
10 borough not more than sixty days nor less than seven days prior  
11 to passage. Publication of any proposed ordinance shall include  
12 either the full text thereof or the title and a brief summary  
13 prepared by the borough solicitor setting forth all the  
14 provisions in reasonable detail and a reference to a place  
15 within the borough where copies of the proposed ordinance may be  
16 examined. If the full text is not included a copy thereof shall  
17 be supplied to a newspaper of general circulation in the borough  
18 at the time the public notice is published. If the full text is  
19 not included an attested copy thereof shall be filed in the  
20 county law library or other county office designated by the  
21 county commissioners who may impose a fee no greater than that  
22 necessary to cover the actual costs of storing said ordinances.  
23 In the event substantial amendments are made in the proposed  
24 ordinance or resolution, before voting upon enactment, council  
25 shall within ten days readvertise in one newspaper of general  
26 circulation in the borough, a brief summary setting forth all  
27 the provisions in reasonable detail together with a summary of  
28 the amendments.]

29       (5) To cause notices to be served, as required by law or  
30 ordinance, in a manner council may by motion or other action

1 decide.

2 (6) To fix the compensation of all of the borough officers,  
3 appointees and employes.

4 (7) To fix the amount of security to be given by the  
5 treasurer, and of [such] other officers, appointees and employes  
6 as it may designate.

7 Section 71. Section 1007 of the act, amended July 11, 1996  
8 (P.L.549, No.97), is repealed:

9 [Section 1007. Passage, Approval and Veto of Ordinances.--

10 (a) Every ordinance and every resolution of legislative  
11 character except as herein otherwise provided, passed by the  
12 council, shall be presented to the mayor for his approval. If  
13 the mayor approves, he shall sign it; but, if he shall not so  
14 approve, he shall return it with his objections to the council  
15 at its next regular meeting occurring at least ten days after  
16 the meeting at which such ordinance was passed by the council,  
17 when the objections shall be entered upon the minutes and the  
18 council shall proceed to a reconsideration thereof either at the  
19 meeting at which the vetoed ordinance was returned or at any  
20 other regular, special or adjourned meeting held not later than  
21 ten days thereafter. If, after such reconsideration, two-thirds  
22 of all the members elected to said council, or a majority of  
23 council plus one, when the number composing such council is less  
24 than nine, shall vote to pass such ordinance or resolution, it  
25 shall become of as full force and effect as if it had received  
26 the approval of the mayor; but in such case the vote shall be  
27 determined by yeas and nays, and the names and votes of the  
28 members shall be entered on the minutes. If any such ordinance  
29 or resolution shall not be returned by the mayor at the regular  
30 meeting of the council occurring at least ten days next

succeeding its presentation to him, it shall likewise have as full force as if it had been approved.

(b) The enactment of an ordinance except as herein otherwise provided shall be the date when the mayor shall approve it or the date of passage by the council over the veto of the mayor, or in the case of any ordinance not returned by the mayor at the regular meeting of council, occurring at least ten days after the meeting at which such ordinance was passed by the council, the date of enactment shall be the date of such succeeding regular meeting of council.

(c) When council shall present the mayor with the annual tax ordinance referred to in section 1310 of this act, the mayor shall within ten days of receiving the tax ordinance approve the tax ordinance by affixing his signature thereto or return the tax ordinance to the borough secretary with a statement setting forth his objections thereto. Council shall proceed to a reconsideration thereof at any regular, special or adjourned meeting held not later than ten days after the mayor has returned the tax ordinance to the secretary with his objections. The mayor's objections shall be entered upon the minutes of the meeting. A veto of the tax ordinance of the borough may be overridden by a vote of two-thirds of all the members of council, and thereafter such ordinance shall have full force and effect as if it had received the approval of the mayor.]

Section 72. Section 1008 of the act, amended October 9, 1967 (P.L.399, No.181), is repealed:

[Section 1008. Recording, Advertising and Proof Of Ordinances; Codification of Ordinances.--(a) No ordinance, or resolution of a legislative character, in the nature of an ordinance, shall be considered in force until the same is

1 recorded in the ordinance book of the borough and has been  
2 advertised as provided in this article. All ordinances, or  
3 resolutions of a legislative character in the nature of an  
4 ordinance, may be proved by the certificate of the borough  
5 secretary, under the corporate seal, and, when printed or  
6 published in book or pamphlet form and purporting to be  
7 published by the authority of the borough, shall be read and  
8 received as evidence in all courts and places without further  
9 proof. All borough ordinances shall, within one month after  
10 their enactment, be recorded by the borough secretary in a book  
11 provided for that purpose, which shall be at all times open to  
12 the inspection of citizens. The entry of the borough ordinance  
13 in the ordinance book by the secretary shall be sufficient,  
14 without the signature thereto of the president of council, mayor  
15 or other person.

16 Any and all borough ordinances or portions thereof, the text  
17 of which, prior to the effective date of this act, shall have  
18 been attached to the ordinance book, shall be considered in  
19 force just as if the ordinances or portions thereof had been  
20 recorded directly upon the pages of such ordinance book:

21 Provided, That all other requirements of this act applicable to  
22 the enactment, approval, advertising and recording of such  
23 ordinances or portions thereof were complied with within the  
24 time limits prescribed by this act.

25 (b) Whenever any borough shall have caused to be prepared a  
26 consolidation, codification or revision of the general body of  
27 borough ordinances, or the ordinances on a particular subject,  
28 the borough council may adopt such consolidation, codification  
29 or revision as an ordinance of the borough, in the same manner  
30 that is now prescribed by law for the adoption of borough

1 ordinances, except as hereinafter provided.

2 Any such consolidation, codification or revision of borough  
3 ordinances to be enacted as a single ordinance shall be  
4 introduced in the borough council at least thirty days before  
5 its final enactment, and at least fifteen days before its final  
6 enactment, notice of the introduction of any consolidation,  
7 codification or revision, specifying its general nature and  
8 listing its table of contents, shall be given by advertisement  
9 in a newspaper of general circulation in said borough.

10 When any such consolidation, codification or revision has  
11 been enacted as an ordinance, it shall not be necessary to  
12 advertise the entire text thereof, but it shall be sufficient in  
13 any such case, to publish a notice stating that such  
14 consolidation, codification or revision, notice of the  
15 introduction of which had previously been given, was finally  
16 enacted.

17 The procedure set forth in this section for the  
18 consolidation, codification or revision of borough ordinances as  
19 a single ordinance may also be followed in enacting a complete  
20 group or body of ordinances, repealing or amending existing  
21 ordinances as may be necessary, in the course of preparing a  
22 consolidation, codification or revision of the borough  
23 ordinances, except that in such case the advertisement giving  
24 notice of the introduction shall list, in lieu of a table of  
25 contents, the titles only of each of the ordinances in such  
26 complete group or body of ordinances, and the notice following  
27 enactment shall simply state that such group or body of  
28 ordinances was passed finally.]

29 Section 73. Section 1009 of the act, amended May 1, 1984  
30 (P.L.223, No.47), is amended to read:

1       Section 1009. Typewritten, Printed, [Photostated and]  
2   Photocopied, Microfilmed and Electronically or Digitally Stored  
3   Records Valid; Recording or Transcribing Records.--(a) All  
4   borough records, required to be recorded or transcribed, shall  
5   be deemed valid if typewritten, printed, [photostated or]  
6   photocopied, microfilmed [and where] or electronically or  
7   digitally stored or retained by any other process that  
8   accurately reproduces the original and forms a durable medium  
9   for recording, storing and reproducing in accordance with the  
10   act of May 9, 1949 (P.L.908, No.250), entitled "An act relating  
11   to public records of political subdivisions other than cities  
12   and counties of the first class; authorizing the recording and  
13   copying of documents, plats, papers and instruments of writing  
14   by digital, photostatic, photographic, microfilm or other  
15   process, and the admissibility thereof and enlargements thereof  
16   in evidence; providing for the storage of duplicates and sale of  
17   microfilm and digital copies of official records and for the  
18   destruction of other records deemed valueless; and providing for  
19   the services of the Pennsylvania Historical and Museum  
20   Commission to political subdivisions."

21       (b) Where recording or transcribing in a specified book of  
22   record is required, including minutes of the proceedings of the  
23   council, [such] the records [may] shall be recorded or  
24   transcribed as follows:

25       (1) in a mechanical post binder book capable of being  
26   permanently sealed with consecutively numbered pages with a  
27   security code printed thereon and a permanent locking device  
28   with the borough seal being impressed upon each page[,]; or

29       (2) in a bound book with pages being consecutively numbered  
30   by transcribing directly upon the pages of [such] the book of

1 record or [such] by permanently attaching the records or copies  
2 [thereof may be attached] to [such] the book of record [by  
3 stapling or by glue or by any other adhesive substance or  
4 material, and all records heretofore recorded or transcribed in  
5 any manner authorized by this section are validated. When any  
6 record shall be recorded or transcribed after the effective date  
7 of this act by attaching such record or a copy thereof to the  
8 book of record as hereinabove provided,] with the borough seal  
9 [shall be] being impressed upon each page to which [such] the  
10 record is attached, with each impression [thereof] covering both  
11 a portion of the attached record and a portion of the page of  
12 the book of record to which [such] the record is attached.

13 (c) All records previously recorded or transcribed in any  
14 manner authorized by this act at the time the records were  
15 recorded or transcribed are validated.

16 Section 74. Section 1010 of the act, repealed in part April  
17 28, 1978 (P.L.202, No.53), is repealed:

18 [Section 1010. Appeals from Ordinances.--Complaint as to the  
19 legality of any ordinance or resolution may be made to the  
20 court. In cases of ordinances laying out streets over private  
21 lands, the court shall have jurisdiction to review the propriety  
22 as well as the legality of the ordinance.]

23 Section 75. Sections 1011, 1012 and 1013 of the act are  
24 repealed:

25 [Section 1011. Lost Ordinance Books to be Replaced;  
26 Recording Ordinances.--Whenever any ordinance book or books are  
27 lost, destroyed, or become unserviceable, the borough council  
28 may provide by ordinance for a new ordinance book or books into  
29 which shall be recorded by the secretary all of the ordinances  
30 contained in such lost, destroyed or unserviceable ordinance



1 book or books. The secretary, in recording such ordinances,  
2 shall make complete copies thereof, including the date of  
3 enactment and approval and the names of the officers who signed  
4 the same, and, after notice given, as hereinafter provided, and  
5 corrections made, shall certify each ordinance as a correct copy  
6 of the original.

7 Section 1012. Ordinance Providing for Recording; Notice.--  
8 The ordinance providing for the recording of such ordinances  
9 shall be recorded in such book, immediately following the  
10 ordinances so recorded and it shall provide that the secretary  
11 of the borough, upon the completion of such recording, shall  
12 publish once, in one newspaper of general circulation in the  
13 borough, a notice stating that ordinances of the borough  
14 contained in lost, destroyed, or unserviceable ordinance book or  
15 books, and that the old books and records of borough ordinances  
16 and the new ordinance book are open to public inspection for the  
17 purpose of verification and correction for a period of thirty  
18 days from the date of the notice.

19 Section 1013. Certificate of Secretary.--The secretary of  
20 the borough, at the expiration of such notice, shall make all  
21 corrections, and shall then certify that all of the ordinances  
22 have been compared with the originals and that they are correct  
23 copies thereof. After the ordinances are recorded, notice  
24 thereof given, and the certificate of correction made, the  
25 ordinances so recorded shall take the place of the original  
26 record and shall be the valid and legal ordinances of the  
27 borough for the period covered by such new ordinance book.]

28 Section 76. Sections 1014, 1015 and 1016 of the act are  
29 amended to read:

30 Section 1014. Hearings Before Council; Witnesses.--Borough

1 councils may compel the attendance of witnesses and the  
2 production of books, papers, or other evidence, at any meeting  
3 of the council, or any committee [thereof, and,] of the council  
4 and for that purpose may issue subpoenas, signed by the  
5 president of council or the [chairman] chair of the committee,  
6 [and cause the same to] which shall be served in any part of  
7 this Commonwealth. If any witness shall refuse to testify to any  
8 fact within [his] the witness's knowledge, or to produce any  
9 books or papers in [his] the witness's possession or control,  
10 required to be used as evidence in any [such] case, the  
11 [secretary of the council] borough solicitor shall report the  
12 facts relating to [such] the refusal to the court of common  
13 pleas. If the court determines the evidence required of [such]  
14 the witness to be legal and competent, it shall order [such] the  
15 witness to testify or produce the evidence required.

16 Section 1015. Witness Fees and Mileage.--No person residing  
17 [without] outside the borough and subpoenaed [as aforesaid,]  
18 under section 1014 shall be required to respond to the [same]  
19 subpoena until mileage to and from the borough[, ] at the rate  
20 [of ten cents (10¢) a mile,] established by the borough council  
21 under the act of July 20, 1979 (P.L.156, No.51), referred to as  
22 the Uniform Mileage Fee Law, and witness fees as required by law  
23 relating to witnesses, have been [furnished] paid.

24 Section 1016. Examination of Witnesses; Penalty.--Any person  
25 called as a witness, as provided in this article, may be  
26 examined under oath, administered by the president of council or  
27 [chairman] chair of the committee and, for the giving of false  
28 testimony, shall be liable [to indictment and punishment] for  
29 prosecution under applicable laws for perjury.

30 Section 77. Article X subdivision (b) heading and sections

1 1021, 1022, 1023 and 1024 of the act are repealed:

2 [(b) Mayor

3 Section 1021. Eligibility of Mayor.--No mayor shall hold any  
4 other borough office or appointment during the term for which he  
5 is elected, except as is permitted by section 1104 of this act.  
6 He shall be eligible to succeed himself. He shall not be a  
7 member of the council, nor shall he preside over or vote at any  
8 meeting of the council, except as provided in section 1003 of  
9 this act.

10 Section 1022. Incompatible Offices.--No member of Congress  
11 or any person holding any office or appointment of profit or  
12 trust under the Government of the United States, or any person  
13 holding the office of justice of the peace shall at the same  
14 time be capable of holding the office of mayor.

15 Section 1023. Oath of Mayor.--The mayor, before exercising  
16 the duties of his office, shall take and subscribe an oath or  
17 affirmation, to support the Constitution of the United States  
18 and of the Commonwealth of Pennsylvania and to perform the  
19 duties of his office with fidelity and also any loyalty oath  
20 required by any other act. The oath or affirmation may be taken  
21 before any judge or justice of the peace of the county, and  
22 shall be filed with the borough secretary, and be preserved  
23 among the records of the borough for a period of six years.

24 Section 1024. Salary of Mayor; Fixed by Ordinance.--If the  
25 mayor is to be paid by salary, such salary shall be fixed by  
26 ordinance, to be paid from the borough treasury in quarterly,  
27 monthly or semi-monthly installments on warrants authorized by  
28 the council. The salary or compensation of a mayor shall not be  
29 increased or decreased oftener than once in two years.]

30 Section 78. Section 1025 of the act, amended March 22, 2002

(P.L.207, No.17), is repealed:

[Section 1025. Salary of Mayor Limited.--The salary of the mayor shall be established by ordinance and shall not exceed, in boroughs with a population of less than five thousand, a maximum of two thousand five hundred dollars (\$2500) a year; in boroughs with a population of five thousand or more but less than ten thousand, a maximum of five thousand dollars (\$5000) a year; in boroughs with a population of ten thousand or more but less than fifteen thousand, a maximum of seven thousand five hundred dollars (\$7500) a year. In any borough with a population in excess of fifteen thousand, the salary of the mayor shall not exceed five hundred dollars (\$500) per annum per thousand population or fraction thereof, the population to be determined by the latest official census figures. Such salaries shall be payable monthly or quarterly for the duties imposed by the provisions of this act. Benefits provided to the mayor under section 1202(37) shall not be considered pay, salary or compensation, but payment for all or a part of the premiums or charges for the benefits shall be in accordance with section 1202(37).]

Section 79. Section 1026 of the act is repealed:

[Section 1026. Salaried Mayor Not to Receive Fees.--Any salary paid pursuant to an ordinance shall be in lieu of all costs and fees allowed a mayor. Costs and fees shall be taxed and collected by the mayor and turned into the borough treasury. Any mayor, upon assuming office for any elective or appointive term and at any time no sooner than two years thereafter, shall be authorized to elect to be paid by the fees and costs pertaining to his office or by the salary fixed by ordinance for his office, and such mayor shall thereupon receive as his

1 compensation either the fees and costs, or the fixed salary, as  
2 elected by him.]

3 Section 80. Section 1028 of the act, amended November 29,  
4 2004 (P.L.1337, No.170), is repealed:

5 [Section 1028. General Powers of Mayor.--(a) The mayor  
6 shall have power:

7 (1) To administer oaths and affirmations in matters  
8 pertaining to borough affairs.

9 (b) In addition to the power granted to mayors by Part V of  
10 Title 35 of the Pennsylvania Consolidated Statutes (relating to  
11 emergency management services) and in order to enable him  
12 effectually to preserve the public peace within the borough, all  
13 the powers which are devolved by the laws of this Commonwealth  
14 upon sheriffs, to prevent and suppress mobs, riots and unlawful  
15 and tumultuous assemblies, are hereby conferred upon the mayor.  
16 In the event that a state of emergency exists, a mayor shall  
17 have the authority to request aid and assistance from law  
18 enforcement officers and agencies from a neighboring  
19 municipality. In response to a request of a mayor made in  
20 accordance with this subsection, a municipal police officer  
21 shall, within the borough from which the request was made, have  
22 the power and authority to enforce the laws of this Commonwealth  
23 or otherwise perform the functions of that office as if  
24 enforcing those laws or performing those functions within the  
25 territorial limits of his or her primary jurisdiction, subject  
26 to the limitations and conditions set forth in 42 Pa.C.S. §  
27 8953(b) through (e) (relating to Statewide municipal police  
28 jurisdiction). When the mayor considers that a state of  
29 emergency exists, he may issue his proclamation, which shall be  
30 in writing and the contents of which shall be made available to

1 all news media, declaring a state of emergency for a period not  
2 to exceed seven days, unless sooner rescinded, modified or  
3 ratified or extended by resolution of council. In his  
4 proclamation he may prohibit, for all or any part of the  
5 borough:

6 (1) Any person being on the public streets or in the public  
7 parks or at any other public place during the hours declared by  
8 him to be a period of curfew.

9 (2) The entry or departure of persons into or from any  
10 restricted area.

11 (3) The sale, purchase or dispensing of any commodities or  
12 goods, as designated by him.

13 (4) The transportation, possession or use of gasoline,  
14 kerosene or other combustible, flammable or explosive liquids or  
15 materials, except in connection with the normal operation of  
16 motor vehicles, normal home use or legitimate commercial use.

17 (5) Any other such activities as he reasonably believes  
18 should be prohibited to help preserve life, health, property or  
19 the public peace.

20 The proclamation shall describe any restrictive area with  
21 particularity and shall specify the hours during such  
22 restrictions are to be in effect.

23 Any person violating such proclamation of emergency shall be  
24 guilty of a summary offense and shall, upon conviction, be  
25 sentenced to pay a fine not to exceed three hundred dollars  
26 (\$300) and costs or to undergo imprisonment not to exceed thirty  
27 days.]

28 Section 81. Section 1029 of the act, amended May 9, 1980  
29 (P.L.120, No.47) and December 12, 1980 (P.L.1194, No.220), is  
30 repealed:

[Section 1029. Duties of Mayor.--It shall be the duty of the mayor:

(1) To preserve order in the borough, to enforce the ordinances and regulations, to remove nuisances, to exact a faithful performance of the duties of the officers appointed, and to perform such other duties as shall be vested in his office by law or ordinance.

(2) Except as provided in section 1006(3), to sign such papers, contracts, obligations and documents as may be required by law.

(3) To keep correct accounts of all moneys received by him, to render to the council at least once a month an itemized statement of all such moneys so received since the last such statement, with the date at which and the purpose for which and the names of the persons from whom the same was received, and to pay all such moneys into the borough treasury, to report to the council from time to time on the state of the borough and to make recommendations to the council on matters of borough concern. The borough shall furnish the mayor with such books and forms as are necessary for the conduct of his office. Such books and forms shall be and remain the property of the borough and shall be surrendered to his successor in office.]

Section 82. Section 1030 of the act, amended June 25, 2001 (P.L.651, No.56), is repealed:

[Section 1030. When President or Vice-President of Council to Act as Mayor.--Whenever the mayor is absent or incapacitated, or there is a vacancy in the office, the duties of the office shall be discharged by the president of council, or in the absence or incapacity of the president of council, or where there is a vacancy in the office, by the vice-president of

1 council. While discharging the duties of mayor, the president or  
2 vice-president of council shall be entitled to the same salary  
3 as the mayor would receive, and, during the time such salary is  
4 paid to the president or vice-president of council as acting  
5 mayor, the mayor shall not be paid compensation. The president  
6 or vice-president of council, when acting as mayor, shall have  
7 power to veto any proposed ordinance or to break a tie, but  
8 shall not have power to vote as a member of council.]

9 Section 83. Article X subdivision (c) heading of the act is  
10 reenacted to read:

11 (c) Auditors

12 Section 84. Section 1041 of the act, amended February 10,  
13 1976 (P.L.9, No.6), is amended to read:

14 Section 1041. Auditors to Meet Yearly, and Audit Accounts[;  
15 Uniform Forms].--(a) The auditors of the borough shall meet on  
16 the first Tuesday of January of each year, and shall organize by  
17 the election of a [chairman] chair and a secretary. If the first  
18 Tuesday is a legal holiday, the meeting and organization shall  
19 take place the first day following. Two auditors shall  
20 constitute a quorum.

21 (b) The auditors shall audit, adjust, and settle the  
22 accounts of the tax collectors, the [justice of the peace,]  
23 magisterial district judge and all officers of the borough, and  
24 may also audit, adjust and settle the accounts of any person,  
25 corporation, association, organization, committee or commission  
26 receiving or expending borough funds[; and shall prepare a  
27 report thereof, which shall contain an audit of the accounts of  
28 the last fiscal year, and shall also show a complete statement  
29 of the financial condition of the borough, giving in detail the  
30 actual indebtedness, the amount of the funded debt, the amount



1 of the floating debt, the valuation of taxable property therein,  
2 the assets of the borough with the character and value thereof,  
3 and the date of maturity of the respective forms of funded debt  
4 thereof. Such report shall be prepared within ninety days after  
5 the close of the fiscal year].

6 [(c) The amount of any balance or shortage, or of any  
7 expenditure of a kind, or made in a manner, prohibited or not  
8 authorized by statute, which causes a financial loss to the  
9 borough, shall be a surcharge against any officer against whom  
10 such balance or shortage shall appear, or who by vote, act, or  
11 neglect, has permitted or approved such expenditure, but no  
12 elected or appointed official of a borough shall be surcharged  
13 for any act, error or omission in excess of the actual financial  
14 loss sustained by the borough, and any surcharge shall take into  
15 consideration as its basis the results of such act, error or  
16 omission and the results had the procedure been strictly  
17 according to law. The provisions hereof limiting the amount of  
18 any surcharge shall not apply to cases involving fraud or  
19 collusion on the part of officers, nor to any penalty enuring to  
20 the benefit or payable to the Commonwealth.

21 (d) After such report has been prepared and executed by the  
22 auditors, it shall be the duty of the auditors to file a copy of  
23 the report with the secretary of the borough, with the clerk of  
24 the court of common pleas of the county, with the Pennsylvania  
25 Department of Transportation and with the Department of  
26 Community Affairs. Such reports shall be filed by the auditors  
27 of the borough not later than ninety days after the close of the  
28 fiscal year. Any auditor refusing or wilfully neglecting to file  
29 such report shall, upon conviction in a summary proceeding, be  
30 sentenced to pay a fine of five dollars (\$5) for each day's

1 delay beyond the last day for filing such report and costs, but  
2 the total fine which may be imposed and collected for any such  
3 offense shall not exceed two hundred dollars (\$200). If the  
4 failure to file such report within the period specified is due  
5 to the failure of the auditors to prepare the statement upon  
6 which said report is to be based, said fine shall be imposed  
7 upon all of the auditors.

8 (e) In any matter involving any financial transaction, any  
9 official knowingly and wilfully acting contrary to law, shall be  
10 guilty of a misdemeanor, and on conviction thereof, may be  
11 sentenced to pay a fine not exceeding one hundred dollars  
12 (\$100), and his office may be forthwith declared vacant as may  
13 seem meet and just to the court passing sentence.

14 (f) The uniform form for the annual auditors' report and the  
15 annual financial statement, hereinafter required to be made,  
16 shall be prepared by a committee as provided in article XIII of  
17 this act.

18 (g) The auditors shall also audit and report to the borough  
19 council, upon the accounts of every officer of the borough, upon  
20 the death, resignation, removal or expiration of the term of  
21 such officer.] The auditors shall also audit and report to the  
22 borough council, upon the accounts of every officer of the  
23 borough, upon the death, resignation, removal or expiration of  
24 the term of the officer. Unless otherwise agreed to by the  
25 auditors and the person being audited, the audit shall be  
26 conducted at the place the records of the person are normally  
27 kept.

28 (b.1) All orders, vouchers and certificates of indebtedness  
29 which have been paid shall, on their presentation to the  
30 auditors, be canceled by writing or stamping the word "audited"

1 on the face thereof.

2 Section 85. Section 1042 of the act is repealed:

3 [Section 1042. Orders and Vouchers to be Marked "Audited".--  
4 All orders, vouchers and certificates of indebtedness, which  
5 have been paid, shall, on their presentation to the auditors, be  
6 cancelled by writing or stamping the word "audited" on the face  
7 thereof.]

8 Section 86. Section 1043 of the act, amended December 17,  
9 1986 (P.L.1691, No.201), is repealed:

10 [Section 1043. Completion of Auditors' Report; Publication  
11 of Financial Statement.--The auditors shall complete such audit,  
12 adjustment and settlement, as soon as possible. The auditors  
13 shall within ten days thereafter publish, by advertisement in at  
14 least one newspaper of general circulation in the borough, a  
15 concise financial statement setting forth the balance in the  
16 treasury at the beginning of the fiscal year, all revenues  
17 received during the fiscal year by major classifications, all  
18 expenditures made during the fiscal year by major functions, and  
19 the current resources and liabilities of the borough at the end  
20 of the fiscal year, the gross liability and net debt of the  
21 borough, the amount of the assessed valuation of the borough,  
22 the assets of the borough with the character and value thereof,  
23 the date of the last maturity of the respective forms of funded  
24 debt, and the assets in each sinking fund.]

25 Section 87. Sections 1044, 1045, 1047, 1048 and 1049 of the  
26 act are repealed:

27 [Section 1044. Appeals from Audit.--It shall be lawful for  
28 the borough, or any taxpayer thereof, on its behalf, or any  
29 officer whose account is settled or audited, to appeal from the  
30 settlement or audit, as shown in the auditors' report, to the

1 court of common pleas of the county, not later than forty days  
2 from the date of filing of the auditors' report with the clerk  
3 of the court of quarter sessions.

4 Section 1045. Taxpayers Appealing to Enter Bond.--No appeal  
5 by a taxpayer or officer shall be allowed, unless, at the time  
6 of taking such appeal, the appellant shall enter into bond in  
7 the sum of one thousand dollars (\$1000) with sufficient surety,  
8 to prosecute the same with effect and to pay all costs accruing  
9 thereon, in case, if the appellant is a taxpayer, he shall fail  
10 to obtain a final decision more favorable to the borough than  
11 that awarded by the auditors, or, in case, if the appellant is  
12 an accounting officer, he shall fail to obtain a final decision  
13 more favorable to the officer than that awarded by the auditors.  
14 Unless such bond is filed as hereinbefore provided, the court of  
15 common pleas, upon application, shall set aside the appeal.

16 Section 1047. Procedure on Appeals.--Any person interested  
17 may order the appeal upon the argument list, and evidence may be  
18 taken before any person authorized to administer oaths, upon  
19 rule for that purpose served upon the opposite party. In any  
20 proceeding upon an appeal from a report of auditors, the  
21 accounts of the office or officers, or the person, corporation,  
22 association, organization, committee or commission in question  
23 may be investigated de novo, and the burden shall be upon each  
24 officer, person, corporation, association, organization,  
25 committee or commission, whose accounts are involved in the  
26 appeal, of establishing his right to credits claimed by him or  
27 it, but the opposing party in such appeal may use any facts,  
28 figures, or findings of the report of audit as prima facie  
29 evidence against any officer or other entity.

30 When more than one appeal from a report of such auditors

1 shall have been taken, whether by the borough or an officer or  
2 officers thereof, or by a taxpayer, or any or all of them, the  
3 court shall, on its own motion, or upon motion of any party  
4 interested, direct the several appeals to be disposed of in a  
5 single proceeding.

6 Section 1048. Framed Issues.--Whenever any matter of fact is  
7 in dispute, the court of common pleas is authorized to frame an  
8 issue for the trial thereof.

9 Section 1049. Findings of Fact and Law; Judgment.--After  
10 hearing, the court shall file its findings of fact and law and  
11 enter judgment in accordance therewith, and the judgment so  
12 entered may be enforced, by any appropriate proceedings, by the  
13 party prevailing.]

14 Section 88. Section 1050 of the act, repealed in part June  
15 3, 1971 (P.L.118, No.6), is repealed:

16 [Section 1050. Exceptions and Appeals.--Exceptions to the  
17 ruling of the court, shall be permitted as in other cases.]

18 Section 89. Sections 1051 and 1052 of the act are repealed:

19 [Section 1051. Balances Due to be Entered as Judgments.--Any  
20 balance, in any report of the auditors, against any officer of  
21 the borough, shall constitute a surcharge against such officer,  
22 as fully as if expressly stated in said report to be a  
23 surcharge, and the amount of any balance, and of any express  
24 surcharge, shall, if no appeal is taken, or after an appeal has  
25 been finally determined, be entered by the prothonotary as a  
26 judgment, against such officer and in favor of the borough. The  
27 clerk of the court of quarter sessions shall certify the amount  
28 of every balance or surcharge, contained in any such report,  
29 from which no appeal has been taken within time herein provided,  
30 to the court of common pleas, for entry thereof by the

1 prothonotary as a judgment. Any taxpayer of the borough may  
2 enforce the collection thereof, for the benefit of the borough,  
3 by action or execution, upon filing in the court of common pleas  
4 a bond, in the sum of one thousand dollars (\$1000) with one or  
5 more sureties, conditioned to indemnify the borough from all  
6 costs which may accrue in the proceedings undertaken by such  
7 taxpayer, subject, however, to all rights of appeal from the  
8 report of auditors granted by this act. If any person or persons  
9 have been, or shall be, surcharged for an illegal purchase, and  
10 no fraud or collusion is shown and the surcharge is paid to the  
11 borough, then the article purchased shall become the property of  
12 the person or persons surcharged.

13 Section 1052. Attorney to Auditors.--The borough auditors  
14 may employ an attorney whenever the same is deemed advisable by  
15 a majority of the auditors.

16 The compensation of such attorney shall be fixed by the  
17 auditors, and shall not exceed the sum payable to one auditor  
18 for the making of the annual audit, unless a larger compensation  
19 shall be allowed by council, or shall be specially allowed by a  
20 court in connection with any proceeding before such court, and  
21 shall be payable by the borough out of the general fund of the  
22 borough.]

23 Section 90. Section 1053 of the act, amended June 25, 2001  
24 (P.L.651, No.56), is amended to read:

25 Section 1053. Compensation of Auditors.--(a) Subject to the  
26 limitations set forth in subsection (b), each auditor shall  
27 receive [no less than five dollars (\$5) nor more than] ten  
28 dollars (\$10)[, as council may determine,] per hour for each  
29 hour or portion thereof necessarily employed in the discharge of  
30 his duties, to be paid by the borough.

(b) No auditor in a borough having a population of ten thousand or less shall be entitled to receive more than one thousand dollars (\$1,000) for completing the annual audit, settlement and adjustment. No auditor in a borough having a population in excess of ten thousand shall be entitled to receive more than two thousand dollars (\$2,000) for completing the annual audit, settlement and adjustment.

(c) Each auditor shall be reimbursed for travel costs incurred in the performance of the auditing duties at the rate established by the borough council under the act of July 20, 1979 (P.L.156, No.51), referred to as the Uniform Mileage Fee Law, and for other actual expenses, including postage, notary fees or publication costs, necessarily incurred during the audit.

Section 91. Section 1054 of the act is repealed:

[Section 1054. Penalty for Failure to Comply with Law.--In case of any neglect or refusal to comply with the provisions of the preceding sections of this article, any auditor so neglecting or refusing shall upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than one hundred dollars (\$100), and in default of the payment of the fine and costs, shall be imprisoned for not more than ten days.]

Section 92. Section 1055 of the act is amended to read:

Section 1055. [Auditors May Compel Attendance of Witnesses.--The] Subpoenas; Oath; Perjury.--(a) A majority of  
the auditors of any borough[, or a majority of them,] shall have the power to issue subpoenas to obtain the attendance of the [officers] persons whose accounts they are required to adjust, their executors, and administrators, and of any persons whom it may be necessary to examine as witnesses, and to compel their

1 attendance, and may also compel the production of all documents,  
2 including books, vouchers and papers relative to borough  
3 accounts. If any person shall refuse or neglect to appear [or],  
4 to produce documents or to testify, the auditors shall petition  
5 the court of common pleas of the county to issue a subpoena to  
6 [such] the person and to require [him] the person to produce  
7 documents or to appear and to testify before the court. The  
8 court shall issue [such] the subpoena if it deems the documents  
9 or testimony relevant to the issue.

10 (b) The auditors of any borough shall have power to  
11 administer oaths and affirmations to all persons brought or  
12 appearing before them, whether accountants, witnesses, or  
13 otherwise. Persons guilty of swearing or affirming falsely on  
14 the examination shall be guilty of perjury.

15 Section 93. Sections 1056 and 1057 of the act are repealed:

16 [Section 1056. Auditors May Administer Oaths; Penalty.--The  
17 auditors of any borough, or a majority of them, shall have power  
18 to administer oaths and affirmations to all persons brought or  
19 appearing before them, whether accountants, witnesses, or  
20 otherwise; and all persons guilty of swearing or affirming  
21 falsely on such examination shall be liable to indictment and  
22 punishment for perjury.

23 Section 1057. Persons Refusing to Testify to be Committed.--  
24 If any person, appearing before such auditors for examination,  
25 shall refuse to take such oath or affirmation, or, after having  
26 been sworn or affirmed, shall refuse to make answer to such  
27 questions as shall be put to him by the auditors touching the  
28 accounts or the official conduct of such person or any  
29 corporation, association, organization, committee or commission  
30 with which such person shall be connected, then the auditors may



1 petition the court to issue its subpoena as hereinbefore  
2 provided.]

3 Section 94. Sections 1058 and 1059 of the act are amended to  
4 read:

5 Section 1058. Pay of Witnesses.--Witnesses, other than  
6 officers of the borough, attending before the auditors, and  
7 persons or officers serving subpoenas, shall be paid, out of the  
8 borough treasury upon authorization signed by a majority of the  
9 auditors and orders drawn on the borough treasury, the same fees  
10 as are payable for rendering similar services in civil  
11 proceedings before a [justice of the peace and the amount  
12 thereof] magisterial district judge. The amount paid shall be  
13 made a part of the charge against any officer who shall be  
14 charged by the auditors with any balance[: Provided, That any  
15 such], provided that the costs shall have been incurred in  
16 establishing [said] the balance. [Upon collection of any such  
17 costs from any officer, they] The costs collected from any  
18 officer shall be repaid into the borough treasury.

19 Section 1059. Auditors to Settle Accounts Where Witnesses Do  
20 Not Appear.--If any person in possession of [books, vouchers, or  
21 papers,] documents relative to public accounts before auditors,  
22 shall refuse to produce the same, or, if any officer whose  
23 accounts are to be settled and adjusted by [such] the auditors  
24 shall refuse to attend or submit to examination as is  
25 [hereinbefore] directed by this subdivision, the auditors or a  
26 majority of them may proceed, by the examination of witnesses  
27 and other evidence, to ascertain and settle as near as may be,  
28 the amount of public money received by [such] the officer and  
29 its application to public purposes or otherwise.

30 Section 95. The act is amended by adding sections to read:

Section 1059.1. Completion, Filing and Publication of Auditor's Report and Financial Statement.--(a) The auditors shall complete the annual audit, adjustment and settlement as soon as possible after the end of the fiscal year. The auditors shall, within ten days after completing the annual audit, publish once in at least one newspaper of general circulation a concise financial statement setting forth:

(1) the balance in the treasury at the beginning of the fiscal year;

(2) all revenue received during the fiscal year by major classifications;

(3) all expenditures made during the fiscal year by major functions and the current resources and liabilities of the borough at the end of the fiscal year;

(4) the gross liability and net debt of the borough;

(5) the amount of assessed valuation of the borough;

(6) the assets of the borough with their character and value;

(7) the date of the last maturity of the respective forms of funded debt; and

(8) the assets in each sinking fund.

(b) The auditors shall prepare a report which shall contain an audit of the accounts of the last fiscal year and shall also show a complete statement of the financial condition of the borough, giving in detail the following:

(1) the actual indebtedness;

(2) the amount of funded debt;

(3) the amount of floating debt;

(4) the valuation of taxable property in the borough;

(5) the assets of the borough with their character and

1 value; and

2 (6) the date of maturity of the respective forms of funded  
3 debt of the borough.

4 The reports shall be prepared no later than ninety days after  
5 the close of the fiscal year. It shall be the duty of the  
6 secretary of the auditors to file a copy of the report with the  
7 secretary of the borough, with the clerk of the court of common  
8 pleas of the county or the prothonotary under local rules of  
9 court, with the Department of Transportation and with the  
10 Department of Community and Economic Development no later than  
11 ninety days after the close of the fiscal year. Any secretary of  
12 the auditors refusing or willfully neglecting to file the report  
13 shall be guilty of a summary offense. If the failure to file the  
14 report within the period specified is due to the failure of any  
15 or all of the auditors to prepare the statement upon which the  
16 report is to be based, the auditor or auditors shall be guilty  
17 of a summary offense.

18 (c) The secretary of the auditors shall serve, by registered  
19 or certified mail, notice to every elected or appointed official  
20 against whom a balance or shortage appears in the report  
21 required under subsection (b). The notice shall be served prior  
22 to the filing of the report and shall indicate the amount of the  
23 balance or shortage and a brief description of how the balance  
24 or shortage was derived. The notice shall also indicate that the  
25 balance or shortage is deemed a surcharge pursuant to section  
26 1059.3 and shall apprise the officer served of the right to  
27 appeal pursuant to section 1059.4. Service of notice is complete  
28 when the notice is properly addressed, postage prepaid and  
29 mailed. Failure to receive the notice required by this  
30 subsection shall not constitute grounds for relief from any

1 judgment entered pursuant to this article.

2 (d) The annual auditors report and the annual financial  
3 statement shall be presented on a uniform form prepared by a  
4 committee as provided in Article XIII.

5 Section 1059.2. Attorney to Auditors.--The borough auditors  
6 may employ an attorney whenever deemed advisable by a majority  
7 of the auditors. The auditors, with the agreement of borough  
8 council, shall determine the compensation to be paid to the  
9 attorney. If the auditors and borough council cannot agree on  
10 the compensation, upon petition of the auditors, the court of  
11 common pleas shall establish the compensation for the attorney  
12 employed by the auditors. The compensation for the attorney  
13 shall be paid out of the borough general fund.

14 Section 1059.3. Surcharge by Auditors.--(a) The amount of  
15 any balance or shortage or of any expenditure of a kind, or made  
16 in a manner prohibited or not authorized by statute which causes  
17 a financial loss to the borough, shall be a surcharge against  
18 any officer against whom the balance or shortage shall appear,  
19 or who by vote, act or neglect has permitted or approved the  
20 expenditure. No elected or appointed official of a borough may  
21 be surcharged for any act, error or omission in excess of the  
22 actual financial loss sustained by the borough, and any  
23 surcharge shall take into consideration as its basis the results  
24 of the act, error or omission and the results had the procedure  
25 been strictly in accordance with law. The provisions limiting  
26 the amount of any surcharge shall not apply to cases involving  
27 fraud or collusion on the part of officers, nor to any penalty  
28 enuring to the benefit of or payable to the Commonwealth.  
29 Notwithstanding this section, the procedures in the act of May  
30 25, 1945 (P.L.1050, No.394), known as the "Local Tax Collection

1 Law," shall apply to balances and shortages in the tax accounts  
2 of the tax collector.

3 (b) In any matter involving a financial transaction, any  
4 official knowingly and willfully acting contrary to law shall be  
5 guilty of a misdemeanor, and upon conviction, may be sentenced  
6 to pay a fine not exceeding one hundred dollars (\$100).

7 Section 1059.4. Appeals from Audit.--It shall be lawful for  
8 the borough, or any taxpayer of the borough, on its behalf, or  
9 any person whose account is settled or audited, to appeal from  
10 the settlement or audit, as shown in the auditors report, to the  
11 court of common pleas of the county, not later than forty days  
12 from the date of the filing of the auditor's report with the  
13 clerk of common pleas.

14 Section 1059.5. Taxpayers Appealing to Enter Bond.--No  
15 appeal by a taxpayer or officer may be allowed, unless within  
16 the time of taking the appeal, the appellant shall secure a bond  
17 in the sum of one thousand dollars (\$1,000) with sufficient  
18 surety, to prosecute the appeal and to pay all costs of appeal,  
19 in case, if the appellant is a taxpayer, the appellant fails to  
20 obtain a final decision more favorable to the borough than that  
21 awarded by the auditors, or, in case, if the appellant is an  
22 accounting officer, the appellant fails to obtain a final  
23 decision more favorable to the officer than that awarded by the  
24 auditors. Unless the bond is filed as provided in this section,  
25 the court of common pleas, upon application, shall set aside the  
26 appeal.

27 Section 1059.6. Procedure on Appeals.--(a) In any  
28 proceeding upon an appeal from a report of the auditors, the  
29 accounts of the office or officers, or the person, corporation,  
30 association, organization, committee or commission in question

1 may be investigated de novo, and the burden shall be upon each  
2 officer, person, corporation, association, organization,  
3 committee or commission whose accounts are involved in the  
4 appeal of establishing the person's right to credits claimed by  
5 the person, but the opposing party in the appeal may use any  
6 facts, figures or findings of the report of the auditors as  
7 prima facie evidence against any officer or other entity.

8 (b) When more than one appeal from a report of the auditors  
9 shall have been taken, the court shall, on its own motion or  
10 upon motion of any interested party, direct the several appeals  
11 to be disposed of in a single proceeding.

12 Section 1059.7. Findings of Fact and Law; Judgment;  
13 Appeals.--After the hearing, the court shall file its findings  
14 of fact and law and enter judgment accordingly, and the judgment  
15 so entered may be enforced by the prevailing party by any  
16 appropriate proceeding. Appeals from the court's ruling may be  
17 taken in accordance with law.

18 Section 1059.8. Attorney Fees.--(a) Upon final  
19 determination of an appeal taken under section 1059.4 from any  
20 report, audit or settlement of the account of any borough  
21 officer, attorney fees shall be awarded as follows:

22 (1) If in the opinion of the court the final determination  
23 is more favorable to the borough officer involved than that  
24 awarded by the auditors, the borough shall pay reasonable  
25 attorney fees or, under subsection (c), a portion of reasonable  
26 attorney fees incurred by the officer in connection with the  
27 surcharge proceeding.

28 (2) In the case of an appeal taken by the borough or a  
29 taxpayer, if in the opinion of the court the final determination  
30 is more favorable to the borough than that awarded by the

1 auditors, the borough officer who is the subject of the  
2 surcharge proceeding shall pay reasonable attorney fees or,  
3 under subsection (c), a portion of reasonable attorney fees  
4 incurred by the borough, elector or taxpayer in connection with  
5 the surcharge proceeding.

6 (3) If in the opinion of the court the final determination  
7 is in part more favorable to the borough and in part more  
8 favorable to the borough officer involved in the surcharge  
9 proceeding than that awarded by the auditors, the court may  
10 order the borough to pay a portion of reasonable attorney fees  
11 incurred by the officer in connection with the surcharge  
12 proceeding or it may order the borough officer who is the  
13 subject of the surcharge proceeding to pay a portion of  
14 reasonable attorney fees incurred by the borough or taxpayer in  
15 connection with the surcharge proceeding.

16 (b) The counsel fees in case of appeals involving accounts  
17 other than those of borough officers shall be allocated in the  
18 court's discretion.

19 Section 1059.9. Balances Due to be Entered as Judgments.--A  
20 balance in a report of the auditors against an officer of the  
21 borough shall constitute a surcharge against the officer as  
22 fully as if expressly stated in the report to be a surcharge.  
23 The amount of a balance and of any express surcharge shall, if  
24 no appeal is taken, or after an appeal has been finally  
25 determined in favor of the borough, be entered by the  
26 prothonotary as a judgment against the officer. The clerk of the  
27 court of common pleas shall certify the amount of every balance  
28 or surcharge contained in a report from which no appeal has been  
29 taken within the time provided under this article to the court  
30 of common pleas for entry by the prothonotary as a judgment. Any

1 taxpayer of the borough may enforce the collection of the  
2 balance or surcharge for the benefit of the borough, by action  
3 or execution, upon filing in the court of common pleas a bond,  
4 in the sum of one thousand dollars (\$1,000) with one or more  
5 sureties, conditioned to indemnify the borough from all costs of  
6 the proceedings undertaken by the taxpayer, subject, however, to  
7 all rights of appeal from the report of auditors granted by this  
8 act. If a person has been or shall be surcharged for an illegal  
9 purchase, and no fraud or collusion is shown and the surcharge  
10 is paid to the borough, then the article purchased shall become  
11 the property of the person surcharged.

12 Section 1059.10. Penalty for Failure to Comply with Law.--

13 (a) An auditor neglecting or refusing to comply with the  
14 provisions of this article shall be guilty of a summary offense.

15 (b) An auditor who is financially interested, directly or  
16 indirectly, in a borough transaction commits a summary offense.

17 Section 1059.11. General Powers and Duties of Independent  
18 Auditor.--(a) When an independent auditor is appointed pursuant  
19 to section 1005(7), the independent auditor shall have the same  
20 powers and duties and be subject to the same penalties as the  
21 auditors under this article. The independent auditor shall  
22 annually examine, audit and settle all accounts in which the  
23 borough is concerned. The audit shall consist of an examination  
24 in accordance with generally accepted auditing standards and  
25 shall include tests of the accounting records and other auditing  
26 procedures as the independent auditor considers necessary in the  
27 circumstances. The independent auditor shall make and publish  
28 the annual financial report in the same form and manner and at  
29 the same time as in this act required of the auditors of the  
30 borough.



1     (b) The independent auditor shall audit the accounting  
2 records of the borough for the fiscal year and shall prepare a  
3 report on the examination which shall be subject to appeal in  
4 the same manner as reports of the auditors under this article.  
5 The report shall set forth:

6     (1) The scope of the examination.

7     (2) The independent auditor's opinion of the fairness of the  
8 presentation of the financial statement of the borough, which  
9 shall show a complete statement of the financial condition of  
10 the borough, giving in detail the actual indebtedness, the  
11 amount of funded debt, the amount of floating debt, the  
12 valuation of the taxable property in the borough, the assets of  
13 the borough with their character and value and the date of the  
14 maturity of the respective forms of funded debt of the borough.

15     (3) The amount of any balance or shortage or any expenditure  
16 of any kind or made in a manner prohibited or not authorized by  
17 a statute which came to the independent auditor's attention  
18 during the course of the examination and which, in the  
19 independent auditor's opinion, causes a financial loss to the  
20 borough as provided in section 1059.3, shall be a surcharge  
21 against an officer against whom the balance or shortage shall  
22 appear, subject to appeal, entry as judgment, certification and  
23 enforcement as provided in this article.

24     (c) The independent auditor may employ an attorney subject  
25 to the provisions of section 1059.8, except that the employment  
26 shall be with the consent of borough council.

27     (d) Sections 1055, 1058 and 1059, relating to witnesses,  
28 shall apply to proceedings initiated by independent auditors.

29     (e) The compensation of the independent auditor shall be  
30 determined by council and paid by borough funds.

1 Section 96. Article X subdivision (d) heading of the act is  
2 reenacted to read:

3 (d) Controller

4 Section 97. Sections 1061, 1062 and 1063 of the act are  
5 amended to read:

6 Section 1061. Oath and Bond of Controller.--The borough  
7 controller shall, before entering upon the duties of [his]  
8 office, take the required oath or affirmation [to support the  
9 Constitution of the United States and of the Commonwealth of  
10 Pennsylvania and to perform the duties of his office with  
11 fidelity and any loyalty oath required by any other act. He] of  
12 office under 53 Pa.C.S. § 1141 (relating to form of oaths of  
13 office). The controller shall give bond to the borough with a  
14 surety company to be approved by the council, in [such] a sum as  
15 [it] council may direct by ordinance [direct], conditioned for  
16 the faithful discharge of [his] the controller's duties. The  
17 amount of [said] the bond shall be sufficient to adequately  
18 protect the borough from any illegal or unfaithful action by the  
19 controller. The cost of [such] the bond shall be paid by the  
20 borough.

21 Section 1062. Salary of Controller.--The borough council  
22 shall fix the annual salary of the controller[, and may not  
23 increase or decrease such salary oftener than once in two  
24 years]. Any change in salary, compensation or emoluments of the  
25 elected office shall become effective at the beginning of the  
26 next term of the controller.

27 Section 1063. General Powers and Duties of Controller.--The  
28 borough controller, shall [superintend] manage the fiscal  
29 affairs of the borough. [He] The controller shall examine,  
30 audit, and settle all accounts [whatsoever] in which the borough

1 is concerned either as debtor or creditor, where provision for  
2 the settlement [thereof] is made by law[; and, where no such].  
3 Where no provision or an insufficient provision has been made,  
4 [he] the controller shall examine [such] the accounts and report  
5 to the borough council the relevant facts [relating thereto with  
6 his] and opinion [thereon] on the accounts.

7 In the examination, audit, and settlement of accounts, the  
8 controller shall have all of the powers and perform all of the  
9 duties vested in and imposed on the auditors by this act. [He] A  
10 person guilty of swearing or affirming falsely before the  
11 controller shall be guilty of perjury. The controller shall make  
12 and file an annual report of [his] the audit, and make and  
13 publish the annual financial report in the same form and manner  
14 and at the same time as in this act required of the auditors of  
15 the borough.

16 The borough controller shall have supervision and control of  
17 the accounts of all departments, bureaus, and officers of the  
18 borough, authorized to collect, receive, or disburse the public  
19 moneys, or who are charged with the management or custody  
20 [thereof. He] of the accounts. The controller shall audit their  
21 respective accounts, and may at any time require from any of  
22 them a statement in writing of any moneys or property of the  
23 borough in their possession, or under their control, showing the  
24 amount of cash on hand and the amount deposited in banks and  
25 banking institutions together with the names of [such] the  
26 institutions. [He] The controller shall have power to examine  
27 every [such] account of a borough officer in any bank or banking  
28 institution to verify the accuracy of the statement of [such]  
29 the borough, department, bureau or officer and it shall be the  
30 duty of every [such] department, bureau or officer, and [it

1 shall be the duty] of every [such] bank and banking institution,  
2 its officers and agents, to furnish full information to the  
3 controller in relation to [such] the account. No banker or  
4 banking institution, its officers or agents, shall be subject to  
5 prosecution under other laws of this Commonwealth for disclosing  
6 [any such] information with respect to [any such] an account.  
7 [He] The controller shall, immediately upon the discovery of any  
8 default, irregularity, or delinquency, report the same to the  
9 borough council. [He] The controller shall also audit and report  
10 upon the accounts of [any such] an officer upon the death,  
11 resignation, removal, or expiration of the term of the [said]  
12 officer.

13 Section 98. Section 1064 of the act is repealed:

14 [Section 1064. Controller May Require Attendance of  
15 Witnesses; Penalty.--In the making of any audit or settlement,  
16 and in the authentication of any account or claim or demand  
17 against the borough, the controller shall have the same power  
18 and authority to obtain the attendance before him of parties and  
19 witnesses, and the production of books and papers, and to  
20 administer oaths and affirmations, as are given by law to the  
21 borough auditors. All persons guilty of swearing or affirming  
22 falsely before him shall be liable to indictment and punishment  
23 for perjury.]

24 Section 99. Sections 1065, 1066, 1067 and 1068 of the act  
25 are amended to read:

26 Section 1065. Controller to Countersign Warrants.--The  
27 borough controller shall countersign all warrants upon the  
28 borough treasurer, with the form [thereof] of the warrant to be  
29 prescribed by council, but no warrant shall be countersigned  
30 unless there is money in the treasury to pay the same. Whenever

1 a warrant on the treasurer shall be presented to the controller  
2 to be countersigned, the person presenting the same shall, if  
3 the controller requires, produce evidence:

4 (1) That the amount expressed in the warrant is due to the  
5 person in whose favor it is drawn.

6 (2) That the supplies or service, for payment of which the  
7 warrant is drawn, have been furnished or performed according to  
8 law and the terms of the contract.

9 Section 1066. Controller to Prevent Appropriation  
10 Overdrafts.--The borough controller shall not permit any  
11 appropriation made by the council to be overdrawn. Whenever an  
12 appropriation is exhausted, the object of which is not complete,  
13 [he] the controller shall immediately report the fact to the  
14 council, and accompany [such] the report with a statement of the  
15 moneys which have been drawn on [such] the appropriation and the  
16 particular purpose for which they are drawn.

17 Section 1067. Amount of Contracts to be Charged Against  
18 Appropriations.--[Every] A contract involving appropriation of  
19 money shall designate the item of appropriation on which it is  
20 founded, and the estimated amount of the expenditure  
21 [thereunder] shall be charged against [such] the item, and [so]  
22 certified by the borough controller on the contract, before it  
23 shall take effect as a contract, and the payment required by  
24 [such] the contract shall be made from the fund appropriated  
25 [therefor]. If the controller shall certify [any] a contract in  
26 excess of the appropriation made [therefor], the borough shall  
27 not be liable for [such] the excess, but the controller and  
28 [his] the controller's sureties shall be liable for the same,  
29 which may be recovered in an action at law by the aggrieved  
30 contracting party [aggrieved]. It shall be the duty of the

1 controller to certify contracts for the payment of which  
2 sufficient appropriations have been made.

3 Section 1068. Controller's Recommendations on Borough  
4 Finances.--The borough controller shall, as often as [he] the  
5 controller may deem expedient or the council shall direct,  
6 suggest plans to the council for the management and improvement  
7 of the borough finances.

8 Section 100. Sections 1069 and 1070 of the act are reenacted  
9 to read:

10 Section 1069. Books to be Kept by Controller.--The borough  
11 controller shall keep a regular set of books, in which shall be  
12 opened and kept as many accounts, under appropriate titles, as  
13 may be necessary to show separately and distinctly all the  
14 estates and property, whatsoever, real and personal, vested in  
15 the borough, all trusts in the care of the same, all debts due  
16 and owing the borough, all receipts and expenditures of the  
17 various departments of the borough government, and all  
18 appropriations made by council and the sums under the same,  
19 respectively.

20 Section 1070. Appeals from Controller's Report.--Appeals may  
21 be taken from the settlement and audit of the controller as  
22 shown in the controller's report to the court of common pleas of  
23 the county, by the same persons, in the same manner, within the  
24 same time, subject to the same conditions and procedure, and  
25 with like effect in every respect, as in this act provided in  
26 the cases of appeals from the settlement and audit of the  
27 auditors as shown in their report.

28 Section 101. Section 1071 of the act is amended to read:

29 Section 1071. Acceptance by Ordinance.--The foregoing  
30 provisions of subdivision (d) [of this article] shall not become

1 operative or effective in any borough not having a controller,  
2 until the borough shall, by ordinance, accept the provisions of  
3 subdivision (d) [of this article]. When any borough accepts the  
4 provisions of subdivision (d) [of this article], the court of  
5 [quarter sessions] common pleas, upon petition of council, shall  
6 appoint a controller to hold office until the first Monday of  
7 January, next succeeding the next municipal election at which a  
8 controller [may] shall be elected under the provisions of this  
9 act.

10 In all boroughs accepting the provisions of subdivision (d)  
11 [of this article], the borough auditors then in office, or the  
12 appointed auditor serving as [such] borough auditor, shall  
13 continue to hold their office until the first day of January  
14 succeeding the election of a borough controller, after which  
15 date the office of borough auditor shall be abolished.

16 A borough may discontinue the office of controller and either  
17 reestablish the office of elected auditors, or the position of  
18 appointed auditor, by repealing the ordinance under which the  
19 office of controller was created. In any such case, the  
20 controller in office at the time of [such] the repeal shall  
21 continue in [such] office until the end of [his] the  
22 controller's term.

23 Section 102. Article X subdivision (e) heading and section  
24 1081 of the act are repealed:

25 [(e) Assessors

26 Section 1081. Powers of Assessors.--The assessors shall have  
27 all the powers, perform all the duties, be subject to all the  
28 obligations, and receive the same compensation as is now  
29 provided by law.]

30 Section 103. Article X subdivision (f) heading of the act is

1 reenacted to read:

2 (f) Tax Collector

3 Section 104. Section 1086 of the act, amended October 9,  
4 1967 (P.L.399, No.181), is amended to read:

5 Section 1086. Powers and Duties of Tax Collector.--The tax  
6 collector shall be the collector of all State, county, borough,  
7 school, institution district and other taxes, levied within the  
8 borough by the authorities empowered to levy taxes[, but he].  
9 The tax collector shall not collect any tax levied and imposed  
10 under the act of December 31, 1965 [(P.L.1257),] (P.L.1257,  
11 No.511), known as "The Local Tax Enabling Act," unless the  
12 ordinance imposing [such] the tax shall provide that [he] the  
13 tax collector shall be the collector of the [said] tax. [He] No  
14 ordinance, however, may authorize the collection of income taxes  
15 in a manner other than that provided in Chapter 5 of "The Local  
16 Tax Enabling Act." The tax collector shall, in addition to the  
17 powers, authority, duties and responsibilities provided for by  
18 this act, have all the powers, perform all the duties, and be  
19 subject to all the obligations and responsibilities, for the  
20 collection of [such] taxes, as are now vested in, conferred  
21 upon, or imposed upon tax collectors by law.

22 Section 105. The act is amended by adding an article to  
23 read:

24 ARTICLE X-A

25 MAYOR

26 Section 1001-A. Eligibility of mayor.

27 No mayor may hold any other borough office or appointment  
28 during the term for which the mayor is elected, except as is  
29 permitted under section 1104. The mayor shall be eligible to  
30 succeed himself. The mayor shall not be a member of council, nor



1 shall the mayor preside over or vote at any meeting of council,  
2 except as provided in section 1003.

3 Section 1002-A. Incompatible offices.

4 No member of Congress or any person holding any office or  
5 appointment of profit or trust under the Government of the  
6 United States, or any person holding the office of magisterial  
7 district judge may at the same time be capable of holding the  
8 office of mayor.

9 Section 1003-A. Oath of mayor.

10 The mayor, before exercising the duties of office, shall take  
11 and subscribe an oath or affirmation of office under 53 Pa.C.S.  
12 § 1141 (relating to form of oaths of office). The oath or  
13 affirmation may be taken before a judge or magisterial district  
14 judge of the county or a notary public and shall be filed with  
15 the borough secretary and be preserved among the records of the  
16 borough for a period of six years.

17 Section 1004-A. Salary of mayor.

18 (a) General rule.--The salary of the mayor shall be  
19 established by ordinance and shall not exceed the following:

20 (1) In boroughs with a population of less than 5,000, a  
21 maximum of \$2,500 a year.

22 (2) In boroughs with a population of 5,000 or more but  
23 less than 10,000, a maximum of \$5,000 a year.

24 (3) In boroughs with a population of 10,000 or more but  
25 less than 15,000, a maximum of \$7,500 a year.

26 (4) In boroughs with a population in excess of 15,000, a  
27 maximum of \$500 per year per 1,000 population or fraction  
28 thereof, the population to be determined by the latest  
29 official census figures.

30 Benefits provided to the mayor under section 1202(26) shall

1 not be considered pay, salary or compensation, but payment  
2 for all or a part of the premiums or charges for the benefits  
3 shall be in accordance with section 1202(26).

4 (b) Change in salary.--A change in salary, compensation or  
5 emoluments of the elected office shall become effective at the  
6 beginning of the next term of the mayor.

7 Section 1005-A. Salaried mayor not to receive certain fees.

8 (a) General rule.--Except as provided in subsection (b), any  
9 salary paid pursuant to an ordinance shall be in lieu of all  
10 costs and fees allowed by a mayor. Costs and fees shall be  
11 collected by the mayor and turned into the borough treasury.

12 (b) Marriage ceremony fees.--Nothing in this act shall be  
13 construed to prevent a mayor from receiving a monetary fee for  
14 the performance of a marriage ceremony in this Commonwealth  
15 provided the fee does not exceed \$150 for each ceremony  
16 performed. Prior to performing these ceremonies, the mayor shall  
17 notify council in writing of the mayor's intention to perform  
18 marriage ceremonies. The notification shall remain in effect for  
19 the term of the mayor or until such time as the notification is  
20 rescinded by the mayor. The mayor shall keep accurate accounts  
21 of the fees received relating to the performance of marriage  
22 ceremonies and provide council each quarter with a report of  
23 moneys received for that period. The quarterly report shall  
24 include the amount of money received, the names of persons from  
25 whom money was received along with the date and the location of  
26 the performed ceremony and shall be considered a public record.  
27 The receipt of a fee under this subsection shall not be  
28 considered a violation of 65 Pa.C.S. Ch. 11 (relating to ethics  
29 standards and financial disclosure) and shall not be considered  
30 compensation under this act.

1 Section 1006-A. General powers of mayor.

2 (a) Oaths and affirmations.--The mayor shall have power to  
3 administer oaths and affirmations in matters pertaining to  
4 borough affairs.

5 (b) Other powers.--In addition to the power granted to  
6 mayors by 35 Pa.C.S. Pt. V (relating to emergency management  
7 services) and in order to enable the mayor to effectually  
8 preserve the public peace within the borough, the mayor shall  
9 have the power to prevent and suppress mobs, riots and unlawful  
10 and tumultuous assemblies. In the event that a state of  
11 emergency exists, a mayor shall have the authority to request  
12 aid and assistance from law enforcement officers and agencies  
13 from a neighboring municipality. In response to a request of a  
14 mayor made in accordance with this subsection, a municipal  
15 police officer shall, within the borough from which the request  
16 was made, have the power and authority to enforce the laws of  
17 this Commonwealth or otherwise perform the functions of that  
18 office as if enforcing those laws or performing those functions  
19 within the territorial limits of his or her primary  
20 jurisdiction, subject to the limitations and conditions set  
21 forth in 42 Pa.C.S. § 8953(b), (c), (d) and (e) (relating to  
22 Statewide municipal police jurisdiction). When the mayor  
23 considers that a state of emergency exists, the mayor may issue  
24 a proclamation, which shall be in writing and posted in one or  
25 more conspicuous places and the contents of which shall be made  
26 available to all news media, declaring a state of emergency for  
27 a period not to exceed seven days, unless sooner rescinded,  
28 modified or ratified or extended by resolution of council. The  
29 mayor may prohibit in the proclamation, for all or part of the  
30 borough:

1     (1) Any person being on the public streets or in the public  
2 parks or at any other public place during the hours declared by  
3 the mayor to be a period of curfew.

4     (2) The entry or departure of persons into or from any  
5 restricted area.

6     (3) The sale, purchase or dispensing of any commodities or  
7 goods, as designated by the mayor.

8     (4) The transportation, possession or use of gasoline,  
9 kerosene or other combustible, flammable or explosive liquids or  
10 materials, except in connection with the normal operation of  
11 motor vehicles, normal home use or legitimate commercial use.

12     (5) Any other activities as the mayor reasonably believes  
13 should be prohibited to help preserve life, health, property or  
14 the public peace.

15 The proclamation shall describe the specific restricted area  
16 with particularity and shall specify the hours when restrictions  
17 are to be in effect.

18 A person violating the proclamation of emergency shall be guilty  
19 of a summary offense and shall, upon conviction, be sentenced to  
20 pay a fine not to exceed \$300 and costs or to imprisonment not  
21 to exceed 30 days.

22 Section 1007-A. Duties of mayor.

23 It shall be the duty of the mayor:

24     (1) To preserve order in the borough, to enforce the  
25 ordinances and regulations, to remove nuisances, to exact a  
26 faithful performance of the duties of the officers appointed  
27 and to perform any other duties as shall be vested in the  
28 mayor's office by law or ordinance.

29     (2) Except as provided in section 1006(4), to sign  
30 papers, contracts, obligations and documents as may be

1 required by law.

2 (3) To collect any costs and fees received and to pay  
3 the money into the treasury, except as provided in section  
4 1005-A(b), to report to the council from time to time on the  
5 state of the borough and to make recommendations to the  
6 council on matters of borough concern. The borough shall  
7 furnish the mayor with the necessary dockets, books, forms  
8 and files as are necessary for the conduct of the mayor's  
9 office, and which shall be and remain the property of the  
10 borough and shall be surrendered to the mayor's successor in  
11 office.

12 Section 1008-A. When president or vice-president of council to  
13 act as mayor.

14 When the mayor is absent or incapacitated or there is a  
15 vacancy in the office, the duties of the office shall be  
16 discharged by the president of council, or in the absence or  
17 incapacity of the president of council or where there is a  
18 vacancy in the office, by the vice-president of council. While  
19 discharging the duties of mayor, the president or vice-president  
20 of council shall be entitled to the same salary as the mayor  
21 would receive and, during the time the salary is paid to the  
22 president or vice-president of council as acting mayor, the  
23 mayor shall not be paid compensation. The president or vice-  
24 president of council, while acting as mayor, shall have power to  
25 veto a proposed ordinance or to break a tie, but shall not have  
26 power to vote as a member of council.

27 Section 106. Article XI and subdivision (a) headings of the  
28 act are reenacted to read:

29 ARTICLE XI

30 POWERS, DUTIES AND RIGHTS OF APPOINTED

1 OFFICERS AND EMPLOYES

2 (a) General Provisions

3 Section 107. Section 1101 of the act is amended to read:

4 Section 1101. Compensation; Hours and Days of Work; Outside  
5 Employment.--Appointed officers and employees of the borough  
6 shall receive [such] compensation for their services as the  
7 council shall prescribe, and council may also establish the  
8 hours and days of work and may restrict the outside employment  
9 of borough employees or any class or category thereof.

10 Section 108. Section 1102 of the act is reenacted to read:

11 Section 1102. Accounts.--All officers and employees appointed  
12 by the borough council shall, whenever directed, render their  
13 accounts to the council for settlement.

14 Section 109. Section 1103 of the act, amended October 25,  
15 1967 (P.L.484, No.230), is amended to read:

16 Section 1103. Bonds.--Whenever an appointed officer or  
17 employee of any borough, is required by law or by action of  
18 council to give bond, for the faithful performance of his  
19 duties, the borough may pay the premium [thereon] on the bond.  
20 All bonds required to be given by borough officials or employees  
21 shall be with a surety company authorized by law to act as  
22 surety. The borough shall pay a proportionate share of the cost  
23 of the bond of an appointed tax collector in the same ratio as  
24 provided in section 804 for elected tax collectors.

25 Section 110. Section 1104 of the act, amended June 25, 2001  
26 (P.L.651, No.56), is amended to read:

27 Section 1104. Appointments; Incompatible Offices.--(a)  
28 Unless there is incompatibility in fact, any elective or  
29 appointive officer of the borough shall be eligible to serve on  
30 any board, commission, bureau or other agency created by or for

1 the borough, or any borough office created or authorized by  
2 statute and may accept appointments thereunder, but no mayor or  
3 member of council shall receive compensation therefor.

4 [No] (b) The following apply to employment:

5 (1) Except as set forth in paragraph (2), no elected borough  
6 official of a borough with a population of 3,000 or more may  
7 serve as an employee of that borough.

8 (2) This subsection shall not apply to a borough official  
9 serving as an employee of that borough prior to the certification  
10 of a decennial census which indicates an increase in the  
11 population of that borough to 3,000 or more.

12 (c) Where there is no incompatibility in fact, and subject  
13 to [the foregoing provisions] subsection (a) as to compensation,  
14 appointees of council may hold two or more appointive borough  
15 offices, but no mayor or member of council may serve as borough  
16 manager or as secretary or treasurer.

17 (d) No person holding the office of [justice of the peace]  
18 magisterial district judge may at the same time hold [the office  
19 of borough treasurer] any elected or appointed borough office.

20 (e) The offices of secretary and treasurer may be held by  
21 the same person when [so] authorized by ordinance.

22 (f) A police officer or firefighter may not hold an elective  
23 office of the borough that employs the police officer or  
24 firefighter. A police officer or firefighter who is employed by  
25 a regional department, council of government or other  
26 cooperative venture may not hold an elective office of any  
27 municipality that participates in the regional department,  
28 council of government or other cooperative venture.

29 (g) Nothing [herein] contained in this section shall affect  
30 the eligibility of any borough official to hold any other public

1 office or receive compensation therefor.

2 (h) All appointments to be made by the council [or the  
3 corporate authorities] shall be made by a majority of the  
4 members of council [attending the meeting at which the  
5 appointment is made], unless a different vote is required by  
6 statute.

7 Section 111. Section 1105 of the act, amended December 16,  
8 1992 (P.L.1215, No.158), is amended to read:

9 Section 1105. Compensation to Aged Employees.--[By ordinance  
10 a] A borough may provide, by ordinance, for compensation to  
11 appointees and employes of not less than ten years of  
12 satisfactory service, and who are not less than sixty years of  
13 age, upon termination of active employment with the borough a  
14 proportion of the compensation last paid to them but not in  
15 excess of fifty percent thereof, including benefits received  
16 under the social security act, if any, as fixed in [said] the  
17 ordinance or amendment thereto. Any arrangement to provide post-  
18 retirement compensation to aged appointees and employes pursuant  
19 to this section shall be a pension plan within the meaning of  
20 that term pursuant to the act of December 18, 1984 (P.L.1005,  
21 No.205), known as the "Municipal Pension Plan Funding Standard  
22 and Recovery Act," and the borough establishing that plan shall  
23 provide funding of that pension plan in an amount sufficient to  
24 meet the minimum obligation of the municipality with respect to  
25 the pension plan pursuant to that act. The expenditures herein  
26 authorized shall be paid out of the general tax levy for the  
27 current expenditures of the year, and not by any special tax  
28 therefor. Nothing [herein] in this section shall preclude any  
29 appointee or employe of the borough from joining in any pension  
30 system or municipal retirement system that the borough may



1 adopt. [The true intent and purpose hereof is to permit  
2 boroughs, without exceeding the present general tax limitation,  
3 to pay to servants in their employ who are too old to  
4 advantageously join any pensioning or retirement system, a  
5 reasonable annuity in lieu of joining a pensioning or retirement  
6 system.]

7 Section 112. Section 1105.1, added July 15, 2004 (P.L.710,  
8 No.79), is reenacted to read:

9 Section 1105.1. Retirement Benefits of Employees Transferred  
10 to Wastewater Authorities--(a) (1) An employe of a wastewater  
11 authority created by a borough and one or more townships  
12 pursuant to 53 Pa.C.S. Ch. 56 (relating to municipal  
13 authorities) that commenced operations after December 1, 2001,  
14 who satisfies the requirements of paragraph (2) and has past  
15 service credits under the borough retirement plan may file a  
16 written election with the borough council and the wastewater  
17 authority to be a member of the borough retirement system. The  
18 qualified employe shall file the written election within one  
19 year after the effective date of this section.

20 (2) In order to qualify for the option under paragraph (1),  
21 the employe must satisfy both of the following requirements:

22 (i) Immediately prior to the date of transfer of employment  
23 to the wastewater authority, be an employe of the borough that,  
24 together with one or more townships, established the wastewater  
25 authority.

26 (ii) Be an active member of the borough's retirement system  
27 on the date that the employe's employment was transferred to the  
28 wastewater authority.

29 (3) For an employe who files an election under paragraph  
30 (1), the affected wastewater authority shall:

1 (i) Deduct from the employee's salary an amount equal to the  
2 employee contribution that would have been deducted had the  
3 employee continued to be a borough employee and shall pay the  
4 deducted amount to the borough's retirement fund.

5 (ii) Pay to the borough's retirement fund an employer  
6 contribution equal to the employer normal cost plus anticipated  
7 administrative expenses and amortization payments less general  
8 municipal pension system State aid expressed as a percentage of  
9 the system's total payroll as calculated by the borough pursuant  
10 to the act of December 18, 1984 (P.L.1005, No.205), known as the  
11 "Municipal Pension Plan Funding Standard and Recovery Act," and  
12 applied to the payroll of the employee.

13 (b) All employees who elect to be members of the borough  
14 retirement system under this section shall be treated as borough  
15 employees in determining the borough's annual allocation of  
16 general municipal pension system State aid pursuant to section  
17 402(e) of the "Municipal Pension Plan Funding Standard and  
18 Recovery Act," and the annual allocation of general municipal  
19 pension system State aid pursuant to section 402(e) of the  
20 "Municipal Pension Plan Funding Standard and Recovery Act" shall  
21 be payable to the borough.

22 Section 113. Article XI subdivision (b) heading of the act  
23 is reenacted to read:

24 (b) Treasurer

25 Section 114. Sections 1106 and 1107 of the act are amended  
26 to read:

27 Section 1106. Bond and Duties.--(a) The borough treasurer  
28 shall, before entering upon the duties of [his] office, give  
29 bond in an amount determined by council, conditioned for the  
30 faithful performance of [his] the treasurer's duties. [He shall

1 keep a just account of all receipts and disbursements, and shall  
2 annually submit his account to the borough auditors or  
3 controller; he shall pay over all moneys remaining in his hands  
4 and deliver all books, papers, accounts, and other things  
5 belonging to the borough, to his successor. All moneys received  
6 by any officer, or other person, for the use of the borough  
7 shall be forthwith paid to the borough treasurer. He shall  
8 deposit all moneys received by him in a bank or banking  
9 institution in the name of the borough. All expenditures shall  
10 be paid out of funds in the treasury only when authorized by the  
11 treasurer, upon an order signed by the president of council and  
12 the borough secretary and also by the borough controller, if  
13 any. Such order shall not be executed unless there is money in  
14 the treasury available therefor.]

15 (b) The treasurer shall:

16 (1) Receive all moneys due the borough and deposit them  
17 promptly in a designated depository in the name of the borough.

18 (2) Keep distinct and accurate accounts of all sums received  
19 from taxes and other sources, which accounts shall be open to  
20 the inspection of borough council and any citizen of this  
21 Commonwealth.

22 (3) Pay out all moneys only on direction by the borough  
23 council, upon an order signed by the president of council and  
24 the borough secretary, and also by the borough controller, if  
25 any. The order shall not be executed unless there is money in  
26 the treasury available. Nothing in this act may preclude the use  
27 of electronic signatures and transactions to the extent  
28 authorized by the act of December 16, 1999 (P.L.971, No.69),  
29 known as the "Electronic Transactions Act," or any other law.

30 (4) Annually submit the accounts to the elected auditors,

1 independent auditor or controller for settlement.

2 (5) Preserve the account books, papers, documents and other  
3 records of the office and turn them over to the successor in  
4 office.

5 (c) All moneys received by any officer or other person for  
6 the use of the borough shall be paid to the borough treasurer.

7 Section 1107. Assistant Treasurer.--Any borough council may,  
8 by resolution, appoint an assistant treasurer, who shall not be  
9 a member of the council. Council may appoint the assistant

10 treasurer as the assistant secretary provided that the assistant  
11 treasurer is not a member of council. The assistant treasurer

12 shall assist the treasurer in the performance of [his] the  
13 treasurer's duties, and, in case of absence or disability of the  
14 treasurer, shall perform the duties and may exercise the powers  
15 of the treasurer.

16 Section 115. Article XI subdivision (c) heading of the act  
17 is reenacted to read:

18 (c) Secretary

19 Section 116. Sections 1111, 1112 and 1113 of the act are  
20 amended to read:

21 Section 1111. Duties.--(a) The secretary shall attend all  
22 meetings of the borough council and shall keep full minutes of  
23 its proceedings[; he shall transcribe the bylaws, rules,  
24 regulations and ordinances adopted into a book kept for that  
25 purpose; he shall preserve the records and documents of the  
26 borough, and shall have custody of the corporate seal. He shall  
27 certify copies of any book, paper, record, bylaw, rule,  
28 regulation, resolution, ordinance or proceeding of the borough,  
29 under the seal thereof which copies, when so certified, shall be  
30 admissible in evidence in any court of the Commonwealth. He

1 shall attest the execution of all instruments, record all  
2 ordinances and attest the same by his signature. He shall file  
3 of record proof of service of all notices required by law, and  
4 his certificate thereof shall be good evidence of such notice.  
5 The borough shall furnish the secretary with such dockets,  
6 books, forms and files as are necessary for the conduct of his  
7 office, such dockets, books, forms and files to be and remain  
8 the property of the borough. He shall deliver to his successor  
9 the seal and all books, papers and other records and things  
10 belonging to the borough].

11 (b) The secretary shall:

12 (1) Record or transcribe the bylaws, rules, regulations,  
13 resolutions and ordinances of the borough in accordance with  
14 section 1009.

15 (2) Preserve the records and documents of the borough, and  
16 shall have custody of the corporate seal, and shall deliver to  
17 the secretary's successor the seal and all books, papers and  
18 other records and things belonging to the borough.

19 (3) Certify copies of any book, paper, record, bylaw, rule,  
20 regulation, resolution, ordinance or proceeding of the borough,  
21 under the seal of the borough which copies, when certified,  
22 shall be admissible in evidence in any court of the  
23 Commonwealth.

24 (4) Attest the execution of all instruments, record all  
25 ordinances and attest the same by the secretary's signature, and  
26 file of record proof of service of all notices required by law,  
27 and the secretary's certificate shall be good evidence of  
28 notice.

29 (5) Inform council, and the public as required by 65 Pa.C.S.  
30 Ch. 7 (relating to open meetings), of all borough meetings,

1 including special meetings of council.

2 (c) The borough shall furnish the secretary with the  
3 necessary dockets, books, forms and files as are necessary for  
4 the conduct of the office, and which shall be and remain the  
5 property of the borough.

6 Section 1112. Assistant Secretary.--Every borough council  
7 may, by resolution, appoint an assistant secretary [who shall,  
8 in the absence or disability of the secretary, perform the  
9 duties and exercise the powers of the secretary]. The assistant  
10 secretary shall assist the secretary in the performance of the  
11 secretary's duties, and, in case of absence or disability of the  
12 secretary, shall perform the duties and may exercise the powers  
13 of the secretary. The assistant secretary may be appointed from  
14 the membership of the borough council, but shall not be any  
15 other officer thereof. Council may appoint the assistant  
16 secretary as the assistant treasurer provided that the assistant  
17 secretary is not a member of council.

18 Section 1113. Records Open to Inspection.--The fiscal  
19 records and documents and the minute book and other records and  
20 documents of every borough shall be open [to the inspection of  
21 any taxpayer thereto, at any reasonable time.] in accordance  
22 with the act of February 14, 2008 (P.L.6, No.3), known as the  
23 "Right-to-Know Law."

24 Section 117. Article XI subdivision (d) heading of the act  
25 is reenacted to read:

26 (d) Solicitor

27 Section 118. Section 1116 of the act is amended to read:

28 Section 1116. Solicitor to Have Control of Legal Matters.--  
29 The legal matters of the borough shall be under the control of  
30 the borough solicitor, and no department or officer of the

1 borough, except as [herein] otherwise provided by law, shall  
2 employ an additional counsel without the assent or ratification  
3 of the council. The borough solicitor shall be licensed to  
4 practice law in this Commonwealth and may be one person or a law  
5 firm, partnership, association or professional corporation. The  
6 borough solicitor serves at the pleasure of council. In the  
7 absence of the solicitor, the law firm of which [he] the  
8 solicitor is a member or associate may perform any of the duties  
9 or functions of the solicitor.

10 Section 119. Section 1117 of the act, amended July 1, 1992  
11 (P.L.344, No.71), is amended to read:

12 Section 1117. Duties of Solicitor; Outside Counsel.--(a)  
13 The borough solicitor[, when directed or requested so to do by  
14 council or the mayor, shall prepare or approve such bonds,  
15 obligations, contracts, leases, conveyances, ordinances and  
16 assurances to which the borough or any department thereof may be  
17 a party; he shall commence and prosecute all actions brought by  
18 the borough for or on account of any of the estates, rights,  
19 trusts, privileges, claims, or demands, as well as defend all  
20 actions or suits against the borough, or any officer thereof,  
21 wherein or whereby any of the estates, rights, privileges,  
22 trusts, ordinances, or accounts, of the borough, or any  
23 department thereof, may be brought in question before any court  
24 in the Commonwealth; and shall do every professional act  
25 incident to the office which he may be authorized or required to  
26 do by the council or the mayor. He shall, whenever required,  
27 furnish the council, or committees thereof, the mayor, or the  
28 head of department, with his opinion in writing upon any  
29 question of law which may be submitted by any of them in their  
30 official capacities.] shall:

1     (1) Prepare or approve, when directed or requested to do so  
2 by council or the mayor, any bonds, obligations, contracts,  
3 leases, conveyances, ordinances and assurances to which the  
4 borough or any department of the borough may be a party.

5     (2) Commence and prosecute all actions brought by the  
6 borough for or on account of any of the estates, rights, trusts,  
7 privileges, claims or demands of the borough, as well as defend  
8 the borough or any borough officer against all actions or suits  
9 brought against the borough or borough officer in which any of  
10 the estates, rights, privileges, trusts, ordinances or accounts  
11 of the borough may be brought in question before any court in  
12 this Commonwealth.

13     (3) Furnish the council or committees of the council, the  
14 mayor or the head of a department, upon request, with an opinion  
15 in writing upon any question of law which may be submitted by  
16 any of them in their official capacities.

17     (4) Perform every other professional act incident to the  
18 office which the borough solicitor may be authorized or required  
19 to do by the council or the mayor.

20     (b) In the case of a legal dispute between the mayor and  
21 council, or in any other case where representation of the mayor  
22 and council by the borough solicitor would create a conflict of  
23 interest for the borough solicitor, the mayor is authorized to  
24 employ outside counsel at borough expense, not to exceed [two  
25 thousand five hundred dollars (\$2,500)] four thousand dollars  
26 (\$4,000) in any twelve-month period, to perform necessary legal  
27 services.

28     Section 120. Section 1118 of the act is amended to read:

29     Section 1118. Assistant Solicitor.--Every borough council  
30 may, by resolution, appoint an assistant solicitor who shall



1 assist the solicitor in the performance of the solicitor's  
2 duties and, in the absence or disability of the solicitor,  
3 perform the duties and exercise the powers of the solicitor.

4 Section 121. Article XI subdivision (e) heading of the act  
5 is reenacted to read:

6 (e) Police

7 Section 122. Sections 1121, 1122 and 1123 of the act are  
8 amended to read:

9 Section 1121. [Appointment, Suspension, Reduction,  
10 Discharge, Powers; Mayor to Have Control.--Borough council may,  
11 subject to the civil service provisions of this act, if they be  
12 in effect at the time, appoint and remove, or suspend, or reduce  
13 in rank, one or more suitable persons, citizens of the United  
14 States of America, as borough policemen, who shall be ex officio  
15 constables of the borough, and shall and may, within the borough  
16 or upon property owned or controlled by the borough or by a  
17 municipal authority of the borough whether such property is  
18 within or outside the limits of the borough, without warrant and  
19 upon view, arrest, and commit for hearing any and all persons  
20 guilty of breach of the peace, vagrancy, riotous or disorderly  
21 conduct or drunkenness, or who may be engaged in the commission  
22 of any unlawful act tending to imperil the personal security or  
23 endanger the property of the citizens, or for violating any  
24 ordinance of the borough for the violation of which a fine or  
25 penalty is imposed, and notwithstanding any statute pertaining  
26 to the same or similar offenses. Any person so arrested shall be  
27 received for confinement by the keepers of the jails, lockups,  
28 or station houses within the county.

29 The borough council may designate one of said policemen as  
30 chief of police. The mayor of the borough shall have full charge

1 and control of the chief of police and the police force, and he  
2 shall direct the time during which, the place where and the  
3 manner in which, the chief of police and the police force shall  
4 perform their duties, except that council shall fix and  
5 determine the total weekly hours of employment that shall apply  
6 to the policemen.

7       Policemen shall have authority to serve and execute all  
8 criminal process for the violation of borough ordinances which  
9 may be issued by the mayor, and shall charge the same fees and  
10 costs as constables of the borough, but such fees and costs  
11 shall be collected by the mayor and by him paid into the borough  
12 treasury.

13       The borough may, by ordinance establish a police department  
14 consisting of chief, captain, lieutenant, sergeants, or any  
15 other classification desired by the council, and council may,  
16 subject to the civil service provisions of this act, if they be  
17 in effect at the time, designate the individuals assigned to  
18 each office, but the mayor shall continue to direct the manner  
19 in which the persons assigned to the office shall perform their  
20 duties. The mayor may, however, delegate to the chief of police  
21 or other officers supervision over and instruction to  
22 subordinate officers in the manner of performing their duties.  
23 The mayor may appoint special policemen during an emergency in  
24 which the safety and welfare of the borough and the public is  
25 endangered and auxiliary policemen may be appointed as provided  
26 by general law.

27       The borough council may assign the chief of police or any  
28 member of the police force to undergo a course of training at  
29 any training school for policemen established and made available  
30 by the State or Federal government, and may provide for the

1 payment by the borough of his expenses while in attendance in  
2 such school.] Council's Powers; Police.--(a) Council may, by  
3 ordinance, establish a police department. If council has  
4 established a police department, the following shall apply:

5 (1) Council may appoint police officers, subject to the  
6 civil service provisions of this act if the provisions are in  
7 effect at the time of the appointment.

8 (2) Council shall have the power to remove, suspend or  
9 reduce in rank any police officer:

10 (i) in accordance with the act of June 15, 1951 (P.L.586,  
11 No.144), entitled "An act regulating the suspension, removal,  
12 furloughing and reinstatement of police officers in boroughs and  
13 townships of the first class having police forces of less than  
14 three members, and in townships of the second class"; or

15 (ii) subject to the civil service provisions of this act if  
16 the provisions are applicable to the police officer at the time  
17 of the removal, suspension or reduction in rank.

18 (3) Council shall designate the ranks in the police  
19 department, duties of each rank, and may designate one of the  
20 police officers as chief of police.

21 (4) Council may assign any member of the police department  
22 to attend training classes offered by the Federal or State  
23 government and may pay the police officer's expenses while  
24 attending the school.

25 (b) Each borough police officer shall have those powers and  
26 abilities as are granted to police officers under the laws of  
27 this Commonwealth or the rules of the Supreme Court or the  
28 ordinances of the borough for which a fine or penalty is imposed  
29 unless otherwise excepted in this act.

30 (c) In any case in which a borough has [heretofore]

1 previously appointed [policemen] police officers or established  
2 a police department by action of council but not [by or]  
3 pursuant to an ordinance regularly enacted, [such] the action  
4 shall be deemed to have been a valid exercise of the legislative  
5 power of the borough [for all purposes the same as though an  
6 ordinance had been enacted], and all [policemen] police officers  
7 appointed [thereunder] shall occupy the same status and shall  
8 have the same rights and privileges as in the case of  
9 [policemen] police officers appointed under authority of an  
10 ordinance.

11 (d) No police officer may participate in any political or  
12 election campaign while on duty or in uniform or while using  
13 borough property otherwise than to exercise the officer's right  
14 of suffrage.

15 Section 1122. Police Serving Under Cooperative Agreement or  
16 Contract.--Whenever any borough shall have entered into a  
17 cooperative agreement or contract with any [near or adjacent  
18 city, borough, or township] municipal corporation, regional  
19 police force or other governmental entity created by two or more  
20 municipal corporations pursuant to 53 Pa.C.S. Ch. 23 Subch. A  
21 (relating to intergovernmental cooperation), for the furnishing  
22 or receiving of police protection, as authorized by clause (35)  
23 of section 1202 [of this act, such policemen, individually], the  
24 police force of the municipal corporation, regional police force  
25 or other governmental entity furnishing the police protection  
26 shall be appointed and accepted as [policemen] the police force  
27 of the borough receiving [such] the police service by resolution  
28 of the borough council [of the said borough. Policemen]. Police  
29 officers of the police force of a municipal corporation,  
30 regional police force or other governmental entity so appointed

1 shall, however, in so far as civil service and pensions are  
2 concerned, be deemed to be appointees and employes only of the  
3 [municipality or township] municipal corporation, regional  
4 police force or other governmental entity furnishing their  
5 service and making the original appointment [thereof].

6 Section 1123. Police Badge.--The borough [policemen] police  
7 officers shall, when on duty, wear a shield or badge with the  
8 word "Police."

9 Section 123. The act is amended by adding a section to read:

10 Section 1123.1. Mayor's Powers; Police.--(a) The mayor  
11 shall have full charge and control of the chief of police and  
12 the police force.

13 (b) The mayor shall direct the time during which, the place  
14 where and the manner in which the chief of police and the police  
15 force perform the duties of their rank.

16 (c) The mayor may delegate to the chief of police or other  
17 officer supervision over and instruction to subordinate officers  
18 in the manner of performing their duties.

19 (d) The mayor may appoint special police during an emergency  
20 in which the safety and welfare of the borough and the public is  
21 endangered.

22 (e) The mayor may activate auxiliary police in accordance  
23 with general law, and notwithstanding any other provision of  
24 law, the mayor may also activate auxiliary police for purposes  
25 of crowd and traffic control for limited periods during events  
26 where, in the mayor's discretion, public safety is promoted by  
27 the activation of the auxiliary police.

28 Section 124. Section 1124 of the act, amended June 15, 1977  
29 (P.L.9, No.7), is amended to read:

30 Section 1124. Suspension by Mayor.--In addition to the

1 powers of council to suspend [policemen] police officers, the  
2 mayor may, for cause and without pay, suspend any [policemen]  
3 police officers until the succeeding regular meeting of the  
4 council, at which time or [thereafter] later the council may,  
5 subject to the civil service provisions of this act, if they be  
6 in effect at the time, suspend, discharge, reduce in rank or  
7 reinstate with pay, [such policemen: Provided, however, That a  
8 policeman] the police officers. A police officer suspended by  
9 the mayor may not be reinstated by council at a date earlier  
10 than ten working days from the date fixed by the mayor for the  
11 suspension to commence. In any case where the council has  
12 reinstated a [policeman] police officer, after having been  
13 suspended by the mayor, the mayor shall not thereafter suspend  
14 [such policeman] the police officer for reasons arising from the  
15 same act for which the first suspension was made, or for reasons  
16 that the council, in reinstating [such policeman] the police  
17 officer, shall have determined not to be grounds for suspension.

18 Section 125. Section 1125 of the act is amended to read:

19 Section 1125. Compensation.--The borough police and special  
20 [policemen] police appointed by the mayor shall receive [such]  
21 compensation as shall be fixed by the borough council.

22 Section 126. Section 1127 of the act, amended June 22, 2000  
23 (P.L.325, No.34), is amended to read:

24 Section 1127. School Crossing Guards.--(a) Upon request of  
25 the board of school directors of the school district in which a  
26 borough is wholly or partially located, the borough council may  
27 appoint school crossing guards who shall have the duty of  
28 controlling and directing traffic and pedestrians at or near  
29 schools and who shall be in suitable and distinctive uniform.  
30 While on duty, these crossing guards shall be under and subject

1 to the direction of the mayor. They shall serve at the pleasure  
2 of the borough council, except as noted in subsection (b), and  
3 shall not come within the civil service provisions of this act  
4 and shall not be entitled to participate in any borough pension  
5 plan or plans now in effect or hereafter effective. The  
6 compensation of the school crossing guards, if any, shall be  
7 fixed by the borough council and shall be jointly paid by the  
8 borough council and the board of school directors, in a ratio to  
9 be determined by the borough council and board of school  
10 directors. If the borough council and board of school directors  
11 are unable to determine the ratio of compensation of the  
12 crossing guards to be paid by the council and the board, each  
13 shall pay one-half of the compensation of [such] the crossing  
14 guards. [Auxiliary policemen] Notwithstanding any other  
15 provision of law, auxiliary police officers, appointed as  
16 prescribed by general law, may be designated to serve as  
17 crossing guards.

18 (b) The borough council may [approve] enact an ordinance  
19 allowing a board of school directors to assume hiring and  
20 oversight of school crossing guards. Before the borough council  
21 may [approve such an] enact the ordinance, the board of  
22 directors of the school district shall [approve] adopt a  
23 resolution requesting the authority to assume the hiring and  
24 oversight of school crossing guards. The ordinance enacted by  
25 the borough council shall outline how the police department will  
26 provide any necessary training and assistance of the school  
27 crossing guards while on duty. [Such] The school crossing guards  
28 shall be authorized only in the management of traffic and  
29 pedestrians in and around areas identified by the police  
30 department and the school district superintendent or his or her

1 designees. The school crossing guards shall not come within the  
2 civil service provisions of this act, nor shall they fall under  
3 the bargaining unit of the school district nor be considered an  
4 employe as defined under section 1101-A of the act of March 10,  
5 1949 (P.L.30, No.14), known as the "Public School Code of 1949,"  
6 or a school employee as defined under 24 Pa.C.S. § 8102  
7 (relating to definitions), or under any plans hereafter  
8 effective. [Once] After the ordinance [receives approval] is  
9 enacted by the borough council, the school district shall assume  
10 the cost of compensation, including fixing [such] compensation,  
11 if any, of the school crossing guards. [Auxiliary policemen]  
12 Notwithstanding any other provision of law, auxiliary police  
13 officers, appointed as prescribed by general law, may be hired  
14 by the school district to serve as school crossing guards. The  
15 board of school directors shall notify the borough council of  
16 those hired to serve as school crossing guards and request the  
17 necessary training or assistance be provided as outlined by the  
18 ordinance.

19 Section 127. Article XI subdivision (f) heading of the act  
20 is reenacted to read:

21 (f) Police Pension Fund in Boroughs Having a Police Force  
22 of Less Than Three Members

23 Section 128. Sections 1131 and 1132 of the act are amended  
24 to read:

25 Section 1131. Police Pension Fund.--(a) Where a police  
26 force of less than three full-time members is being maintained,  
27 the borough may, unless there is a private organization or  
28 association constituting and managing an existing pension fund  
29 for the members of the police force in [such] the borough, by  
30 ordinance, [provide for the purchase of annuity contracts for



1 the payment of pensions, or] establish a police pension fund  
2 into which each member of the police force shall pay an equal  
3 and proportionate monthly charge to be withheld from the pay of  
4 [such] the member.

5 (b) In lieu of establishing a pension fund in accordance  
6 with subsection (a), the borough may, by ordinance, provide  
7 investment or insurance instruments for the purpose of the  
8 payment of pensions or annuities to the members of the police  
9 force who receive honorable discharge by reason of age or  
10 disability and the families of police officers injured or killed  
11 in service.

12 (c) All pension funds or investment or insurance instruments  
13 established under the provisions of this section shall be under  
14 the direction of the borough council, or [such] a committee as  
15 it may designate, and shall be applied under [such] regulations  
16 as the council may by ordinance prescribe for the benefit of  
17 [such] the members of the police force as shall receive  
18 honorable discharge therefrom by reason of age or disability and  
19 the families of [such as] members of the police force that may  
20 be injured or killed in the service. Council shall appoint, by  
21 resolution, a chief administrative officer who shall have the  
22 primary responsibility for the execution of the administrative  
23 affairs of the pension plan, subject to the direction of  
24 council. Any allowances made to those who are retired by reason  
25 of disability or age shall be in conformity with a uniform  
26 scale.

27 (d) The ordinance establishing the police pension fund shall  
28 prescribe a minimum period of total service, a minimum age, or  
29 both, after which members of the force may be eligible for  
30 retirement from active duty.

1     (e) Payments made on account of police pensions shall be a  
2 charge on no fund in the treasury of the borough, or under its  
3 control, other than the police pension fund.

4     (f) A borough establishing a police pension fund by  
5 ordinance pursuant to this section shall provide, from any  
6 available borough revenue source, funding of that police pension  
7 fund in an amount sufficient to meet the minimum obligation of  
8 the borough with respect to the pension fund pursuant to the act  
9 of December 18, 1984 (P.L.1005, No.205), known as the "Municipal  
10 Pension Plan Funding Standard and Recovery Act."

11     (g) A borough may take, by gift, grant, devise or bequest,  
12 any money or property real, personal or mixed, in trust for the  
13 benefit of the police pension fund. The care, management,  
14 investment and disposal of the trust funds or property shall be  
15 vested in the officers as the borough shall direct by ordinance  
16 and shall be governed by the officers, subject to any directions  
17 not inconsistent with the ordinance as the donors of the funds  
18 and property may prescribe.

19     (h) No person participating in the police pension fund and  
20 becoming entitled to receive a benefit from the fund may be  
21 deprived of the person's right to an equal and proportionate  
22 share of the fund upon the basis upon which the person first  
23 became entitled to the benefit.

24     (i) The act of May 29, 1956 (1955 P.L.1804, No.600), referred  
25 to as the "Municipal Police Pension Law," and the act of  
26 February 1, 1974 (P.L.34, No.15), known as the "Pennsylvania  
27 Municipal Retirement Law," shall govern any borough police  
28 pension fund not established under the provisions of this  
29 section.

30     Section 1132. Private Police Pension Funds; Optional

1 Transfers.--(a) Where there is a private organization or  
2 association constituting and managing an existing pension fund  
3 for the members of the police force in any borough, [such] the  
4 borough shall establish a police pension for the purpose of  
5 paying pensions to the members of its police force, if the  
6 membership of [such] the organization or association, by a two-  
7 thirds vote, elects to transfer its funds with all its assets  
8 and liabilities into a borough pension fund, as required to be  
9 established by this act.

10 (b) [Whenever such a private organization or association  
11 managing an existing police pension fund for the members of the  
12 police force in any borough elects, by a two-thirds vote, to  
13 transfer its funds into a borough pension fund, as required to  
14 be established by this act, all the assets and liabilities of  
15 such existing fund, shall be transferred. Such] The transfer in  
16 subsection (a) may be made by the transfer of securities. After  
17 [such] the transfer, the borough police pension fund shall  
18 assume the liability of continuing the payment of pensions to  
19 members of the police force retired prior to [such] the  
20 transfer, in accordance with the laws and regulations under  
21 which [such] the members were retired.

22 Section 129. Section 1133 of the act, amended May 31, 1984  
23 (P.L.362, No.72), is repealed:

24 [Section 1133. Service Required Before Retirement.--The  
25 ordinance establishing the police pension fund shall prescribe a  
26 minimum period of total service, and/or a minimum age after  
27 which members of the force may be eligible for retirement from  
28 active duty. Borough policemen so retired shall be subject to  
29 service as police reserve, until unfitted for such service by  
30 reason of age or disability, when they may be finally

1 discharged.]

2 Section 130. Section 1134 of the act, amended December 16,  
3 1992 (P.L.1215, No.158), is repealed:

4 [Section 1134. Pensions Not to be Charged on Other Funds;  
5 Pension Plan Funding.--(a) Payments made on account of police  
6 pensions shall be a charge on no fund in the treasury of the  
7 borough, or under its control, other than the police pension  
8 fund.

9 (b) The borough establishing a police pension fund by  
10 ordinance pursuant to this act shall provide, from any available  
11 borough revenue source, funding of that police pension fund in  
12 an amount sufficient to meet the minimum obligation of the  
13 municipality with respect to the pension fund pursuant to the  
14 act of December 18, 1984 (P.L.1005, No.205), known as the  
15 "Municipal Pension Plan Funding Standard and Recovery Act."]

16 Section 131. Sections 1135, 1136 and 1137 of the act are  
17 repealed:

18 [Section 1135. Gifts to Pension Fund.--Borough may take, by  
19 gift, grant, devise, or bequest, any money or property real,  
20 personal, or mixed, in trust for the benefit of such police  
21 pension fund. The care, management, investment and disposal of  
22 such trust funds or property shall be vested in such offices as  
23 the borough shall by ordinance direct, and shall be governed by  
24 such officers, subject to any directions not inconsistent  
25 therewith as the donors of such funds and property may  
26 prescribe.

27 Section 1136. Rights of Members.--No person participating in  
28 such police pension fund and becoming entitled to receive a  
29 benefit therefrom, shall be deprived of his right to an equal  
30 and proportionate share therein, upon the basis upon which he

1 first became entitled thereto.

2 Section 1137. Annuity Contracts in Lieu of Establishing a  
3 Police Pension Fund.--Boroughs may provide annuity contracts for  
4 the purpose of paying pension or annuities to the members of the  
5 police force who receive honorable discharge therefrom by reason  
6 of age or disability and the families of such as may be injured  
7 or killed in service.]

8 Section 132. Article XI subdivision (g) of the act is  
9 reenacted to read:

10 (g) Borough Manager

11 Section 133. Sections 1141 and 1142 of the act, amended July  
12 7, 2011 (P.L.267, No.54), are amended to read:

13 Section 1141. Borough Manager May be Created by Ordinance;  
14 Election.--The council of any borough may, at its discretion at  
15 any time, create by ordinance the office of borough manager and  
16 may in like manner abolish the same. While [said] the office  
17 exists, the council shall, from time to time, and whenever there  
18 is a vacancy, elect, by a vote of a majority of all the members,  
19 one person to fill [said] the office. The borough manager shall  
20 serve at the pleasure of council, subject to contractual rights  
21 that may arise under an employment agreement that may be entered  
22 in accordance with section 1142.

23 Section 1142. Powers and Duties[; Bond].--The powers and  
24 duties of the borough manager shall be regulated by ordinance.  
25 Council may enter into an employment agreement with the borough  
26 manager. The employment agreement may set forth the terms and  
27 conditions of employment, and the agreement may provide that it  
28 shall remain in effect for a specified period terminating no  
29 later than two years after the effective date of the agreement  
30 or the date of the [organization] organizational meeting of

1 council following the next municipal election, whichever shall  
2 first occur. An employment agreement entered into pursuant to  
3 this section may specify conditions under which a borough  
4 manager would be entitled to severance compensation, but in no  
5 event shall an employment agreement guarantee employment through  
6 the term of the agreement or confer upon the borough manager any  
7 legal remedy based on specific performance. Any employment  
8 agreement with a borough manager executed on or after a  
9 municipal election but before the first meeting in January the  
10 year after the municipal election shall be void. The council, by  
11 ordinance, may delegate, subject to recall, any of the  
12 nonlegislative and nonjudicial powers and duties of the council,  
13 the planning commission and the shade tree commission, to the  
14 borough manager. With approval of borough council, the mayor may  
15 delegate to the borough manager any of [his] the mayor's  
16 nonlegislative and nonjudicial powers and duties.

17 Section 133.1. Section 1143 of the act is reenacted to read:

18 Section 1143. Other Offices Not Incompatible.--The offices  
19 of borough manager, street commissioner, secretary, treasurer  
20 and chief of police, shall not be incompatible, and any two or  
21 more or all of the said offices may be held by one person.

22 Neither the mayor nor any member of the borough council shall be  
23 eligible to hold the office of borough manager.

24 Section 134. Article XI subdivision (h) and (i) headings and  
25 sections 1161, 1162, 1163, 1164, 1165, 1166, 1167 and 1168 of  
26 the act are repealed:

27 [(h) Borough Planning Commission

28 (i) Mine and Quarry Inspection and Surface Support

29 Section 1161. Ordinance Creating.--Any borough may, by  
30 ordinance, provide for and regulate mine and quarry inspection

1 and surface support.

2 Section 1162. Engineer and Other Personnel.--In any such  
3 borough an engineer, to be appointed by the council, and such  
4 assistants, clerks and employes as the council may provide, to  
5 receive such compensation as may be prescribed by council, may  
6 be appointed to supervise and administer the work of mine and  
7 quarry inspection and surface support.

8 Section 1163. Inspection.--Any such engineer, or assistant  
9 or other employes may enter, inspect, examine and survey any  
10 mine, colliery or quarry within the limits of the borough, at  
11 all reasonable times, either by day or night, but not so as to  
12 impede or obstruct the workings of such colliery or quarry; and  
13 may be accompanied by such other persons as may be necessary for  
14 the purpose of making an examination or survey. The owner,  
15 operator, or superintendent of such mine, colliery or quarry,  
16 shall furnish the means necessary for such entry, inspection,  
17 examination, survey and exit.

18 Section 1164. Maps and Drawings.--The owner, operator, or  
19 superintendent of every mine, colliery or quarry, within three  
20 months after the passage of an ordinance by any borough  
21 regulating mine or quarry inspection and surface support, shall  
22 make or cause to be made and furnish to the borough such map,  
23 plans and/or drawings of the workings, excavations and surface  
24 support as the council may require. In the case of coal mines  
25 and collieries, the map or plan shall exhibit the workings or  
26 excavations in every seam of coal on a separate sheet, and the  
27 tunnels and passages connecting with such workings or  
28 excavations. It shall show in degrees the general inclination of  
29 the strata, with any material deflection therein in the workings  
30 or excavations, and shall also show the tidal elevations of the

1 bottom of every shaft, slope, tunnel and gangway, and of any  
2 other point in the mine or on the surface where such elevation  
3 shall be deemed necessary by the bureau. The map or plan shall  
4 show the number of the last survey on the gangways or the most  
5 advanced workings.

6 Section 1165. Extensions to be Placed on Maps.--Every owner,  
7 operator, or superintendent, of a mine, colliery or quarry,  
8 shall place or cause to be placed upon the pertinent map, at  
9 least once in every three months, all the extensions made in any  
10 mine or quarry, within the limits of such borough during the  
11 three preceding months, except those made within thirty days  
12 immediately preceding the time of placing such extensions upon  
13 the said map or drawing.

14 Section 1166. Certain Surface Supports Not to be Removed.--  
15 It shall be unlawful for any person, copartnership, association,  
16 or corporation to dig, mine, remove, or carry away the coal,  
17 rock, earth, or other minerals or materials forming the natural  
18 support of the surface beneath the highways, streets and public  
19 places of any borough to such an extent and in such a manner as  
20 thereby to remove the necessary support of the surface, without  
21 having first placed or constructed an artificial permanent  
22 support sufficient to uphold and preserve the stability of the  
23 surfaces of such highways, streets, and public places.

24 Section 1167. Penalty.--Any person being the general  
25 manager, superintendent, or person in charge of the work of any  
26 corporation, copartnership, or association, violating any of the  
27 provisions of this subdivision, shall be guilty of a  
28 misdemeanor, and upon conviction thereof shall be sentenced, for  
29 such offense, to pay a fine not exceeding one thousand dollars  
30 (\$1000) or to undergo imprisonment in the county jail for a



1 period not exceeding ninety days, or both. All fines imposed  
2 under this section shall be paid into the treasury of the  
3 borough.

4 Section 1168. Enactment of Ordinances.--Borough councils may  
5 enact such ordinances as may be necessary for the enforcement of  
6 the provisions of this subdivision.]

7 Section 135. Article XI subdivision (j) heading of the act  
8 is amended to read:

9 (j) Civil Service for Police and [Firemen]

10 Fire Apparatus Operators

11 Section 136. Section 1171 of the act, amended October 4,  
12 1978 (P.L.1000, No.210), is amended to read:

13 Section 1171. Appointments of Police and [Firemen] Fire  
14 Apparatus Operators.--This subdivision [(j) of this article]  
15 shall not apply to any borough having a police force of less  
16 than three members or to those having three or more members if  
17 those members in excess of two are appointed on a temporary  
18 basis through a Federally funded program or to volunteer fire  
19 departments or companies employing their own operators, or to  
20 boroughs having less than three salaried operators of fire  
21 apparatus. This subdivision [(j) of this article] is subject [as  
22 heretofore] to the power of council to determine compensation.  
23 [Hereafter each and every] Every appointment to and promotion in  
24 the police force or as fire apparatus operators paid directly by  
25 the borough in every borough shall be made only according to  
26 qualifications and fitness, to be ascertained by examinations  
27 which shall be competitive as hereinafter provided.

28 No person shall [hereafter] be suspended, removed or reduced  
29 in rank as a paid employe in any police force or as a paid  
30 operator of fire apparatus of any borough, except in accordance

1 with the provisions of this subdivision. However, nothing in  
2 this subdivision [(j)] shall apply to retirement nor shall  
3 anything herein prevent any borough from adopting a compulsory  
4 retirement age for its employees or for any class or classes  
5 thereof and from retiring all [such] employees automatically when  
6 they reach such age.

7 Section 137. Sections 1172, 1173, 1174, 1175, 1176, 1177,  
8 1178 and 1179 of the act are amended to read:

9 Section 1172. Civil Service Commission Created;  
10 Appointments; Vacancies; Oath; Compensation.--(a) There is  
11 hereby created in each borough, where a police force or paid  
12 fire apparatus operators as hereinbefore provided are being  
13 maintained, a civil service commission hereinafter referred to  
14 as the commission. The commission shall consist of three  
15 commissioners who shall be qualified electors of the borough and  
16 shall be appointed by the borough council initially to serve for  
17 the terms of two, four and six years, and as terms thereafter  
18 expire shall be appointed for terms of six years.

19 Any vacancy occurring in any commission for any reason  
20 whatsoever shall be filled by the borough council for the  
21 unexpired term within the period of thirty days after [such] the  
22 vacancy occurs.

23 (b) Borough council may appoint no more than three qualified  
24 electors of the borough to serve as alternate members of the  
25 commission. The term of office of the alternate members shall be  
26 six years. When seated pursuant to section 1174, an alternate  
27 shall be entitled to participate in all proceedings and  
28 discussions of the commission to the same and full extent as  
29 provided by law for commission members, including specifically  
30 the right to cast a vote as a voting member during the

1 proceedings, and shall have all the powers and duties set forth  
2 in this act and as otherwise provided by law. Alternates shall  
3 hold no other office in the borough. An alternate may  
4 participate in any proceeding or discussion of the commission  
5 but shall not be entitled to vote as a member of the commission  
6 unless designated as a voting alternate member pursuant to  
7 section 1174.

8     (c) Each member of the commission created by this  
9 subdivision, before entering upon the discharge of the duties of  
10 [his] office, shall take an oath or affirmation [to support the  
11 Constitution of the United States and of the Commonwealth of  
12 Pennsylvania and to perform his official duties with fidelity,  
13 together with such loyalty oath as is prescribed and required by  
14 law] of office pursuant to 53 Pa.C.S. § 1141 (relating to form  
15 of oaths of office). The civil service commissioners shall  
16 receive no compensation.

17     Section 1173. Offices Incompatible with Civil Service  
18 Commissioner.--No commissioner shall at the same time hold an  
19 elective or appointed office under the United States Government,  
20 the Commonwealth of Pennsylvania or any political subdivision of  
21 the Commonwealth, except that one member of the commission may  
22 be a member of the [council of the] borough council and one may  
23 be a member of the teaching profession.

24     Section 1174. Organization of Commission; Quorum.--The  
25 commission first appointed shall organize within ten days of its  
26 appointment and shall elect one of its members as the [chairman]  
27 chair and one as the secretary. The commission shall thereafter  
28 meet and organize on the first Monday [of February] of each  
29 even-numbered year. [The secretary of the commission shall give  
30 each commissioner twenty-four hours' notice] Each commissioner

1 shall be notified in writing of each and every meeting [of the  
2 commission. Two]. Three members of the commission shall  
3 constitute a quorum [and no action of the commission shall be  
4 valid unless it shall have the concurrence of at least two  
5 members]. If, by reason of absence or disqualification of a  
6 member a quorum is not reached, the chair shall designate as  
7 many alternate members of the commission to sit on the  
8 commission as may be needed to provide a quorum. An alternate  
9 member of the commission shall continue to serve on the  
10 commission in all proceedings involving the matter or case for  
11 which the alternate was initially designated until the  
12 commission has made a final determination of the matter or case.  
13 Designation of an alternate member pursuant to this section  
14 shall be made on a case-by-case basis in rotation according to  
15 declining seniority among the alternates. No action of the  
16 commission may be valid unless it shall have the concurrence of  
17 at least two members.

18       Section 1175. Clerks and Supplies, Etc.; Solicitor.--The  
19 borough shall furnish to the commission, on its requisition,  
20 [such] clerical assistance [as] that may be necessary for the  
21 work of the commission. The borough shall provide a suitable and  
22 convenient room for the use of the commission. The commission  
23 shall order from the borough the necessary stationery, postage,  
24 printing and supplies[, and the]. The borough shall also provide  
25 the services of a solicitor for the commission to be appointed  
26 by the commission and paid by the borough. The borough shall  
27 have the authority to place a reasonable limit on the amount  
28 allowed each year for the services of the commission solicitor.  
29 The elected and appointed officials of every [such] borough  
30 shall aid the commission in all proper ways in carrying out the

1 provisions of this subdivision relating to civil service.

2       Section 1176. Rules and Regulations.--The commission shall  
3 have power to prescribe, amend and enforce rules and regulations  
4 for carrying into effect the provisions of this subdivision and  
5 shall be governed thereby. Before [any such] the effective date  
6 of the rules and regulations [are in force], or amendments  
7 thereto, the same shall be first approved by [the] borough  
8 council [of the borough]. When [such] the rules and regulations,  
9 or amendments, have been [so] approved, they shall not be  
10 annulled, amended, or added to, without the approval of [the  
11 said] council. All rules and regulations and modifications  
12 [thereof] shall be made available by the boroughs for public  
13 distribution or inspection.

14       Section 1177. Minutes and Records.--The commission shall  
15 keep minutes of its proceedings and records of examinations and  
16 other official actions. All recommendations of applicants for  
17 appointment received by the commission shall be kept and  
18 preserved for a period of five years, and all [such] records and  
19 all written causes of removal filed with the commission, except  
20 as otherwise provided in section 1191 [of this act], shall be  
21 open to public inspection and subject to reasonable regulation.

22       Section 1178. Investigations.--The commission shall have  
23 power to make investigations concerning all matters touching the  
24 administration and enforcement of this subdivision and rules and  
25 regulations adopted thereunder. The [chairman] chair of the  
26 commission is hereby given power to administer oaths and  
27 affirmations in connection with [such] the investigations.

28       Section 1179. Subpoenas.--The commission shall have power to  
29 issue subpoenas over the signature of the [chairman] chair, to  
30 require the attendance of witnesses and the production of

1 records and papers pertaining to any investigation or inquiry.  
2 The fees of [such] witnesses for attendance and travel shall be  
3 the same as for witnesses appearing in the courts and shall be  
4 paid from appropriations for the incidental expenses of the  
5 commission.

6 All officers in public service and employes shall attend and  
7 testify when required to do so by the commission.

8 If any person shall refuse or neglect to obey any subpoena  
9 issued by the commission, [he] the person shall upon conviction  
10 thereof in a summary proceeding, be sentenced to pay a fine not  
11 to exceed one hundred dollars (\$100), and in default of the  
12 payment of [such] the fine and costs, shall be imprisoned not to  
13 exceed thirty days.

14 If any person shall refuse or neglect to obey any subpoena  
15 issued by the commission, [it] the commission may apply by  
16 petition to the court of common pleas of the county for its  
17 subpoena, requiring the attendance of [such] persons before the  
18 commission or the court there to testify and to produce any  
19 records and papers necessary, and in default thereof, shall be  
20 held in contempt of court.

21 Section 138. Section 1180 of the act is reenacted to read:

22 Section 1180. Annual Report.--The commission shall make an  
23 annual report to the council containing a brief summary of its  
24 work during the year, which shall be available for public  
25 inspection.

26 Section 139. Section 1181 of the act, amended October 27,  
27 2010 (P.L.884, No.91), is amended to read:

28 Section 1181. General Provisions Relating to Examinations.--

29 (a) The commission shall make rules and regulations, to be  
30 approved as provided in section 1176 [hereof], providing for the

1 examination of applicants for positions in the police force and  
2 as paid operators of fire apparatus and for promotions, which  
3 rules and regulations shall prescribe the minimum qualifications  
4 of all applicants to be examined and the passing grades. All  
5 examinations for positions or promotions shall be practical in  
6 character and shall relate to [such] matters and include [such]  
7 inquiries as will fairly test the merit and fitness of the  
8 persons examined to discharge the duties of the employment  
9 sought by them. All examinations shall be open to all applicants  
10 who have the minimum qualifications required by the rules and  
11 regulations. Each applicant for an original position shall:

12 (1) be subject to the regulations adopted by the commission;

13 (2) either before or after the written examination, be  
14 required to submit to a physical fitness or agility examination  
15 that is job related and consistent with business necessity;  
16 [and]

17 (3) if made a conditional offer of employment, be given a  
18 physical and psychological medical examination as provided in  
19 section 1189 [of this act.]; and

20 (4) be subject to a background investigation. Background  
21 investigations may be restricted to those candidates on an  
22 eligibility list or those to be certified to borough council for  
23 appointment in accordance with section 1184.

24 (a.1) Each applicant for promotion shall be subject to the  
25 regulations adopted by the commission and to examination and  
26 selection in accordance with section 1188. Physical fitness or  
27 agility examinations that are job-related and consistent with  
28 business necessity and physical and psychological medical  
29 examinations may be, but need not be, required for promotions.

30 (b) Public notice of the time and place of every

1 examination, together with the information as to the kind of  
2 position or place to be filled, shall be given by publication  
3 once in a newspaper of general circulation [in the borough], at  
4 least two weeks prior to each examination, and a copy of the  
5 notice shall be prominently posted in the office of the  
6 commission or other public place.

7 (c) The commission shall post in its office the [eligible]  
8 eligibility list, containing the names and grades of those who  
9 have passed the examination.

10 Section 140. Section 1182 of the act is amended to read:

11 Section 1182. Application for Examination.--Each person  
12 desiring to apply for examination shall file with the commission  
13 a formal application in which the applicant shall [state]  
14 provide, under oath or affirmation [(i) his full name and  
15 residence or post office address, (ii) his citizenship, place  
16 and date of birth, (iii) his condition of health and physical  
17 capacity for public service, (iv) his business or employment and  
18 his residence for the past five years, and (v) such] the  
19 following information:

20 (1) full name and residence or post office address;

21 (2) citizenship, place and date of birth;

22 (3) condition of health and physical capacity for public  
23 service;

24 (4) business or employment and his residence for the past  
25 five years; and

26 (5) other information as may be required by the commission's  
27 rules and regulations, showing the applicant's qualifications  
28 for the position for which [he] the applicant is being examined.

29 Section 141. Sections 1183 and 1184 of the act, amended  
30 October 27, 2010 (P.L.884, No.91), are amended to read:



1       Section 1183. Rejection of Applicant; Hearing.--(a) The  
2 commission may refuse to examine, or, if examined, may refuse to  
3 certify after examination as eligible, any applicant who is  
4 found to lack any of the minimum qualifications for examination  
5 prescribed in the rules and regulations adopted for the position  
6 or employment for which he has applied, or who is physically  
7 unfit for the performance of the duties of the position to which  
8 he seeks employment, or who is illegally using a controlled  
9 substance, as defined in section 102 of the Controlled  
10 Substances Act (Public Law 91-513, 21 U.S.C. § 802), or who has  
11 been guilty of any crime involving moral turpitude, or of  
12 infamous or notoriously disgraceful conduct, or who has been  
13 dismissed from public service for delinquency or misconduct of  
14 office, or who is affiliated with any group whose policies or  
15 activities are subversive to the form of government set forth in  
16 the constitutions and laws of the United States and  
17 Pennsylvania.

18       (b) If any applicant [or person is aggrieved by refusal of  
19 the commission to examine or certify the applicant as eligible  
20 after examination, the commission shall, at the request of the  
21 applicant, within ten days, appoint a time and place for a  
22 public hearing, with or without counsel, at which time] is  
23 aggrieved by the refusal of the commission to certify the  
24 applicant as eligible after examination, or a person is  
25 aggrieved by refusal of the commission to examine the person,  
26 the commission shall, at the request of the applicant or person  
27 aggrieved, within ten days, appoint a time and place for a  
28 public hearing. At the hearing, the applicant or person  
29 aggrieved may appear with or without counsel, and the commission  
30 shall take testimony and review its refusal to provide

1 examination or certification. The decision of the commission  
2 shall be final.

3 Section 1184. Eligibility List and Manner of Filling

4 Appointments.--(a) At the completion of the testing process,

5 including any [background,] physical agility or other

6 examination, with the exception of any background investigation

7 to be conducted after the establishment of an eligibility list

8 and physical and psychological medical examination pursuant to

9 section 1189 [of this act], the commission shall rank the

10 candidates who have satisfied the minimum requirements for

11 appointment on an eligibility list. The eligibility list shall

12 contain the names of individuals eligible for appointment listed

13 from highest to lowest based on their scores on the examinations

14 administered by the commission and any points for which the

15 applicant was entitled by virtue of 51 Pa.C.S. Ch. 71 (relating

16 to veterans' preference). The eligibility list will be valid for

17 one year from the date the commission formally adopts the

18 eligibility list. Prior to expiration of the one-year period,

19 the commission may extend the validity of the eligibility list

20 for up to an additional twelve months by a majority vote of the

21 commission at a duly authorized commission meeting. In the

22 absence of a lawful extension by the commission, the list shall

23 expire.

24 (b) Except as provided in subsection (c), every original

25 position or employment in the police force or as paid operators

26 of fire apparatus, except that of chief of police or chief of

27 the fire department, or equivalent, shall be filled only in the

28 following manner: the council shall notify the commission of any

29 vacancy which is to be filled and shall request the

30 certification of an eligibility list. The commission shall

1 certify for each existing vacancy from the eligibility list, the  
2 names of the three persons, or a lesser number where three are  
3 not available, who have received the highest average. The  
4 council shall make a conditional appointment from the three  
5 names certified, based solely on the merits and fitness of the  
6 candidates, unless borough council makes objections to the  
7 commission regarding one or more of the certified persons for  
8 any of the reasons stated in section 1183 [of this act]. Should  
9 [such] the objections be sustained by the commission, as  
10 provided in section 1183 [of this act], or if the conditional  
11 appointee is determined to be unqualified in accordance with the  
12 procedures set forth in section 1189 [of this act], the  
13 commission shall strike the name of the person from the  
14 eligibility list and certify the next highest name for each name  
15 stricken from the eligibility list. As each subsequent vacancy  
16 occurs in the same or another position precisely the same  
17 procedure shall be followed.

18 (c) Any vacancy in an existing position in the police force  
19 or as a paid operator of fire apparatus which occurs as a result  
20 of retirement, resignation, disability or death may be filled by  
21 council by the reappointment or reinstatement of a former  
22 employe of the police force or fire department who had  
23 previously complied with the provisions of this section. No  
24 examination, other than a physical examination as directed by  
25 the civil service commission, shall be required in any case of  
26 reappointment or reinstatement.

27 (d) In the case of a vacancy in the office of chief of  
28 police or chief of the fire department, or equivalent official,  
29 the appointive power may nominate a person to the commission. It  
30 shall [thereupon] then become the duty of the commission to

1 subject the person to a non-competitive examination, and if the  
2 person shall be certified by the commission as qualified, he may  
3 then be appointed to the position, and [thereafter] shall be  
4 subject to all the provisions of this subdivision.

5 Section 142. Section 1185 of the act, amended June 16, 1972  
6 (P.L.439, No.132), is amended to read:

7 Section 1185. Age, Applicant's Residence.--No person shall  
8 be eligible to apply for examination unless [he] the person is  
9 at least eighteen years of age at the date of application. An  
10 applicant need not be a resident of the borough. The council of  
11 the borough may authorize the commission, by rule or regulation,  
12 to require [policemen and firemen] police officers and paid  
13 operators of fire apparatus to become residents of the borough  
14 after appointment to [such] the positions.

15 Section 143. Section 1186 of the act, amended October 27,  
16 2010 (P.L.884, No.91), is amended to read:

17 Section 1186. Probationary Period.--All original  
18 appointments to any position in the police force or as paid  
19 operators of fire apparatus shall be for a probationary period  
20 of not less than six months, and not more than one year, but  
21 during the probationary period an appointee may be dismissed  
22 only for a cause specified in section 1183 [of this act] or  
23 because of incapacity for duty due to the use of alcohol or  
24 drugs. If at the close of a probationary period the conduct or  
25 fitness of the probationer has not been satisfactory to the  
26 council, the probationer shall be notified in writing that [he]  
27 the probationer will not receive a permanent appointment, and  
28 the appointment shall cease. If the probationer is not notified  
29 or dismissed in accordance with this section, [his] the  
30 probationer's retention shall be equivalent to a permanent

1 appointment. The decision of a borough to suspend or discharge a  
2 probationer shall be final and shall not be subject to the  
3 hearing provisions of section 1191.

4 Section 144. Section 1187 of the act is amended to read:

5 Section 1187. Provisional Appointments.--Whenever there are  
6 urgent reasons for the filling of a vacancy in any position in  
7 the police force and there are no names on the [eligible]  
8 eligibility list for [such] the appointment, the council may  
9 nominate a person to the commission for noncompetitive  
10 examination, and if [such] the nominee shall be certified by the  
11 commission as qualified after [such] noncompetitive examination,  
12 [he] the nominee may be appointed provisionally to fill [such]  
13 the vacancy. [It shall thereupon become the duty of the  
14 commissioner within three weeks to] Within three weeks of the  
15 provisional appointment, the commission shall hold a competitive  
16 examination and certify [a list of eligibles] an eligibility  
17 list and a regular appointment shall then be made from the name  
18 or names submitted by the commission[: Provided, That], provided  
19 that nothing [herein contained] in this section shall prevent  
20 the appointment, without examination, of persons, temporarily as  
21 police officers in cases of riot or other emergency or as  
22 operators of fire apparatus in emergency cases.

23 Section 145. Section 1188 of the act, amended October 27,  
24 2010 (P.L.884, No.91), is amended to read:

25 Section 1188. Promotions.--Promotions shall be based on  
26 merit to be ascertained by examinations to be prescribed by the  
27 commission. All questions relative to promotions shall be  
28 practical in character and [such as] will fairly test the merit  
29 and fitness of persons seeking promotion. Borough council shall  
30 notify the commission of a vacancy in the police force or as a

1 paid operator of fire apparatus in the borough which is to be  
2 filled by promotion and shall request the certification of an  
3 eligibility list. The commission shall certify for each vacancy  
4 the names of three persons on the eligibility list who have  
5 received the highest average in the last preceding promotional  
6 examination held within a period of two years preceding the date  
7 of the request for the eligibility list. If three names are not  
8 available, the commission shall certify the names remaining on  
9 the eligibility list. The borough council shall make an  
10 appointment from the names certified, based solely on the merits  
11 and fitness of the candidate, unless council makes objections to  
12 the commission regarding one or more of the persons so certified  
13 for any reason provided under section 1183 [of this act].

14 The council shall have power to determine in each instance  
15 whether an increase in salary shall constitute a promotion.

16 Section 145.1. Section 1189 of the act, amended October 27,  
17 2010 (P.L.884, No.91), is reenacted to read:

18 Section 1189. Physical and Psychological Medical  
19 Examination.--(a) An applicant selected from the eligibility  
20 list shall receive a conditional offer of employment. The offer  
21 of employment shall be conditioned upon the conditional  
22 appointee undergoing a physical and psychological medical  
23 examination and a determination that the conditional appointee  
24 is capable of performing all the essential functions of the  
25 position. Physical medical examinations shall be under the  
26 direction of a physician or other qualified medical  
27 professional. Psychological medical examinations shall be under  
28 the direction of a psychiatrist or psychologist.

29 (b) The physician or other qualified medical professional  
30 and the psychiatrist or psychologist shall be appointed by

1 council and shall render an opinion as to whether the  
2 conditional appointee has a physical or mental condition which  
3 calls into question the person's ability to perform all of the  
4 essential functions of the position for which the person was  
5 conditionally appointed.

6 (c) If the opinion rendered by the physician, other  
7 qualified medical professional, psychiatrist or psychologist  
8 calls into question the conditional appointee's ability to  
9 perform all essential functions of a position, a person  
10 designated by council shall meet with the conditional appointee  
11 for the purpose of having one or more interactive discussions  
12 on whether the conditional appointee can, with or without  
13 reasonable accommodation, perform all the essential functions of  
14 the position.

15 (d) If, at the conclusion of the interactive discussion  
16 under subsection (c), council determines that the conditional  
17 appointee is not qualified, council shall give written notice to  
18 the conditional appointee and the commission.

19 (e) Nothing in this act shall be construed to authorize  
20 physical or psychological medical examinations prior to  
21 conditional appointment.

22 (f) As used in this section, the following definitions shall  
23 apply:

24 "Medical examination" shall mean any examination, procedure,  
25 inquiry or test designed to obtain information about medical  
26 history or a physical or mental condition which might disqualify  
27 an applicant if it would prevent the applicant from performing,  
28 with or without a reasonable accommodation, all of the essential  
29 functions of the position.

30 "Physician" shall have the meaning given to it in 1 Pa.C.S. §

1 1991 (relating to definitions).

2 "Qualified medical professional" shall mean an individual, in  
3 collaboration with or under the supervision or direction of a  
4 physician, as may be required by law, who is licensed:

5 (1) as a physician assistant pursuant to the act of December  
6 20, 1985 (P.L.457, No.112), known as the "Medical Practice Act  
7 of 1985," or the act of October 5, 1978 (P.L.1109, No.261),  
8 known as the "Osteopathic Medical Practice Act"; or

9 (2) as a certified registered nurse practitioner pursuant to  
10 the act of May 22, 1951 (P.L.317, No.69), known as "The  
11 Professional Nursing Law."

12 Section 146. Section 1190 of the act, amended May 31, 1984  
13 (P.L.362, No.72), is amended to read:

14 Section 1190. Removals.--No person employed in any police or  
15 fire force of any borough shall be suspended without pay,  
16 removed or reduced in rank except for the following reasons:

17 (1) Physical or mental disability affecting [his] the  
18 person's ability to continue in service, in which cases the  
19 person shall receive an honorable discharge from service.

20 (2) Neglect or violation of any official duty.

21 (3) Violation of any law which provided that [such] the  
22 violation constitutes a misdemeanor or felony.

23 (4) Inefficiency, neglect, intemperance, immorality,  
24 disobedience of orders, or conduct unbecoming an officer.

25 (5) Intoxication while on duty.

26 (6) Engaging or participating in conducting of any political  
27 or election campaign while on duty or in uniform or while using  
28 borough property otherwise than to exercise [his] the person's  
29 own right of suffrage.

30 (7) Engaging or participating in the conduct of a political



1 or election campaign for an incompatible office as provided in  
2 section 1104(f).

3 A person so employed shall not be removed for religious,  
4 racial or political reasons. A written statement of any charges  
5 made against any person so employed shall be furnished to [such]  
6 person within five days after the same are filed. The person so  
7 employed shall have ten days from the date of receiving the  
8 notice in which to submit a written request for a hearing to the  
9 civil service commission under section 1191.

10 If for reasons of economy or other reasons it shall be deemed  
11 necessary by any borough to reduce the number of paid employes  
12 of the police or fire force, then [such] the borough shall  
13 [apply the following procedure: (i) if there are any employes  
14 eligible for retirement under the terms of any retirement or  
15 pension law, if the party to be retired exceeds the maximum age  
16 as defined in the act of October 27, 1955 (P.L.744, No.222),  
17 known as the "Pennsylvania Human Relations Act," then such  
18 reduction in numbers shall be made by retirement of such  
19 employes, starting with the oldest employe and following in  
20 order of age respectively, (ii) if the number of paid employes  
21 in the police force or fire force eligible to retirement is  
22 insufficient to effect the necessary reduction in numbers, or if  
23 there are no persons eligible for retirement, or if no  
24 retirement or pension fund exists, then the reduction shall be  
25 effected by furloughing] furlough the person or persons,  
26 including probationers, last appointed to the respective force.  
27 Such removal shall be accomplished by furloughing in numerical  
28 order commencing with the person last appointed until such  
29 reduction shall have been accomplished. In the event the said  
30 police force or fire force shall again be increased the employes

1 furloughed shall be reinstated in the order of their seniority  
2 in the service. The provisions of this paragraph as to  
3 reductions in force are not applicable to a chief of police.

4 Section 147. Section 1191 of the act, repealed in part June  
5 3, 1971 (P.L.118, No.6), is amended to read:

6 Section 1191. Hearings on Dismissals and Reductions.--[If  
7 the] (a) The person suspended, removed or reduced in rank  
8 [shall demand a hearing by the commission, the demand shall be  
9 made to the commission. Such person] may make written answers to  
10 any charges filed against [him] the person not later than the  
11 day fixed for hearing. The commission shall grant [him] the  
12 person a hearing which shall be held within a period of ten days  
13 from the filing of charges in writing, unless continued by the  
14 commission for cause at the request of the council or the  
15 accused. Notwithstanding this provision, the failure of the  
16 commission to hold a hearing within ten days from the filing of  
17 the charges in writing shall not result in the dismissal of the  
18 charges filed.

19 (b) At any [such] hearing, the person against whom the  
20 charges are made may be present in person and by counsel. The  
21 council may suspend [any such] the person, without pay, pending  
22 the determination of the charges against [him] the person, but  
23 in the event the commission fails to uphold the charges, then  
24 the person sought to be suspended, removed or [demoted] reduced  
25 in rank shall be reinstated with full pay for the period during  
26 which [he] the person was suspended, removed or [demoted]  
27 reduced in rank, and no charges shall be officially recorded  
28 against [his] the person's record. A stenographic record of all  
29 testimony taken at [such] the hearings shall be filed with, and  
30 preserved by, the commission, which record shall be sealed and

1 not be available for public inspection in the event the charges  
2 are dismissed.

3 (c) All parties concerned shall have immediate right of  
4 appeal to the court of common pleas of the county, and the case  
5 shall there be determined as the court deems proper. No order of  
6 suspension made by the commission shall be for a longer period  
7 than one year. [Such] The appeal shall be taken within [sixty]  
8 thirty days from the date of entry by the commission of its  
9 final order and shall be by petition. Upon [such] the appeal  
10 being taken and docketed, the court of common pleas shall fix a  
11 day for a hearing and shall proceed to hear the appeal on the  
12 original record and [such] additional proof or testimony as the  
13 parties concerned may desire to offer in evidence. The decision  
14 of the court affirming or revising the decision of the  
15 commission shall be final, and the employe shall be suspended,  
16 discharged, [demoted] reduced in rank or reinstated in  
17 accordance with the order of court.

18 (d) The council and the person sought to be suspended,  
19 removed or [demoted] reduced in rank shall at all times have the  
20 right to employ counsel before the commission and upon appeal to  
21 the court of common pleas. Unless the council or the person  
22 sought to be suspended, removed or reduced in rank requests that  
23 the proceedings before the commission be open to the public, the  
24 proceedings before the commission pursuant to this section shall  
25 be held in the nature of a closed executive session that shall  
26 not be open to the public. Any such request shall be presented  
27 to the commission before the civil service hearing commences.  
28 The deliberations of the commission, including interim rulings  
29 on evidentiary or procedural issues, may be held in private and  
30 shall not be subject to a request for being open to the public,

1 the council or to the person sought to be suspended, removed or  
2 reduced in rank. The commission's disposition of the  
3 disciplinary action shall constitute official action which shall  
4 occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7  
5 (relating to open meetings).

6 Section 148. Sections 1192 and 1193 of the act are amended  
7 to read:

8 Section 1192. Employes Exempted.--All appointments in the  
9 police or fire forces of boroughs, including the chief of police  
10 or equivalent official, prior to the creation of a commission,  
11 shall continue to hold their positions and shall not be required  
12 to take any examination under the provisions of this  
13 subdivision, except [such as] that which may be required for  
14 promotion[: Provided, That], provided that this section shall  
15 not be construed to apply to persons employed temporarily in  
16 emergency cases.

17 Section 1193. Discrimination on Account of Political or  
18 Religious Affiliations.--No question in any form of application  
19 for examination or in any examination shall be so framed as to  
20 elicit information concerning the political or religious  
21 opinions or affiliations of any applicant, nor shall inquiry be  
22 made concerning [such] the opinion or affiliations and all  
23 disclosures [thereof] of opinion or affiliation shall be  
24 [discountenanced] ignored.

25 No discrimination shall be exercised, threatened or promised  
26 by any person against or in favor of any applicant or employe  
27 because of political or religious opinions or affiliations or  
28 race, and no offer or promise or reward, favor or benefit,  
29 directly or indirectly, shall be made to or received by any  
30 person for any act done or duty omitted or to be done under this

1 subdivision [of this article].

2 Section 149. Section 1194 of the act, amended June 25, 2001  
3 (P.L.651, No.56), is amended to read:

4 Section 1194. Penalty.--Any member of council who, by [his]  
5 vote, causes to be appointed any person to the police force or  
6 as a fire apparatus operator contrary to the provisions of this  
7 subdivision, or any member of council or member of the  
8 commission who wilfully refuses to comply with, or conform to,  
9 the provisions of [subdivision (j) of this article] this  
10 subdivision, shall be deemed guilty of a misdemeanor, and upon  
11 conviction [thereof], shall be sentenced to pay a fine not  
12 exceeding one hundred dollars (\$100), or suffer imprisonment not  
13 exceeding [three months] ninety days, or both.

14 Section 150. Section 1195 of the act is reenacted to read:

15 Section 1195. Police Force and Fire Apparatus Operators  
16 Defined.--Police force as used in subdivision (j) of this  
17 article shall mean a police force organized and operating as  
18 prescribed by law, the members of which devote their normal  
19 working hours to police duty or duty in connection with the  
20 bureau, agencies and services connected with police protection  
21 work, and who are paid a stated salary or compensation for such  
22 work by the borough. Police force as used in this subdivision  
23 shall not include:

24 (1) Any special police appointed by the mayor to act in  
25 emergencies,

26 (2) Any person appointed solely for parking meter  
27 enforcement duties,

28 (3) Any special school police,

29 (4) Any extra police serving from time to time or on an  
30 hourly or daily basis, or,

1 (5) Any auxiliary policeman appointed under the act of  
2 January 14, 1952 (P.L.2016).

3 Fire apparatus operators as used in this subdivision (j) of  
4 this article shall mean any person who operates fire apparatus  
5 and devotes his normal working hours to operating any piece of  
6 fire apparatus or other services connected with fire protection  
7 work, and who is paid a stated salary or compensation for such  
8 work done by the borough.

9 Section 150.1. Article XI subdivision (k) heading of the act  
10 is repealed:

11 [(k) Independent Auditor]

12 Section 151. Section 1196 of the act, amended December 17,  
13 1986 (P.L.1691, No.201), is repealed:

14 [Section 1196. General Powers and Duties of Independent  
15 Auditor.--(a) The independent auditor shall annually examine,  
16 audit and settle all accounts whatsoever in which the borough is  
17 concerned and the audit shall consist of an examination in  
18 accordance with generally accepted auditing standards and shall  
19 include such tests of the accounting records and such other  
20 auditing procedures as he considers necessary in the  
21 circumstances.

22 (b) The independent auditor shall audit the accounting  
23 records of the borough for the fiscal year and shall prepare a  
24 report on the examination which shall set forth:

25 (1) The scope of his examination,

26 (2) His opinion of the fairness of the presentation of the  
27 financial statement of the borough which shall show a complete  
28 statement of the financial condition of the borough, giving in  
29 detail the actual indebtedness, the amount of the funded debt,  
30 the amount of the floating debt thereof, the valuation of

1 taxable property therein, the assets of the borough with the  
2 character and value thereof, and the date of maturity of the  
3 respective forms of funded debt thereof, and

4 (3) The amount of any balance or shortage or any expenditure  
5 of any kind, or made in a manner, prohibited or not authorized  
6 by a statute which came to his attention during the course of  
7 his examination and which, in his opinion, causes a financial  
8 loss to the borough which loss is material in relation to the  
9 receipts and disbursements of the borough, and such amount shall  
10 be a surcharge against any officer against whom such balance or  
11 shortage shall appear.

12 (c) The amount of any balance or shortage, or of any  
13 expenditure of a kind, or made in a manner, prohibited or not  
14 authorized by statute, which causes a financial loss to the  
15 borough, shall be a surcharge against any officer against whom  
16 such balance or shortage shall appear, or who by vote, act, or  
17 neglect, has permitted or approved such expenditure, but no  
18 elected or appointed official of a borough shall be surcharged  
19 for any act, error or omission in excess of the actual financial  
20 loss sustained by the borough, and any surcharge shall take into  
21 consideration as its basis the results of such act, error or  
22 omission and the results had the procedure been strictly  
23 according to law. The provisions hereof limiting the amount of  
24 any surcharge shall not apply to cases involving fraud or  
25 collusion on the part of officers, nor to any penalty enuring to  
26 the benefit or payable to the Commonwealth.

27 (d) In any matter involving any financial transaction, any  
28 official knowingly and wilfully acting contrary to law, or,  
29 knowingly and wilfully failing to act as required by law, is  
30 guilty of a misdemeanor, and on conviction thereof, may be

1 sentenced to a fine not exceeding one hundred dollars (\$100),  
2 and his office may be forthwith declared vacant as may seem meet  
3 and just to the court passing sentence.

4 (e) It shall be the duty of the independent auditor:

5 (1) To file a copy of the report with the secretary of the  
6 borough and the clerk of the court of common pleas of the county  
7 and the Department of Community Affairs not later than ninety  
8 days after the close of the fiscal year, and

9 (2) To publish within ten days thereafter, by advertisement  
10 in at least one newspaper of general circulation in the borough,  
11 a concise financial statement setting forth the balance in the  
12 treasury at the beginning of the fiscal year, all revenues  
13 received during the fiscal year by major classifications, all  
14 expenditures made during the fiscal year by major functions, and  
15 the current resources and liabilities of the borough at the end  
16 of the fiscal year, the gross liability and net debt of the  
17 borough, the amount of the assessed valuation of the borough,  
18 the assets of the borough with the character and value thereof,  
19 the date of the last maturity of the respective forms of funded  
20 debt, and the assets in each sinking fund. The independent  
21 auditor shall make his report on the uniform form prepared  
22 pursuant to article XIII of this act.

23 (f) The compensation of the independent auditor shall be  
24 determined by council and paid out of borough funds.]

25 Section 152. Sections 1197, 1198 and 1199 of the act are  
26 repealed:

27 [Section 1197. Appeals From Report of Independent Auditor.--  
28 Appeals may be taken from the settlement and audit of the  
29 independent auditor as shown in the independent auditor's report  
30 to the court of common pleas of the county, by the same persons,



1 in the same manner, within the same time, subject to the same  
2 conditions and procedure, and with like effect in every respect,  
3 as in this act provided in the cases of appeals from the  
4 settlement and audit of elected auditors.

5 Section 1198. Balances Due to be Entered as Judgments.--Any  
6 balance, in any report of the independent auditor, against any  
7 officer of the borough, shall constitute a surcharge against  
8 such officer, as fully as if expressly stated in said report to  
9 be a surcharge, and the amount of any such balance, and of any  
10 express surcharge, shall, if no appeal is taken, or after an  
11 appeal has been finally determined, be entered by the  
12 prothonotary as a judgment, against such officer and in favor of  
13 the borough, the clerk of the court of quarter sessions shall  
14 certify the amount of every balance or surcharge, contained in  
15 any such report, from which no appeal has been taken within time  
16 herein provided, to the court of common pleas, for entry thereof  
17 by the prothonotary as a judgment. Any taxpayer of the borough  
18 may enforce the collection thereof, for the benefit of the  
19 borough, by action or execution, upon filing in the court of  
20 common pleas a bond, in the sum of five hundred dollars (\$500)  
21 with one or more sureties, conditioned to indemnify the borough  
22 from all costs which may accrue in the proceedings undertaken by  
23 such taxpayer, subject, however, to all rights of appeal from  
24 the report of independent auditors granted by this act. If any  
25 person or persons have been, or shall be, surcharged for an  
26 illegal purchase, and no fraud or collusion is shown and the  
27 surcharge is paid to the borough, then the articles purchased  
28 shall become the property of the person or persons surcharged.

29 Section 1199. Employment of Attorney, Compelling Attendance  
30 of Witnesses, Administration of Oath, Penalties and Settlement

1 of Accounts.--(a) The independent auditor, with the consent of  
2 the borough council, may employ an attorney whenever the same is  
3 deemed advisable by him and the compensation of such attorney  
4 shall be determined by the borough council and shall be payable  
5 by the borough out of the general funds of the borough.

6 (b) The independent auditor of each borough shall have power  
7 to issue subpoenas to obtain the attendance of the officers  
8 whose accounts he is required to adjust, their executors and  
9 administrators, and of any persons whom it may be necessary to  
10 examine as witnesses, and to compel their attendance. If any  
11 person shall refuse or neglect to appear or testify, the  
12 independent auditor shall petition the court of common pleas of  
13 the county to issue a subpoena to such person and to require him  
14 to appear and to testify before the court. The court shall issue  
15 such subpoena if it deems the testimony relevant to the issue.

16 (c) The independent auditor shall have power to administer  
17 oaths and affirmations to all persons brought or appearing  
18 before him, whether accountants, witnesses, or otherwise. All  
19 persons guilty of swearing or affirming falsely on such  
20 examination shall be liable to the pains and penalties of  
21 perjury.

22 (d) If any person, appearing before such independent auditor  
23 for examination, shall refuse to take such oath or affirmation,  
24 or, after having been sworn or affirmed, shall refuse to make  
25 answer to such questions as shall be put to him by the  
26 independent auditor touching the accounts or the official  
27 conduct of such public officers or any of them, then the  
28 independent auditor may petition the court to issue its subpoena  
29 as hereinbefore provided.

30 (e) Witnesses, other than officers of the borough, attending

1 before the independent auditor and persons or officers serving  
2 subpoenas shall be paid out of the borough treasury, upon orders  
3 drawn on the borough treasury, pursuant to authorization by the  
4 independent auditor, the same fees as are payable for rendering  
5 similar services in civil proceedings before a justice of the  
6 peace, and the amount thereof shall be made a part of the charge  
7 against any officer who shall be charged by the independent  
8 auditor with any balance: Provided, that any such costs shall  
9 have been incurred in establishing said balance. Upon collection  
10 of any such costs from any officer, they shall be repaid into  
11 the borough treasury.

12 (f) If any person in possession of books, vouchers, or  
13 papers, relative to public accounts before independent auditor,  
14 shall refuse to produce the same or, if any officer whose  
15 accounts are to be settled and adjusted by such independent  
16 auditor refuses to attend or submit to examination as is  
17 hereinbefore directed, the independent auditor may proceed, by  
18 the examination of witnesses and other evidence, to ascertain  
19 and settle as near as may be, the amount of public money  
20 received by such officer and its application to public purposes  
21 or otherwise.]

22 Section 153. Article XII heading of the act is reenacted to  
23 read:

24 ARTICLE XII

25 CORPORATE POWERS

26 Section 154. Section 1201 of the act, amended June 28, 2011  
27 (P.L.66, No.12), is renumbered and amended to read:

28 Section 1201. General Powers.--A borough may:

29 (1) Have succession perpetually by its corporate name.

30 (2) Sue and be sued, and complain and defend in the courts

1 of the Commonwealth.

2 (3) Make and use a common seal, and alter the same at  
3 pleasure.

4 (4) Purchase, exchange, acquire by gift, or otherwise, hold,  
5 lease, let and convey, by sale or lease, [such] real and  
6 personal property [as shall be] deemed to be to the best  
7 interest of the borough, subject to the [following]  
8 restrictions, limitations or exceptions[:]

9 (i)] as set forth in this article. Property may be acquired  
10 for any public purpose, including, but not limited to,  
11 greenways, greenbelts, recreational trails, buffer zones and  
12 natural areas, in addition to any recreation purpose authorized  
13 by this act. ←

14 Section 1201.1. Real Property.--(a) No real estate owned by  
15 the borough [shall] may be sold except upon approval of council  
16 by resolution. Additionally, no real estate owned by the borough  
17 shall be sold for a consideration in excess of fifteen hundred  
18 dollars (\$1500), except to the highest bidder after due notice  
19 by advertisement for bids or advertisement of a public auction  
20 in one newspaper of general circulation [in the borough. Such].  
21 The advertisement shall be published once not less than ten days  
22 prior to the date fixed for the opening of bids or public  
23 auction, and [such] the date for opening bids or public auction  
24 shall be announced in [such] the advertisement. The award of  
25 contracts shall be made only by public announcement at a regular  
26 or special meeting of council or at the public auction. All bids  
27 shall be accepted on the condition that payment of the purchase  
28 price in full shall be made within sixty days of the acceptance  
29 of bids. If no compliant bids are received after advertisement,  
30 the applicable procedures in the act of October 27, 1979

1 (P.L.241, No.78), entitled, as amended, "An act authorizing  
2 political subdivisions, municipality authorities and  
3 transportation authorities to enter into contracts for the  
4 purchase of goods and the sale of real and personal property  
5 where no bids are received," shall be followed.

6 (b) The borough council shall have the authority to reject  
7 all bids if [such] the bids are deemed to be less than the fair  
8 market value of the real property. In the case of a public  
9 auction, the borough council may establish a minimum bid based  
10 on the fair market value of the real property.

11 (c) Real estate owned by a borough may be sold at a  
12 consideration of fifteen hundred dollars (\$1500) or less without  
13 advertisement or competitive bidding only after council  
14 estimates the value thereof upon receipt of an appraisal by a  
15 qualified real estate appraiser.

16 ~~[(ii)]~~ (d) (1) Notwithstanding the foregoing provisions of  
17 this section, borough council shall have the authority to  
18 exchange real property for real property of equal or greater  
19 value without complying with the foregoing provisions of this  
20 section, provided that the property being acquired by the  
21 borough is to be used for municipal purposes. Municipal purposes  
22 as used in this subsection include a subsequent sale or lease of  
23 the property to any of the delineated entities listed in section  
24 1201.3.

25 (2) Any conveyance of real property acquired in an exchange  
26 to an entity listed in section 1201.3 may contain a clause  
27 whereby the lands and buildings will revert to the borough if  
28 they are no longer being used for the purposes of the entity.

29 (3) If borough council chooses to exercise its power of real  
30 property exchange pursuant to this section, it shall be by

resolution adopted by council. Notice of the resolution,  
including a description of the properties to be exchanged, shall  
be published once in one newspaper of general circulation not  
more than sixty days nor fewer than seven days prior to  
adoption.

(4) Participation in a real property exchange shall not  
prohibit the application of the requirements of the act of  
October 4, 1978 (P.L.851, No.166), known as the "Flood Plain  
Management Act."

Section 1201.2. Personal Property.--(a) (1) Except as  
otherwise hereinafter provided in the case of personal property  
of an estimated fair market value of less than one thousand  
dollars (\$1,000), no borough personal property shall be disposed  
of, by sale or otherwise, except upon approval of council, by  
[ordinance or] resolution. In cases where council shall approve  
a sale of [such] the property, it shall estimate the fair market  
value of the entire lot to be disposed of. If council shall  
estimate the fair market value to be one thousand dollars  
(\$1,000) or more, the entire lot shall be advertised for sale  
once, in at least one newspaper of general circulation [in the  
borough], not less than ten days prior to the date fixed for the  
opening of bids or public auction, and [such] the date of  
opening of bids or public auction, shall be announced in [such]  
the advertisement, and sale of the property so advertised shall  
be made to the best responsible bidder.

(2) A public auction of personal property may be conducted  
by means of an online or electronic auction sale. During an  
electronic auction sale, bids shall be accepted electronically  
at the time and in the manner designated in the advertisement.  
During the electronic auction, each bidder shall have the

1 capability to view the bidder's bid rank or the high bid price.  
2 Bidders may increase their bid prices during the electronic  
3 auction. The record of the electronic auction shall be  
4 accessible for public inspection. The purchase price shall be  
5 paid by the high bidder immediately or at a reasonable time  
6 after the conclusion of the electronic auction as determined by  
7 council. In the event that shipping costs are incurred, they  
8 shall be paid by the high bidder. A borough that has complied  
9 with the advertising requirements of this section may provide  
10 additional public notice of the sale by bids or public auction  
11 in any manner deemed appropriate by council. The advertisement  
12 for electronic auction sales authorized in this [subclause]  
13 paragraph shall include the Internet address or means of  
14 accessing the electronic auction and the date, time and duration  
15 of the electronic auction.

16 (3) Council may reject any bids received if the bids are  
17 believed to be less than the fair market value of the property.  
18 If no bids are received after advertisement, the applicable  
19 procedures in the act of October 27, 1979 (P.L.241, No.78),  
20 entitled, as amended, "An act authorizing political  
21 subdivisions, municipality authorities and transportation  
22 authorities to enter into contracts for the purchase of goods  
23 and the sale of real and personal property where no bids are  
24 received," shall be followed.

25 (b) Council shall, by resolution, adopt a procedure for the  
26 sale of surplus personal property, either individual items or  
27 lots of items, of an estimated fair market value of less than  
28 one thousand dollars (\$1,000) and the approval of council shall  
29 not be required for any individual sale that shall be made in  
30 conformity to [such] the procedure.

1        [(iii)] (c) The provisions of this [clause] section shall  
2 not be mandatory where borough personal property is to be traded  
3 in or exchanged for new [borough property] or used personal  
4 property being acquired by the borough, except that the trade or  
5 exchange shall be by resolution.

6        [(iv)] Section 1201.3. Exceptions.--(a) The provisions of  
7 this [clause] article requiring advertising for bids or sale at  
8 public auction and sale to the highest bidder shall not apply  
9 where borough real or personal property is to be sold to:

10        [(A)] (1) a county, city, borough, town, township,  
11 institution district, school district, volunteer fire company,  
12 volunteer ambulance service or volunteer rescue squad located  
13 within the borough;

14        [(A.1)] (2) a council of government, consortium, cooperative  
15 or other similar entity created pursuant to 53 Pa.C.S. Ch. 23  
16 (relating to intergovernmental cooperation);

17        [(B)] (3) an authority as defined in 53 Pa.C.S. § 5602  
18 (relating to definitions);

19        [(C)] (4) a non-profit corporation engaged in community  
20 development or reuse only upon entering into a written agreement  
21 with the non-profit corporation that requires the property to be  
22 used for industrial, commercial or affordable housing purposes.  
23 This exemption shall not apply to property on which existing  
24 governmental functions are conducted[;

25        (D) where real property is to be sold to]. This exemption  
26 shall also not apply to property owned and operated by the  
27 borough or subcontracted or operated on behalf of the borough in  
28 order to conduct existing government functions;

29        (5) a person for [his] the person's exclusive use in an  
30 industrial development program;



1 [(E) where real property is to be sold to] (6) a non-profit  
2 corporation organized as a public library for its exclusive use  
3 as a library;

4 [(F) where real property is to be sold to] (7) a non-profit  
5 medical service corporation as authorized by clause [(76)] (50)  
6 of section 1202;

7 [(G) where real property is to be sold to] (8) a non-profit  
8 housing corporation as authorized by clause [(77)] (51) of  
9 section 1202;

10 [(H) where real property is to be sold to] (9) the  
11 Commonwealth or to the Federal Government; or

12 [(I) where real property is to be sold to] (10) a non-  
13 profit museum or historical society for its exclusive use as a  
14 non-profit museum or historical society.

15 [(v)] (b) When real property is to be sold to a non-profit  
16 corporation organized as a public library for its exclusive use  
17 as a library or to a non-profit medical service corporation or  
18 to a non-profit housing corporation, council may elect to accept  
19 [such] nominal consideration for [such] the sale as it shall  
20 deem appropriate.

21 [(vi)] (c) Real property sold pursuant to this [clause]  
22 section to a volunteer fire company, volunteer ambulance service  
23 or volunteer rescue squad, non-profit medical service  
24 corporation or to a non-profit housing corporation shall be  
25 subject to the condition that when the property is not used for  
26 the purposes of the company, service, squad or the corporation  
27 the property shall revert to the borough.

28 [(vii) The exemption granted under subclause (iv) (C) shall  
29 not apply to property owned and operated by the borough or  
30 subcontracted or operated on the behalf of the borough in order

1 to conduct existing governmental functions.

2 (5) To invest in or purchase bonds of any municipal  
3 authority or parking authority created solely by the borough,  
4 for the purpose either of investment or of possible retirement  
5 of such bonds and acquisition of authority projects at an  
6 earlier date than originally contemplated, using for the purpose  
7 either surplus funds of the borough or money appropriated in the  
8 annual budget for the purpose.]

9 Section 155. Section 1202 of the act, amended or added  
10 October 9, 1967 (P.L.399, No.181), November 24, 1967 (P.L.621,  
11 No.283), December 14, 1967 (P.L.727, No.336), June 30, 1969  
12 (P.L.111, No.43), June 27, 1974 (P.L.412, No.145), December 19,  
13 1975 (P.L.561, No.158), June 23, 1978 (P.L.530, No.89), October  
14 4, 1978 (P.L.962, No.189), October 5, 1979 (P.L.197, No.66),  
15 November 1, 1979 (P.L.453, No.90), May 9, 1980 (P.L.119, No.46),  
16 December 11, 1986 (P.L.1499, No.158), March 30, 1988 (P.L.309,  
17 No.40), July 10, 1990 (P.L.383, No.90), December 16, 1992  
18 (P.L.1215, No.158), December 14, 1995 (P.L.652, No.71), December  
19 18, 1996 (P.L.1156, No.176), June 22, 2000 (P.L.325, No.34),  
20 June 25, 2001 (P.L.699, No.67), July 5, 2005 (P.L.44, No.13) and  
21 March 17, 2008 (P.L.48, No.8) and repealed in part November 26,  
22 1978 (P.L.1399, No.330), is amended to read:

23 Section 1202. Specific Powers.--The powers of the borough  
24 shall be vested in the [corporate authorities. Among the  
25 specific powers of the borough shall be the following, and in]  
26 borough council. In the exercise of any [of such] specific  
27 powers involving the enactment of [any] an ordinance or the  
28 making of any regulation, restriction or prohibition, the  
29 borough may provide for [the] enforcement [thereof] and [may  
30 prescribe] penalties for [the violation thereof or for the

failure to conform thereto] violations. The specific powers of  
the borough shall include the following:

(1) Fees for service of officers. To prescribe reasonable  
fees for the services of their officers and to enforce the  
payment of the same. This paragraph shall not be applicable to  
the services rendered by borough police officers in responding  
to motor vehicle accidents pursuant to 53 Pa.C.S. § 1392  
(relating to prohibition of fees for police services).

(2) Regulation of charges in the operation of its utilities,  
parking meters, parking lots, recreational facilities or its  
other facilities and services to the public. In the operation of  
its utilities, parking meters, parking lots, recreational  
facilities, and other facilities and services, to make and  
regulate charges therefor for general borough purposes.

(3) Fines and forfeitures. To impose fines and penalties,  
incurring partial or total forfeiture, or to remit the same.

(4) Nuisances and dangerous structures. [To prohibit and  
remove any obstruction or nuisance in the streets of the  
borough.

(5) Nuisances and dangerous structures.] To prohibit and  
remove any nuisance or dangerous structure on public or private  
grounds, including but not limited to accumulations of garbage  
and rubbish [and], the storage of abandoned or junked  
automobiles [and to prohibit and remove any dangerous structure  
on public or private grounds, or to] and obstructions or  
nuisances in the streets of the borough. The borough may require  
the removal of any [such] nuisance or dangerous structure by the  
owner or occupier of [such] the grounds, in default of which the  
borough may cause the same to be done, and collect the cost  
[thereof] of removal, together with a penalty of ten percent of

1 [such] the cost, in the manner provided by law for the  
2 collection of municipal claims, or by action of assumpsit, or  
3 may seek relief by bill in equity.

4 [(6)] (5) Health and cleanliness regulations. To make such  
5 regulations as may be necessary for the health, safety, morals,  
6 general welfare and cleanliness and the beauty, convenience,  
7 comfort and safety of the borough.

8 [(7) Burial of deceased persons. To prohibit, within the  
9 borough limits, or within any described territory within such  
10 limits, the burial or interment of deceased persons.

11 (8)] (6) Regulation of vaults, cesspools and drains. To make  
12 regulations respecting vaults, cesspools and drains.

13 [(9)] (7) Manure and compost regulations. To make  
14 regulations relative to the accumulation of manure, compost and  
15 the like to the extent authorized by 3 Pa.C.S. Ch. 5 (relating  
16 to nutrient management and odor management).

17 [(10) Accumulations of garbage] (8) Garbage and other  
18 refuse material. (i) To individually or jointly with other  
19 municipal corporations pursuant to an agreement, prohibit  
20 accumulations of garbage or other refuse material upon public  
21 and private property and to [provide] make regulations for the  
22 care, removal [of prohibited accumulations] and collection of  
23 garbage or other refuse material[.], including:

24 (A) To provide for the collection and imposition of  
25 reasonable fees and charges for the collection of garbage and  
26 other refuse material.

27 (B) To erect, operate and maintain refuse disposal or  
28 incineration facilities or sanitary landfills, either within or  
29 without the limits of the borough, or provide other means for  
30 the collection, destruction or removal of garbage and other

1 refuse material, and provide for the payment of the cost or  
2 expense thereof, either in whole or in part, out of the funds of  
3 the borough.

4 (C) To purchase real estate for the purpose of erecting,  
5 operating and maintaining refuse disposal or incineration  
6 facilities or sanitary landfills, provided, however, that prior  
7 to any acquisition of property pursuant to this paragraph the  
8 borough shall, individually or jointly, as the case may be,  
9 obtain the approval of the court of common pleas for the  
10 location of the facilities or landfill after a hearing and  
11 subject to notice as the court shall require. If no objections  
12 are heard at the hearing, the court shall approve the location.  
13 If any objection is made, the court shall proceed to hear the  
14 matter and determine whether the location is a detriment to  
15 neighboring properties. The finding of the court shall be  
16 conclusive, but in no way shall adjudicate any question relating  
17 to damages for injury to property.

18 (D) To take and appropriate real estate for purposes of  
19 refuse disposals or incineration facilities or sanitary  
20 landfills in accordance with Article XV if a purchase price  
21 cannot first be agreed upon, provided, however, that no real  
22 estate located outside the limits of the borough, or outside the  
23 limits of the joint municipal corporations in the case of a  
24 joint effort, shall be taken and appropriated if the real estate  
25 currently contains or is being used for a refuse disposal or  
26 incineration facility or a sanitary landfill.

27 (ii) Regulations enacted pursuant to this section shall be  
28 consistent with the act of July 7, 1980 (P.L.380, No.97), known  
29 as the "Solid Waste Management Act," the act of July 28, 1988  
30 (P.L.556, No.101), known as the "Municipal Waste Planning,

1 Recycling and Waste Reduction Act," and subject to any other  
2 necessary Federal or State approval.

3 [(11) Removal of garbage and other refuse material. To make  
4 regulations for the care and removal of garbage and other refuse  
5 material, including the imposition and collection of reasonable  
6 fees and charges therefor.

7 (12) Hogs. To prohibit the keeping of hogs within the  
8 borough, or within any part of the borough.

9 (13)] (9) Dogs, cats and other pets. To the extent not  
10 otherwise prohibited by the act of December 7, 1982 (P.L.784,  
11 No.225), known as the "Dog Law," to destroy dogs found at large  
12 contrary to laws of the Commonwealth; to prohibit or regulate,  
13 by ordinance, the running at large of dogs, cats [and/or] or  
14 other pets, and, in the enforcement of [such] the regulations,  
15 to direct the killing of dogs, cats [and/or] or other pets, or  
16 their seizure and detention, prescribing reasonable charges for  
17 their seizure and detention, and to provide for their sale for  
18 the benefit of the borough, in default of the redemption  
19 [thereof] of the pet by their owners.

20 [(14)] (10) Livestock, fowls and [certain] all other  
21 animals. To [prohibit and regulate, by ordinance,] enact  
22 ordinances prohibiting or regulating the keeping or running at  
23 large of livestock and fowls and any other animals not covered  
24 in clause [(13) hereof] (9), and [to authorize] authorizing  
25 their seizure [and], detention, [prescribing] or, in the case of  
26 unowned pigeons, humane destruction. The borough may prescribe  
27 reasonable charges [therefor, and to] for the seizure and  
28 detention of the animals and provide for their sale for the  
29 benefit of the borough, in default of the redemption [thereof]  
30 of the animals by their owners. Ordinances enacted pursuant to

1 this clause shall not unreasonably interfere with any  
2 agricultural operation to the extent prohibited by applicable  
3 State law.

4 [(15) Pigeons. To authorize or provide for the destruction  
5 or killing of unowned pigeons within the geographical limits of  
6 the borough by any humane means.

7 (16)] (11) Smoke regulations. To regulate the emission of  
8 smoke from chimneys, smokestacks and other sources to the extent  
9 the regulation is not otherwise prohibited by applicable Federal  
10 or State law. This clause shall not apply to locomotive  
11 smokestacks.

12 [(17)] (12) Street and sewer regulations; obstructions. To  
13 regulate the streets, sewers, public squares, common grounds,  
14 sidewalks, curbs, gutters, culverts and drains, and the heights,  
15 grades, widths, slopes and their construction [thereof;] and to  
16 prohibit the erection or construction of any building or other  
17 obstruction to the convenient use of the same.

18 [(18)] (13) Riding or driving on sidewalks. To prohibit or  
19 regulate the riding [or], driving, parking or other passage of  
20 [animals, or the passage of] any animal or vehicle, over, along  
21 and across sidewalks. As used in this paragraph, the word  
22 "vehicle" shall include any device in, upon or by which any  
23 person or property may be transported, but not a self-propelled  
24 wheelchair or an electrical mobility device operated by and  
25 designed for the exclusive use of a person with a mobility-  
26 related disability.

27 [(19) Stands for cabs and other vehicles for hire. To  
28 establish stands for cabs and other vehicles for hire, to  
29 establish charges therefor, and to enforce the observance and  
30 use thereof.

(20)] (14) Disorderly conduct; disturbance of the peace;  
ordinances. To adopt ordinances defining disorderly conduct  
[and/or] or disturbing the peace within the limits of the  
borough, and to provide for the imposition of penalties for  
[such] the conduct in [such] amounts, without limitation except  
as in this act provided, as council shall establish, and  
notwithstanding any statutes of the Commonwealth upon disorderly  
conduct [and/or] or disturbing the peace and the penalties  
therefor.

(15) Construction code, property maintenance code, fire  
prevention code and reserved powers. To adopt and enforce a  
construction code, a property maintenance code, a fire  
prevention code and exercise any additional reserved powers  
pursuant to Article XXXII-A.

[(21) Fire regulations; fire prevention codes by reference.  
To make regulations, within the borough, or within such limits  
thereof as may be deemed proper, relative to the cause and  
management of fires and the prevention thereof. To enact and  
enforce suitable fire prevention codes, and to provide for the  
enforcement thereof by a suitable fine, and by instituting  
appropriate actions or proceedings, at law or in equity, to  
effect the purposes of this provision and ordinances thereunder.  
Such fire prevention code shall not be advertised by publication  
of the full text thereof, and, in place of such complete  
advertisement, an informative notice of intention to consider  
such proposed fire prevention code, and a brief summary, setting  
forth the principal provisions of such proposed fire prevention  
code in such reasonable detail as will give adequate notice of  
its contents and a reference to the place or places within the  
borough where copies of such proposed fire prevention code may



1 be examined or obtained shall be published once in one newspaper  
2 of general circulation in the borough at least one week and not  
3 more than three weeks prior to the presentation of the proposed  
4 fire prevention code to council. No further advertisement or  
5 notice need be published following enactment of the fire  
6 prevention code.

7 The fire prevention code may be adopted by reference to a  
8 standard fire prevention code, or to parts thereof, determined  
9 by council, or the provisions of the code may be supplied by  
10 reference to a typed or printed fire prevention code, prepared  
11 under the direction of or accepted by the council, or the  
12 provisions may consist of a standard code, or parts thereof, and  
13 also further provisions typed or printed as aforesaid. Copies of  
14 the fire prevention code thus adopted by reference shall be made  
15 available to any interested party at the cost thereof, or may be  
16 furnished or loaned without charge. Such fire prevention code  
17 need not be recorded in or attached to the ordinance book, but  
18 it shall be deemed to have been legally recorded if the  
19 ordinance by which such fire prevention code was adopted by  
20 reference shall have been recorded, with an accompanying  
21 notation stating where the full text of the fire prevention code  
22 shall have been filed.

23 (22)] (16) Prohibition of fire producing devices [in certain  
24 retail stores] and smoking. To prohibit and regulate the smoking  
25 or carrying of lighted cigarettes, cigars, pipes or matches, and  
26 the use of matches or fire-producing devices[, in retail stores  
27 arranged to accommodate one hundred persons or more or which  
28 employ ten or more persons]. Any ordinance enacted or regulation  
29 or resolution adopted under this clause shall not [prohibit]  
30 regulate smoking in [any restaurant, rest room, beauty parlor,

1 executive office or any room designated for smoking in such  
2 store.] a manner that conflicts with the act of June 13, 2008  
3 (P.L.182, No.27), known as the "Clean Indoor Air Act."

4 [(23) Dangerous and inflammable articles, substances and  
5 materials. To prohibit the manufacture, sale or storage of  
6 inflammable or otherwise dangerous articles, substances or  
7 materials; to prescribe the quantities of any such articles,  
8 substances or materials that may be kept in any location and/or  
9 building; and to prescribe such other safeguards as may be  
10 necessary.]

11 (17) Fireworks and inflammable articles.

12 (i) To, by ordinance, regulate and prohibit the manufacture  
13 of fireworks or inflammable or dangerous articles.

14 (ii) To grant permits for supervised public displays of  
15 fireworks and adopt rules and regulations governing the  
16 displays.

17 (iii) To, by ordinance, adopt rules and regulations not  
18 inconsistent with State regulations relating to the storage of  
19 inflammable articles.

20 (iv) To, by ordinance, impose other safeguards concerning  
21 inflammable articles as may be necessary.

22 [(24) Building, housing, property maintenance, plumbing and  
23 other regulations. To enact and enforce ordinances relating to  
24 buildings and housing, their construction, alteration,  
25 extension, repair and maintenance and all facilities and  
26 services in or about such buildings or housing, to require that,  
27 before any work of construction, alteration, extension, or  
28 repair of any building is begun, approval of the plans and  
29 specifications therefor be secured; to provide for the  
30 inspection of such work of construction, alteration, extension

1 and repair, including the appointment of one or more building  
2 inspectors and/or housing inspectors; to prescribe limits  
3 wherein none but buildings of noncombustible material and  
4 fireproof roofs shall be erected, or substantially  
5 reconstructed, or moved thereinto; to provide for enforcement of  
6 such regulations by a reasonable fine, and by instituting  
7 appropriate actions or proceedings at law, or in equity, to  
8 effect the purposes of this provision and ordinances enacted  
9 thereunder. Any building, housing or property, or part thereof  
10 erected, altered, extended, reconstructed, removed or  
11 maintained, contrary to any of the provisions of any ordinance  
12 passed for any of the purposes specified in this clause is  
13 declared to be a public nuisance and abatable as such.

14 Any such ordinance may be adopted by reference to a standard  
15 building code, housing code or other standard codes, or to parts  
16 thereof, determined by council, or the provisions of the  
17 ordinance may be supplied by reference to a typed or printed  
18 building code, housing code or other standard codes, prepared  
19 under the direction of or accepted by council, or the provisions  
20 may consist of a standard building code, housing code or other  
21 standard codes, or parts thereof, and also further provisions  
22 typed or printed as aforesaid. Such building code, housing code  
23 or other standard codes shall not be advertised either in  
24 advance of or following enactment, by publication of the full  
25 text thereof, and, in place of such complete advertisement, an  
26 informative notice of intention to consider such proposed  
27 building code, housing code or other standard codes, and a brief  
28 summary, setting forth the principal provisions of such proposed  
29 building code, housing code or other standard codes in such  
30 reasonable detail as will give adequate notice of its contents

1 and a reference to the place or places within the borough where  
2 copies of such proposed building code, housing code or other  
3 standard codes may be examined or obtained shall be published  
4 once in one newspaper of general circulation in the borough at  
5 least one week and not more than three weeks prior to the  
6 presentation of the proposed building code, housing code or  
7 other standard codes to council. No further advertisement or  
8 notice need be published following enactment of the building  
9 code, housing code or other standard codes. Copies of the  
10 building code, housing code or other standard codes thus adopted  
11 by reference shall be made available to any interested party at  
12 the cost thereof, or may be furnished or loaned without charge.  
13 Such building code, housing code or other standard codes need  
14 not be recorded in or attached to the ordinance book, but it  
15 shall be deemed to have been legally recorded if the ordinance  
16 by which such building code, housing code or other standard  
17 codes were adopted by reference shall have been recorded, with  
18 an accompanying notation stating where the full text of such  
19 building code, housing code or other standard codes shall have  
20 been filed. The procedure set forth relating to the adoption of  
21 the building code, housing code or other standard codes, by  
22 reference, may likewise be adopted in amending, supplementing or  
23 repealing any of the provisions of the building code, housing  
24 code or other standard codes.

25 To enact suitable ordinances relating to property maintenance  
26 and plumbing, in the same manner and to the same effect as  
27 herein provided for building codes, housing codes or other  
28 standard codes. The building code, the property maintenance  
29 code, the housing code and the plumbing code may be combined or  
30 separately enacted or combined with other standard codes.

Any ordinance previously enacted by a borough which provides for the purposes authorized by this clause is hereby validated.

(25)] (18) Numbering buildings. To require and regulate the numbering of buildings and lots.

[(26) Building lines. To establish and maintain uniform building lines upon any or all streets of the borough.

(27)] (19) Party wall and fence regulations. To make regulations respecting partition fences and the foundations and party walls of buildings.

(20) Prohibition, licensing and regulation of business.

(i) In addition to licensing in accordance with Article XXIX, council may prohibit, license and regulate by ordinance the following:

(A) Noxious and offensive businesses. Council may prohibit, within the borough, the carrying on of any manufacture, art, trade or business which may be noxious or offensive and therefore prejudicial to the public health or safety of the inhabitants.

(B) Junk yards. Council may prohibit, regulate and license the establishment and maintenance of junk yards, salvage yards and other places used and maintained for the collection, storage and disposal of used or second-hand goods and materials.

(C) Market places. Council may:

(I) regulate markets whether for individual use or for resale;

(II) purchase and own ground;

(III) erect, establish and maintain market places for which purposes parts of a street or sidewalk may be temporarily used;

(IV) contract with a person or association of persons, companies or corporations for the erection, maintenance and

regulation of market places, on terms and conditions, and in a manner, as the council may prescribe;

(V) provide and enforce suitable regulations respecting market places;

(VI) provide for the payment of the cost or expense of market places, either in whole or in part, out of the funds of the borough; and

(VII) levy and collect a suitable license fee from every person who may be authorized by council to occupy any portion of market places, or any portion of the streets or sidewalks for temporary market purposes.

(ii) Notwithstanding the enumeration in subparagraph (i), boroughs may prohibit, license and regulate businesses unless prohibited by law.

(21) Zoning and land use regulations; building lines. To plan for and regulate the development of the borough by:

(i) establishing and maintaining uniform building lines upon any or all borough streets pursuant to applicable law; and

(ii) utilizing powers delegated by the Pennsylvania Municipalities Planning Code, and other applicable laws by adopting zoning, subdivision and land use and development regulations.

[(28) Noxious and offensive businesses. To prohibit, within the borough, the carrying on of any manufacture, art, trade, or business which may be noxious or offensive to the inhabitants.

(29) Junk yards. To prohibit, regulate and license the establishment and maintenance of junk yards, salvage yards and other places used and maintained for the collection, storage and disposal of used or second-hand goods and materials.

(30) Regulating and prohibiting amusements. To regulate,

1 license, fix the time of opening and closing, or prohibit  
2 theatrical exhibitions, amusements and dances, at which an  
3 admission or other fee is charged, and other exhibitions; to  
4 regulate, license and fix the time of opening and closing of  
5 pool-rooms, billiard-rooms, shooting galleries, skating rinks  
6 and bowling alleys.

7 (31) Markets, market houses and peddling. To regulate  
8 markets and peddling, whether for individual use or for resale;  
9 and to purchase and own ground for and to erect, establish and  
10 maintain market houses and market places, for which latter  
11 purposes, parts of any streets or sidewalks may be temporarily  
12 used; to contract with any person or persons, or association of  
13 persons, companies, or corporations, for the erection,  
14 maintenance and regulation of market houses and market places,  
15 on such terms and conditions, and in such manner, as the council  
16 may prescribe; to provide and enforce suitable regulations  
17 respecting said market houses and market places and to provide  
18 for the payment of the cost or expense thereof, either in whole  
19 or in part, out of the funds of the borough; and to levy and  
20 collect a suitable license fee from every person who may be  
21 authorized by council to occupy any portion of said market  
22 houses or market places, or any portion of the streets or  
23 sidewalks for temporary market purposes.

24 (32) Creation of special funds; investments. To set aside in  
25 a separate fund any moneys received out of or from the sale,  
26 lease, or other disposition of any borough property or received  
27 from any source other than taxation, unless such money was  
28 received or acquired for a particular purpose. Such fund shall  
29 be controlled, invested and administered, and the income arising  
30 therefrom expended, in such manner as may be determined by

1 action of the council pursuant to the ordinance creating the  
2 fund. Such ordinance may provide that only the income from such  
3 fund may be used or expended, and that neither principal, not  
4 any part thereof, may be used or expended unless upon  
5 authorization of a majority vote of the qualified electors of  
6 the borough. All ordinances heretofore enacted and ordained by  
7 any borough, creating and establishing such a separate fund as  
8 is authorized by this clause, shall be deemed and taken as valid  
9 and effectual for all purposes: Provided, That all other  
10 requirements of law concerning the enactment of the same have  
11 been complied with.

12 (33)] (22) Creation of capital reserve fund for anticipated  
13 capital expenditures. To create and maintain a separate capital  
14 reserve fund for anticipated legal capital expenditures. The  
15 money in the fund shall be used, from time to time, for the  
16 construction, purchase or replacement of or addition to  
17 municipal buildings, equipment, machinery, motor vehicles or  
18 other capital assets of the borough and for no other purpose.

19 Council may appropriate moneys from the general borough funds  
20 to be paid into the capital reserve fund or place in the fund  
21 any moneys received from the sale, lease or other disposition of  
22 any borough property or from any other source, unless received  
23 or acquired for a particular purpose. The fund shall be  
24 controlled, invested, reinvested and administered and the moneys  
25 expended for any of the purposes for which the fund is created  
26 in [such] a manner as may be determined by council. The money in  
27 the fund, when invested, shall be invested in securities  
28 designated by [law] 53 Pa.C.S. Pt. VII Subpt. B (relating to  
29 indebtedness and borrowing) as legal investments for sinking  
30 funds of municipalities.



1 This clause shall not be construed to limit the powers of the  
2 borough to the use of moneys in the capital reserve fund in  
3 making lawful capital expenditures.

4 (23) Operating Reserve Fund. To create and maintain a  
5 separate operating reserve fund from which appropriations may be  
6 made to meet emergencies involving the health, safety and  
7 welfare of the residents of the borough, to counterbalance  
8 potential budget deficits resulting from shortfalls in  
9 anticipated revenues or program receipts from whatever source,  
10 or to provide anticipated operating expenditures related either  
11 to the planned growth of existing projects or programs or to the  
12 establishment of new projects or programs if for a project or  
13 program appropriations have been made and allocated to a  
14 separate restricted account established within the operating  
15 reserve fund. Council may annually make appropriations from the  
16 general fund to the operating reserve fund, but no appropriation  
17 shall be made to the operating reserve fund if the effect of the  
18 appropriation would cause the fund to exceed five per centum of  
19 the estimated revenues of the borough's general fund in the  
20 current fiscal year. The operating reserve fund shall be  
21 invested, reinvested and administered in a manner consistent  
22 with the provisions of section 1316 relating to investment of  
23 funds.

24 [(34) Joint municipal agreements] (24) Intergovernmental  
25 Cooperation. To enter into agreements with other political  
26 subdivisions, in accordance with existing laws, in making joint  
27 purchases of materials, supplies or equipment and in performing  
28 governmental powers, duties and functions and in carrying into  
29 effect provisions of [law relating to said subjects which are  
30 common to such political subdivisions] 53 Pa.C.S. Ch. 23 Subch.

A (relating to intergovernmental cooperation), and agreements with the proper authorities of municipal corporations, regional police or fire forces, or other public safety or governmental entities created by two or more municipal corporations pursuant to 53 Pa.C.S. Ch. 23 Subch. A, either for mutual aid or assistance in police and fire protection or any other public safety services, or for the furnishing to or, receiving from the municipal corporations or governmental entities, police and fire protection or any other public safety services, and to make appropriations for public safety services. In connection with agreements for police or fire protection or any other public safety services, it shall not be necessary to advertise for bids or receive bonds as required for contracts under existing law. When an agreement has been entered into, the police, firefighters, fire police or any other public safety services of the employing municipal corporation or governmental entity shall have all the powers and authority conferred by law on police, firefighters, fire police or any other public safety services in the territory of the municipal corporation which has contracted to secure the service.

[ (35) Joint contracts for police and fire protection. To enter into contracts with the proper authorities of near or adjacent cities, boroughs, or townships, either for mutual aid or assistance in police and fire protection, or for the furnishing to or, receiving from, such cities, boroughs, or townships, aid and assistance in police and fire protection, and to make appropriations therefor: Provided, That in connection with such contracts, it shall not be necessary to advertise for bids or receive bonds as required for other contracts under existing law. When any such contract has been entered into the

1 police, firemen or fire police of the employing city, borough or  
2 township shall have all the powers and authority conferred by  
3 law on city, borough or township police, firemen, or fire police  
4 in the territory of the city, borough or township which has  
5 contracted to secure such service.

6 (36)] (25) Insurance on property. To make contracts of  
7 insurance, with any mutual or other fire insurance company,  
8 association or exchange, duly authorized by law to transact  
9 insurance business in the Commonwealth of Pennsylvania, on any  
10 building or property owned or leased by the borough.

11 [(37)] (26) Other insurance. (i) Workers' compensation  
12 insurance. To appropriate [such] an amount as may be necessary  
13 to secure insurance or compensation in accordance with Article  
14 VI of the act of June 2, 1915 (P.L.736, No.338), known as the  
15 "Workers' Compensation Act," for:

16 (A) volunteer [firemen] fire fighters of companies duly  
17 recognized by the borough, by motion or resolution, killed or  
18 injured while going to, returning from, or attending fires, or  
19 while performing their duties as special fire police[.]; and

20 (B) other borough employes as "employee" is defined in  
21 section 601 of the "Workers' Compensation Act."

22 (ii) Life and health insurance. To make contracts of  
23 insurance with any insurance company, association or exchange,  
24 authorized to transact business in the Commonwealth, insuring  
25 borough employes, or any class or classes of employes, or mayor  
26 and council, [or any class, or classes thereof,] or their  
27 dependents, under a policy or policies of insurance covering  
28 life, health, hospitalization, medical and surgical service  
29 [and/or] or accident insurance[, and to].

30 (iii) Pension contracts. To contract with [any such] an

1 insurance company, granting annuities or pensions, for the  
2 pensioning of borough employes, or any class, or classes  
3 [thereof] of employes, and to agree to pay part or all of the  
4 premiums or charges for carrying [such] the contracts, and to  
5 appropriate moneys from the borough treasury for such purposes.

6 (iv) Liability insurance. To make contracts with any  
7 insurance company, association or exchange, authorized to  
8 transact business in this Commonwealth, insuring any public  
9 liability of the borough, and to appropriate moneys from the  
10 borough treasury for such purpose.

11 (v) Nothing in this clause shall affect any contract, right  
12 or coverage of insurance vested or existing on the effective  
13 date of this clause. Contract, as used in this clause, includes  
14 an annuity contract, provided that the option to renew continues  
15 to provide the same rights to the annuitant that existed on the  
16 effective date of this clause.

17 [(38) Contract with railways. To enter into contract with  
18 any person or company, operating a street passenger railway,  
19 surface, elevated, or underground, or furnishing motor  
20 transportation, or leasing and operating the franchise and  
21 property of such person or company, within the limits of the  
22 borough, regulating the franchises, powers, duties and  
23 liabilities of such persons or companies, and the respective  
24 rights of the contracting parties. Such contracts may, inter  
25 alia, provide for payments by the persons or companies to the  
26 borough, in lieu of the performance of certain duties, or the  
27 payment of license fees or charges imposed in favor of such  
28 borough, or by the charters of any such companies, or by any  
29 general law, or ordinances; for the appointment by the borough  
30 of a certain number of persons to act as director of any such

1 company, in conjunction with the directors elected by the  
2 stockholders of such company; and may further provide for the  
3 ultimate acquisition by the borough, upon terms mutually  
4 satisfactory, of the leaseholds, property and franchises of the  
5 contracting persons or companies.

6 Subject to the approval of the Public Utility Commission, and  
7 in order to secure the removal of any street railway tracks, or  
8 to prevent the laying of any tracks authorized to be laid, or to  
9 change the route of any street railway on any street to enter  
10 into a contract with a street railway or motor power company,  
11 owning, leasing, or operating such tracks, for a period not to  
12 exceed fifty years, for such considerations and upon such  
13 conditions as may be agreed upon.

14 Such contract may include a covenant providing that, during  
15 the continuance thereof, municipal consent shall not be granted  
16 to any other company to use, for street railway or passenger  
17 transportation purposes, any streets covered by such contract.  
18 Such covenant may be enforced by bill in equity against the  
19 borough. The contract may also provide for the laying or  
20 relaying of tracks, upon such terms and upon such conditions as  
21 may be agreed upon.]

22 (27) Public transportation. To contract with a company  
23 owning, leasing or operating a light rail or similar  
24 transportation system, whether surface, elevated or underground,  
25 within the limits of the borough, for the acquisition, leasing  
26 or regulation of the franchises, property, powers, duties and  
27 liabilities of the company for the purpose of providing public  
28 transportation. A contract may provide that the companies may  
29 make payments to the borough in lieu of the performance of  
30 certain duties or may include a provision that municipal consent

1 shall not be granted to any other company for the same services  
2 covered by the contract. A contract may also provide, subject to  
3 any required approval by the Public Utility Commission and  
4 consistent with the jurisdictional limits established under 49  
5 U.S.C. (relating to transportation), for the laying,  
6 installation or removal of tracks or lines, to prevent the  
7 laying or installation of otherwise authorized tracks or lines,  
8 or to change the route of any tracks or lines, for the  
9 considerations and upon conditions as may be agreed upon.  
10 Borough council may acquire, maintain and operate any existing  
11 inclined plane passenger transportation facilities and may  
12 acquire or may establish vehicular feeder lines for those  
13 facilities.

14       [(39) Water supply. To provide a supply of water and to make  
15 regulations for the protection of the pipes, reservoirs and  
16 other constructions or apparatus; to prevent the waste of water  
17 so supplied, and to regulate the drilling of wells within the  
18 borough.

19       (40)] (28) Community buildings and public facilities. To  
20 acquire land or buildings by purchase [and own ground for, and],  
21 gift, exchange or eminent domain, to erect[, establish, or  
22 purchase] a building[, to be used] or to lease land or  
23 buildings, within the borough limits, for community purposes, or  
24 for public facilities such as comfort and waiting stations and  
25 drinking fountains, and to erect watering troughs, and to  
26 maintain the [same] public facilities; to provide for the  
27 payment of [the] their cost [thereof], and the expense of [such]  
28 their maintenance either in whole or in part out of the funds of  
29 the borough.

30       [(41)] (29) Lockup. To provide a lockup for the temporary

1 detention of persons.

2 [(42)] (30) Flags. To display the flag of the United States  
3 of America, of the Commonwealth of Pennsylvania, the official  
4 POW/MIA flag or the flag of any county, city, borough or other  
5 municipality in the State, on the public buildings or grounds  
6 and in public places of the borough.

7 [(43) Comfort stations. To use land owned by the borough and  
8 to acquire or lease land or land and buildings within the  
9 borough limits, for the purposes of construction or of providing  
10 comfort and waiting stations and drinking fountains and to  
11 maintain such public facilities; to contribute to the  
12 maintenance of any such public facilities which may be located  
13 in or upon property not owned or leased by the borough. The  
14 damages accruing to abutting properties, by reason of any such  
15 improvements constructed or provided by the borough, shall be  
16 ascertained and collected in the manner provided in the laws  
17 governing eminent domain.

18 (44) Watering troughs. To erect and maintain watering  
19 troughs.

20 (45) Garbage and refuse disposal facilities. To erect,  
21 operate and maintain garbage plants, either within or without  
22 the limits of the borough, or to provide other means for the  
23 collection, destruction, or removal of garbage and other refuse  
24 material, and to provide for the payment of the cost or expense  
25 thereof, either in whole or in part, out of the funds of the  
26 borough.

27 (46)] (31) Parking lots. To acquire by lease, purchase or  
28 eminent domain any land which the [corporate authorities]  
29 borough council may deem necessary or desirable for the purpose  
30 of establishing and maintaining parking lots, and to regulate

1 the use [thereof] of parking lots, and to regulate parking and  
2 provide parking accommodations so as to promote the convenience  
3 and protection of the public and to establish or designate, at  
4 the discretion of the [corporate authorities] borough council,  
5 areas exclusively reserved for parking by handicapped  
6 individuals and to post signs regulating [such] the areas. The  
7 right to regulate the use of the lots shall include the right to  
8 impose fines and fees for violation of any law or ordinance  
9 regulating parking. Regulation of parking lots shall be  
10 consistent with 75 Pa.C.S (relating to vehicles) and the act of  
11 October 27, 1955 (P.L.744, No.222), known as the "Pennsylvania  
12 Human Relations Act."

13 [(47) Inclined planes. To acquire by purchase, lease, or  
14 otherwise, any existing inclined plane passenger and vehicular  
15 traffic transportation facilities, and to maintain and operate  
16 the same in the transportation of passengers and vehicles for  
17 hire, and for the accommodation of the public, and in like  
18 manner to acquire or to establish bus feeder lines, and to  
19 maintain and operate the same in connection with such inclined  
20 plane passenger and vehicular traffic transportation facilities.

21 (48)] (32) Historical property. To acquire by purchase, or  
22 by gift, and to repair, supervise, operate and maintain ancient  
23 landmarks, and other property of historical or antiquarian  
24 interest and to make appropriations to nonprofit associations or  
25 corporations organized for the purpose of acquiring and  
26 maintaining historical properties. [Such] The appropriations  
27 shall only be used by the association or corporation for the  
28 acquisition, restoration and maintenance of the historical  
29 properties.

30 [(49)] (33) Provisions against hazards of war, terrorism and



1 disasters. To [build or establish bomb shelters or assist in so  
2 doing to] provide against all hazards of war, terrorism and  
3 other disasters and their consequences; and for [all such] those  
4 purposes, to have the power of eminent domain, to cooperate with  
5 any other unit and agency of government, Federal, State or  
6 local, in every lawful way, for purposes of defense against the  
7 hazards of war and terrorism and to further provide against the  
8 hazards of manmade or natural disasters in conjunction with the  
9 powers applicable to boroughs in 35 Pa.C.S. Pt. V (relating to  
10 Emergency Management Services).

11 [(50) Street lighting. To provide street lights and to make  
12 regulations for the protection thereof; and, upon the petition  
13 of a majority of abutting property owners of the section  
14 affected, to provide for the ornamental illumination of any  
15 section of the borough and to collect the cost of the  
16 installation of such illumination from the owners of property  
17 fronting the streets upon which the same is installed by the  
18 foot-front rule.

19 (51)] (34) Towing [equipment]. To purchase vehicles and  
20 other equipment necessary for the towing of motor vehicles,  
21 tractors, trailers, recreational trailers and other vehicles  
22 from highways, roads, streets, and public property of the  
23 borough and to impose fees [therefor] for towing whenever [such]  
24 the towing equipment is used for the lawful removal of motor  
25 vehicles, tractors, trailers, recreational trailers and other  
26 vehicles from highways, roads, streets, and public property of  
27 the borough [and/or] and to authorize or contract with [one or  
28 more] commercial towors that agree to tow vehicles for a  
29 negotiated price as the official towors for the borough for the  
30 lawful removal of motor vehicles, tractors, trailers,

1 recreational trailers and other vehicles from highways, roads,  
2 streets and public property of the borough in accordance with  
3 Federal and State law and to impose fees in the same manner as  
4 hereby authorized when the towing is performed with borough  
5 vehicles and equipment. A commercial tower that agrees not to  
6 charge in excess of the negotiated price and is otherwise  
7 lawfully authorized to tow vehicles in accordance with Federal  
8 and State law, shall be put on an official rotation list for the  
9 borough if borough council provides for a list. This clause  
10 shall apply only when the borough is requesting a vehicle to be  
11 towed. In all other cases, the owner or operator of a vehicle  
12 shall be permitted to select and pay for the tower.

13 [(52)] (35) Fire, rescue and life saving apparatus and  
14 [houses] buildings. To purchase, or contribute to the purchase  
15 of fire engines and fire apparatus, boats, rescue and life  
16 saving equipment and supplies for the use of the borough[, and  
17 to appropriate money to fire companies, rescue units and for the  
18 construction, repair and maintenance of fire company and rescue  
19 units houses, including the acquisition of land for such  
20 purposes and, as set forth in this clause, for fire training  
21 schools and centers.

22 The council may annually appropriate funds to fire companies  
23 located within the borough for the training of its personnel,  
24 and to lawfully organized or incorporated county or regional  
25 firemen's associations or an entity created pursuant to the act  
26 of July 12, 1972 (P.L.762, No.180), referred to as the  
27 Intergovernmental Cooperation Law, to establish, equip, maintain  
28 and operate fire training schools or centers] for fire, rescue  
29 and life saving services including community ambulance service.  
30 To appropriate money for fire companies and rescue units located

within the borough including for the construction, repair and  
maintenance of buildings for fire companies and rescue units and  
to acquire land for those purposes. Appropriations may include  
funds to establish, equip, maintain and operate lawfully  
organized or incorporated fire training schools within the  
county or regional fire fighters' associations or an entity  
created pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to  
intergovernmental cooperation) for the purpose of giving  
instruction and practical training in the prevention, control  
and fighting of fire and related fire department emergencies to  
the members of fire departments and volunteer fire companies in  
any city, borough or town within this Commonwealth. Annual  
appropriations may also be made to an ambulance service, or  
borough council may enter into contracts for use in providing  
community ambulance service.

[ (53) Eminent domain for national guard purposes. To take,  
by right of eminent domain, for the purpose of appropriating to  
themselves for the use of the National Guard of Pennsylvania,  
such public lands, easements, and public property, as may be in  
their possession or control and used or held by them for any  
other purpose. Such right, however, shall not be exercised as to  
any street or wharf.

(54) Lands for armory purposes. To acquire, by purchase or  
by gift or by the right of eminent domain, any land for the use  
of the National Guard of Pennsylvania; to convey such lands so  
acquired to the Commonwealth of Pennsylvania in order to assist  
the Armory Board in the erection of armories. The power  
conferred by this clause shall not be exercised to take any  
church property, graveyard, cemetery, or any dwelling-house or  
the curtilage of the same in the actual occupancy of the owner.

1       (55) Appropriation of money, et cetera, to assist in  
2 erection of armories. To appropriate money or convey land,  
3 either independently or in conjunction with any county, city,  
4 town, borough, or other municipal division of the Commonwealth  
5 of Pennsylvania for the purpose of assisting the Armory Board of  
6 the Commonwealth in the erection of armories for the use of the  
7 national guard; and to furnish water, sewer service, light, or  
8 fuel, free of cost, to the Commonwealth for use in any armory of  
9 the national guard; and to do all things necessary to accomplish  
10 the purpose of this clause.

11       (56) Support of national guard units. To appropriate  
12 annually a sum not exceeding seven hundred and fifty dollars  
13 (\$750) for the support and maintenance, discipline and training  
14 of any dismounted company or similar unit of the national guard,  
15 and a sum not to exceed fifteen hundred dollars (\$1500) for the  
16 support and maintenance of any mounted or motorized troop or  
17 similar unit of the national guard. Where such units are  
18 organized as a battalion, regiment or similar organization, the  
19 total amount due may be paid to the commanding officer of the  
20 battalion, regiment or similar organization. Any moneys so  
21 appropriated shall be paid by warrant drawn to the order of the  
22 commanding officer of such company, battalion, regiment or  
23 similar organization, only when it shall be certified to the  
24 borough, by the Adjutant General of the State, that the said  
25 company or companies have satisfactorily passed the annual  
26 inspection provided by law. The moneys so appropriated shall be  
27 used and expended solely and exclusively for the support and  
28 maintenance, discipline and training of the said company,  
29 battalion, regiment, or similar organization; and the commanding  
30 officer shall account, by proper vouchers to the said borough

1 each year, for the expenditure of the money so appropriated, and  
2 no appropriation shall be made for any subsequent year until the  
3 expenditure of the previous year is duly and satisfactorily  
4 accounted for.

5 The accounts of such expenditures shall be subject to the  
6 inspection of the Department of Military Affairs, and shall be  
7 audited by the Auditor General in the manner provided by law for  
8 the audit of accounts of State moneys.

9 (57) Appropriations to organizations of veterans and  
10 American Gold Star Mothers. To appropriate annually a sum not  
11 exceeding five hundred dollars (\$500) to be divided in such  
12 amounts as council deems proper to organizations composed of  
13 veterans of any war in which the United States was engaged or  
14 the American Gold Star Mothers' Organization, to aid in  
15 defraying the expenses of Memorial Day, Veterans' Day or any  
16 similar day hereafter provided for by State or Federal law. Such  
17 payments shall be made to defray actual expenses only. Before  
18 any payment is made the organization receiving the same shall  
19 submit verified accounts of its expenditures.

20 (58) Payment of rent for veterans' organizations. By a two-  
21 thirds vote of the council, to appropriate annually a sum not  
22 exceeding five hundred dollars (\$500) to be divided in such  
23 amounts as council deems proper to incorporated organizations of  
24 American veterans of any war in which the United States was  
25 engaged, to be used in the payment of the rent of any building  
26 or room or rooms in which such camps or post have their regular  
27 meetings.

28 (59) Rooms for veterans' and children of veterans'  
29 organizations. Upon application therefor, to furnish to each  
30 organization composed of American veterans of any war in which

1 the United States was engaged and children of such veterans, a  
2 room or rooms in any public building of such borough, sufficient  
3 for the meeting of each of such organizations at least once each  
4 month; and in the case of municipally owned utilities, to  
5 furnish service without charge to such rooms, and also to  
6 buildings occupied by organizations of veterans of any war in  
7 which the United States was engaged.

8 (60) Care and erection of memorials. To take charge of, care  
9 for, maintain and keep in good order and repair, at the expense  
10 of the borough, any soldiers monument, gun, or carriage, or  
11 similar memorial situated in the borough, and not in the charge  
12 or care of any person, body, or organization, and not put up or  
13 placed by the Government of the United States, the Commonwealth  
14 of Pennsylvania, or the commissioners of the county, or by the  
15 direction or authority of any other State of the Union, and to  
16 receive from any person or organization any moneys or funds  
17 which can be used for the maintenance of such memorials, and to  
18 expend the same; and to erect or contribute to the erection of,  
19 memorials in honor of those who served in any war in which the  
20 United States was engaged and thereafter to properly and  
21 adequately maintain the same.

22 (61) Appropriations for burial ground maintenance. To  
23 appropriate annually, out of the general funds of the borough, a  
24 sum not exceeding three thousand dollars (\$3000) for the care,  
25 upkeep, maintenance and beautifying of cemeteries, burial  
26 grounds and private roads therein or leading thereto, lying  
27 wholly or partly within the boundary limits of such borough, or  
28 in the territory immediately adjacent to the borough.

29 (62)] (36) Municipal music. To appropriate money for the  
30 expense of municipal music.

1        [(63)] (37) Purchase and planting of trees. To accept,  
2 purchase and plant, or contribute to the purchasing and planting  
3 of shade trees along the streets and sidewalks of the borough  
4 and to have the care, custody and control of shade trees  
5 pursuant to subdivision (d) of Article XXVII.

6        [(64)] (38) Hospital appropriations. To appropriate moneys  
7 for the support of any incorporated hospital which is engaged in  
8 charitable work and extends treatment and medical attention to  
9 residents of [such] the borough, but no [such] appropriation  
10 shall exceed in any year the cost of free service extended to  
11 residents of the borough which is in excess of any amount paid  
12 by the Commonwealth towards [such] free service.

13       [(64.1)] (39) Building hospitals. To appropriate [not  
14 exceeding one dollar (\$1) per borough resident per year] moneys  
15 toward the maintenance [and/or] and support of any medical  
16 center or hospital building and further appropriate from [such]  
17 the funds toward the purchase [and/or] and erection of medical  
18 or hospital facilities. Where the total cost of [such] the  
19 purchase or erection exceeds one hundred thousand dollars  
20 (\$100,000), it will necessitate approval by the appropriate  
21 health planning agency. [The number of residents shall be  
22 determined from the latest decennial Federal census.]

23       [(65)] (40) Community nurse services. To appropriate money  
24 annually for the expense of community nurse services to any  
25 nonprofit associations or corporations which provide community  
26 nursing services for the elderly and other needy persons, the  
27 control of communicable disease, the immunization of children,  
28 the operation of child health centers (Well-Baby Clinics),  
29 instructive visits to parents of new babies, beginning in the  
30 prenatal period, and family health guidance, including

1 nutrition, detection and correction of defects all of which  
2 relate to the responsibilities of local boards of health.

3 [(66) Community ambulance service. To appropriate money  
4 annually towards ambulance service and to enter into contracts  
5 relating thereto. All appropriations of money heretofore made  
6 and contracts heretofore entered into by any borough for  
7 ambulance service are hereby validated and confirmed.

8 (67)] (41) Appropriation for civic purposes. To appropriate,  
9 in any year out of the general funds of the borough for the  
10 observance of holidays or centennials or other anniversaries or  
11 for borough celebrations or other civic projects or programs.

12 [(68)] (42) Appropriations for handling, storage and  
13 distribution of surplus foods. To appropriate from borough funds  
14 moneys for the handling, storage and distribution of surplus  
15 foods obtained through either a local, State or Federal agency.  
16 All appropriations of moneys heretofore made by any borough for  
17 the handling, storage and distribution of surplus foods obtained  
18 through either a local, State or Federal agency are hereby  
19 validated.

20 [(69)] (43) Appropriations for industrial promotions. To  
21 make appropriations to an industrial development agency.

22 [(70)] (44) Appropriations to tourist promotion agencies. To  
23 appropriate money annually[, such amount of money but not in  
24 excess of ten cents (10¢) for each resident of the borough, as  
25 determined by the latest official census, which may be deemed  
26 necessary], to any "tourist promotion agency," as defined in the  
27 act of [April 28, 1961 (P.L.111), known as the "Tourist  
28 Promotion Law,"] July 4, 2008 (P.L.621, No.50), known as the  
29 "Tourism Promotion Act," to assist [such] the agencies in  
30 carrying out tourist promotional activities.



1        [(71)] (45) Appropriating money to assist [political  
2 subdivisions and municipality] municipalities and municipal  
3 authorities for airports. To appropriate moneys to assist any  
4 [city, borough, town, township or other political subdivision or  
5 municipality] municipality or municipal airport authority to  
6 acquire, establish, operate and maintain any and all air  
7 navigation facilities lying either within or without the limits  
8 of [such] the borough.

9        [(72)] (46) Non-Debt revenue bonds. To issue non-debt  
10 revenue bonds pursuant to provisions of [the Act of June 25,  
11 1941 (P.L.159), known as the "Municipal Borrowing Law," and its  
12 amendments,] 53 Pa.C.S. Pt. VII Subpt. B (relating to  
13 indebtedness and borrowing) to provide sufficient moneys for and  
14 toward the acquisition, construction, reconstruction, extension  
15 or improvement of municipal facilities, including water systems  
16 or facilities, sewers, sewer systems and sewage disposal systems  
17 or facilities, systems for the treatment or disposal of garbage  
18 and refuse, gas plants or gas distribution systems for its own  
19 municipal purposes, electric light or power plants or power  
20 distribution systems, aeronautical facilities including but not  
21 limited to airports, terminals and hangars and park and  
22 recreational facilities and parking lots and facilities to be  
23 secured solely by the pledge of the whole or part of the rent,  
24 toll or charge for the use or services of [such] the facilities.

25        Included in the cost of the issue may be any costs and  
26 expenses incident to construction and financing the facilities  
27 and selling and distributing the bonds.

28        [(73)] (47) Rewards for apprehension of certain criminals.  
29 To offer rewards for the arrest and conviction of persons guilty  
30 of capital or other crimes within the borough.

1        [(73.1)] (48) Appropriations for Urban Common Carrier Mass  
2        Transportation. To appropriate funds for urban common carrier  
3        mass transportation purposes from current revenues and to make  
4        annual contributions to county departments of transportation or  
5        to urban common carrier mass transportation authorities to  
6        assist the departments or the authorities to meet costs of  
7        operation, maintenance, capital improvements, and debt service,  
8        and to enter into long-term agreements providing for the payment  
9        of the [said] contributions.

10       [(74) General powers. To make and adopt all such ordinances,  
11       bylaws, rules and regulations not inconsistent with or  
12       restrained by the Constitution and laws of this Commonwealth, as  
13       may be expedient or necessary for the proper management, care  
14       and control of the borough and its finances, and the maintenance  
15       of peace, good government, safety and welfare of the borough and  
16       its trade, commerce and manufactures.

17       (75)] (49) To undertake community development programs,  
18       including but not limited to urban renewal, public housing,  
19       model cities programs and neighborhood development projects.

20       [(76)] (50) Sale of real or personal property to non-profit  
21       medical service corporation. To sell to a non-profit medical  
22       service corporation borough-owned:

23       (i) real property [to a non-profit medical service  
24       corporation] for its exclusive use as a site for a medical  
25       service facility; and

26       (ii) personal property for use at the medical service  
27       facility.

28       [(77)] (51) Sale of real or personal property to non-profit  
29       housing corporation. To sell to a non-profit housing corporation  
30       borough-owned:

1     (i) real property [to a non-profit housing corporation] for  
2 its exclusive use for housing for the elderly; and  
3     (ii) personal property for its use at the non-profit housing  
4 corporation.

5     [(78)] (52) Grants to nonprofit art corporations. To make  
6 grants annually[, not exceeding an amount equal to one mill of  
7 the real estate tax] to nonprofit art corporations for the  
8 conduct of their artistic and cultural activities. For the  
9 purposes of this section nonprofit art corporation shall mean a  
10 local arts council, commission or coordinating agency, or any  
11 other nonprofit corporation engaged in the production or display  
12 of works of art, including the visual, written or performing  
13 arts. Artistic and cultural activities shall include the display  
14 or production of theater, music, dance, painting, architecture,  
15 sculpture, arts and crafts, photography, film, graphic arts and  
16 design and creative writing.

17     [(79)] (53) Appropriations for neighborhood crime watch  
18 programs. To appropriate annually[, solely at the discretion of  
19 the borough officials,] an amount toward a neighborhood crime  
20 watch program. Notwithstanding any other provision of law, no  
21 borough or official thereof shall become subject to contractual,  
22 tort or other liability as a result of having made an  
23 appropriation pursuant to this clause.

24     [(80)] (54) Appropriations to Senior Citizens Organizations.  
25 To appropriate funds for programs which benefit senior citizens,  
26 or make grants to civic organizations which represent senior  
27 citizens, provide services to senior citizens, or of which its  
28 members are senior citizens.

29     [(81)] (55) Appropriations to watershed associations. To  
30 appropriate money to nonprofit watershed associations for

1 watersheds serving the borough. [Such appropriations]  
2 Appropriations may not be used to undertake litigation against  
3 any [municipal corporation] municipality or to seek redress  
4 against any individual landowner.

5 [(82)] (56) Emergency services. The borough shall be  
6 responsible for ensuring that fire and emergency medical  
7 services are provided within the borough by the means and to the  
8 extent determined by the borough, including the appropriate  
9 financial and administrative assistance for these services. The  
10 borough shall consult with fire and emergency medical services  
11 providers to discuss the emergency services needs of the  
12 borough. The borough shall require any emergency services  
13 organization receiving borough funds to provide to the borough  
14 an annual itemized listing of all expenditures of these funds  
15 before the borough may consider budgeting additional funding to  
16 the organization.

17 (57) Appropriations to conservation district. To appropriate  
18 money to the conservation district, as defined in the act of May  
19 15, 1945 (P.L.547, No.217), known as the "Conservation District  
20 Law," in which the borough is located.

21 (58) Mines and quarries. To require the owner, operator or  
22 superintendent of every mine, colliery or quarry located wholly  
23 or partially within the limits of the borough, to furnish to the  
24 borough maps, plans and drawings of workings, excavations and  
25 surface support as the council may require. In the case of coal  
26 mines and collieries, the map or plan shall exhibit the workings  
27 or excavations in every seam of coal on a separate sheet, and  
28 the tunnels and passages connecting with the workings or  
29 excavations. It shall show in degrees the general inclination of  
30 the strata, with any material deflection in the strata in the

workings or excavations, and shall also show the tidal  
elevations of the bottom of every shaft, slope, tunnel and  
gangway, and of any other point in the mine or on the surface  
where the elevation shall be deemed necessary by the borough.  
The map or plan shall show the number of the last survey on the  
gangways or the most advanced workings. Every owner, operator,  
or superintendent, of a mine, colliery or quarry, shall update,  
at least once every three months, the pertinent maps, plans and  
drawings to reflect any extensions made in any mine, colliery or  
quarry during the three preceding months, except those made  
within thirty days immediately preceding the time of placing the  
extensions upon the map or drawing. A borough engineer,  
assistant or other person authorized by council may enter and  
survey any mine, colliery or quarry within the limits of the  
borough, at all reasonable times, but not so as to impede or  
obstruct the workings of the mine, colliery or quarry. The  
owner, operator or superintendent of the mine, colliery or  
quarry, shall furnish the means necessary for the entry, survey  
and exit.

(59) Assessment of benefits. To petition the court of common  
pleas for the appointment of viewers to assess the total cost of  
an improvement as set forth in Article XXI-A. The viewers shall  
assess the total cost of the improvement, or so much of the cost  
as may be just and reasonable, upon the lands or properties  
peculiarly benefited.

(60) Authority to purchase natural gas wells. To authorize  
any borough to purchase, own, use, operate and control any  
natural gas well or wells for the purpose of supplying natural  
gas for its own municipal purposes.

(61) Real estate registry. To establish, by ordinance, and

1 maintain a real estate registry for the purpose of procuring  
2 accurate information in reference to the ownership of real  
3 estate in the borough in a manner not inconsistent with the act  
4 of October 9, 2008 (P.L.1400, No.110), known as the "Uniform  
5 Municipal Deed Registration Act." Council shall designate a  
6 person to have charge of the registry, who shall cause to be  
7 made and carefully preserve all necessary books, maps and plans  
8 as may show the location and ownership of every lot, piece of  
9 real estate and subdivision thereof. For purposes of  
10 establishing or maintaining the registry, the person in charge  
11 of the registry shall have access to public records without  
12 charge. Information contained within a real estate registry  
13 shall not affect the validity of any municipal claim or tax  
14 claim of the borough. Nothing in this paragraph shall prohibit a  
15 borough from requiring owners to provide information relevant to  
16 the enforcement of any borough ordinance in accordance with law.

17 (62) Authority to manufacture and supply electricity. To  
18 manufacture, purchase or otherwise supply electricity pursuant  
19 to Article XXIV-A, relating to manufacture and supply of  
20 electricity.

21 (63) Authority to provide telecommunications and cable  
22 television services. To provide the following:

23 (i) telecommunications services to the extent that provision  
24 of services is not inconsistent with 66 Pa.C.S. Ch. 30 (relating  
25 to alternative form of regulation of telecommunications  
26 services); and

27 (ii) cable television services in a manner consistent with  
28 Federal law.

29 (64) Underground conduits. To acquire, by purchase or  
30 condemnation, or to construct, underground conduits within which

electrical, communication and other types of wires shall be placed and to, by ordinance and subject to approval by the Public Utility Commission, regulate the manner and terms and conditions of the use of any underground conduits. Council may define reasonable districts of the borough within which underground conduits shall be used for the placement of wires without the approval of the Public Utility Commission. The powers reserved by this clause shall not be bartered away or surrendered by the borough.

(65) Actions for municipal claims. In addition to the remedies provided by law for the filing of liens for the collection of municipal claims, including, but not limited to, water rates, sewer rates and the removal of nuisances, to proceed for the recovery and collection of claims by action of assumpsit against the person or persons who were the owner or owners of the property at the time of the completion of the improvement, or at the time the water or sewer rates or the cost of the removal of nuisances first became payable, notwithstanding the fact that there was a failure on the part of the borough, or its agents, to enter the municipal claim as a lien against the property assessed for the improvement, or for the furnishing of water or sewer services and for the removal of nuisances and for the recovery of which the action of assumpsit was brought. The action in assumpsit shall be commenced either within six years after the completion of the improvement from which the claim arises or within six years after the water or sewer rates or the cost of abating a nuisance first became payable.

Section 156. The act is amended by adding a section to read:

Section 1203. Reserved Powers.--The council may make and

1 adopt all ordinances, bylaws, rules and regulations not  
2 inconsistent with or restrained by the Constitution of  
3 Pennsylvania and laws of this Commonwealth as may be expedient  
4 or necessary for the proper management, care and control of the  
5 borough and its finances, and the maintenance of peace, good  
6 government, safety and welfare of the borough and its trade,  
7 commerce and manufactures.

8 Section 157. Article XIII heading and section 1301 of the  
9 act are reenacted to read:

10 ARTICLE XIII

11 TAXATION AND FINANCE

12 Section 1301. Fiscal Year.--The fiscal year of every borough  
13 shall coincide with the calendar year, beginning January 1 and  
14 ending December 31.

15 Section 158. Section 1302 of the act, amended December 1,  
16 2004 (P.L.1742, No.223), is amended to read:

17 Section 1302. Tax Levy.--(a) The council of the borough  
18 shall have power, by ordinance, to levy and collect annually, a  
19 tax, not exceeding thirty mills for general borough purposes,  
20 unless the council by majority action shall, upon due cause  
21 shown by resolution, petition the court of common pleas, in  
22 which case the court may order a rate of not more than five  
23 mills additional to be levied and in addition [thereto] any of  
24 the following taxes:

25 (1) An annual tax sufficient to pay interest and principal  
26 on any indebtedness incurred pursuant to 53 Pa.C.S. Pt. VII  
27 Subpt. B (relating to indebtedness and borrowing) or any prior  
28 or subsequent act governing the incurrence of indebtedness of  
29 the borough;

30 (2) To provide for pensions, retirement or the purchase of



1 annuity contracts for borough employes, not exceeding one-half  
2 mill;

3 (3) To defray the cost and expenses of caring for shade  
4 trees as provided in section [2729 of this act] 2720.1, and the  
5 expense of publishing the notice referred to in such section,  
6 not exceeding one-tenth mill;

7 (4) For lighting and illuminating the streets, highways and  
8 other public places [with electric light, gas light or other  
9 illuminant], not exceeding eight mills;

10 (5) For gas, water and electric light, not exceeding eight  
11 mills, such additional millage permitted only following a  
12 favorable referendum on the matter held in accordance with the  
13 [act of April 16, 1875 (P.L.55), as amended] election laws of  
14 this Commonwealth;

15 (6) For the purchase of fire engines, fire apparatus and  
16 fire hose for the use of the borough, or for assisting any fire  
17 company in the borough in the purchase, renewal or repair of any  
18 of its fire engines, fire apparatus or fire hose, for the  
19 purposes of making appropriations to fire companies both within  
20 and without the borough and of contracting with adjacent  
21 municipalities or volunteer fire companies therein for fire  
22 protection, for the training of fire personnel and payments to  
23 fire training schools and centers or for the purchase of land  
24 upon which to erect a fire house, or for the erection and  
25 maintenance of a fire house or fire training school and center  
26 or fire houses, not exceeding three mills.

27 (i) The borough may appropriate up to one-half, but not to  
28 exceed one mill, of the revenue generated from a tax under this  
29 clause for the purpose of paying salaries, benefits or other  
30 compensation of fire suppression employes of the borough or a

1 fire company serving the borough.

2 (ii) If an annual tax for the purposes specified in this  
3 clause is proposed to be set at a level higher than three mills,  
4 the question shall be submitted to the voters of the borough,  
5 and the county board of elections shall frame the question in  
6 accordance with the election laws of the Commonwealth for  
7 submission to the voters of the borough;

8 (7) For building a fire house, fire training school and  
9 center, lockup [and/or] or municipal building, not exceeding two  
10 mills, such additional millage permitted only following a  
11 favorable referendum on the matter held in accordance with the  
12 [act of May 4, 1927 (P.L.673)] election laws of this  
13 Commonwealth;

14 (8) To establish [and/or] and maintain a local library or to  
15 maintain or aid in the maintenance of a local library  
16 established by deed, gift or testamentary provision, for the use  
17 of the residents of the borough, in accordance with the act of  
18 June 14, 1961 (P.L.324, No.188), known as The Library Code.

19 (9) For the purpose of supporting ambulance, rescue and  
20 other emergency services serving the borough, not to exceed one-  
21 half mill, except as provided in subsection (e). The borough may  
22 appropriate up to one-half of the revenue generated from a tax  
23 under this clause for the purpose of paying salaries, benefits  
24 or other compensation of employees of the ambulance, rescue or  
25 other emergency service.

26 (b) The [said] taxes shall be levied on the dollar on the  
27 valuation assessed for county purposes, as now is or may be  
28 provided by law. All real property, offices, professions and  
29 persons, made taxable by the laws of this Commonwealth for  
30 county rates and levies, may, in the discretion of council, be

1 taxed after the same manner for such purposes. No action on the  
2 part of the borough authorities fixing the tax rate for any year  
3 at a mill rate need include a statement expressing the rate of  
4 taxation in dollars and cents on each one hundred dollars (\$100)  
5 of assessed valuation of taxable property.

6 (c) Nothing [herein] contained in this section shall prevent  
7 the application of moneys received from taxes levied for general  
8 purposes to the purposes of paying interest and sinking fund  
9 charges on indebtedness.

10 (d) The proceeds of all taxes for which additional millage  
11 is hereby authorized shall be kept in a separate fund and used  
12 only for the purposes hereby provided [therefor: Provided,  
13 That], provided that the additional taxes authorized by  
14 referendum shall continue to be levied annually for so long a  
15 period as provided in the question submitted in [such] the  
16 referendum, and, in the case of any [such] taxes for which the  
17 question voted upon shall not have stated the duration of [such]  
18 the tax, until [such] the tax shall be abolished by vote of the  
19 electors in a subsequent referendum.

20 (e) The tax for supporting ambulance and rescue squads  
21 serving the borough shall not exceed the rate specified in  
22 subsection (a) (9) except when the question is submitted to the  
23 voters of the borough in the form of a referendum which will  
24 appear on the ballot in accordance with the election laws of the  
25 Commonwealth, in which case the rate shall not exceed two mills.  
26 The county board of elections shall frame the question to be  
27 submitted to the voters of the borough in accordance with the  
28 election laws of the Commonwealth.

29 Section 159. Section 1302.1 of the act, added November 24,  
30 1998 (P.L.827, No.108), is amended to read:

Section 1302.1. Different and Separate Tax Levies.--(a) A borough may in any year levy separate and different rates of taxation for municipal purposes on all real estate classified as nonfarmland, exclusive of the buildings thereon, and on all real estate classified as either buildings on land or farmland. When real estate tax rates are so levied:

(1) The rates shall be determined by the requirements of the borough budget.

(2) A higher rate may be levied on real estate classified as nonfarmland than on real estate classified as either buildings on land or farmland if the respective rates on nonfarmland and on buildings or farmland are so fixed as not to constitute a greater levy in the aggregate than the levy to result from the maximum rate allowed by law on all real estate.

(3) The rates shall be uniform as to all real estate within the classification.

(b) For purposes of this section:

(1) "Farmland" shall include any tract of land that is actively devoted to agricultural use, including, but not limited to, the commercial production of "crops, livestock and livestock products" as defined in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law."

(2) "Nonfarmland" shall include any tract of land that is not farmland.

(c) [The] Notwithstanding section 104, the provisions of this section are nonseverable. If any provision of this [act] section or its application to any person or circumstance is held invalid, the remaining provisions or applications of this [act] section are void.

Section 160. Section 1303 of the act, repealed in part April

1 28, 1978 (P.L.202, No.53), is amended to read:

2 Section 1303. Special Levy to Pay Debts.--In addition to the  
3 levies provided for in the preceding section, when it shall be  
4 shown to the court that the [corporate authorities refuse or  
5 neglect] borough council refuses or neglects to levy a  
6 sufficient tax to pay the debts due by the borough, the court  
7 may, after ascertaining the amount of [such] the indebtedness of  
8 the borough, direct a writ of mandamus to the proper officers of  
9 [such] the borough to collect by special taxation an amount  
10 sufficient to pay the same in one or more annual [instalments]  
11 installments, as may be adjudged reasonable by [said] the court,  
12 during such years as may be required for the payment of the  
13 same.

14 Section 161. Sections 1304 and 1305 of the act are amended  
15 to read:

16 Section 1304. Special Road Fund Tax.--Any borough shall be  
17 empowered, within its general power to levy taxes, to collect  
18 annually a tax upon all property taxable for borough purposes  
19 not to exceed five mills on the dollar in any one year, for the  
20 purpose of creating and maintaining a special fund, to be used  
21 by its borough in making permanent street improvements, and to  
22 pay contract prices for paving and other permanent street  
23 improvements, prior to the collection of the cost and expense or  
24 any part thereof from the property owners adjoining or abutting  
25 thereon by the borough under existing laws.

26 When the cost and expense, or any part [thereof,] of the cost  
27 and expense of the construction of any permanent street  
28 improvement, which has been made under existing laws, and which  
29 has been aided in its construction from the [said] special fund  
30 [hereby provided for] provided for under this section, shall

1 have been assessed and collected from the owners of the property  
2 adjoining or abutting upon [such] the improvement, it shall be  
3 applied to the credit of the [said] special fund, to the extent  
4 of the withdrawal [therefrom for such] from the special fund for  
5 that purpose.

6 Section 1305. Date Tax Duplicate to Issue.--[The corporate  
7 authorities of the borough] Borough council shall, within thirty  
8 days after adoption of the budget or within thirty days after  
9 receipt of the assessment roll from the county, whichever is  
10 later, issue their duplicate of taxes assessed to the collector  
11 of taxes of the borough.

12 Section 162. Section 1306 of the act, amended July 22, 1970  
13 (P.L.549, No.188), is amended to read:

14 Section 1306. Additions and Revisions to Duplicates.--  
15 Whenever in any borough, there is any construction of a building  
16 or buildings not otherwise exempt as a dwelling after the  
17 borough council has prepared a duplicate of the assessment of  
18 borough taxes and the building is not included in the tax  
19 duplicate of the borough, the [authority responsible for  
20 assessments in the borough] county assessment office shall, upon  
21 the request of the borough council, direct the assessor in the  
22 [borough] county assessment office to inspect and reassess,  
23 subject to the right of appeal and adjustment provided by the  
24 act of assembly under which assessments are made, all taxable  
25 property in the borough to which major improvements have been  
26 made after the original duplicates were prepared, and to give  
27 notice of such reassessments within ten days to the authority  
28 responsible for assessments, the borough and the property owner.  
29 The property shall then be added to the duplicate and shall be  
30 taxable for borough purposes at the reassessed valuation for

1 that proportionate part of the fiscal year of the borough  
2 remaining after the property was improved. Any improvement made  
3 during the month shall be computed as having been made on the  
4 first of the month. A certified copy of the additions or  
5 revisions to the duplicate shall be furnished by the borough  
6 council to the borough tax collector, together with their  
7 warrant for collection of the same, and within ten days  
8 thereafter, the borough tax collector shall notify the owner of  
9 the property of the taxes due the borough.

10 Section 163. Sections 1307 and 1308 of the act are amended  
11 to read:

12 Section 1307. Preparation of Budget.--Beginning at least  
13 thirty days prior to the adoption of the budget a proposed  
14 budget or annual estimate of revenues and expenditures for the  
15 ensuing year shall be prepared in a manner designated by the  
16 council. [The budget shall be prepared on a uniform form  
17 prepared and furnished as hereinafter provided.] The proposed  
18 budget shall be kept on file with the borough secretary and [by  
19 him] be made available for public inspection by the borough  
20 secretary for a period of ten days.

21 Section 1308. Notice of Proposed Budget; Penalty.--(a)  
22 Notice that the proposed budget is available for inspection  
23 shall be published by the borough secretary in a newspaper of  
24 general circulation [in the borough], except in boroughs where  
25 the estimated budget receipts are less than [five thousand  
26 dollars (\$5000)] fifty thousand dollars (\$50,000) in the year in  
27 which this amendment is enacted, where in lieu of such newspaper  
28 publications, notice may be conspicuously posted during the ten  
29 day period, in a place readily viewable by the public at the  
30 office of the borough secretary and with such further notice as

1 shall be prescribed by council.

2     **(b)** Failure to give the notice herein required shall not  
3 invalidate the budget adopted or the tax ordinance. Any borough  
4 secretary who shall fail or refuse to give the notice that the  
5 proposed budget is available for inspection, as herein required,  
6 shall, upon conviction [thereof] in a summary proceeding, be  
7 sentenced to pay a fine not exceeding one hundred dollars (\$100)  
8 and costs of prosecution.

9     Section 164. Section 1309 of the act is reenacted to read:

10     Section 1309. Revision and Completion of Budget.--After the  
11 expiration of the said ten days, council shall make such  
12 revision in the budget as shall be deemed advisable. The budget  
13 shall be as comprehensive and exact as the information available  
14 will admit. In addition to expenditures proposed for the current  
15 fiscal year, council may include as proposed expenditures a sum  
16 sufficient to pay any existing indebtedness and to pay the  
17 ordinary operating expenses for the subsequent year until the  
18 taxes of the subsequent year are received therefor, and may also  
19 include a sum to provide in whole or in part for any deferred  
20 maintenance, depreciation and replacements. Within the tax levy  
21 and debt limitations, council may also include, in whole or in  
22 part, expenditures for capital investments and purchases.  
23 Expenditures of a legislative character shall be made,  
24 authorized or ratified by ordinance. Other expenditures allowed  
25 by law may be made or ratified by motion in council. Such  
26 expenditures, whether by ordinance or motion, shall then be  
27 considered as appropriations affecting the budget. Any balance  
28 of revenues over expenditures may be expended in any subsequent  
29 year for any lawful purpose.

30     Section 165. Section 1310 of the act, amended June 22, 2000



(P.L.325, No.34), is amended to read:

Section 1310. Adoption of Budget[; Tax Ordinance].--Upon completion of the budget, containing the estimated receipts and expenditures, [and its adoption] the borough council shall adopt the budget by motion [in] of the borough council, which shall not be later than December thirty-first[, it shall be the duty of the council to adopt an ordinance levying the taxes referred to in this act for the fiscal year for approval of the mayor or passage over his veto].

Section 166. The act is amended by adding a section to read:

Section 1310.1. Tax Ordinance.--After borough council has adopted the budget, it shall be the duty of the borough council to enact an ordinance levying the taxes referred to in this act for the fiscal year subject to approval of the mayor or enactment over the mayor's veto pursuant to the procedure established in section 3301.3(c).

Section 167. Section 1311 of the act, amended June 22, 2000 (P.L.325, No.34), is amended to read:

Section 1311. Amending Budget; Notice.--During the month of January next following any municipal election the council of any borough may amend the budget and the levy and tax rate to conform with its amended budget. A period of ten days' public inspection at the office of the borough secretary of the proposed amended budget after notice by the borough secretary to that effect is published once in a newspaper [as provided in section 109 of this act] of general circulation, shall intervene between the proposed amended budget and the adoption thereof. Any amended budget must be adopted by council on or before the fifteenth day of February.

Section 168. Sections 1312 and 1313 of the act are reenacted

1 to read:

2 Section 1312. Modification of Budget; Supplemental  
3 Appropriations and Transfers.--The council in its reasonable  
4 discretion may, in any year, by motion, modify the budget after  
5 its final adoption. New appropriations, supplementary  
6 appropriations and transfers from one appropriation to another  
7 may be made during the fiscal year, either before or after the  
8 expenditure is authorized or ratified after the expenditure is  
9 made, provided it is within the current year's revenues, or the  
10 money therefor promptly made available through borrowing as  
11 allowed by law.

12 Section 1313. Payment from Borough Funds.--All payments made  
13 by the council of any borough from the borough funds shall be  
14 made by proper borough orders, drawn upon the treasurer; no  
15 borough order shall be authorized by council or signed by the  
16 president or secretary of any council unless there are  
17 sufficient funds in the treasury of the borough to pay the same,  
18 and no orders shall be made payable at any time in the future or  
19 draw interest. A separate borough order shall be drawn for each  
20 account or payment.

21 Section 169. The act is amended by adding a section to read:

22 Section 1313.1. Creation of Special Funds; Investments.--  
23 Borough council may set aside in a separate fund any moneys  
24 received out of or from the sale, lease or other disposition of  
25 any borough property or received from any source unless such  
26 money was received or acquired for a particular purpose. The  
27 fund shall be controlled, invested and administered, and the  
28 income arising therefrom expended, in the manner as may be  
29 determined by action of the council pursuant to the ordinance  
30 creating the fund. The ordinance may provide that only the

income from the fund may be used or expended, and that neither principal, nor any part thereof, may be used or expended unless upon authorization of a majority vote of the qualified electors of the borough. All ordinances previously enacted by any borough, creating and establishing a separate fund as is authorized by this section, shall be deemed and taken as valid and effectual for all purposes provided that all other requirements of law concerning the enactment of the same have been complied with.

Section 170. Section 1314 of the act, amended June 22, 2000 (P.L.325, No.34), is amended to read:

Section 1314. Uniform Financial Report; Forms.--The uniform forms for the annual financial statement required to be made by the auditors or the controller shall be prepared by a committee consisting of four representatives from the Pennsylvania State Association of Boroughs, [and] the Secretary of Community and Economic Development, or [his agent] the secretary's designee and any additional members appointed pursuant to statute.

[Such] The representatives of boroughs shall be appointed by the president of the [organization. Such] Pennsylvania State Association of Boroughs. The representatives shall be chosen from among the finance officers or other officers of the borough who have knowledge of their fiscal procedures. As far as possible, they shall be chosen to represent boroughs in the various population groups. The president of the organization shall supply to the Department of Community and Economic Development the names and addresses of [such] the representatives immediately upon their appointment.

[Such] The representatives shall serve without compensation, but shall be reimbursed by the Commonwealth for all necessary

1 expenses incurred in attending meetings of the committee. The  
2 committee shall meet from time to time as conditions may warrant  
3 at the call of Secretary of Community and Economic Development,  
4 or [his agent] the secretary's designee, who shall serve as  
5 [chairman] chair of the committee.

6 It shall be the duty of the Secretary of Community and  
7 Economic Development, or [his agent] the secretary's designee,  
8 to see to it that the forms required by this article are  
9 prepared in cooperation with [such] the committee. In the event  
10 that the committee should for any reason fail to furnish such  
11 cooperation, the Secretary of Community and Economic  
12 Development, or [his agent] the secretary's designee, shall  
13 prepare the forms. After their preparation, [he] the secretary  
14 shall issue [such] the forms and distribute them annually, as  
15 needed to the proper officers of each borough.

16 Section 171. Section 1315 of the act is amended to read:

17 Section 1315. Capital Improvements to Certain Public Service  
18 Facilities.--(a) For the purpose of financing the cost and  
19 expense or its share of the cost and expense of capital  
20 improvements by altering, improving or enlarging (i) its sewer,  
21 sewer system or sewage treatment works, either singly or  
22 jointly, with other municipalities [or townships, or both], or  
23 (ii) its water works, either singly or jointly, with other  
24 municipalities [or townships, or both], or (iii) its electric  
25 light or power plant or power distribution system, or (iv) its  
26 gas plant or gas distribution system for its own municipal  
27 purposes, including the purchase and installation of machinery  
28 and equipment, any borough owning any such plant or facility may  
29 issue non-debt revenue bonds as provided in clause [(72)] (46)  
30 of section 1202 of this act.

1 (b) Any borough issuing non-debt revenue bonds under the  
2 authority of this section shall adjust and, where necessary,  
3 increase the rates of rentals or charges pledged as security for  
4 the bonds, in order to provide sufficient revenue which shall be  
5 set aside as reserve funds to cover depreciation of the  
6 properties involved, and for future improvements to the plant or  
7 facility involved, as well as for the payment of the interest on  
8 the bonds and the principal at the time of maturity.

9 Section 172. Section 1316 of the act, amended or added  
10 November 2, 1979 (P.L.458, No.94) and December 13, 1982  
11 (P.L.1145, No.261), is amended to read:

12 Section 1316. Investment of Funds.--(a) Council shall  
13 invest borough funds consistent with sound business practice.

14 (b) Council shall provide for an investment program subject  
15 to restrictions contained in this act and in any other  
16 applicable statute and any rules and regulations adopted by  
17 council.

18 (c) Authorized types of investments for borough funds shall  
19 be:

20 (i) United States Treasury bills.

21 (ii) Short-term obligations of the United States Government  
22 or its agencies or instrumentalities.

23 (iii) Deposits in savings accounts or time deposits, other  
24 than certificates of deposit, or share accounts of institutions  
25 insured by the Federal Deposit Insurance Corporation [or the  
26 Federal Savings and Loan Insurance Corporation] or the National  
27 Credit Union Share Insurance Fund [or the Pennsylvania Deposit  
28 Insurance Corporation or the Pennsylvania Savings Association  
29 Insurance Corporation] to the extent that such accounts are so  
30 insured, and, for any amounts above the insured maximum,

provided that approved collateral as provided by law therefore shall be pledged by the depository.

(iv) Obligations of the United States of America or any of its agencies or instrumentalities backed by the full faith and credit of the United States of America, the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the Commonwealth, or of any political subdivision of the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the political subdivision.

(v) Shares of an investment company registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933, provided that the only investments of that company are in the authorized investments for borough funds listed in (i) through (iv).

(vi) Certificates of deposit purchased from institutions insured by the Federal Deposit Insurance Corporation [or the Federal Savings and Loan Insurance Corporation] or the National Credit Union Share Insurance Fund [or the Pennsylvania Deposit Insurance Corporation or the Pennsylvania Savings Association Insurance Corporation] to the extent that such accounts are so insured. However, for any amounts above the insured maximum, such certificates of deposit shall be collateralized by a pledge or assignment of assets of the institution, and such collateral may include loans (including interest in pools of loans) secured by first mortgage liens on real property. Certificates of deposit purchased from commercial banks shall be limited to an amount equal to twenty percent of a bank's total capital and surplus. Certificates of deposit purchased from savings and loan associations or savings banks shall be limited to an amount

1 equal to twenty percent of an institution's assets minus  
2 liabilities.

3 (vii) Any investment authorized by 20 Pa.C.S. Ch.73  
4 (relating to fiduciaries investments) shall be an authorized  
5 investment for any pension or retirement fund.

6 (viii) Bonds of a municipal authority or parking authority  
7 created solely by the borough, for the purpose either of  
8 investment or of possible retirement of the bonds and  
9 acquisition of authority projects at an earlier date than  
10 originally contemplated, using for the purpose either surplus  
11 funds of the borough or money appropriated in the annual budget  
12 for the purpose.

13 (d) In making investments of borough funds, council shall  
14 have authority:

15 (i) To permit assets pledged as collateral under subsection  
16 (c)(iii), to be pooled in accordance with the act of August 6,  
17 1971 (P.L.281, No.72), relating to pledges of assets to secure  
18 deposits of public funds.

19 (ii) To combine moneys from more than one fund under borough  
20 control for the purchase of a single investment, provided that  
21 each of the funds combined for the purpose shall be accounted  
22 for separately in all respects and that the earnings from the  
23 investment are separately and individually computed and  
24 recorded, and credited to the accounts from which the investment  
25 was purchased.

26 (iii) To join with one or more other political subdivisions  
27 and municipal authorities in accordance with [the act of July  
28 12, 1972 (P.L.762, No.180), entitled "An act relating to  
29 intergovernmental cooperation,"] 53 Pa.C.S. Ch. 23 Subch. A  
30 (relating to intergovernmental cooperation) in the purchase of a

single investment, provided that the requirements of subclause (ii) on separate accounting of individual funds and separate computation, recording and crediting of the earnings therefrom are adhered to.

Section 173. Section 1317 of the act, added November 21, 2001 (P.L.843, No.85), is repealed:

[Section 1317. Conservation District.--The council may make appropriations to the conservation district, as defined in the act of May 15, 1945 (P.L.547, No.217), known as the "Conservation District Law," in which the borough is located.]

Section 174. Article XIV heading of the act is reenacted to read:

#### ARTICLE XIV

#### CONTRACTS

Section 175. Section 1401 of the act is amended to read:

Section 1401. Power to Make Contracts.--(a) Each borough may make contracts for lawful purposes and for the purposes of carrying into execution the provisions of this act and laws of the Commonwealth.

(b) Except as otherwise specifically provided in this act, all contracts and purchases shall be made with and from the lowest qualified and responsible bidder. In awarding contracts and making purchases, council shall have the right to take into consideration such factors as the availability, cost and quality of service, and may establish pre-qualification standards for contracts and purchases. Any pre-qualification standards shall be reasonably designed to assist council in determining the ability of a bidder to successfully complete a contract or purchase.

(c) A borough may permit the electronic submission of bids



1 and may receive bids electronically for competitively bid  
2 purchases and contracts pursuant to 62 Pa.C.S. Ch. 46 (relating  
3 to electronic bidding by local government units).

4 Section 176. Section 1402 of the act, amended or added  
5 October 4, 1978 (P.L.1022, No.226), April 6, 1980 (P.L.95,  
6 No.34), June 26, 1995 (P.L.63, No.12), December 20, 1996  
7 (P.L.1497, No.193) and November 3, 2011 (P.L.381, No.92), is  
8 amended to read:

9 Section 1402. Regulation of Contracts.--(a) All contracts  
10 or purchases in excess of the base amount of eighteen thousand  
11 five hundred dollars (\$18,500) subject to adjustment under  
12 subsection (a.2), except those [hereinafter] mentioned[,]  
13 this section and except as provided by the act of October 27,  
14 1979 (P.L.241, No.78), entitled "An act authorizing political  
15 subdivisions, municipality authorities and transportation  
16 authorities to enter into contracts for the purchase of goods  
17 and the sale of real and personal property where no bids are  
18 received," shall not be made except with and from the lowest  
19 qualified and responsible bidder after due notice in one  
20 newspaper of general circulation [in the borough], at least two  
21 times at intervals of not less than three days where daily  
22 newspapers of general circulation are available for [such]  
23 publication, in case of weekly newspapers, [such] notice once a  
24 week for two successive weeks. The first advertisement shall be  
25 published not more than forty-five days and the second  
26 advertisement not less than ten days prior to the date fixed for  
27 the opening of bids. Advertisements for contracts or purchases  
28 shall also be posted in a conspicuous place within the borough.  
29 Advertisements for contracts and purchases shall contain the  
30 date, time and location for opening of bids and shall state the

1 amount of the performance bond determined under subsection (c).  
2 The amount of the contract shall in all cases, whether of  
3 straight sale price, conditional sale, [bailment] lease, lease  
4 purchase or otherwise, be the entire amount which the borough  
5 pays to the successful bidder or his assigns in order to obtain  
6 the services or property, or both, and shall not be construed to  
7 mean only the amount which is paid to acquire title or to  
8 receive any other particular benefit or benefits of the whole  
9 bargain. [In awarding contracts, council shall have the right to  
10 take into consideration such other factors as the availability,  
11 cost and quality of service.]

12 (a.1) Written or telephonic price quotations from at least  
13 three qualified and responsible contractors shall be requested  
14 for all contracts in excess of the base amount of ten thousand  
15 dollars (\$10,000) subject to adjustment under subsection (a.2)  
16 but are less than the amount requiring advertisement and  
17 competitive bidding or, in lieu of price quotations, a  
18 memorandum shall be kept on file showing that fewer than three  
19 qualified contractors exist in the market area within which it  
20 is practicable to obtain quotations. A written record of  
21 telephonic price quotations shall be made and shall contain at  
22 least the date of the quotation, the name of the contractor and  
23 the contractor's representative, the construction,  
24 reconstruction, repair, maintenance or work which was the  
25 subject of the quotation and the price. Written price  
26 quotations, written records of telephonic price quotations and  
27 memoranda shall be retained for a period of three years. Written  
28 price quotations as used throughout this section shall include  
29 electronic mail.

30 (a.2) Adjustments to the base amounts specified under

1 subsections (a) and (a.1) shall be made as follows:

2 (1) The Department of Labor and Industry shall determine the  
3 percentage change in the All Items Consumer Price Index for All  
4 Urban Consumers (CPI-U) for the United States City Average as  
5 published by the United States Department of Labor, Bureau of  
6 Labor Statistics for the twelve-month period ending September  
7 30, 2012, and for each successive twelve-month period  
8 thereafter.

9 (2) If the department determines that there is no positive  
10 percentage change, then no adjustment to the base amounts shall  
11 occur for the relevant time period provided for in this  
12 subsection.

13 (3) (i) If the department determines that there is a  
14 positive percentage change in the first year that the  
15 determination is made under paragraph (1), the positive  
16 percentage change shall be multiplied by each base amount and  
17 the products shall be added to the base amounts, respectively,  
18 and the sums shall be preliminary adjusted amounts.

19 (ii) The preliminary adjusted amounts shall be rounded to  
20 the nearest one hundred dollars (\$100), to determine the final  
21 adjusted base amounts for purposes of subsections (a) and (a.1).

22 (4) In each successive year in which there is a positive  
23 percentage change in the CPI-U for the United States City  
24 Average, the positive percentage change shall be multiplied by  
25 the most recent preliminary adjusted amounts and the products  
26 shall be added to the preliminary adjusted amount of the prior  
27 year to calculate the preliminary adjusted amounts for the  
28 current year. The sums thereof shall be rounded to the nearest  
29 one hundred dollars (\$100) to determine the new final adjusted  
30 base amounts for purposes of subsections (a) and (a.1).

1       (5) The determinations and adjustments required under this  
2 subsection shall be made in the period between October 1 and  
3 November 15 of the year following the effective date of this  
4 subsection, and annually between October 1 and November 15 of  
5 each year thereafter.

6       (6) The final adjusted base amounts and new final adjusted  
7 base amounts obtained under paragraphs (3) and (4) shall become  
8 effective January 1 for the calendar year following the year in  
9 which the determination required under paragraph (1) is made.

10       (7) The department shall publish notice in the Pennsylvania  
11 Bulletin prior to January 1 of each calendar year of the annual  
12 percentage change determined under paragraph (1) and the  
13 unadjusted or final adjusted base amounts determined under  
14 paragraphs (3) and (4) at which competitive bidding is required  
15 under subsection (a) and written or telephonic price quotations  
16 are required under subsection (a.1), respectively, for the  
17 calendar year beginning the first day of January after  
18 publication of the notice. The notice shall include a written  
19 and illustrative explanation of the calculations performed by  
20 the department in establishing the unadjusted or final adjusted  
21 base amounts under this subsection for the ensuing calendar  
22 year.

23       (8) The annual increase in the preliminary adjusted base  
24 amounts obtained under paragraphs (3) and (4) shall not exceed  
25 three percent.

26       (b) (1) The award of contracts shall only be made by public  
27 announcement at the meeting at which bids are received, or at a  
28 subsequent meeting, the time and place of which shall be  
29 publicly announced when bids are received. If for any reason one  
30 or both of the above meetings shall not be held, the same

1 business may be transacted at any subsequent meeting if at least  
2 five days' notice thereof shall be published in the newspaper of  
3 general circulation aforesaid. At council's request, all bids  
4 advertised for shall be accompanied by cash, money order, a  
5 certified or cashier's good faith check, or other irrevocable  
6 letter of credit drawn upon a bank authorized to do business in  
7 this Commonwealth or by a bond with corporate surety in such  
8 amount as council shall determine, and, when requested, no bid  
9 shall be considered unless so accompanied.

10 (2) Notwithstanding clause (1), council may direct that a  
11 committee of council, a member of council or a member of the  
12 borough staff receive, open and review bids during normal  
13 business hours and forward the information to council for  
14 subsequent award at a public meeting. Bidders shall be notified  
15 and other interested parties, upon request, shall be notified of  
16 the date, time and location of the opening of bids and may be  
17 present when the bids are opened.

18 (c) The successful bidder when advertising as required  
19 herein may, at the discretion of council, be required to furnish  
20 a bond or irrevocable letter of credit or other security with  
21 suitable reasonable requirements guaranteeing the work to be  
22 done with sufficient surety in an amount as determined by  
23 council which shall be not less than ten percent nor more than  
24 one hundred percent of the amount of the liability under the  
25 contract within twenty days after the contract has been awarded,  
26 unless council shall prescribe a shorter period of not less than  
27 ten days, and upon failure to furnish such [bond] security  
28 within such time the previous award shall be void. Deliveries,  
29 accomplishment and guarantees may be required in all cases of  
30 expenditures.

(d) The contracts or purchases made by council, which shall not require advertising, bidding or price quotations as hereinbefore provided, are as follows:

(1) Those for maintenance, repairs or replacements for water, electric light or public works of the borough, provided they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but [a bond] security may be required by council, as in other cases of work done;

(2) Those made for improvements, repairs and maintenance of any kind, made or provided by any borough, through its own [employees: Provided, That] employees, provided that all materials used for street improvement, maintenance [and/or] or construction in excess of the amount specified or adjusted under subsection (a.1) be subject to the relevant price quotation or advertising requirements contained [herein] in this section;

(3) Those where particular types, models or pieces of new equipment, articles, apparatus, appliances, computer software, vehicles or parts thereof are desired by council, which are patented and manufactured or copyrighted products;

(3.1) Those for used equipment, articles, apparatus, appliances, vehicles or parts thereof being purchased from a public utility[.];

(4) Those involving any policies of insurance or surety company bonds; those made for [public] utility service [under tariffs on file with the Pennsylvania Public Utility Commission] for borough purposes, including, but not limited to, those made for natural gas or telecommunications services; those made for electricity with the entities set forth in clause 6(i), (ii), (iii), (iv), (v), (vi) and (vii)(A); those made with another political subdivision, or a county, or council of government,

consortium, cooperative or other similar entity created pursuant  
to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental  
cooperation) or the Commonwealth of Pennsylvania, the Federal  
Government, any agency of the Commonwealth or the Federal  
Government, or any municipal authority, including the sale,  
leasing or loan of any supplies or materials by the Commonwealth  
or the Federal Government or their agencies. The price thereof  
shall not be in excess of that fixed by the Commonwealth, the  
Federal Government, or their agencies;

(5) Those involving personal or professional services[.];

(6) Those made relating to the purchase of electricity and  
associated energy and related services by a borough owning or  
operating electric generation or distribution facilities on the  
effective date of this section with any of the following:

(i) A political subdivision.

(ii) Another state.

(iii) The Commonwealth or an agency thereof.

(iv) The Federal Government.

(v) A private corporation.

(vi) An electric cooperative corporation under 15 Pa.C.S.  
Ch. 73 (relating to electric cooperative corporations).

(vii) A non-profit membership corporation. As used in this  
subclause, the term "non-profit membership corporation" means an  
entity, the membership of which:

(A) consists solely of Pennsylvania boroughs, such as a  
consortium, buying group or municipal power agency under section  
2471.2; or

(B) consists of Pennsylvania boroughs and political  
subdivisions of another state or states.

(viii) An electric cooperative of another state.

1 Nothing in this clause shall prohibit council from engaging in  
2 advertising, bidding or price quotations if the council  
3 determines that the advertising, bidding or price quotations are  
4 in the public interest.

5 (e) [Every contract for the construction, reconstruction,  
6 alteration, repair, improvement or maintenance of public works  
7 shall comply with the provisions of the act of March 3, 1978  
8 (P.L.6, No.3), known as the "Steel Products Procurement Act."]  
9 Council shall award contracts subject to the requirements of,  
10 and may exercise any powers granted by, the following acts to  
11 the extent applicable: the act of March 3, 1978 (P.L.6, No.3),  
12 known as the "Steel Products Procurement Act," the act of  
13 December 20, 1967 (P.L.869, No.385), known as the "Public Works  
14 Contractors' Bond Law of 1967," the act of August 15, 1961  
15 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage  
16 Act," the act of January 17, 1968 (P.L.11, No.5), known as "The  
17 Minimum Wage Act of 1968," the act of February 17, 1994 (P.L.73,  
18 No.7), known as the "Contractor and Subcontractor Payment Act,"  
19 the act of January 23, 1974 (P.L.9, No.4), referred to as the  
20 Public Contract Bid Withdrawal Law and 62 Pa.C.S. Pt. II  
21 (relating to general procurement provisions).

22 (f) No person, consultant, firm or corporation contracting  
23 with the borough for purposes of rendering personal or  
24 professional services to the borough shall share with any  
25 borough officer or employee, and no borough officer or employee  
26 shall accept, any portion of the compensation or fees paid by  
27 the borough for the contracted services provided to the borough  
28 except under the following terms or conditions:

29 (1) Full disclosure of all relevant information regarding  
30 the sharing of the compensation or fees shall be made to the



1 council of the borough.

2 (2) The council of the borough must approve the sharing of  
3 any fee or compensation for personal or professional services  
4 prior to the performance of [said] the services.

5 (3) No fee or compensation for personal or professional  
6 services may be shared except for work actually performed.

7 (4) No shared fee or compensation for personal or  
8 professional services may be paid at a rate in excess of that  
9 commensurate for similar personal or professional services.

10 Section 177. Section 1403 of the act, amended July 10, 1990  
11 (P.L.383, No.90) and November 3, 2011 (P.L.381, No.92), is  
12 amended to read:

13 Section 1403. Evasion of Advertising Requirements.--(a) No  
14 member or members of council shall evade the provisions of  
15 section 1402 hereof as to advertising for bids, by purchasing or  
16 contracting for services and personal properties piecemeal for  
17 the purpose of obtaining prices under the amount specified or  
18 adjusted under section 1402(a) upon transactions, which  
19 transactions should, in the exercise of reasonable discretion  
20 and prudence, be conducted as one transaction amounting to more  
21 than the amount specified or adjusted under section 1402(a).  
22 This provision is intended to make unlawful the evading of  
23 advertising requirements by making a series of purchases or  
24 contracts, each for less than the advertising requirement price,  
25 or by making several simultaneous purchases or contracts, each  
26 below said price, when, in either case, the transactions  
27 involved should have been made as one transaction for one price.  
28 Any members of council who so vote in violation of this  
29 provision and who know that the transaction upon which they so  
30 vote is or ought to be a part of a larger transaction and that

1 it is being divided in order to evade the requirements as to  
2 advertising for bids, shall be jointly and severally subject to  
3 surcharge for ten percent of the full amount of the contract or  
4 purchase. Whenever it shall appear that a member of council may  
5 have voted in violation of this section but the purchase or  
6 contract on which [he so] the member of council voted was not  
7 approved by council, this section shall be inapplicable.

8 (b) Any council member who votes to unlawfully evade the  
9 provisions of section 1402 and who knows that the transaction  
10 upon which he so votes is or ought to be a part of a larger  
11 transaction and that it is being divided in order to evade the  
12 requirements as to advertising for bids commits a misdemeanor of  
13 the third degree for each contract entered into as a direct  
14 result of that vote. This penalty shall be in addition to any  
15 surcharge which may be assessed pursuant to subsection (a).

16 Section 178. Section 1404 of the act, amended June 25, 2001  
17 (P.L.651, No.56), is amended to read:

18 Section 1404. [Penalty for] Personal Interest in Contracts  
19 or Purchases.--[Except as otherwise provided in this act, no  
20 borough official either elected or appointed, who knows or who  
21 by the exercise of reasonable diligence could know, shall be  
22 interested to any appreciable degree either directly or  
23 indirectly in any purchase made or contract entered into or  
24 expenditure of money made by the borough or relating to the  
25 business of the borough, involving the expenditure by the  
26 borough of more than one thousand dollars (\$1000) in any  
27 calendar year, but this limitation shall not apply to cases  
28 where such officer or appointee of the borough is an employe of  
29 the person, firm or corporation to which the money is to be paid  
30 in a capacity with no possible influence on the transaction, and

1 in which he cannot be possibly benefited thereby either  
2 financially or otherwise. But in the case of a member of council  
3 or mayor, if he knows that he is within the exception just  
4 mentioned he shall so inform council and shall refrain from  
5 voting on the expenditure or any ordinance relating thereto, and  
6 shall in no manner participate therein. Any official or  
7 appointee who shall knowingly violate the provisions of this  
8 section shall be subject to surcharge to the extent of the  
9 damage shown to be thereby sustained by the borough and to  
10 ouster from office, and shall be guilty of a misdemeanor, and  
11 upon conviction thereof shall be sentenced to pay a fine not  
12 exceeding one thousand dollars (\$1000), or not exceeding one  
13 hundred eighty days' imprisonment, or both] Elected and  
14 appointed borough officials and borough employes shall be  
15 restricted from any interest in borough contracts and purchases  
16 to the extent provided in 65 Pa.C.S. Ch. 11 (relating to ethics  
17 standards and financial disclosure).

18 Section 179. Section 1404.1 of the act, added December 1,  
19 1977 (P.L.245, No.80), is amended to read:

20 Section 1404.1. Purchase Contracts for Petroleum Products;  
21 Fire Company, Etc., Participation.--The council of each borough  
22 shall have power to permit, subject to such terms and conditions  
23 as it may, and as hereinafter specifically provided, shall,  
24 prescribe any paid or volunteer fire company, paid or volunteer  
25 rescue company and paid or volunteer ambulance company in the  
26 borough to participate in purchase contracts for petroleum  
27 products entered into by the borough. Any such company desiring  
28 to participate in [such] purchase contracts shall file with the  
29 borough secretary a request that it be authorized to participate  
30 in contracts for the purchase of petroleum products of the

1 borough and agreeing that it will be bound by [such] the terms  
2 and conditions as the borough may, and as hereinafter  
3 specifically provided, shall, prescribe and that it will be  
4 responsible for payment directly to the vendor under each  
5 purchase contract. Among [such] the terms and conditions, the  
6 borough shall prescribe that all prices shall be F.O.B.  
7 destination.

8 Section 180. Section 1405 of the act, amended November 3,  
9 2011 (P.L.381, No.92), is amended to read:

10 Section 1405. Separate Bids for Plumbing, Heating,  
11 Ventilating and Electrical Work.--In the preparation for the  
12 erection, construction and alteration of any public building,  
13 when the entire cost of [such] the work shall exceed the amount  
14 specified or adjusted under section 1402(a), the architect,  
15 engineer, or other person preparing [such] the specifications  
16 may, if so requested by the borough council, prepare separate  
17 specifications for the plumbing, heating, ventilating and  
18 electrical work. The person or persons authorized to enter into  
19 contracts for the erection, construction or alteration of [such]  
20 the public buildings may, if [such] the separate specifications  
21 shall have been proposed, receive separate bids upon each of the  
22 [said] branches of work and shall [thereupon] award the contract  
23 [for the same] to the lowest responsible bidder for each of  
24 [said] the branches.

25 Section 181. Section 1406 of the act, amended October 9,  
26 1967 (P.L.380, No.171), is amended to read:

27 Section 1406. Bonds for the Protection of Labor and  
28 [Materialmen] Materials.--[It shall be the duty of every borough  
29 to require any person, copartnership, association, or  
30 corporation, entering into a contract with such borough for the

1 construction, erection, installation, completion, alteration,  
2 repair of, or addition to, any public work or improvement of any  
3 kind whatsoever, where the amount of such contract is in excess  
4 of one thousand five hundred dollars (\$1,500), before commencing  
5 work under such contract, to execute and deliver to such  
6 borough, in addition to any other bond which may now or  
7 hereafter be required by law to be given in connection with such  
8 contract, an additional bond for the use of any and every  
9 person, copartnership, association, or corporation interested,  
10 in a sum not less than fifty percent and not more than one  
11 hundred percent of the contract price, as such borough may  
12 prescribe, having as surety thereon one or more surety companies  
13 legally authorized to do business in this Commonwealth,  
14 conditioned for the prompt payment of all material furnished and  
15 labor supplied or performed in the prosecution of the work,  
16 whether or not the said material or labor enter into and become  
17 component parts of the work or improvement contemplated. Such  
18 additional bond shall be deposited with and held by the borough  
19 for the use of any party interested therein. Every such  
20 additional bond shall provide that every person, copartnership,  
21 association, or corporation, who, whether as subcontractor or  
22 otherwise, has furnished material or supplied or performed labor  
23 in the prosecution of the work as above provided, and who has  
24 not been paid therefor, may sue in assumpsit on said additional  
25 bond, in the name of the borough, for his, their or its use and  
26 prosecute the same to final judgment for such sum or sums as may  
27 be justly due him, them, or it and have execution thereof;  
28 provided, the borough shall not be liable for the payment of any  
29 costs or expense of any suit.] Before any contract exceeding ten  
30 thousand dollars (\$10,000) is awarded to any prime contractor or

1 construction manager for the construction, erection,  
2 installation, completion, alteration, repair of or addition to  
3 any public work or improvement of any kind, the contractor shall  
4 furnish to the borough a payment bond for the protection of  
5 claimants supplying labor or materials to the prime contractor  
6 to whom the contract is awarded, at one hundred percent of the  
7 contract amount, conditioned for the prompt payment of all  
8 materials furnished or labor supplied or performed in the  
9 prosecution of the contract under the act of December 20, 1967  
10 (P.L.869, No.385), known as the "Public Works Contractors' Bond  
11 Law of 1967." This bond requirement shall be in addition to any  
12 other bond requirement that may now or hereafter be required by  
13 law to be given in connection with the contract.

14 Section 182. Section 1407 of the act is repealed:

15 [Section 1407. Minimum Wage Specifications in Contracts.--  
16 The specifications upon which contracts are entered into by any  
17 borough for the construction, alteration or repair of any public  
18 work or improvement may, at the option of the borough council,  
19 contain the minimum wage or wages which may be paid by the  
20 contractor or his subcontractors for the work performed by  
21 laborers and mechanics employed on such public work or  
22 improvement, and such laborers and mechanics shall in such cases  
23 be paid not less than such minimum wage or wages.

24 Every contract for the construction, alteration or repair of  
25 any public work or improvement, founded on specifications  
26 containing any such stipulation for minimum wage or wages, shall  
27 stipulate a penalty of an amount equal to twice the difference  
28 between the minimum wage contained in said specifications and  
29 the wage actually paid to each laborer or mechanic for each day  
30 during which he shall have been employed at a wage less than

1 that prescribed in said specifications.

2 Every officer or person designated as an inspector of or  
3 having supervision over the work to be performed under any such  
4 contract, in order to aid in enforcing the fulfillment thereof,  
5 shall, upon observation or investigation, report to the borough  
6 council or agency which let the contract, all violations of  
7 minimum wage stipulations, together with the name of each  
8 laborer or mechanic who has been paid a wage less than  
9 prescribed by the specifications, and the day or days of such  
10 violation.

11 All such penalties shall be withheld and deducted for the use  
12 of the borough from any moneys due the contractor by the officer  
13 or person whose duty it shall be to authorize the payment of  
14 moneys due such contractor, whether the violation of the minimum  
15 stipulation of the specifications was by the contractor or by  
16 any of his subcontractors. If any such contractor or  
17 subcontractor subsequently pays to all laborers and mechanics  
18 the balance of the amounts stipulated in such contract, the  
19 borough shall pay to the contractor the amounts so withheld as  
20 penalties.]

21 Section 183. Section 1410 of the act is amended to read:

22 Section 1410. Acceptance by Contractor of [Workmen's]  
23 Workers' Compensation Act.--All contracts executed by any  
24 borough, or any officer [thereof] of a borough, which involves  
25 the construction or doing of any work involving the employment  
26 of labor, shall contain a provision that the contractor shall  
27 accept, insofar as the work covered by [any such] the contract  
28 is concerned, the provisions of the [Workmen's Compensation Act  
29 of 1915,] act of June 2, 1915 (P.L.736, No.338), known as the  
30 "Workers' Compensation Act," and the supplements and amendments

1 [thereto] to the act, and that the [said] contractor will insure  
2 his or her liability [thereunder] under the act and will file  
3 with the borough with which the contract is made a certificate  
4 of insurance providing evidence of such coverage, or file with  
5 the borough with which the contract is made a certificate of  
6 exemption from insurance from the Bureau of [Workmen's] Workers'  
7 Compensation of the Department of Labor and Industry. The  
8 certificate of exemption from insurance may be issued on the  
9 basis of either individual self-insurance or group self-  
10 insurance. Additionally, a contractor shall file with the  
11 borough with which the contract is made any applications to be  
12 excepted by the provisions of the "Workers' Compensation Act" in  
13 respect to certain employes on religious grounds if the  
14 applications have been accepted by the Department of Labor and  
15 Industry.

16 Any contract executed in violation of this section shall be  
17 null and void.

18 Section 184. Section 1411 of the act, amended July 10, 1981  
19 (P.L.247, No.80), is repealed:

20 [Section 1411. Architects and Engineers Employed Prohibited  
21 From Bidding on Public Works; Penalty.--It shall be unlawful for  
22 any architect or engineer, in the employ of any borough, and  
23 engaged in the preparation of plans, specifications or  
24 estimates, to bid or negotiate on any public work at any letting  
25 of such work by the borough, except that any such architect or  
26 engineer who shall have prepared preliminary plans only shall  
27 not be prohibited from bidding or negotiating on the final  
28 contract for such work.

29 It shall be unlawful for the officers of any borough charged  
30 with the duty of letting any public work, to award a contract to



1 any such architect or engineer, in the employ of the borough to  
2 be in any way interested in any contract for public work for the  
3 borough or to receive any remuneration or gratuity from any  
4 person interested in such contract except under the terms and  
5 conditions as provided in section 1402(f).

6 Any person violating any of the provisions of this section  
7 shall forfeit his office, and shall be guilty of a misdemeanor,  
8 and on conviction thereof, shall be sentenced to pay a fine not  
9 exceeding five hundred dollars (\$500), or to undergo  
10 imprisonment for not more than six months, or both.]

11 Section 185. Article XV heading of the act is amended to  
12 read:

13 ARTICLE XV

14 EMINENT DOMAIN; ASSESSMENT OF DAMAGES [AND  
15 BENEFITS]; DAMAGES FOR INJURY TO PROPERTY

16 Section 186. Article XV subdivision (a) heading of the act  
17 is reenacted to read:

18 (a) General Provisions Relating to Eminent Domain

19 Section 187. Sections 1501 and 1502 of the act are amended  
20 to read:

21 Section 1501. Exercise of Eminent Domain.--In the laying  
22 out, opening, widening, extending, vacating, grading, or  
23 changing the grades or lines of streets; the construction of  
24 bridges, and the piers and abutments therefor; the construction  
25 of slopes, embankments, and sewers; the erection and extension  
26 of [waterworks] water systems, wharves, and docks, public  
27 buildings, public auditoriums, memorials, monuments, public  
28 works, filtration plants, sewerage systems, sewage treatment  
29 works, [garbage] refuse disposal or incineration plants,  
30 sanitary landfills, gas plants, electric light plants and

1 libraries; the establishing of parks, playgrounds and recreation  
2 places; the changing of watercourses; and for all other purposes  
3 authorized by this act, a borough may enter upon, appropriate,  
4 injure, or destroy, private lands, property or material, or  
5 lands previously granted or dedicated to public use and which  
6 are no longer used for the purpose for which the lands were  
7 granted, according to the proceedings set forth in the law  
8 governing eminent domain.

9 Section 1502. Restrictions as to Certain Property.--(a) In  
10 addition to [the] any restrictions made by other provisions of  
11 this act in particular cases, no borough shall exercise the  
12 right of eminent domain as against land now occupied by any  
13 building which was used during the Colonial or Revolutionary  
14 period as a place of assembly by the Council of the Colony of  
15 Pennsylvania, the Supreme Executive Council of the Commonwealth  
16 of Pennsylvania, or the Congress of the United States; or as  
17 against the land occupied by any fort, redoubt, or blockhouse  
18 erected during the Colonial or Revolutionary period, or any  
19 building used as headquarters by the Commander-in-Chief of the  
20 Continental Army; or as against the site of any building, fort,  
21 redoubt, blockhouse, or headquarters, which are preserved for  
22 their historic associations and not for private profit. The  
23 Colonial and Revolutionary period shall be taken as ended on  
24 September 3, 1783.

25 (b) No land or property used for a cemetery, burying ground  
26 or place of public worship may be taken or appropriated by  
27 virtue of any power contained in this article.

28 Section 188. The act is amended by adding a section to read:

29 Section 1502.1. Declaration of Intention.--A borough shall  
30 declare its intention to acquire, enter upon, take, use and

appropriate any private property or land for any of the purposes  
authorized by this article through a duly enacted ordinance.

Section 189. Section 1503 of the act, added October 9, 1967  
(P.L.399, No.181), is amended to read:

Section 1503. Application of [the Act of June 22, 1964 (P.L.  
84)] 26 Pa.C.S.--[Notwithstanding any of the provisions of this  
act, all] All eminent domain proceedings shall conform to the  
provisions of [the act of June 22, 1964 (P.L.84), known as the  
"Eminent Domain Code."]  
26 Pa.C.S. (relating to eminent domain),  
including, but not limited to, payment of damages and costs.

Section 190. Article XV subdivision (b) heading and section  
1525 of the act, repealed in part April 28, 1978 (P.L.202,  
No.53), are repealed:

[ (b) Procedure for the Assessment of Benefits by Viewers

Section 1525. Assessment of Benefits.--The viewers shall  
assess the total cost of the improvement, or so much thereof as  
may be just and reasonable, upon the lands or properties  
peculiarly benefited.]

Section 191. Section 1547 of the act is repealed:

[Section 1547. Assessments to Bear Interest.--All  
assessments for benefits, costs, and expenses shall bear  
interest at six percent per annum from the expiration of thirty  
days after they shall have been finally ascertained, and shall  
be payable to the treasurer of the borough.]

Section 192. Article XV subdivision (c) heading of the act  
is reenacted to read:

(c) Damages for Injury to Property

Section 193. Section 1561 of the act is amended to read:

Section 1561. Right to Damage Given in Certain Cases.--The  
right to damage against boroughs is given to all owners or

1 tenants of lands, property, or material, abutting on, or through  
2 which pass, streets, injured by the vacating of [such] the  
3 streets, or the vacation of bridges and piers, abutments and  
4 approaches therefor.

5 Section 194. Sections 1562, 1563 and 1565 and Article XVI  
6 heading of the act are repealed:

7 [Section 1562. Juries of View to Assess Damages and  
8 Benefits.--All juries of view for assessing damages for taking,  
9 using, occupying, or injuring land, property, or material, are  
10 directed to assess the damages, provided for in the preceding  
11 section, against boroughs, and the benefits in connection  
12 therewith, and make a report thereof to the court.

13 Section 1563. Appeals from Viewers' Reports.--The right of  
14 appeal to the court of common pleas, the right of trial by jury,  
15 and the right to file exceptions are given to any party not  
16 satisfied with such report.

17 Section 1565. Damages for Vacations.--Whenever viewers are  
18 appointed to vacate any street, and the vacation of the same  
19 takes no land from the owner abutting thereon, if, in the  
20 opinion of the viewers, such vacation damages the property of  
21 the abutting owner, they may award damages to such owner as  
22 though land has been actually taken, and such damages shall be  
23 ascertained as provided in the law governing eminent domain.

24 ARTICLE XVI

25 LAND SUBDIVISION]

26 Section 195. Article XVII heading and Article XVII  
27 subdivision (a) heading of the act are reenacted to read:

28 ARTICLE XVII

29 STREETS

30 (a) General Provisions Relating to Streets

Section 196. Section 1701 of the act is amended to read:

Section 1701. Definitions.--The following words and terms, as used in this article, shall be construed as follows:

(1) "Street" shall mean and include any street, [as defined in section 111 of this act] road, lane, court, cul-de-sac, alley, public way and public square, either for or intended for public use, and shall include the cartway, sidewalk, gutter, [and/or] and the right-of-way area, whether or not [such] the street, or any part [thereof] of the street, is owned in fee by others than the borough. Streets shall be of two classes, opened and unopened.

(2) "Opened streets" shall mean and include all streets within the borough used as public passageways.

(3) "Unopened streets" shall mean and include all streets within the borough [not] neither used as a public passageway, nor accepted or maintained, but [placed on the] plotted in one of the following:

(i) a borough plan [for future or prospective use, or placed on the plan of a real estate project, or referred to in individual deeds.] or official map adopted in accordance with the "Pennsylvania Municipalities Planning Code";

(ii) an ordinance laying out the street in accordance with this article;

(iii) a subdivision or land development plan; or

(iv) an individual deed.

(4) "Laying out" shall mean and include the plotting of an unopened street or portion [thereof] of the street on [the] a borough plan [or on the plan of a real estate development] or official map adopted in accordance with the "Pennsylvania Municipalities Planning Code," on a subdivision or land

1 development plan or by the enactment of an ordinance adopted in  
2 accordance with this article, and shall include the plotting of  
3 an unopened street in any case where any of the lines of the  
4 same are proposed to be revised, or in any case where the same  
5 was never previously laid out, although [such] the street may  
6 have been opened and used.

7 (5) "Opening a street" shall mean and include the  
8 construction and grading of a street or portion thereof and the  
9 act of physically taking possession of an area or laid-out  
10 street for the purpose of making the same usable to the  
11 traveling public.

12 (6) "Improving a street" shall mean and include any work  
13 upon any street or portion thereof done or proposed to be done  
14 in order to open the same, if [such] the street shall not  
15 previously have been opened, or if previously opened, to make  
16 the same more usable, or more suitable for use by the traveling  
17 public or safer for such use, and shall include, but shall not  
18 be limited to grading, paving, curbing and macadamizing.

19 (7) "Portion [thereof]" shall mean and include a portion  
20 either of the width or of the length of a street and, therefore,  
21 opening a portion of a street may mean extending or widening a  
22 street, and vacating a portion of a street may mean closing or  
23 narrowing a street.

24 (8) "Personal notice" shall mean and include notice upon the  
25 owner of a premises either by personal service upon [such] the  
26 owner or by certified mail to [such] the owner at [his] the  
27 owner's last known address, or where service shall not have been  
28 successfully made by either of the two methods first mentioned  
29 herein, then by leaving such notice at or upon [such] the  
30 premises.

(9) "Person" shall mean and include a natural person,  
association, firm, corporation or political subdivision.

Section 197. Sections 1702 and 1703 of the act are repealed:

[Section 1702. Right of Borough to Take Over Streets.--Any  
borough shall have the right at any time to take over, by laying  
out and/or opening the same--

(1) Any street as it appears upon the borough plan;

(2) Any street, or portion thereof, which the borough shall  
determine to acquire by the exercise of its rights under the  
power of eminent domain, by following the procedure set forth in  
the law governing eminent domain;

(3) Any street to which the public shall have acquired  
rights by constant use over a period exceeding twenty-one years;

(4) Any street or portion thereof, laid out or constructed  
by any person, which the borough shall see fit to take over or  
accept as provided in this article.

Section 1703. Dedication of Streets Privately Constructed.--  
No borough shall acquire any right in or responsibility for any  
street privately constructed until dedication of such street  
shall have been presented to and accepted by the borough and  
until such dedication shall have been recorded in the county  
office for the recording of deeds.]

Section 198. Section 1704 of the act is amended to read:

Section 1704. Streets Connecting With Street of Other  
Municipality [or Township].--No action shall be taken under this  
article that would result in the change of location or grade, or  
the vacation of any street or portion thereof that connects with  
a street of another municipality [or township], without approval  
of the court of [quarter sessions] common pleas of the county in  
which [such] the municipality [or township] is located, unless

1 [such] the municipality [or township] shall itself first file  
2 with the borough secretary its approval of [such] the proposed  
3 action.

4 Section 199. Sections 1705 and 1706 of the act are reenacted  
5 to read:

6 Section 1705. Entry on Land to Maintain Marks and  
7 Monuments.--The borough council, its agents and employes, may  
8 enter upon any land or property, and maintain marks and  
9 monuments, so far as the council may deem necessary, in carrying  
10 out its powers and duties under this article.

11 Section 1706. Exclusive Nature of Provisions.--The  
12 provisions in this article, as applicable to the dedication,  
13 acceptance, laying out, opening and vacation of streets, shall  
14 be exclusive, and no streets shall be acquired, laid out, opened  
15 or vacated by any borough except under such provisions.

16 Section 200. The act is amended by adding sections to read:

17 Section 1707. Failure of Council to Hold Hearing.--If, after  
18 the filing of a petition pursuant to this article, council fails  
19 to hold a required hearing, any aggrieved party may file a  
20 mandamus action in the court of common pleas requesting that a  
21 hearing be held.

22 Section 1708. Street Lighting, Ornamental Lighting and  
23 Traffic Control Signals and Devices.--Council may provide street  
24 lights and ornamental lighting and make regulations for the  
25 protection of lighting. Council may assess the costs for the  
26 erection of lighting in accordance with Article XXI-A. Council  
27 may provide for the erection, maintenance and operation of  
28 traffic control signals and devices in accordance with 75  
29 Pa.C.S. (relating to vehicles).

30 Section 201. Article XVII subdivision (b) heading of the act



1 is reenacted to read:

2 (b) Plan of Streets

3 Section 202. The act is amended by adding a section to read:

4 Section 1712. Borough Street Plan.--(a) A borough that has  
5 not maintained an accurate plan of borough streets adopted in  
6 accordance with this act prior to the effective date of this  
7 section may only adopt a plan of streets pursuant to the  
8 "Pennsylvania Municipalities Planning Code," governing the  
9 adoption of an official map.

10 (b) If a borough maintains a plan of streets adopted prior  
11 to the effective date of this section, or maintains an official  
12 map containing opened and unopened streets, a street laid out in  
13 accordance with this act by ordinance or by final approval of a  
14 subdivision or land development plan shall be deemed an  
15 amendment to the plan. Notwithstanding any other provision of  
16 law, a deemed amendment as provided in this section and any  
17 subsequent placement of the street on a plan shall not be  
18 subject to public notice or public hearing, provided that the  
19 street has been laid out in accordance with the requirements of  
20 this article.

21 (c) The maintenance of a plan of streets or official map  
22 shall not be required in order for a borough to lay out streets  
23 in accordance with section 1721.2(b) or lay out and open a  
24 street in accordance with section 1724.

25 Section 203. Article XVII subdivision (c) heading of the act  
26 is reenacted to read:

27 (c) Laying Out Streets

28 Section 204. The act is amended by adding sections to read:

29 Section 1721.1. Power to Lay Out, Open, Etc.--(a) In  
30 accordance with the provisions of this article, boroughs may,

1 with or without petition of abutting property owners, lay out,  
2 open, widen, straighten, alter, extend and improve, and may  
3 establish or reestablish the grades of, and keep in order and  
4 repair and in safe passable condition, any street or portion of  
5 a street within the borough limits, or may vacate the same  
6 whenever deemed expedient for the public good and provide for  
7 the costs of alteration.

8 (b) Boroughs may lay out or open:

9 (1) any street, or portion of a street, as it appears upon a  
10 borough plan, or an official map adopted in accordance with the  
11 "Pennsylvania Municipalities Planning Code," or is described in  
12 an ordinance adopted in accordance with this article;

13 (2) any street, or portion of a street, which the borough  
14 shall determine to acquire by eminent domain;

15 (3) any street to which the public shall have acquired  
16 rights by constant use over a period exceeding twenty-one years;  
17 or

18 (4) any street or portion of a street, laid out or  
19 constructed by any person, which the borough shall see fit to  
20 open or accept as provided in this article.

21 Section 1721.2. Laying Out Streets; Procedure.--(a) Any  
22 street identified in a plan of streets, an official map adopted  
23 in accordance with the "Pennsylvania Municipalities Planning  
24 Code," or identified in a recorded subdivision or land  
25 development plan shall be deemed to be laid out for purposes of  
26 this act.

27 (b) Boroughs shall have the authority, by ordinance, to lay  
28 out any area for future opening as a public street. The proposed  
29 ordinance laying out such street shall be advertised in a  
30 newspaper of general circulation once a week for two successive

1 weeks. On or before the publication of the first advertisement,  
2 personal notice shall be provided to all owners of any property  
3 abutting the proposed street or through which the proposed  
4 street is to be laid out, and, if the proposed street will lead  
5 into an adjacent municipality, a copy of the proposed ordinance  
6 shall be sent to the adjacent municipality. The proposed  
7 ordinance shall have appended to the ordinance or referenced a  
8 map sufficient to apprise the public of the proposed location,  
9 profile and dimensions of the street, and shall list the names  
10 of the owners of any property through which the proposed street  
11 has been laid out.

12 (c) Within ten days after the second publication of the  
13 notice required in subsection (b), any interested party may  
14 petition council for a hearing, which council shall hold within  
15 sixty days after the date of the petition. Council shall give at  
16 least fifteen days' notice of the hearing in a newspaper of  
17 general circulation and by personal notice to persons entitled  
18 to such notice under subsection (b). Council may enact the  
19 ordinance no later than thirty days following the date of the  
20 hearing, or, where no timely petition has been filed, within  
21 thirty days of the second publication of the notice required by  
22 subsection (b). The enactment of the ordinance shall constitute  
23 public notice of the borough's intent to recognize the street  
24 within the system of borough streets and the borough's rights in  
25 the street. Within thirty days of the enactment of the  
26 ordinance, any party aggrieved by council's action may appeal to  
27 the court of common pleas.

28 (d) If, at the time of the enactment of an ordinance in  
29 accordance with subsection (c), the lines of the laid out street  
30 include property not subject to use as a public passageway, the

ordinance shall be filed with the recorder of deeds of the  
county where the borough is located. The recorder of deeds shall  
index the ordinance by name of borough, name of the property  
owner, and, if applicable, parcel number, of the property  
through which the proposed street is laid out.

(e) Whenever a street shall have been laid out by ordinance  
as provided in this section, the owner or subsequent owner shall  
have no right to damages for buildings or improvements placed on  
streets after the date of enactment, and the buildings or  
improvements shall be removed at the expense of the landowner  
after the opening of the street in accordance with this act.

(f) The laying out of a street, without opening the street,  
shall create no right to public use of the street and shall not  
constitute the taking or acceptance of any property or obligate  
the borough to improve or maintain the street or the property on  
which the street has been laid out.

(g) Nothing in this section may affect the validity or legal  
effect of a street laid out in accordance with law prior to the  
effective date of this section.

Section 205. Section 1723 of the act is repealed:

[Section 1723. Effect of Laying Out Street Without Opening  
Thereof.--The laying out of a street, without opening the same,  
shall create no right to public use of such street.]

Section 206. Section 1724 of the act, amended April 28, 1978  
(P.L.76, No.36) and repealed in part October 5, 1980 (P.L.693,  
No.142), is amended to read:

Section 1724. Effect of [Failure to Open Street After its]  
Laying Out Street.--(a) At any time after any street or portion  
thereof shall have remained laid out but not opened for a period  
of ten years or longer, any owner or owners of fifty percent of

1 the front feet of the land over which [such] the street or  
2 portion thereof was laid out may petition the borough council to  
3 [remove such street from the plan of streets and to] cancel the  
4 laying out [thereof] of the street. Council shall thereupon,  
5 following at least fifteen days' notice in a newspaper of  
6 general circulation [in the borough], and at least fifteen days'  
7 personal notice to the owners of all real estate abutting upon  
8 the land over which [such] the street or portion [thereof] of  
9 the street was laid out, hold a public hearing on the matter.  
10 Council may, on motion, deny the petition, or, by ordinance,  
11 grant [such] the petition and [remove such street or portion  
12 thereof from the borough plan and] cancel the laying out  
13 thereof. Any person aggrieved by the decision of the council,  
14 either granting or denying [such] the petition, may appeal  
15 therefrom. The ordinance providing for the cancellation of the  
16 laying out of a street shall be filed with the recorder of deeds  
17 in accordance with section 1721.2(d).

18 (b) Whenever any street shall have been laid out and shall  
19 not have been opened to, or used by the public for a period of  
20 twenty-one years, [such] the street shall not thereafter be  
21 opened without the consent of at least fifty-one percent of the  
22 number of owners of the abutting real estate and without the  
23 consent of the owners of at least fifty-one percent of the  
24 property abutting [such] the street, based on a front foot  
25 basis.

26 Section 207. Article XVII subdivision (d) heading and  
27 sections 1731, 1732, 1733, 1734 and 1735 of the act are amended  
28 to read:

29 (d) Opening [and Acceptance of Streets]; Acceptance  
30 and Vacation of Streets

Section 1731. Authority to Open and Vacate Streets;  
Procedure.--[Any borough] (a) Council shall have authority, by  
ordinance [(i)], to [open]:

(1) Open any street or portion thereof previously laid  
out[;] or [(ii)] simultaneously to lay out and open any street  
or portion thereof. Any street or portion [thereof] of a street  
so opened shall be a public street of the borough. [No such  
ordinance shall become effective until thirty days after the  
enactment thereof. Within ten days after the enactment of any  
such ordinance, the borough shall give personal notice to the  
owners of all property abutting the street so proposed to be  
opened. During such thirty-day period between the enactment and  
taking effect of such ordinance, any interested party may  
petition council for a hearing, which council shall hold within  
thirty days after the date of such petition, and of which the  
borough shall give at least fifteen days' notice in a newspaper  
of general circulation in the borough. Any such petition shall  
serve to stay the effective date of such ordinance, until  
council shall have held such hearing and shall have acted upon  
such petition by motion, or, in case of further appeal, until  
the court shall have finally disposed of the matter. After such  
hearing and within thirty days after action by council upon such  
petition, any party aggrieved by council's action thereupon may  
appeal to the court of quarter sessions.]

(2) Vacate or close any street or portion of a street  
previously opened or laid out, provided that no street or  
portion of a street providing the sole means of access to any  
tract of land shall be vacated without the consent of those to  
whom access would be denied. Vacation of a street shall  
terminate all public right in or to the street but shall not

1 affect any private rights acquired by any of the owners of  
2 abutting property.

3 (b) The proposed ordinance, opening or vacating any street  
4 or portion of a street shall be advertised in a newspaper of  
5 general circulation once a week for two successive weeks. On or  
6 before the publication of the first advertisement, personal  
7 notice shall be provided to all owners of any property abutting  
8 the street proposed to be opened or vacated. The proposed  
9 ordinance shall have appended to it or shall reference a map or  
10 a survey sufficient to apprise the public of the proposed  
11 location, profile and dimensions of the street, and shall list  
12 the names of the owners of any property abutting the street.

13 (c) Within ten days after the second publication of the  
14 notice required under subsection (b), any interested party may  
15 petition council for a hearing, which council shall hold within  
16 sixty days after the date of the petition. Council shall give at  
17 least fifteen days' notice of the hearing in a newspaper of  
18 general circulation and by personal notice to persons entitled  
19 to notice under subsection (b). Council may enact the ordinance  
20 no later than thirty days following the date of the hearing or,  
21 where no timely petition has been filed, within thirty days of  
22 the second publication of the notice required under subsection  
23 (b). Within thirty days of the enactment of the ordinance, any  
24 party aggrieved by council's action may appeal to the court of  
25 common pleas.

26 Section 1732. Petition for Opening or Vacating Street;  
27 Action Thereon.--(a) Any person or persons, constituting a  
28 majority in number and interest of the owner of the real estate  
29 abutting upon any area not opened as a street or abutting upon  
30 an existing street or portion of a street, may petition the

1 council to [open]:

2 (1) Open or lay out and open such area as a street or  
3 portion thereof.

4 (2) Vacate a street or portion of a street.

5 (b) Council shall hold a hearing [upon such] after receiving  
6 a petition filed with council in accordance with subsection (a),  
7 following at least fifteen days' personal notice to all owners  
8 of abutting real estate not joining in [such] the petition, and  
9 following at least fifteen days' notice thereof in a newspaper  
10 of general circulation [in the borough]. Following such hearing,  
11 council shall either by motion deny [such] the petition or by  
12 ordinance open, [or] lay out and open [such] or vacate the  
13 street or portion [thereof] of the street. All provisions of  
14 section 1731 [hereof] applicable to ordinances enacted by  
15 authority of that section shall apply to ordinances enacted by  
16 authority of this section.

17 (c) A petition for the vacation of any street or portion of  
18 a street may release the borough from all damages sustained as a  
19 result of the vacation if the petition is signed by the owners  
20 of all the property abutting upon the street or portion of the  
21 street and, where the release shall have been included in the  
22 petition, no proceedings for award of damages may be had and no  
23 damages as a result of the vacation shall under any conditions  
24 be awarded to any abutting property owner.

25 Section 1733. [Procedure for Opening Street;] Action for  
26 Damages and Benefits; Award [Thereof].--(a) Upon the effective  
27 date of an ordinance enacted to open a street or portion of a  
28 street by authority of section 1731 or 1732 [hereof], the  
29 borough shall have authority to enter upon and take possession  
30 of the street or portion thereof opened by [such] the ordinance,



1 if no structures are upon [such] the street. If any structure  
2 shall have been located upon [such] the street or portion  
3 [thereof] of the street so opened, prior to the laying out of  
4 [such] the street or prior to the simultaneous laying out and  
5 opening [thereof, such] of the street, the street shall not be  
6 opened until the owner of [such] the structure shall have been  
7 given sixty days' personal notice to vacate the same. [If any of  
8 the parties cannot agree upon damages sustained by reason of the  
9 opening of any street or portion thereof, such damages shall be  
10 assessed by a jury of view under the provisions of the law  
11 governing eminent domain.] Council shall not be required to file  
12 any bond or security for the exercise of the right granted by  
13 this section.

14 (b) All parties whose ground is taken in the opening of a  
15 street or portion [thereof] of the street shall have three years  
16 from and after the effective date of the ordinance opening  
17 [such] the street or portion [thereof] of the street in which to  
18 bring an action for damages resulting [therefrom] from the  
19 opening of the street or portion of the street. In case of the  
20 assessment of damages for the opening of any street or portion  
21 [thereof] of the street, the award of damages, if any, shall  
22 include all damages resulting from the grade at which [such] the  
23 street or portion [thereof] of the street is to be opened; the  
24 plan attached to the report of the viewers awarding the damages  
25 shall [have therein] include a profile plan showing the existing  
26 grade as well as the grade to which [such] the street or portion  
27 [thereof] of the street is to be opened. Any costs and expenses  
28 which cannot be assessed upon property benefited shall be paid  
29 by the borough.

30 (c) If the parties cannot agree upon damages sustained by

1 reason of the opening or vacation of any street or portion of a  
2 street, the damages shall be assessed by a jury of view under  
3 the law governing eminent domain.

4 Section 1734. Acceptance and Dedication of Streets.--(a)

5 Any borough may, by ordinance, accept any opened street not  
6 previously dedicated to or laid out by the borough, by following  
7 the procedure set forth in section 1731 or 1732 [hereof], and  
8 the effect of [such] the acceptance shall be the same as of  
9 opening [such street: Provided, That no] the street. No street  
10 may be accepted unless [such] the street connects with at least  
11 one other previously opened street or State highway.

12 (b) No borough shall acquire any right in or responsibility  
13 for any street privately constructed until dedication of the  
14 street shall have been presented to and accepted by the borough  
15 and until the dedication shall have been recorded in the county  
16 office for the recording of deeds.

17 Section 1735. Streets Not to Be Constructed, or Dedicated or  
18 Opened to Travel Without the Approval of Council.--(a) No

19 person shall construct, dedicate, or open to travel any street,  
20 or any drainage facilities in connection [therewith] with the  
21 street, for public use or travel or for the common use of  
22 occupants of buildings abutting thereon in any borough, without  
23 first submitting suitable plans [thereof] to the council [for  
24 its approval. Such] and obtaining its approval. The plans shall  
25 be prepared in accordance with [such] rules and regulations as  
26 may be prescribed by the council, and shall show the profiles of  
27 [such] the street, the course, structure and capacity of any  
28 drainage facilities, and the method of drainage of the adjacent  
29 or contiguous territory, and also any other or further details  
30 that may be required under the rules or regulations adopted by

1 the council.

2 (b) The provisions of the "Pennsylvania Municipalities  
3 Planning Code" shall govern the construction, security  
4 requirements and dedication of streets and connected drainage  
5 facilities when the streets proposed to be constructed are part  
6 of a plan required by an ordinance adopted pursuant to the  
7 "Pennsylvania Municipalities Planning Code."

8 (c) Before acting upon [any such] plans not subject to  
9 review under subsection (b), [the] council may, at its  
10 discretion, arrange for a public hearing after giving such  
11 notice as it may deem desirable in each case. [The council is  
12 authorized to] Council may alter [such] the plans, and [to]  
13 specify [any] changes or modifications of any [kinds, which it  
14 may deem necessary with respect thereto,] kind and may make its  
15 approval of [such] the plans subject to [any such] alterations,  
16 changes or modifications. Any plans, when so approved, shall be  
17 signed on behalf of the borough by such officer as the council  
18 may designate, and shall be filed where the same shall be  
19 available to public inspection among the records of the borough  
20 at all reasonable times. [No street, or any drainage facilities  
21 in connection therewith, shall be constructed or dedicated for  
22 public use or travel, except in strict accordance with plans so  
23 approved by the council, or with further plans subsequently  
24 approved by it in the same manner.

25 In any case where council has heretofore required or shall  
26 hereafter require the construction or improvement of streets or  
27 parts of streets, or of any drainage facilities in connection  
28 therewith, or the posting of a bond or other security for so  
29 doing, within any parts or subdivisions of a borough, as a  
30 condition to approval of any plan thereof, and the materials or

1 other specifications for such construction or improvements are  
2 required by the borough to be of better quality or type or  
3 otherwise superior to and more costly than those of most of the  
4 already existing streets and drainage facilities in connection  
5 therewith of the borough, or of the particular zone of the  
6 borough, in case it has a zoning ordinance, the cost of such  
7 construction or improvement shall be allocated and paid in  
8 accordance with the provisions of section 1761 of this act, and  
9 the submission of a plan shall not be deemed a petition for the  
10 construction or improvements so required, but if the borough  
11 shall require substantially the same quality or type and  
12 specifications of street and drainage facilities as generally  
13 exists either in the borough, or, if the borough has a zoning  
14 ordinance, in the particular zone involved, the submission of a  
15 plan shall be deemed a petition therefor by a majority in the  
16 number of feet assessable, properties abutting thereon, and the  
17 cost of such constructions and improvements shall be paid in  
18 accordance with the provisions of section 1761 of this act under  
19 such circumstances: Provided, That council and the person or  
20 persons submitting a plan may in all cases, by agreement,  
21 provided otherwise as to such costs: And provided further, That  
22 this section shall not authorize the recovery or avoidance of  
23 any such costs heretofore agreed to or paid. Whenever council  
24 requires the construction or improvement of streets or parts  
25 thereof, it shall establish or cause to be established the  
26 grades of such streets or parts, or shall approve the grades  
27 indicated upon the plan submitted before such streets or parts  
28 are improved or constructed. Council's approval of plans,  
29 whether or not such plans are subject to any such conditions as  
30 to streets, parts of streets, or drainage facilities in

1 connection therewith, shall constitute the streets as shown upon  
2 the plans so approved as streets of the borough, any plan so  
3 approved as filed and as recorded, indicate clearly all such  
4 constructions and improvements required to be made, the grades  
5 thereof, the materials and other specifications required, and  
6 the allocation of cost thereof, as provided by law or as agreed  
7 upon.] No approval of plans by council may obligate or require  
8 the borough to construct, reconstruct, maintain, repair or grade  
9 any street or drainage facilities associated therewith.

10 (d) In any case where the borough council shall refuse to  
11 approve any plans submitted to it, any person aggrieved by the  
12 action of council may, within thirty days after the action,  
13 appeal from the action, by petition to the court of common pleas  
14 of the county which court shall hear the matter de novo, and,  
15 after hearing, may enter decree affirming, reversing or  
16 modifying the action of the council as may appear just. The  
17 court shall designate the manner in which notice of the hearing  
18 of an appeal shall be given to all parties interested. The  
19 decision of the court shall be final.

20 Any plan approved by the action of borough council or by the  
21 court on appeal shall be recorded by the person applying for  
22 approval in the office of the recorder of deeds in the county.

23 (e) If any street, or any drainage facilities in connection  
24 with the street, shall be opened, constructed or dedicated for  
25 public use or travel, except in strict accordance with plans  
26 approved by the council, or the court on appeal, as provided in  
27 this article, neither the borough council nor any other public  
28 authority shall place, construct or operate any sewer, drain,  
29 water pipe or other facilities, or do any work of any kind in or  
30 upon the street; and neither borough council nor any other

1 public authorities shall have any responsibility of any kind  
2 with respect to any such street, or drainage facilities,  
3 notwithstanding any use of the same by the public, provided that  
4 nothing in this article shall prevent the laying of trunk  
5 sewers, drains, water or gas mains, if required by engineering  
6 necessity for the accommodation of other territory.

7 (f) Any person who constructs, opens or dedicates any street  
8 or any drainage facilities in connection with a street, for  
9 public use or travel in any borough, without having first  
10 complied with the provisions of this article shall be guilty of  
11 a misdemeanor of the third degree and shall be subject to a suit  
12 for all costs and damages incurred by the borough or property  
13 owners in the course of correcting all substantive violations of  
14 State law or borough ordinance resulting from or arising out of  
15 the unlawfully constructed street or facilities. Nothing in this  
16 section shall be construed to apply to the Department of  
17 Transportation.

18 Section 208. Sections 1736 and 1737 and Article XVII  
19 subdivision (e) heading of the act are repealed:

20 [Section 1736. Appeal From Refusal of Council.--In any case  
21 where the borough council shall refuse to approve any plans  
22 submitted to it, any person aggrieved by the action of such  
23 council may, within thirty days after such action, appeal from  
24 such action, by petition to the court of quarter sessions of the  
25 county which court shall hear the matter de novo, and, after  
26 hearing, may enter decree affirming, reversing or modifying the  
27 action of the council as may appear just in the premises. The  
28 court shall designate the manner in which notice of the hearing  
29 of any such appeal shall be given to all parties interested. The  
30 decision of the court shall be final.

1 The action of the borough council, or the court on appeal, in  
2 approving any such plan, and such approved plan, shall be  
3 recorded by the person applying for such approval in the office  
4 of the recorder of deeds in the county.

5 Section 1737. Streets Opened Without Approval; Penalty.--If  
6 any street, or any drainage facilities in connection therewith,  
7 shall be opened, constructed or dedicated for public use or  
8 travel, except in strict accordance with plans approved by the  
9 council, or the court on appeal, as provided in this  
10 subdivision, neither the borough council nor any other public  
11 authority shall place, construct or operate any sewer, drain,  
12 water pipe or other facilities, or do any work of any kind in or  
13 upon such street; and neither borough council nor any other  
14 public authorities shall have any responsibility of any kind  
15 with respect to any such street, or drainage facilities,  
16 notwithstanding any use of the same by the public: Provided,  
17 however, That nothing herein contained shall prevent the laying  
18 of trunk sewers, drains, water or gas mains, if required by  
19 engineering necessity for the accommodation of other territory.

20 Any person who shall construct, open or dedicate any street  
21 or any drainage facilities in connection therewith, for public  
22 use or travel in any borough, without having first complied with  
23 the provisions of sections 1735 and 1736 of this act, or of any  
24 borough ordinance adopted pursuant thereto, shall be guilty of a  
25 misdemeanor, and, upon conviction thereof, shall be sentenced to  
26 pay a fine not exceeding one thousand dollars (\$1000), or suffer  
27 imprisonment not exceeding two years, or both, in the discretion  
28 of the court. Nothing herein contained shall be construed to  
29 apply to the Department of Highways of the Commonwealth.

30 (e) Vacating Streets]

Section 209. Section 1741 of the act, amended June 28, 1979 (P.L.55, No.23), is repealed:

[Section 1741. Authority to Vacate Streets; Procedure.--Any borough shall have authority, by ordinance, to vacate or close any street or portion thereof previously opened or laid out, but no street or portion thereof providing the sole means of access to any lot or tract of land shall be vacated unless those to whom access would be denied shall consent. No such ordinance shall become effective until forty days after the enactment thereof. Within ten days after the enactment of any such ordinance, the borough shall give written notice by United States certified mail return receipt requested to the personal address to the owners of all property abutting on the street or portion thereof so proposed to be vacated. If any street or portion thereof proposed to be vacated shall be on a recorded plan, the borough shall also give thirty days notice in a newspaper of general circulation in the borough of the proposed vacation directed to all the owners of property abutting on the street or portion thereof proposed to be vacated by name and directed generally to all other owners of property appearing on such plan. In the event any owners of property abutting on the street or portion thereof so proposed to be vacated cannot be found a copy of the ordinance shall be posted on the premises of such property owner within ten days after the enactment of any such ordinance. During such forty-day period between the enactment and taking effect of such ordinance, any interested party may petition council for a hearing, which council shall hold within thirty days after the date of such petition, and of which the borough shall give at least fifteen days' notice in a newspaper of general circulation in the borough. Any such



1 petition shall serve to stay the effective date of such  
2 ordinance, until council shall have held such hearing and shall  
3 have acted upon such petition by motion, or, in case of further  
4 appeal, until the court shall have finally disposed of the  
5 matter. After such hearing and within thirty days after action  
6 by council upon such petition, any party aggrieved by council's  
7 action thereupon may appeal to the court of common pleas.]

8 Section 210. Sections 1742, 1743 and 1744 of the act are  
9 repealed:

10 [Section 1742. Petition for Vacating Street; Action  
11 Thereon.--Any person or persons constituting a majority in  
12 number and interest of the owners of the real estate abutting  
13 upon any street or portion thereof may petition the council to  
14 vacate such street or portion thereof. Council shall hold a  
15 hearing upon such petition, following at least fifteen days'  
16 personal notice to all owners of abutting real estate not  
17 joining in such petition, and following at least fifteen days'  
18 notice thereof in a newspaper of general circulation in the  
19 borough. Following such hearing the council shall either by  
20 motion deny such petition or by ordinance vacate such street or  
21 portion thereof. All provisions of section 1741 hereof  
22 applicable to ordinances enacted by authority of that section  
23 shall apply to ordinances enacted by authority of this section:  
24 Provided, That any petition for the vacation of any street or  
25 portion thereof may release the borough from all damages  
26 sustained as a result of such vacation, if such petition is  
27 signed by the owners of all the property abutting upon such  
28 street or portion thereof, and, where any such release shall  
29 have been included in such petition, no proceedings for award of  
30 damages shall be had and no damages as a result of such vacation

1 shall under any conditions be awarded to any abutting property  
2 owner.

3 Section 1743. Action for Damages.--If the parties cannot  
4 agree upon the damages sustained by reason of the vacation of  
5 any street or portion thereof, such damages shall be assessed by  
6 a jury of view under the law governing eminent domain.

7 Section 1744. Effect of Vacation.--When a street or portion  
8 thereof shall have been vacated, all public right in or to such  
9 street or portion thereof shall cease, but such vacation shall  
10 not affect any private rights acquired by any of the owners of  
11 abutting property.]

12 Section 211. Article XVII subdivision (f) heading of the act  
13 is reenacted to read:

14 (f) Straightening and Relocating Streets

15 Section 212. Section 1751 of the act is amended to read:

16 Section 1751. Authority to Straighten and Relocate Streets;  
17 Procedure.--[Any borough] Council may, by ordinance, provide for  
18 straightening [and/or] or relocating any street previously  
19 opened, involving the opening of a portion of [such] the  
20 straightened [and/or relocate] or relocated street over land not  
21 previously a portion of [such] the street [and/or] or the  
22 vacation of a portion of such previously opened street no longer  
23 to be used for street purposes. [In such cases, such] The  
24 straightening [and/or] or relocation shall be considered as an  
25 opening [and/or] or vacation and shall be effected in the same  
26 manner and by the same procedure as provided in [prior sections  
27 of this article for opening or vacation of streets, as the case  
28 may be, but such opening and/or vacation] section 1731 but may  
29 be considered as a single proceeding, to be effected by  
30 enactment of a single ordinance[, and it shall not be necessary

1 to enact one ordinance for vacation and another for opening].

2 Section 213. Article XVII subdivision (g) heading of the act  
3 is reenacted to read:

4 (g) Improvement of Borough Streets

5 Section 214. Section 1761 of the act is amended to read:

6 Section 1761. Proceedings With or Without Petition.--

7 Boroughs with petition or without petition may improve streets,  
8 or parts [thereof] of streets, or a particular width, or  
9 additional widths [thereof] of streets, with or without the  
10 assistance or contribution of the United States of America, the  
11 [State] Commonwealth, the county, or a corporation occupying the  
12 thoroughfare and may assess and collect the whole cost [thereof]  
13 of improvement, or the whole cost not thus aided or contributed,  
14 or any part [thereof] of the cost, from the owners of real  
15 estate abutting on the improvement [by an equal assessment on  
16 the foot-front basis or according to benefits as provided in  
17 article XV of this act including the expenses of the necessary  
18 drainage. The council may make equitable adjustments for corner  
19 lots or lots of irregular shape where an assessment for full  
20 frontage might be unjust. Property not otherwise assessable  
21 shall become assessable by the petition of the owner or the  
22 owners' representative. In all cases where the whole width of  
23 the highway is being paved without State or County aid and more  
24 than two-thirds of the total cost is proposed to be assessed on  
25 abutters the borough shall for this purpose be considered as  
26 owner of non-assessable property, of street intersections and of  
27 the deducted frontage on equitable adjustment. At the discretion  
28 of the borough council, the total cost of the improvement or a  
29 lesser amount, if the borough desires, may be assessed on the  
30 assessable properties abutting without any deduction for non-

1 assessable property or street intersections, or for the  
2 equitable adjustments aforesaid, if the petition states that the  
3 total cost may be assessed on the abutters: Provided, if in  
4 connection with such proceedings any street or sidewalk is so  
5 graded or changed in grade that private property is damaged  
6 thereby and the damages have not been released or agreed upon,  
7 then the damages shall be awarded as provided in the law  
8 governing eminent domain, and benefits, costs, and expenses in  
9 connection with the improvement shall be assessed as provided in  
10 article XV: Provided further, That owners of all real estate  
11 abutting upon any such improvement shall be assessable for the  
12 cost thereof, whether such property owner be a natural person,  
13 partnership, association, firm or corporation, including but not  
14 limited to any nonprofit corporation or association, and any  
15 public utility corporation, or political subdivision, but not  
16 including the Commonwealth of Pennsylvania or the United States  
17 of America] in accordance with Article XXI-A.

18 Section 215. Sections 1762 and 1763 of the act are repealed:

19 [Section 1762. Notice of Assessments.--The borough secretary  
20 of the borough shall cause thirty days' personal notice of the  
21 assessment to be given to each party assessed.

22 Section 1763. Collection of Assessments.--If any assessment  
23 shall remain unpaid at the expiration of the notice, it shall be  
24 the duty of the borough solicitor to collect the same, with  
25 interest from the time of completion of the improvement, by  
26 action of assumpsit, or by a lien to be filed and collected in  
27 the same manner as municipal claims. When an owner has two or  
28 more lots, against which there is an assessment for the same  
29 improvement, all of such lots may be embraced in one claim.]

30 Section 216. Article XVII subdivision (h) heading of the act

1 is reenacted to read:

2 (h) Improvement of Streets Outside or Partly  
3 Outside Borough Limits

4 Section 217. Section 1771 of the act is amended to read:

5 Section 1771. [Agreements to Improve Boundary Streets.--]

6 Improvement of Streets Outside or Partly Outside Borough

7 Limits.--(a) Any borough may enter into a written agreement,

8 with any adjoining municipality [and/or township] for improving

9 streets which may be boundaries between [such] the borough and

10 municipality [or township], and may provide in [such] the

11 contract [that] for the division of the damages, costs, and

12 expenses of [such] the improvement [shall be divided between

13 such borough, municipality, and/or township in the proportion

14 agreed upon]. The borough may assess its share of [such] the

15 costs against the owner of property abutting upon the borough's

16 side of [such] the improvement, in the manner provided in

17 [sections 1761, 1762 and 1763 of this act] Article XXI-A or may

18 agree to pay any part of the costs, damages and expenses of the

19 improvements out of the general funds.

20 The portion of the damages, costs, and expenses agreed to be

21 paid by the borough, shall be ascertained as provided in the law

22 governing eminent domain[, and the benefits incident thereto

23 shall be assessed and collected in the manner provided in

24 article XV of this act; but the borough may agree to pay any

25 part of the costs, damages, and expenses of such improvements

26 out of the general funds].

27 (b) Whenever the center line of any street constitutes the

28 dividing line between any borough and a township located in the

29 same county, any agreement to improve and maintain the street

30 shall be made with the governing bodies of the township and, if

1 necessary, the county. The improvement shall be constructed and  
2 subsequent repairs shall be made under the supervision of the  
3 borough, and in compliance with plans to be agreed upon, in  
4 writing, by the parties. One-half of the cost of the repairs  
5 shall be borne by the borough. The borough may assess its share  
6 of costs against the owners of property abutting on the  
7 borough's side of the improvement, in the manner provided in  
8 Article XXI-A.

9     (c) Whenever any street, more than one-half the width or the  
10 entire width of which is within the limits of any borough, shall  
11 divide the borough from any other municipality, the street may  
12 be improved by the borough. The property abutting on the side of  
13 the street, which is located outside the limits of the borough  
14 making the improvements, may, for a depth of one hundred and  
15 fifty feet, plus one-half the width of the street, from its  
16 center line, be assessed for any and all municipal improvements  
17 to or on the street in accordance with Article XXI-A.

18     (d) A borough may appropriate and expend moneys for the  
19 improvement of a street, not to exceed one mile in length,  
20 outside the limits of the borough for the purpose of connecting  
21 improved streets in the borough with State highways, interstate  
22 highways and county roads.

23     Section 218. Sections 1772, 1773, 1774 and 1775 of the act  
24 are repealed:

25     [Section 1772. Proceedings to Improve Boundary Streets by  
26 Agreement with Counties and Townships.--Whenever the center line  
27 of any street constitutes the dividing line between any borough  
28 and a township located in the same county, the borough may enter  
29 into a contract with the commissioners of the county and the  
30 commissioners or supervisors of the township, as the case may

1 be, to improve such street. Such improvement shall be  
2 constructed and subsequent repairs shall be made under the  
3 supervision of the borough, and in compliance with the plans to  
4 be agreed upon, in writing, between such borough and the  
5 commissioners of the county and the commissioners or supervisors  
6 of the township. One-half of the cost of such repairs shall be  
7 borne by the borough. The borough may assess its share of such  
8 costs against the owners of property abutting on the borough's  
9 side of such improvement, in the manner provided in section  
10 1761, 1762 and 1763 of this act.

11 Section 1773. Streets More Than One-Half the Width of Which  
12 Are Within the Borough.--Whenever any street, more than one-half  
13 the width of which is within the limits of any borough, shall  
14 divide such borough from any other municipality or township,  
15 such street may be improved by the borough within which the  
16 greater width is located, in the same manner as if such street  
17 were entirely located within the limits of said borough. The  
18 property abutting on the side of such street, which is located  
19 outside the limits of the borough making such improvements,  
20 shall, for a depth of one hundred and fifty feet, plus one-half  
21 the width of such street, from its center line, be assessed for  
22 any and all municipal improvements to or on the said street in  
23 the same manner as such property would be assessed under the  
24 laws of the Commonwealth if it were entirely located within the  
25 limits of such borough.

26 Section 1774. Assessment on Property Outside Limits Where  
27 Boundary Line Street Entirely Within Borough.--Wherever any  
28 street, entirely within the limits of any borough, shall divide  
29 such borough from any other municipality or township, located in  
30 the same county, the property on the side of the street opposite

1 the line of the borough shall, for the depth of one hundred and  
2 fifty feet, be assessed for municipal improvements on such  
3 streets on which such property shall abut, in the manner  
4 provided by this article for assessments by the foot-front rule;  
5 and such improvements may be made, assessed, and collected in  
6 accordance with the provisions of this article for assessments  
7 by the foot-front rule.

8 Section 1775. Streets Outside Limits; Appropriations to  
9 Improve Connecting Links.--Any borough may, singly, or jointly  
10 with any other borough, city, township and/or county,  
11 appropriate and expend moneys for the improvement of streets  
12 outside the limits of such borough, for the purpose of  
13 connecting improved streets in such borough with State highways.  
14 No such street shall be improved which shall be more than one  
15 mile in length.]

16 Section 219. Article XVII subdivision (i) heading of the act  
17 is amended to read:

18 (i) Acquisition [and/or] or Use of Abutting  
19 Lands [for Embankments, Slopes, Fills and  
20 Culverts, or for Unobstructed View]

21 Section 220. Section 1781 of the act is repealed:

22 [Section 1781. Use of Abutting Lands for Embankments,  
23 Slopes, Fills, and Culverts.--In the improvement of any street  
24 or portion thereof, any borough may use as much of the land  
25 abutting on the same for the construction of embankments,  
26 slopes, fills and culverts, as may be necessary and proper for  
27 the completion of the improvement; and the assessment of  
28 damages, costs, and expenses, resulting thereby, shall be  
29 regarded as other assessments of damages, costs, and expenses,  
30 caused by the improvement of streets, in said borough, and shall



1 be assessed and paid, as is provided by the law governing  
2 eminent domain.]

3 Section 221. Section 1782 of the act is amended to read:

4 Section 1782. Acquisition of Property for Unobstructed  
5 View.--(a) Any borough may, singly or jointly with another  
6 [borough, city, county or township] municipality, acquire, by  
7 purchase or by the right of eminent domain, a free and  
8 unobstructed view down and across [such] lands located at or  
9 near the intersection of any two streets or highways or a street  
10 or highway and a railroad or railway or at a curve in any street  
11 or highway as may be necessary to assure a free and unobstructed  
12 view in all directions at such crossings, and to so prevent the  
13 use of [such] the lands for any purpose or in any manner which  
14 may interfere with or obstruct the view of persons traveling  
15 upon any such street or highway.

16 [Upon any such] (b) After condemnation, the borough [having  
17 had such view condemned] may, from time to time, abate or remove  
18 or cause to be abated or removed any obstruction to the view  
19 over and across [such] the lands except poles used in furnishing  
20 [telephone, telegraph or electric] service to the public.

21 (c) The proceedings for the condemnation of [such] the view  
22 over and across [such] lands and for the assessment of damages  
23 for property taken, injured or destroyed, or the portion thereof  
24 agreed to be paid by the borough if the taking is jointly with  
25 another [borough, city, county or township] municipality, shall  
26 be taken in the manner provided in the law governing eminent  
27 domain.

28 (d) Upon the purchase or condemnation of a view, the owner  
29 of [such] the lands may make every [such use thereof] use of the  
30 lands as will not interfere with a free and unobstructed view at

1 the dangerous crossing or curve [and, unless specially provided  
2 for in such purchase or condemnation proceedings, such purchase  
3 or condemnation shall be constructed to prevent the owner  
4 thereof from using the land for pasture or the growing of grass,  
5 oats, wheat or other crops which will not obstruct the vision  
6 more than wheat].

7 Section 222. Article XVIII heading of the act is reenacted  
8 to read:

9 ARTICLE XVIII

10 SIDEWALKS

11 Section 223. Sections 1801 and 1802 of the act are amended  
12 to read:

13 Section 1801. Power to Lay Out[, Ordain] and Establish  
14 Sidewalks and to Compel the Construction Thereof.--Any borough  
15 may, by ordinance, lay out[, ordain] and establish sidewalks,  
16 curbs, gutters and surface water drains along any street, and,  
17 with the consent of the Secretary of [Highways] Transportation  
18 of the Commonwealth, along any State highway, and may, with or  
19 without petition, require owners of property abutting on any  
20 street or State highway to grade, construct, drain, pave and  
21 repave the sidewalk, curb or gutter and keep [the same] them in  
22 repair, and in safe and usable condition along [such] the  
23 property, at such grades and under such regulations and  
24 specifications as council may prescribe[: Provided, That the].  
25 The word "sidewalk" as used in this article, shall mean and  
26 include the portion of a street located outside the cartway, and  
27 may include paved footway, unpaved grassplot, curb and gutter.

28 Section 1802. Sidewalks on Land Abutting State Highways and  
29 Along Roads Outside Borough.--Any borough may [ordain and], by  
30 ordinance, lay out sidewalks, gutters, [and/or] and surface

1 water drains upon land abutting the sides of State highways, and  
2 upon land abutting the sides of public roads, where such roads  
3 are outside the borough limits, but the land upon which [such]  
4 the sidewalks, gutters [and/or] and surface water drains are to  
5 be laid out is within the borough limits.

6 Section 224. Sections 1803 and 1804 of the act are reenacted  
7 to read:

8 Section 1803. Establishment of Grades.--Any borough may  
9 establish a grade or grades for sidewalks, which grade or grades  
10 may be separate and apart from the grade or grades established  
11 for the cartway or roadway.

12 Section 1804. Boroughs May Pay All or Part of Cost of  
13 Grading and Curbing.--The borough may pay all or any part of the  
14 cost and expenses of grading and curbing any sidewalk.

15 Section 225. Section 1805 of the act is amended to read:

16 Section 1805. Borough May Do Work; Collection of Cost.--Upon  
17 the [neglect] failure of any property owner to comply with any  
18 of the requirements provided in the preceding sections of this  
19 article, the borough may, after notice, cause the grading,  
20 paving, repairing, curbing, [and/or] and guttering to be done at  
21 the cost of [such] the owner, and may collect the cost [thereof]  
22 of the work and ten percent additional, together with all  
23 charges and expenses, from [such] the owner, and may file a  
24 municipal claim [therefor] for the amounts or collect the [same]  
25 amounts by action in assumpsit.

26 All [such] notices shall be served upon the owner of the  
27 premises to which the notice refers, if [such] the owner is a  
28 resident of the borough. If the owner is not a resident, then  
29 the notice may be served upon the agent or tenant of the owner,  
30 or upon the occupant of [such] the premises[, after such

premises, if]. If the owner has no agent or tenant or there is no occupier of [such] the premises, then service shall be by notice posted upon the premises. The notice required by this section shall specify a period of time of not less than thirty days for the owner to complete the specified work. If the work has not been completed after the specified time has elapsed, the owner shall be deemed to have failed to comply.

Section 226. Section 1806 of the act, amended December 21, 1988 (P.L.1413, No.171), is amended to read:

Section 1806. Emergency Repairs to Sidewalks.--In addition to the remedies now vested in boroughs to make repairs to sidewalks, any borough shall have power to make emergency repairs to any sidewalks [thereon, where, in the opinion of the officer or head of the department or committee lawfully having charge of sidewalk repairs, a dangerous condition exists that can be repaired by an expenditure of not more than five hundred dollars (\$500)] within the borough if an inspection of the sidewalk discloses that, and a certificate made by the officer or head of the department or committee lawfully having charge of sidewalk repairs specifies that, a dangerous condition exists that can be repaired by an expenditure of not more than one thousand dollars (\$1,000). Before [any such] repairs are made, a notice to make the repairs within forty-eight hours shall be served upon the owner of the [said] property. If the owner cannot be served within the county, notice may be served upon the agent of the owner or the party in possession, or if there is no agent or party in possession, the notice may be served by posting the same upon [such] the premises.

Upon the completion of the work, the cost [thereof] shall be a charge against the owner of the property, and shall be a lien,

1 until paid, upon the abutting property, provided a claim is  
2 filed [therefor] in accordance with the law providing for the  
3 filing and collection of municipal claims. [Any such] The charge  
4 may also be collected by action of assumpsit. This section is  
5 intended to provide an additional remedy for boroughs in  
6 connection with emergency repairs, where the actual cost of  
7 doing the work does not exceed [five hundred dollars (\$500)] one  
8 thousand dollars (\$1,000), and the certificate of the officer or  
9 head of the department or committee in charge of repairs to  
10 sidewalks shall be conclusive evidence of the existence of the  
11 emergency justifying the repair under the terms of this section.

12 Section 227. Article XIX heading of the act is reenacted to  
13 read:

14 ARTICLE XIX

15 BRIDGES, VIADUCTS AND UNDERGROUND

16 PASSAGEWAYS

17 Section 228. Sections 1901, 1902, 1903, 1904 and 1905 of the  
18 act are amended to read:

19 Section 1901. Construction or Acquisition and Maintenance of  
20 Bridges and Viaducts.--Any borough may locate and build, or  
21 acquire by purchase, condemnation or otherwise, any bridge or  
22 viaduct and the piers, approaches and abutments therefor, to be  
23 used and thereafter improved and maintained as a street, over  
24 any river, creek, stream, railroad or public or private property  
25 or over and across a combination of any of them, whether [such]  
26 the bridge or viaduct shall be wholly or partly within[, or  
27 partly within and partly without] the borough limits. The  
28 proceedings for laying out and opening [any such] a bridge or  
29 viaduct shall be the same as provided by this act for the laying  
30 out and opening of streets, and [any such] the bridge or viaduct

1 or portion [thereof] of the bridge or viaduct may thereafter be  
2 vacated under the same procedure as provided in this act for the  
3 relocation or vacation of streets or portions thereof.

4 Section 1902. Right to Appropriate Property; Assessment of  
5 Damages.--In any case where the borough shall not have agreed  
6 with the owner or owners for damages done, or likely to be done,  
7 by the erection of [any such] a bridge or viaduct, the borough  
8 may take and appropriate the land and property necessary, over  
9 and across which to erect [such] the bridge or viaduct and the  
10 damages caused by [such] the taking and appropriation shall be  
11 assessed according to the law governing eminent domain.

12 Section 1903. Boundary Bridges.--Whenever a bridge or  
13 viaduct shall cross the boundary line of a borough and another  
14 municipality [or township], the borough may [unite] enter into  
15 an intergovernmental cooperation agreement in accordance with 53  
16 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental  
17 cooperation) with [such] the municipality [or township] in the  
18 construction and maintenance of [such] the bridge, and shall  
19 [pay an equal share of the expenses incident thereto] apportion  
20 the costs as per the intergovernmental agreement.

21 Section 1904. Contracts With Railroads and Other Companies  
22 and With Counties.--The borough may also enter into a contract  
23 with the county commissioners, and also with railroads, street  
24 railways, and other companies, or parties interested, for the  
25 building and maintenance of [such] bridges or viaducts, and for  
26 the payment of any damages caused by the location or erection  
27 thereof. [Such] The contracts may stipulate that the borough,  
28 county, railroad company, street railway, or other company or  
29 party interested, shall pay a certain part of the contract price  
30 of the work, including damages; or may stipulate that each shall

1 construct a certain portion of the work, and may provide  
2 otherwise for the payment of damages.

3 When any railroad company, street railway, or other company  
4 or party interested, shall agree to pay a certain portion of the  
5 cost of [such] the work, it shall pay the same into the borough  
6 treasury; and the borough treasurer shall pay the same over to  
7 the contractor, as may be provided in the contract; but the  
8 amount to be paid by the county shall be paid directly to the  
9 contractor. The agreement may provide for the maintenance of the  
10 bridges and viaducts after their erection. Nothing [herein  
11 contained] in this section shall authorize any borough to  
12 contract with a county for the maintenance of any bridge or  
13 viaduct which does not cross a place over which the county is  
14 authorized to build bridges; but [such] the bridge or viaduct  
15 shall be maintained as a borough structure, and the borough may  
16 contract with any party interested, except the county, for the  
17 maintenance of the [same.] bridge or viaduct. Nothing in this  
18 section shall affect the powers or duties of the Public Utility  
19 Commission to the extent otherwise provided by law.

20 Section 1905. Overhead and Underground Passageways.--  
21 Whenever the comfort and safety of the residents of any borough  
22 and any adjoining municipality [or township] be enhanced by any  
23 overhead or underground passageway connecting with adjoining  
24 streets in either borough or municipality [or township], and  
25 extending to any plant or place of business where residents of  
26 [such] the borough are employed, [such] the borough may jointly  
27 with each adjoining municipality [or township], construct and  
28 maintain any [such] passageway or they may join with other  
29 interests in the construction and maintenance [thereof] of the  
30 passageway.

1 Section 229. Article XX heading of the act is reenacted to  
2 read:

3 ARTICLE XX

4 SANITARY SEWERS

5 Section 230. Article XX subdivision (a) heading and sections  
6 2001 and 2002 of the act are amended to read:

7 (a) Laying Out, [Ordaining and] Construction  
8 and Operation of Sanitary Sewers and Construction  
9 of Sewage Treatment Works

10 Section 2001. Power to Lay Out[, Ordain] and Construct.--  
11 [Boroughs, with the consent and permit of the Sanitary Water  
12 Board, and of the Water and Power Resources Board, where  
13 requested,] (a) (1) Upon enactment of an ordinance, boroughs  
14 may lay out[, ordain] and construct sanitary sewers and branches  
15 of sanitary sewers in streets and on public or private property,  
16 and may construct sewage treatment works on land owned or  
17 acquired for such purposes[, and]. Boroughs may pay the costs  
18 and expenses [thereof] of sanitary sewer systems and treatment  
19 works out of borough funds, or may assess the costs and expenses  
20 [of sanitary sewers as herein provided] pursuant to Article XXI-  
21 A.

22 (2) Boroughs may determine the location and the manner in  
23 which sanitary sewer systems shall be constructed. Sanitary  
24 sewers laid and constructed in streets may be located in the  
25 center of the street or [on either side of the cartway] in the  
26 right-of-way or [of] the curb lines [thereof] of the street in  
27 any street and may be for the service and use of properties on  
28 both sides of the street or on only one side of the street in  
29 which they are laid, as directed by the borough council[, and  
30 the costs and expenses of such sanitary sewers may be assessed



1 against properties benefited, accommodated or improved thereby  
2 regardless of the property line location, and regardless of  
3 whether any portion of a property so benefited, accommodated or  
4 improved shall physically abut upon such sanitary sewer. The  
5 term "sanitary sewer,"]. Boroughs shall have the authority to  
6 lay out and construct sanitary sewers in any street, any portion  
7 of which is within the limits of the borough, and which forms a  
8 portion of the boundary dividing the borough from any other  
9 municipal corporation within the same county, in the same manner  
10 and to the same extent as if the whole of the street was within  
11 the limits of the borough.

12 (3) Whenever any borough is maintaining and operating a  
13 sanitary sewer system and sewage treatment works, it shall be  
14 lawful for the borough to supply sewerage service to  
15 municipalities, persons and corporations outside the limits of  
16 the borough and to enter into contracts for service at rates not  
17 less than those required to be paid by persons and corporations  
18 within the limits of the borough. This privilege shall not  
19 conflict with the rights of any sewer company or the rights of  
20 any other borough.

21 (b) (1) If required by other law, a borough shall obtain  
22 the consent and permit of the Department of Environmental  
23 Protection, or other Federal, State or county entity, including  
24 the Pennsylvania Turnpike Commission, for the laying out and  
25 construction of a sanitary sewer and treatment works.

26 (2) Where construction beyond the limits of the borough is  
27 entirely within the limits of a State or county highway or the  
28 turnpike, a sanitary sewer may be constructed in or under the  
29 State or county highway, or turnpike, provided that written  
30 notice is given to the Department of Transportation, county

commissioners or Pennsylvania Turnpike Commission, respectively,  
and its consent obtained before construction is commenced.  
Permission shall not be unreasonably withheld.

(c) Borough council may by ordinance make regulations  
respecting the use and maintenance of the sanitary sewer system  
and treatment works. The regulations may:

(1) specify materials and substances which may or may not  
enter the public sewer or sewer system;

(2) require that certain types or classes of waste be  
subjected to treatment or to grinding or other reduction in size  
before entering into the sewer;

(3) restrict the quantity of waste material that may enter a  
sanitary sewer from any premises within any time interval; and

(4) require that property owners provide means other than  
the public sanitary sewers for disposal of storm, surface and  
roof water originating or accumulating upon their property.

Violations of the ordinance may be enforced by penalties.

(d) (1) "Sanitary sewer" or "sanitary sewer system," as  
used in this article, shall mean [and include] a sewer or sewers  
used for receiving and collecting sewage matter and liquid waste  
from the inside of buildings and structures[, and, in those  
boroughs where there shall be what is known as "combined  
sewers," receiving, in addition to such]. Storm water shall not  
be permitted to enter into a sanitary sewer. A sanitary sewer or  
sanitary sewer system shall not include a combined sewer.

(2) "Combined sewer" shall mean a sewer used for the  
receiving and collecting of sewage and liquid waste from the  
inside of buildings and structures, storm water, roof or surface  
drainage [or any of them, the term "sanitary sewer," as used in  
this article, shall include such combined sewers], sump pump

1 discharge and draining from foundation drains.

2 (3) "Sewer system," as opposed to a "sanitary sewer system,"  
3 shall be either a sanitary sewer or a combined sewer and shall  
4 include pump stations and force mains.

5 Section 2002. [Assessment According to Benefits.--Where a  
6 borough constructs sanitary sewers and desires to assess the  
7 costs and expenses upon property benefited, whether or not such  
8 property abuts upon such sewer, then on petition, viewers shall  
9 be appointed, as provided in article XV of this act, who shall  
10 assess the damages, costs, and expenses of the sanitary sewer  
11 upon the property benefited, accommodated or improved according  
12 to benefits, if sufficient can be found, but if not, then the  
13 deficiency when finally ascertained shall be paid by the  
14 borough. The proceedings of the viewers and the proceedings of  
15 their report shall be as provided in article XV of this act.]

16 Assessments.--Assessments, whether based according to benefits  
17 conferred or by the front foot basis, and assessment awards, if  
18 any, shall be calculated pursuant to Article XXI-A.

19 Section 231. Sections 2003, 2004 and 2005 of the act are  
20 repealed:

21 [Section 2003. Assessment by Foot-front Rule.--Where a  
22 borough constructs sanitary sewers and desires to assess the  
23 costs and expenses thereof by the foot-front rule, it may by  
24 ordinance provide that the expenses shall be assessed against  
25 the property benefited, improved or accommodated by any sanitary  
26 sewer, whether or not such property abuts upon such sewer, by  
27 the foot-front rule and may provide for equitable assessments  
28 and/or adjustments when special conditions exist where an  
29 assessment for the full frontage would be unjust. The secretary  
30 of the borough shall cause thirty days' notice of the assessment

1 to be given to each party assessed, either by service on the  
2 owner or his agent, or left on the assessed premises.

3 Section 2004. Places and Manner of Construction.--The  
4 borough shall fix the places along, where such sanitary sewer  
5 and branches thereof, shall be laid down, and shall prescribe  
6 the manner in which they shall be constructed.

7 Section 2005. Permit from Sanitary Water Board.--No contract  
8 for the construction of any sewer system or treatment works  
9 shall be entered into until a permit for the construction of the  
10 same shall have been obtained from the Sanitary Water Board.]

11 Section 232. Section 2006 of the act, amended October 9,  
12 1967 (P.L.399, No.181), is repealed:

13 [Section 2006. Assessments of Cost.--Whenever any borough  
14 shall construct any sanitary sewer and assess the cost thereof  
15 by the foot-front rule, the assessment, duly certified under the  
16 seal of the borough, attested by the president of council and  
17 secretary, shall be collectible from the owner of property  
18 benefited, improved or accommodated thereby.

19 Such certificate of assessment shall be prima facie evidence,  
20 in any suit for the recovery of same, of the correctness and  
21 validity of such assessment.

22 The assessment herein referred to shall be computed under the  
23 terms of the ordinance, but the individual assessments need not  
24 be expressed therein.]

25 Section 233. Sections 2007 and 2008 of the act are repealed:

26 [Section 2007. Collections of Assessments.--If the owners of  
27 property against which a foot-front assessment has been made  
28 shall refuse to pay such assessment within thirty days after  
29 notice of the same, it shall be the duty of the borough  
30 solicitor to collect the same, with interest from the time of

1 completion of the improvement, by action of assumpsit, or by  
2 lien to be filed and collected in the same manner as municipal  
3 claims. When an owner has two or more lots against which there  
4 is an assessment for the same improvement, all of such lots may  
5 be embraced in one claim.

6 Section 2008. Regulations of Borough.--The borough may  
7 enforce by penalties, such regulations as it may ordain with  
8 reference to the use and maintenance of such sanitary sewerage  
9 system and treatment works.]

10 Section 234. Sections 2009 and 2010 of the act are amended  
11 to read:

12 Section 2009. Extensions Beyond Borough Limits; Eminent  
13 Domain.--The borough may extend the necessary sewer mains, pipes  
14 and outlets beyond the limits of [such] the borough, to a point  
15 where [such] the sewage is to be disposed[;] or collected and  
16 received and shall have power to enter upon and condemn [such  
17 lands, property and materials] land for the construction of all  
18 [such] sewer mains, outlets, and treatment works as may be  
19 necessary for the disposal or the collection of [such] the  
20 sewage provided that the extension is in conformity with 26  
21 Pa.C.S. § 206 (relating to extraterritorial takings) and any  
22 other applicable requirement of 26 Pa.C.S. (relating to eminent  
23 domain).

24 Section 2010. Notice of Certain Ordinances.--No ordinance  
25 for any construction of sewers or treatment works beyond the  
26 limits of the borough, shall be [adopted] enacted until notice  
27 [thereof] of the ordinance has been given, by publication of the  
28 proposed ordinance, once a week for four weeks in one newspaper  
29 of general circulation [in the borough], and also by serving  
30 copies of [such] the proposed ordinance upon all land owners

1 through whose land [such] the sewer is to pass, or on whose  
2 lands any treatment works are to be located, at least ten days  
3 before [final action thereon. But no notice, as herein provided,  
4 shall be required where such construction beyond the limits of a  
5 borough is entirely within the limits of any street or State  
6 highway. In such cases a written notice shall be given to the  
7 corporate authorities of the municipality or township having  
8 jurisdiction over such street and consent of the State  
9 Department of Highways shall be obtained in the case of any  
10 State highway, before construction is commenced] the enactment  
11 of the ordinance.

12 Section 235. Section 2011 of the act is repealed:

13 [Section 2011. Security for Damages; Assessments.--Before  
14 entry shall be made upon private property without the owner's  
15 consent, for the purpose of laying any sewer or constructing any  
16 treatment works, security for all damages which may be done  
17 shall first be given to such owner in such form and in such  
18 amount as the court of common pleas of the county may direct.  
19 All damages caused by the construction of any such sewer or  
20 works, or by the taking of lands and materials, shall be  
21 ascertained in the manner provided in the law governing eminent  
22 domain for property taken, injured, or destroyed, and shall be  
23 paid out of the borough treasury.]

24 Section 236. Sections 2012 and 2013 of the act are amended  
25 to read:

26 Section 2012. Unlawful to Build Within Right-of-Way of  
27 Sanitary Sewers.--It shall be unlawful for any person to erect  
28 any building or make any improvement, within the right-of-way of  
29 any sanitary sewer laid out [or ordained to be laid out], after  
30 due notice [thereof;] of the laying out of the sanitary sewer,

1 and, if any [such] erection or improvement shall be made, no  
2 allowance shall be had [therefor] for the building or  
3 improvement in the assessment of damages.

4 Section 2013. Opening Sanitary Sewers.--(a) If any borough  
5 shall lay out [or ordain] any sanitary sewer, over or under  
6 private property, located in whole or in part within the limits  
7 of [such] the borough, and proceedings to open the same and to  
8 assess the damage arising therefrom shall not be proceeded with  
9 by the borough, within two years from the enactment of the  
10 ordinance, the whole proceeding shall be void.

11 (b) If any borough has laid out a sanitary sewer without the  
12 enactment of an ordinance prior to the effective date of this  
13 subsection and shall have not opened the same, the proceedings  
14 shall not be deemed to be void but the borough shall have two  
15 years from the effective date of this subsection to open the  
16 sanitary sewer or the whole proceeding shall be void.

17 Section 237. Article XX subdivision (b) heading and section  
18 2021 of the act are amended to read:

19 (b) Joint Sanitary Sewers

20 Section 2021. [Building Joint Sewers.--(a) Boroughs may  
21 jointly with other cities, boroughs or townships build and  
22 construct sanitary sewers, including trunk line sewers or drains  
23 and sewage treatment works, and may connect into such system  
24 existing sanitary sewers, and may assess their respective  
25 portions of the cost thereof, or so much thereof as may be  
26 legally assessable, upon property benefited, improved, or  
27 accommodated by the improvement, either by viewers or by the  
28 foot-front rule as provided in this article. Any portion of the  
29 cost of such improvement not assessed or not assessable shall be  
30 paid by the respective cities, boroughs, and townships joining,

1 as may be agreed upon.] Joint Sanitary Sewer Systems.--(a)  
2 Pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to  
3 intergovernmental cooperation), boroughs may contract with other  
4 municipal corporations providing for the joint construction or  
5 maintenance of sanitary sewer systems and for the joint  
6 construction onto existing sanitary sewer systems. The agreement  
7 shall provide for the apportionment of costs among the municipal  
8 corporations. The borough council may assess the borough's  
9 respective portion of the costs, as may be legally assessable,  
10 upon property benefited by the facilities pursuant to Article  
11 XXI-A. Any portion of the cost not assessed or assessable shall  
12 be paid by the respective municipal corporations under the  
13 agreement.

14 (b) The [boroughs, cities and townships] municipal  
15 corporations joining or contemplating joining in any [such]  
16 improvement, in order to facilitate the building of the [same]  
17 sanitary sewer system and in securing preliminary surveys and  
18 estimates, may by ordinance provide for the appointment of a  
19 joint sanitary sewer board composed of one representative from  
20 each of the [boroughs, cities, and townships] municipal  
21 corporations joining which shall act generally as the advisory  
22 and administrative agency in the construction of [such] the  
23 improvement[, ] and its subsequent operation and maintenance.  
24 [The members of such] Members of the joint sanitary sewer board  
25 shall serve for terms of six years each from the dates of their  
26 respective appointments and until their successors are  
27 appointed. The joint sanitary sewer board shall organize by the  
28 election of a [chairman] chair, secretary, and treasurer. The  
29 secretary and treasurer may be the same person. The [several  
30 boroughs, cities, and townships] municipal corporations may in



1 the ordinances creating the joint sanitary sewer board,  
2 authorize the board to appoint an engineer, a solicitor, and  
3 [such] other assistants as are deemed necessary, and agree to  
4 the share of the compensation of [such] those persons each  
5 [borough, city, and township,] municipal corporation is to pay.  
6 The members of the joint sanitary sewer board shall receive  
7 [such] compensation for attending board meetings [of the board]  
8 as [shall be fixed] established in the budget[,]  
9 prepared by the joint sanitary sewer board [for submission to,  
10 and adoption by, the several boroughs, cities, and townships, as  
11 hereinafter provided,] and submitted to and adopted by the  
12 municipal corporations. The members shall be entitled to actual  
13 expenses to be paid by the respective [boroughs, cities and  
14 townships which such] municipal corporations the members  
15 represent.

16 (c) The joint sanitary sewer board [shall have powers to]  
17 may adopt rules and regulations consistent with the requirements  
18 of this act to govern its proceedings, and shall prepare and  
19 suggest any practical measures and plans by which the joint  
20 improvement may be carried to successful completion[;] and plan  
21 the future development of the system, so as to conform to a  
22 general plan. It [shall have power to] may prepare a joint  
23 agreement or agreements for submission to and adoption by the  
24 [several boroughs, cities and townships] municipal corporations  
25 defining the advisory and administrative powers of the joint  
26 sanitary sewer board[;] and setting forth the consents of the  
27 [several boroughs, cities and townships] municipal corporations  
28 to the proposed improvement; the manner in which preliminary and  
29 final plans, specifications and estimates for the proposed  
30 improvement shall be prepared and adopted; how proposals for

1 bids shall be advertised and contracts let; the manner in which  
2 the costs of the improvement and other incidental and  
3 preliminary expenses in connection [therewith] with the  
4 improvement, and the future cost of operation and maintenance  
5 shall be equitably shared, apportioned and paid; and all [such]  
6 other matters, including the preparation and submission of  
7 annual and other budgets, as may be deemed necessary or required  
8 by law[, to carry] to complete the proposed improvement [to  
9 completion] and to assure future maintenance and operation  
10 thereof. [But nothing herein contained shall authorize the board  
11 to make any improvement or expend any public moneys which has  
12 not first been authorized by all the boroughs, cities and  
13 townships] The board may not make any improvement or spend any  
14 public moneys which have not first been authorized by all of the  
15 municipal corporations proceeding with the improvement.

16 (d) [In any case where it shall be] When it is necessary to  
17 acquire, appropriate, injure, or destroy private property[,  
18 lands, property, or material] to build [any such] a joint  
19 sanitary sewer system or improvement[, and the [same] property  
20 cannot be acquired by purchase or gift, the right of eminent  
21 domain shall vest in the [borough, city, or township] municipal  
22 corporation where [such] the property is located. [In any case  
23 where it shall be] When it is necessary to acquire, injure, or  
24 destroy property in any territory not within the limits of any  
25 of the [boroughs, cities, or townships] municipal corporations  
26 joining in the improvement, then the right of eminent domain  
27 shall be vested in [any borough, city, or township] the  
28 municipal corporation adjacent to [such] the territory where  
29 [such] the property is located subject to 26 Pa.C.S. § 206  
30 (relating to extraterritorial takings). Damages for any property

1 taken, injured, or destroyed shall be assessed [as provided by  
2 the general laws relating to the boroughs, cities and townships]  
3 under laws relating to the municipal corporation exercising the  
4 right of eminent domain[;] and shall be paid by the [several  
5 boroughs, cities and townships] municipal corporations  
6 joining[, ] in the same proportion as other costs of the  
7 [improvement] improvements.

8 (e) Each of the boroughs joining in [any such] the  
9 improvement shall have power to incur or increase its  
10 indebtedness, not exceeding the constitutional limits, for the  
11 purpose of paying its share or portion of the cost of [such] the  
12 improvement in the manner now provided by law for the incurring  
13 of indebtedness.

14 Section 238. Section 2022 of the act is repealed:

15 [Section 2022. Approval of Sanitary Water Board.--No such  
16 sewer or sewage treatment plant shall be constructed until plans  
17 and specifications have been submitted to the Sanitary Water  
18 Board, and approved in accordance with provisions of existing  
19 laws.]

20 Section 239. Sections 2023, 2024 and 2025 of the act are  
21 amended to read:

22 Section 2023. Connections with Sanitary Sewers of Adjacent  
23 Municipalities.--Any borough may connect with an existing  
24 sanitary sewer, owned by any adjacent municipality [or  
25 township,] for sewerage purposes[, ] in the manner prescribed in  
26 [the following sections of this subdivision of this article]  
27 sections 2024, 2025 and 2026.

28 Section 2024. Applications to Court.--Whenever any borough  
29 shall desire to connect with the existing sanitary sewer of any  
30 adjacent municipality [or township,] and no agreement, either

1 upon the basis of a rental payment for the use of an existing  
2 sanitary sewer or a division of the cost of the construction or  
3 maintenance [thereof] of the sanitary sewer, has been reached  
4 between [such] the borough and the adjacent municipality [or  
5 township], an application shall be made by council to the court  
6 of [quarter sessions] common pleas of the county where the  
7 proposed connection is to be located, setting forth that fact.

8 Section 2025. Appointment of Viewers.--If the court shall be  
9 of the opinion that [such] the connection can be made without  
10 impairing the usefulness of the existing sanitary sewer, it  
11 shall appoint three viewers, who shall view the premises and  
12 investigate the facts of the case, and shall assess the  
13 proportionate part of the expense of building the original  
14 sanitary sewer upon [such] the borough, and shall fix the  
15 proportion of the expense for repairs which each municipality  
16 [or township] shall thereafter bear, and determine all other  
17 questions liable to arise in connection [therewith] with the  
18 sanitary sewer.

19 Section 240. Section 2026 of the act, repealed in part June  
20 3, 1971 (P.L.118, No.6), is amended to read:

21 Section 2026. Report of Viewers; Appeals to Court.--The  
22 viewers shall report to the court the result of their  
23 investigation, which report shall be confirmed within thirty  
24 days unless exceptions [thereto be] are filed. After  
25 confirmation of [such] the report, or the disposal of any  
26 exceptions, any party interested may appeal from the decision of  
27 the court of [quarter sessions] common pleas.

28 Section 241. Article XX subdivision (c) heading and sections  
29 2031 and 2032 of the act are repealed:

30 [(c) Power to Supply Sewerage Service Outside Borough Limits

1       Section 2031. Power to Supply Service.--Whenever any borough  
2 is maintaining and operating a sewerage system and sewage  
3 purification or treatment works, it shall be lawful for such  
4 borough to supply sewerage service to municipalities, townships,  
5 persons and corporations, outside the limits of such borough,  
6 and to enter into contracts for such service, at rates not less  
7 than those required to be paid by persons and corporations  
8 within the limits of such borough; but no such privilege shall  
9 conflict with the rights of any sewer company, or the rights of  
10 any other borough.

11       Section 2032. Power to Extend Lines and Condemn Property.--  
12 For the purpose of supplying such sewerage facilities, any such  
13 borough may extend the necessary sewer mains and pipes beyond  
14 the limits of such borough, to the points where such sewage is  
15 to be collected and received, and shall have the power to enter  
16 upon and condemn such lands, property and materials for the  
17 construction of such sewer mains, and pipes, as may be necessary  
18 to the furnishing of such sewerage service.]

19       Section 243. Article XX subdivision (d) heading of the act  
20 is amended to read:

21               (d) Acquisition of [Sewer] Community Collection  
22                               or Disposal Systems

23       Section 244. Section 2041 of the act is repealed:

24       [Section 2041. Power to Acquire Sewer Systems.--Any borough,  
25 in which any person or persons, firm, or corporation are  
26 maintaining sewers and culverts, with the necessary inlets and  
27 appliances for surface, under surface and sewage drainage, or in  
28 which any person or persons, firm or corporation are maintaining  
29 a community sewage collection or disposal system as defined in  
30 section 2043 of this act, may become the owner of such sewers,

1 culverts, inlets and appliances, or the owner of such community  
2 collection or disposal system, by purchase or by the exercise of  
3 the power of eminent domain, or by gift from the owner or owners  
4 thereof.]

5 Section 245. The act is amended by adding a section to read:

6 Section 2041.1. Power to Acquire Community Collection or  
7 Disposal Systems.--(a) A borough may, by ordinance, acquire  
8 ownership of a community sewage collection or disposal system as  
9 defined in section 2043 by purchase or by the exercise of  
10 eminent domain pursuant to 26 Pa.C.S. (relating to eminent  
11 domain), or by gift from the owner or owners.

12 (b) In eminent domain proceedings, the viewers shall assess  
13 the costs and expenses of the community sewage collection or  
14 disposal system acquired by the borough upon the property or  
15 properties benefited according to benefits. Any deficiency that  
16 is not assessed upon the benefited property or properties shall  
17 be paid by the borough.

18 Section 246. Section 2042 of the act is repealed:

19 [Section 2042. Assessment of Damages.--In case of  
20 disagreement, the amount to be paid shall be ascertained in the  
21 manner provided in the law governing eminent domain. In the same  
22 proceeding, the viewers shall assess the costs and expenses of  
23 the sewer, culverts, inlets and appliances, or of the sewer  
24 collection, or disposal system, acquired by the borough, upon  
25 the property benefited, according to benefits, if sufficient can  
26 be found; but, if not, then the deficiency when ascertained  
27 shall be paid by the borough.]

28 Section 247. Section 2043 of the act is amended to read:

29 Section 2043. Community Sewage Collection or Disposal  
30 Systems.--(a) For the purpose of this subdivision, a community

1 sewage collection or disposal system is all or part of a device  
2 or devices installed on any privately or publicly owned parcel  
3 of land, intended to treat or dispose of the sewage or  
4 equivalent volume of domestic sewage from two or more  
5 residences, buildings or occupied parcels of land, or any system  
6 of piping used in collection and conveyance of sewage on private  
7 or public property.

8 (b) After a community sewage collection or disposal system  
9 has been acquired under the provisions of this subdivision by  
10 the borough, the council shall have the power to enlarge [such]  
11 the system if it deems it advisable. In such cases, the cost and  
12 expenses of [such] the enlargement may be distributed or  
13 assessed in the same manner as if the enlargement was a regular  
14 sewer constructed by the borough under other provisions of this  
15 act.

16 (c) Whenever a community sewage collection or disposal  
17 system is [or shall have been] established or constructed within  
18 a borough by a private owner or owners, and the borough council  
19 is thereafter empowered by ordinance to acquire the ownership of  
20 the sewage disposal system so established, or when [any such]  
21 the system has been enlarged by the borough, [such] the  
22 acquisition and ownership shall be subject to the following  
23 provisions of this subsection:

24 (1) When the person or persons having established or  
25 constructed a community sewage collection or disposal system, or  
26 when more than one-half the number of the owners of properties  
27 which are connected with, have a right to use and are using a  
28 community collection or disposal system, enter into an agreement  
29 with the borough for the acquisition of the system by the  
30 borough, [such] the agreement shall be considered a valid

1 agreement by the owners of the sewage collection or disposal  
2 system and a transfer of ownership to the borough.

3 (2) The borough shall operate and maintain any sewage  
4 collection or disposal system acquired and any enlargement or  
5 addition thereto for the use of persons having acquired from the  
6 borough or from the former owner or owners the right to use the  
7 system, and for the use of other owners of property accessible  
8 thereto up to the capacity of the sewage collection or disposal  
9 system.

10 (3) All persons whose property connects with the sewage  
11 collection or disposal system acquired or constructed by the  
12 borough shall pay to the borough treasurer, a monthly,  
13 quarterly, semi-annual or annual charge prescribed by a  
14 resolution of the council. The amount of the charges shall not  
15 be in excess of the estimated amount necessary to maintain and  
16 operate the system and to establish a reserve fund sufficient  
17 for its future replacement.

18 (4) All sewer rentals or charges imposed by the council  
19 against properties connected with a community sewage collection  
20 or disposal system under the provisions of this section shall  
21 constitute liens against the properties and may be collected in  
22 the same manner as other sewer charges.

23 (5) All moneys received from the sewer charges shall be  
24 deposited as a special reserve fund, and shall be used only for  
25 the payment of the cost of operating and maintaining the sewage  
26 collection or disposal system and the replacement [thereof] of  
27 the collection or disposal system, if necessary and economically  
28 desirable. If at any time after the acquisition or enlargement  
29 of the community sewage system, a regular sewer system is made  
30 available by the borough for connection with the properties



1 using the community sewage collection or disposal system, the  
2 owners of [such] the properties shall be subject to the other  
3 provisions of this act relating to sewers, and all money at that  
4 time in the reserve fund which was received from charges for the  
5 use of that particular sewage collection or disposal system, and  
6 which is over and above the amount expended for the operation  
7 and maintenance of that particular sewage collection or disposal  
8 system, shall be used towards the payment of any sewer  
9 assessments charged against [such] the properties under other  
10 sections of this act.

11 (d) Nothing in this section may be construed to supersede  
12 the requirements of the act of January 24, 1966 (1965 P.L.1535,  
13 No.537), known as the "Pennsylvania Sewage Facilities Act."

14 Section 248. Article XX subdivision (e) heading and section  
15 2051 of the act are amended to read:

16 (e) Connection and Use of Sanitary Sewers

17 Section 2051. Ordinances to Require Sanitary Sewer  
18 Connections.--Any borough may, by ordinance, require any owner  
19 of property, benefited, improved or accommodated by a sanitary  
20 sewer, to make connections with [such] the sanitary sewer, in  
21 [such] the manner as the borough may order, for the purpose of  
22 discharge of [such] drainage or waste matter as the borough may  
23 specify. All connections required shall be uniform. The owner  
24 shall be given at least forty-five days' notice of any ordinance  
25 requiring a sanitary sewer connection and, upon failure of the  
26 owner to make the connection, the borough may make the  
27 connection and collect the cost from the owner by a municipal  
28 claim or by an action of assumpsit. The borough may by penalties  
29 enforce any [regulation] ordinance it may [ordain] enact with  
30 reference to any sanitary sewer connections.

1 Section 249. Section 2052 of the act is repealed:

2 [Section 2052. Notice of Ordinances; Failure to Comply With  
3 Ordinance.--The owner shall be given at least forty-five days'  
4 notice of any ordinance requiring such sewer connection, and,  
5 upon failure of such owner to make such connection, the borough  
6 may make the same, and collect the cost thereof from the owner  
7 by a municipal claim or in an act of assumpsit. All connections  
8 required shall be uniform.]

9 Section 250. Section 2053 of the act is amended to read:

10 Section 2053. Tapping Fees.--Any borough may by ordinance  
11 provide for charging a tapping fee whenever the owner of any  
12 property connects [such] the property with a sanitary sewer  
13 system constructed or acquired by the borough provided that the  
14 tapping fee is calculated in accordance with 53 Pa.C.S. § 5607  
15 (relating to purposes and powers), which fee shall be in  
16 addition to any charges assessed and collected against [such]  
17 the property in the construction or acquisition of [such] the  
18 sanitary sewer by the borough. Whenever a sanitary sewer system  
19 or any part or extension [thereof] of a sanitary sewer system,  
20 owned by a borough, has been constructed by the borough at the  
21 expense of a private person or corporation or has been  
22 constructed by a private person or corporation under the  
23 supervision of the borough at the expense of the private person  
24 or corporation, the borough shall have the right to charge a  
25 tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and  
26 refund [said] the tapping fee or any part [thereof] of the fee  
27 to the person or corporation who has paid for the construction  
28 of [said] the sanitary sewer system or any part or extension  
29 [thereof] of the sanitary sewer system in accordance with 53  
30 Pa.C.S. § 5607. The total of [said] the refunds shall never

1 exceed the cost of [said] the system or any part or extension  
2 [thereof] of the system to the person or corporation paying for  
3 the construction [thereof] of the system or any part or  
4 extension of the system. In any case, where the property  
5 connected or to be connected with the sanitary sewer system of  
6 the borough is not equipped with a water meter the borough may  
7 install [such] a meter at its own cost and expense. If the  
8 property is supplied with water from the facilities of a public  
9 water supply agency, the borough shall not install [such] a  
10 meter without the consent and approval of the public water  
11 supply agency.

12 Section 251. Section 2054 of the act is repealed:

13 [Section 2054. Regulations and Restrictions in Use of  
14 Sanitary Sewers.--Any borough in which there is any public  
15 sanitary sewer or sewer system shall have authority, by  
16 ordinance, to make regulations and restrictions pertaining to  
17 the use of such sewer or sewer system. Such regulations and  
18 restrictions: (i) may specify materials and/or substances which  
19 may or may not enter the public sewer or sewer system; (ii) may  
20 require that certain types or classes of waste be subjected to  
21 treatment or to grinding or other reduction in size before  
22 entering into the sewer; (iii) may restrict the quantity of  
23 waste material that may enter a sanitary sewer from any premises  
24 within any time interval; and (iv) may require that property  
25 owners provide means other than the public sanitary sewers for  
26 disposal of storm, surface and roof water originating or  
27 accumulating upon their property.]

28 Section 252. Article XX subdivision (f) heading of the act,  
29 amended July 13, 1988 (P.L.521, No.91), is reenacted to read:

30 (f) Monthly, Quarterly or Annual Rentals

Section 253. Sections 2061, 2062 and 2063 of the act,  
amended July 13, 1988 (P.L.521, No.91), are amended to read:

Section 2061. Ordinance for Monthly, Quarterly or Annual  
Rental.--Whenever any borough shall have constructed any  
sanitary sewer, sewer system or sewage treatment works, or shall  
have acquired wholly or partially the same at public expense, as  
authorized in this article, the [council of such] borough  
council may provide, by ordinance, for the collection of a  
monthly, quarterly or annual rental or charge or a fixed sum,  
for the use of [such] the sanitary sewer, sewer system or sewage  
treatment works, from the owner of property served by it. [The  
council may, at its discretion, in lieu of such monthly,  
quarterly or annual rental or charge, provide for the payment by  
such owner of a fixed sum.]

Section 2062. How Rental Fixed.--[Such] The monthly,  
quarterly or annual rental may include the amount expended  
monthly, quarterly or annually by the borough in maintenance,  
repair, alteration, inspection, depreciation, or other expense,  
of [such] the sanitary sewer, sewer system or sewage treatment  
works, and may include interest on money expended or borrowed by  
the borough in the construction of the sanitary sewer, sewer  
system or sewage treatment works, or in the acquisition,  
enlargement or extension of the sanitary sewer or sewer system,  
and may also include an amount sufficient for the amortization  
of debt incurred by the borough for [any such] those purposes,  
including the construction of sewage treatment works according  
to law. The [said] monthly, quarterly or annual amount or fixed  
sum shall be apportioned equitably among the [several]  
properties served by the [said] sanitary sewers, sewer system or  
sewage treatment works.

1       Section 2063.   Collection of Rental.--[Such] The monthly,  
2   quarterly or annual rental or charge, or [such] the fixed sum,  
3   shall be authorized and collected as provided by general  
4   ordinances, and, when so levied and charged, shall be a lien on  
5   the properties charged[. The collection thereof shall be made  
6   and enforced in the manner municipal claims are collected.] from  
7   the date set forth in the ordinance. If the rental, charge or  
8   fixed sum is not paid after thirty days' notice, it may be  
9   collected by an action of assumpsit, in the name of the borough  
10   against the owner of the property charged, or by a lien filed in  
11   the nature of a municipal lien.

12       The borough council [of such borough] shall execute a warrant  
13   or warrants, authorizing the collection of [such] the monthly,  
14   quarterly or annual sewer rentals or charges, or [such] the  
15   fixed sum, to the officer employed by council to collect the  
16   same. [Such] The officer shall have the authority now vested by  
17   law for the collection of borough taxes.

18       Section 254.   Section 2064 of the act, amended July 13, 1988  
19   (P.L.521, No.91), is repealed:

20       [Section 2064.   Lien.--Such monthly, quarterly or annual  
21   sewer rentals or charges, or such fixed sum, shall be a lien on  
22   the properties charged with the payment thereof, from the date  
23   set forth in the ordinance, and, if not paid after thirty days'  
24   notice, may be collected by an action of assumpsit, in the name  
25   of the borough against the owner of the property charged, or by  
26   distress of personal property on the premises, or by a lien  
27   filed in the nature of a municipal lien.]

28       Section 255.   Article XX subdivision (g) heading, sections  
29   2071 and 2072, Article XXI heading and sections 2101, 2102,  
30   2103, 2104 and 2105 of the act are repealed:

1                   [(g) Sewers on Boundary Streets

2       Section 2071. Power to Lay and Construct.--Boroughs shall  
3 have authority to lay and construct sewers in any street, any  
4 portion of which is within the limits of the borough, and which  
5 forms a portion of the boundary dividing the borough from any  
6 other city, borough, or township within the same county, in the  
7 same manner and to the same extent as if the whole of said  
8 street was within the limits of the said borough.

9       Section 2072. Assessment of Benefits.--The property  
10 benefited, improved or accommodated, which is located outside  
11 the limits of the borough constructing such sanitary sewers,  
12 shall, for a depth of one hundred fifty feet, be assessed for  
13 the cost of such sewer, in the same manner as such property  
14 would be assessed, under the laws of the Commonwealth, if it  
15 were entirely located within the limits of such borough, if such  
16 property is given permission to use such sanitary sewer and is  
17 not, at the time such sanitary sewer is constructed, provided  
18 with sanitary sewer facilities.

19                   ARTICLE XXI

20                   COLLECTION BY INSTALMENT OF STREET

21                   AND SEWER ASSESSMENTS

22       Section 2101. Authority for Instalment Payments.--Whenever  
23 any borough shall authorize the construction or acquisition of  
24 any sanitary sewer or system of sanitary sewers, or the  
25 improvement of any street or portion thereof, and the entire  
26 cost, or any part thereof, shall be assessed against the  
27 properties benefited, improved or accommodated by such sewer or  
28 system of sewers, or abutting upon such street or portion  
29 thereof, such borough may authorize the payment of such  
30 assessment in equal annual, or more frequent instalments. Such

1 instalment payments may be authorized by a general ordinance  
2 applicable to all sanitary sewers or systems thereof and/or all  
3 streets thereafter acquired, constructed or improved, as the  
4 case may be, or by one or more specific ordinances applicable to  
5 a specific sewer, system of sewers or street or portion thereof.  
6 Every such ordinance shall specify the length of time over which  
7 such instalments may be extended and whether payments are to be  
8 made by annual or more frequent instalments. All such  
9 instalments shall bear interest, as provided in the applicable  
10 ordinance, at a rate not to exceed six percent, commencing at  
11 such time as may be fixed or regulated by ordinance: Provided,  
12 That where bonds shall have been issued and sold in the manner  
13 provided by law, to provide for the payment of any street  
14 improvement, such assessments shall be payable in equal  
15 instalments during the term for which such bonds are issued, and  
16 the expenditures for such improvements, and interest thereon to  
17 the first day when interest is payable on such bonds, shall be  
18 taken as the cost of such improvement to be assessed on the  
19 property benefited.

20 Section 2102. Entry of Liens.--Claims to secure the  
21 assessments shall be entered in the prothonotary's office of the  
22 county at the same time and in the same form and shall be  
23 collected in the same manner as municipal claims are filed and  
24 collected, notwithstanding the provisions of this article on  
25 instalment payments.

26 Section 2103. Assessments; Where Payable.--Such assessments  
27 shall be payable at the office of the borough treasurer, or such  
28 other place as the ordinance shall provide, in semi-annual or  
29 annual instalments, with interest at the rate provided from the  
30 date from which interest is computed on the amount of the

1 assessments.

2 Section 2104. Default in Payment of Instalment.--In case of  
3 default in the payment of any instalment and interest for a  
4 period of sixty days after the same shall become due, the entire  
5 assessment and accrued interest shall become due; and the  
6 borough solicitor shall proceed to collect the same under the  
7 general laws relating to the collection of municipal claims.

8 Section 2105. Payments in Full.--Any owner of property,  
9 against whom any such assessment shall have been made, may pay  
10 the same in full, at any time, with interest and costs thereon  
11 to the due date of the next instalment, and such payment shall  
12 discharge the lien.]

13 Section 256. The act is amended by adding an article to  
14 read:

15 ARTICLE XXI-A

16 ASSESSMENTS AND CHARGES FOR PUBLIC IMPROVEMENTS

17 Section 2101-A. Authority to assess.

18 (a) General rule.--Borough council shall have the power to  
19 pay the cost, in whole or in part, of any and all public  
20 improvements of all natures and descriptions, including, but not  
21 limited to, the grading, building, paving, regrading, rebuilding  
22 and repaving of streets as defined in section 1701, the  
23 creation, extension, renovation or enlargement of water mains  
24 and sewage collection, transmission, treatment and disposal  
25 systems and the creation, extension and renovation of storm,  
26 surface and subsurface drainage systems, the construction,  
27 reconstruction and repair of wharves and docks, the installation  
28 of ornamental street lighting, or the planting, removal,  
29 maintenance and protection of shade trees by any of the  
30 following methods:



1       (1) from general borough funds;

2       (2) from special borough funds created for that purpose;

3       or

4       (3) by assessment of costs against the benefited  
5       properties either on the front foot or benefit conferred  
6       method of assessment.

7       Except as provided in subsection (c), the costs and expenses of  
8       sanitary sewers may be assessed against properties benefited,  
9       accommodated or improved regardless of the property line  
10      location and regardless of whether any portion of a property so  
11      benefited, accommodated or physically improved abuts upon the  
12      sanitary sewer.

13      (b) Payment of indebtedness.--

14           (1) If a borough that incurs authorized indebtedness  
15           pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to  
16           indebtedness and borrowing) for the purposes of funding the  
17           cost and expense of making public improvements for which  
18           assessments can be made in accordance with this article,  
19           payments made on the assessment must be applied to pay the  
20           debt service for the indebtedness incurred for funding the  
21           cost and expense of making the public improvement.

22           (2) Notwithstanding section 2107-A, when bonds are  
23           issued in a manner provided by law and an assessment is to be  
24           paid in installments, the assessment shall be payable in  
25           equal installments during the term for which the bond is  
26           issued, and the cost of the improvement plus interest  
27           beginning the first day when interest is payable on the bond  
28           shall be the cost of the improvement to be assessed on a  
29           property.

30      (c) Property outside borough.--Property benefited, improved

or accommodated which is located outside the limits of the  
borough that constructed a sanitary sewer may, if located no  
more than 150 feet from the sewer main, be assessed for the cost  
of the sewer in the same manner as the property would be  
assessed under the laws of this Commonwealth if it were entirely  
located within the limits of the borough, if the property is  
given permission to use the sanitary sewer and is not, at the  
time the sanitary sewer is constructed, provided with sanitary  
sewer facilities.

(d) Water mains.--Boroughs shall have power to assess the  
whole cost or any part of the cost of construction of new water  
mains built in connection with the establishment or extension of  
a municipally owned water supply system, even if the mains are  
located outside the limits of the borough, and that serve  
abutting properties, against the properties abutting the  
boundary line. The borough may provide that the assessment be  
rebated to the owner of the assessed property out of rates  
charged for water consumed in serving the assessed property. The  
borough may also issue a negotiable credit memorandum in the  
amount of the assessment which may be used for the payment of  
any water service to the extent of the assessment.

Section 2102-A. Notice of assessments.

The borough secretary shall cause 30 days' personal notice of  
the assessment to be served upon each property owner assessed.  
If a certificate is required to be filed with council relating  
to the public improvement as otherwise provided in this act,  
then a copy of the certificate shall accompany the notice.  
"Personal notice" as used in this article shall mean and include  
notice upon the owner of a property either by personal service  
upon the owner or by certified mail to the owner at the owner's

last known address, or where service, after a reasonable attempt, shall not have been successfully made by either of these two methods, then by leaving notice at or upon the property.

Section 2103-A. Assessment based on front foot basis.

(a) General rule.--If borough council elects to collect the cost, including any administrative fees, of any improvement on the front foot basis, the cost to be collected shall be divided by the total number of linear feet of street frontage of each property benefited and there shall be assessed against each property that portion of the cost which is determined by multiplying the dividend of the prior calculation by the number of linear feet for street frontage of that property.

(b) Certificate of assessment.--Council shall issue a certificate of assessment when assessing on the front foot basis, duly certified under the seal of the borough and attested by the president of council and secretary. The certificate of assessment shall be prima facie evidence in any suit for recovery of the same of the correctness and validity of the assessment.

(c) Adjustments in assessments.--Notwithstanding subsection (a), council may make equitable adjustments for corner lots, lots of irregular shape, or, where special conditions exist, where an assessment for full frontage would be unjust.

Section 2104-A. Assessment of benefits conferred.

(a) General rule.--In lieu of the front foot basis, borough council may elect to have the benefits of public improvements assessed, in whole or in part, upon property benefited, improved or accommodated by assessing an equal assessment on the properties benefited, improved or accommodated in proportion to

1 the total cost of construction of the improvement. The amount of  
2 the charge on each property shall be determined by borough  
3 council.

4 (b) Certificate.--Council shall issue a certificate of  
5 assessment when assessing benefits upon property benefited,  
6 improved or accommodated, duly certified under the seal of the  
7 borough and attested by the president of council and secretary.  
8 The certificate of assessment shall be prima facie evidence in  
9 any suit for recovery of the same of the correctness and  
10 validity of the assessment.

11 Section 2105-A. Assessment awards.

12 In proceedings to assess benefits, if the land or property is  
13 both benefited and damaged by the public improvements, the  
14 excess of damages over benefits, or the excess of benefits over  
15 damages, or nothing in case the benefits and damages are equal,  
16 shall be awarded to or assessed against the owner of land and  
17 property affected thereby. Damages shall be calculated pursuant  
18 to 26 Pa.C.S. (relating to eminent domain).

19 Section 2106-A. Petition for viewers.

20 (a) Petition.--Taxpayers of the borough whose property is  
21 being assessed for benefits for a public improvement may present  
22 a petition to the court of common pleas stating that the  
23 assessment insufficiently represents the benefits accruing to  
24 abutting, benefited or accommodated properties and may include  
25 in the petition a request for the appointment of viewers to  
26 assess benefits provided that at least 50% of the taxpayers  
27 whose parcels are abutting, benefited or accommodated by the  
28 public improvement in question join the petition or provided  
29 that taxpayers whose property valuation as assessed for taxable  
30 purposes within the borough amounts to at least 50% of the total

1 property valuation of the properties being assessed for the  
2 public improvement join the petition. The petition must be  
3 presented within three months of the adoption of the resolution  
4 or enactment of the ordinance levying the assessment.

5 (b) Viewers.--The court shall appoint three disinterested  
6 viewers, none of whom shall be a resident of that portion of the  
7 borough that is benefited or accommodated by the public  
8 improvement in question, and the viewers shall proceed under  
9 this act and 26 Pa.C.S. (relating to eminent domain) for the  
10 assessment of damages and benefits by viewers. Upon the filing  
11 of the petition by taxpayers for the appointment of viewers, any  
12 assessment made by the borough council and any proceedings shall  
13 be stayed pending the disposition of the petition by the court.

14 Section 2107-A. Payment of assessments in installments.

15 (a) Installments.--Whenever any ordinance is passed  
16 providing for a public improvement the expense of which is to be  
17 defrayed by an assessment against properties benefited by the  
18 improvement, either by the front foot or benefit conferred  
19 methods, the ordinance shall specify the length of time over  
20 which the installments may be extended and whether payments are  
21 to be made by equal annual or more frequent installments. If the  
22 provisions of section 2101-A(b)(2) and this subsection conflict,  
23 the provisions of section 2101-A(b)(2) shall prevail to the  
24 extent of the conflict.

25 (b) Commencement of payments and rate of interest.--The  
26 ordinance shall set a time when the installment payments shall  
27 commence and shall set forth the rate of interest for the  
28 installments which shall not be more than 6% per year.

29 (c) Installment agreement.--The borough shall enter into a  
30 written installment agreement with each property owner, subject

1 to the requirements of the ordinance pertaining to such  
2 agreements and this article.

3 (d) Unpaid installments.--If any of the installments shall  
4 remain unpaid for 60 days after the same has become due and  
5 payable, the entire unpaid assessment, plus unpaid accrued  
6 interest and any costs, shall be due and payable and the borough  
7 solicitor shall proceed to collect the same by filing a lien in  
8 the same manner as municipal claims are filed or by action in  
9 assumpsit.

10 (e) Prepayment.--A property owner upon whom an assessment  
11 has been made may pay all or as many of the installments before  
12 the same are due, with interest and costs to the due date of the  
13 next installment.

14 Section 2108-A. Collection of assessments.

15 (a) Collection methods.--If any assessment remains unpaid at  
16 the expiration of the 30-day personal notice, and an installment  
17 agreement has not been entered into pursuant to section 2106-A,  
18 the borough solicitor shall collect the unpaid assessment, with  
19 interest from the time of completion of the improvement, or from  
20 the time of filing a certificate of assessment with council,  
21 plus costs, by filing a lien to be collected in the same manner  
22 as municipal claims or by action in assumpsit. When a property  
23 owner has two or more lots, against which there is an assessment  
24 for the same improvement, all of the lots may be embraced in one  
25 claim.

26 (b) Payment location.--Assessments, whether paid one time or  
27 by installments, shall be payable at the office of the borough  
28 treasurer or any other place as the applicable ordinance shall  
29 provide.

30 Section 257. Article XXII heading of the act is reenacted to

1 read:

2 ARTICLE XXII

3 STORM SEWERS AND WATER COURSES

4 Section 258. Sections 2201, 2202, 2203 and 2204 of the act  
5 are amended to read:

6 Section 2201. Authority of Boroughs.--Any borough may, by  
7 ordinance, after [a permit shall have been obtained from the  
8 Water and Power Resources Board, and from the Federal  
9 Government, where required] obtaining any required permit from  
10 the Department of Environmental Protection, or other Federal or  
11 State entity, do the following:

12 (1) Widen and deepen any water course running through or  
13 within the borough, erecting [such] dykes, retaining walls and  
14 embankments along the [same] water course as may be necessary to  
15 prevent the water from overflowing the banks [thereof];

16 (2) Confine and pave any water course or portion thereof,  
17 other than a navigable stream;

18 (3) Engage in channel improvement through the construction  
19 and maintenance of storm sewers and the accumulation and  
20 discharge of water [thereinto] into storm sewers;

21 (4) Vacate or alter the course or channel of any water  
22 course, other than a navigable stream;

23 (5) Acquire, operate and maintain areas for the  
24 infiltration, detention or retention of storm water and for  
25 other methods of storm water management authorized by the  
26 Department of Environmental Protection.

27 For any of [such] these purposes, a borough may enter upon  
28 and condemn [such] property and materials as may be necessary.  
29 No borough may confine and pave, vacate or alter any water  
30 course used by any municipality, municipal authority or water

1 company as a source of supply, unless [such] the municipality,  
2 municipal authority or water company shall first consent to  
3 [such] the confining and paving, vacation or alteration.

4 Section 2202. Right of Entry Upon Lands.--Any borough may  
5 enter upon any land lying near any water course, and secure such  
6 material as may be necessary for the purpose of making and  
7 repairing the embankments along [such] the water course, when  
8 the same cannot be obtained by contract at reasonable price.  
9 [Such] The boroughs shall cause no unnecessary damage to the  
10 owners of [such] the land, and shall repair any fences [which  
11 they may injure], structures or damage to the land that is  
12 caused by the borough, and shall compensate the owner, either by  
13 agreement or in accordance with the law governing eminent  
14 domain, for any materials obtained pursuant to this section.

15 Section 2203. Manner of Financing Work.--[The costs and  
16 expenses of any work authorized under section 2201 of this act  
17 may be paid wholly or in part by the borough from any moneys of  
18 the borough available for the purpose, with or without the  
19 assistance of the county, State or Federal Government, or the  
20 whole or any part of such costs and expenses not thus aided may  
21 be assessed, according to benefits as prescribed in article XV  
22 of this act, against properties located within the drainage area  
23 of such water course and benefited, improved or accommodated  
24 thereby.] A borough may pay for the costs and expenses of any  
25 work authorized under section 2201 wholly or in part from any  
26 moneys of the borough available for the purpose. To the extent  
27 that a borough does not receive assistance from the Federal,  
28 State or county government for the costs and expenses of the  
29 work, the borough may assess the benefited properties located  
30 within the drainage area of the water course in accordance with



1 Article XXI-A.

2 Section 2204. Proceedings to Assess Damages.--Any person  
3 aggrieved by [reason of] any ordinance [passed] enacted or  
4 action taken pursuant to the preceding sections of this article  
5 may [complain to] file a complaint with the court of common  
6 pleas[, and proceedings may be had in the court] to fix and  
7 determine the damages for property taken, injured or destroyed  
8 [in the same manner as provided in] pursuant to the law  
9 governing eminent domain.

10 Section 259. The act is amended by adding sections to read:

11 Section 2205. Unlawful to Build Within Right-of-Way of Storm  
12 Sewers.--It shall be unlawful for any person to erect any  
13 building or make any improvement within the right-of-way of any  
14 storm sewer laid out after due notice of the laying out of the  
15 storm sewer. If the erection or improvement is made, no  
16 allowance shall be had in the assessment of damages.

17 Section 2206. Power to Acquire Storm Sewer Systems.--(a) A  
18 borough may, by ordinance, acquire ownership of storm sewers,  
19 culverts and the necessary inlets and appliances for surface,  
20 under surface and storm sewer drainage by purchase, by the  
21 exercise of eminent domain pursuant to 26 Pa.C.S. (relating to  
22 eminent domain) or by gift from the owner or owners.

23 (b) In eminent domain proceedings, the viewers shall assess  
24 the costs and expenses of the storm sewer, culverts, inlets and  
25 appliances acquired by the borough, upon the property or  
26 properties benefited, according to benefits. Any deficiency that  
27 is not assessed upon the benefited property or properties shall  
28 be paid by the borough.

29 Section 260. Article XXIII heading and sections 2301, 2302,  
30 2303 and 2304 of the act are repealed:

1 [ARTICLE XXIII

2 UNDERGROUND CONDUITS

3 Section 2301. Powers of Boroughs.--Any borough may define,  
4 by ordinance, a reasonable district within which electric light,  
5 electric power, telephone, telegraph and other types of wires  
6 shall be placed underground in conduits, owned and constructed  
7 either by the borough or by corporations owning such wires, or  
8 by corporations organized for the purpose of laying such  
9 conduits and renting space therein.

10 Section 2302. Borough Regulations.--Whenever conduits are  
11 owned by any person, firm, or corporation, the borough may  
12 regulate, by ordinance, the manner in which conduits shall be  
13 used, and the terms and conditions of such use.

14 Section 2303. Acquisition of Conduits; Assessment of  
15 Damages.--Any borough may acquire existing conduits by purchase  
16 or by condemnation, and, in the latter case, the proceedings for  
17 the assessment of damages shall be the same as provided in the  
18 law governing eminent domain.

19 Section 2304. Borough Not to Surrender Rights.--The borough  
20 authorities shall not surrender or barter away the rights  
21 reserved in this article.]

22 Section 261. Article XXIV and subdivision (a) (1) headings  
23 and sections 2401, 2402, 2403 and 2404 of the act are amended to  
24 read:

25 ARTICLE XXIV

26 [PUBLIC SERVICE] WATER SYSTEM

27 (a) [Water Supply and Waterworks

28 (1)] General Powers to Supply Water

29 Section 2401. Power to Supply Water and Make Regulations.--

30 (a) Boroughs may [provide a] supply [of] water for the use of

1 the public within [such] the borough, by [erecting] constructing  
2 or purchasing and operating [waterworks, by purchasing and  
3 operating waterworks] a water system, by entering into contract  
4 with persons or corporations authorized to supply water within  
5 the limits of [such] the borough, or partly by [the erection or  
6 purchase and operation of waterworks] constructing or purchasing  
7 and operating a water system, and partly by entering into a  
8 contract.

9 (b) Borough council may make regulations for the protection  
10 of water pipes, reservoirs and other apparatus used in the  
11 supplying or storing of water, for the prevention of the waste  
12 of water supplied and for the drilling of water wells within the  
13 borough.

14 (c) Borough council shall fix the rates to be charged for  
15 the water furnished to individuals, partnerships, associations  
16 or corporations and shall provide for the collection of water  
17 rents from users of water supplied by the borough. The borough's  
18 provision of water to users outside the borough limits, as to  
19 character of service, extensions and rates, shall be subject to  
20 any applicable approval, regulation, or control imposed by 66  
21 Pa.C.S. Pt. I (relating to Public Utility Code).

22 Section 2402. Contracts Not to Abridge Powers.--[No contract  
23 for the supply of water hereafter entered into by any borough  
24 with any person or corporation shall, in anywise, abridge the  
25 power of the borough to construct and operate waterworks as  
26 provided in the preceding section of this article, but such] A  
27 borough's power to construct and operate a water system as  
28 provided in section 2401 shall not be abridged by the borough  
29 entering into a contract with a person or corporation for the  
30 supply of water, but the power shall remain in force as though

1 [such] the contract had not been made.

2 Section 2403. Issue of Bonds Where [Waterworks] Water System  
3 Acquired.--Where the price and terms are agreed upon, a borough  
4 may become the owner of and operate any water system owned and  
5 operated by a corporation furnishing water within the acquiring  
6 borough, and in nearby [townships or boroughs] municipal  
7 corporations, and may pay [therefor] for the water system from  
8 the revenues derived from general obligation bonds or utility  
9 bonds issued in the manner provided by [the Municipal Borrowing  
10 Law] 53 Pa.C.S. Pt. VII Subpt.B (relating to indebtedness and  
11 borrowing).

12 Section 2404. Refunding Bonds.--[Where any borough has  
13 heretofore acquired or shall hereafter acquire any waterworks  
14 and the appurtenances thereto, subject to any existing lien or  
15 liens, and at the time of such acquisition issues utility bonds  
16 secured solely by liens on the property of such waterworks and  
17 imposing no municipal liability; then the borough may, at the  
18 time such utility bonds mature, or at any time prior thereto,  
19 issue and sell utility bonds for the purpose of refunding such  
20 outstanding bonds, which refunding bonds shall be issued as  
21 utility bonds in the manner provided by the Municipal Borrowing  
22 Law. Such bonds so issued,] (a) If a borough acquires a water  
23 system, subject to any existing lien or liens and, at the time  
24 of acquisition, issues utility bonds secured by the liens on the  
25 water system and which imposes no municipal liability, then,  
26 when the utility bonds mature or at any time prior, the borough  
27 may issue and sell utility bonds for the purposes of refunding  
28 the outstanding bonds. The refunding bonds shall be issued as  
29 utility bonds pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating  
30 to indebtedness and borrowing). The issued bonds shall not be

1 deemed to be the creation of new obligations but be deemed a  
2 continuation of the bonds existing or created at the time of the  
3 original acquisition of [said waterworks and the appurtenances  
4 thereto] the water system.

5 [Such] (b) The bonds shall not be refunded for a longer  
6 period than twenty years, and the refunding lien bonds issued  
7 shall not bear interest at a rate exceeding six percent[, and  
8 the]. The amount of the issued refunding lien bonds[, so  
9 issued,] shall not exceed, in the aggregate, the amount of the  
10 bonds to be refunded[: Provided, That], provided that any moneys  
11 placed in any fund by the borough or by any commission of  
12 [waterworks] the water system for the purpose of redeeming or  
13 paying [such] the bonds at maturity, shall be first applied to  
14 the payment, as far as applicable, of the principal of [such]  
15 the bonds to be refunded, and the balance of [such] the bonds  
16 only shall be refunded by the issue of new bonds.

17 Section 262. Section 2405 of the act is repealed:

18 [Section 2405. Rates in Particular Boroughs.--Whenever the  
19 schedule of water rates in any borough, owning or controlling  
20 waterworks, shall have been fixed or limited by special act of  
21 Assembly, the borough may change the rates schedule or rates  
22 from time to time.]

23 Section 263. Sections 2406, 2407, 2408 and 2409 of the act  
24 are amended to read:

25 Section 2406. Contracts to Supply Water for Municipal  
26 Purposes.--Boroughs may receive bids from water companies and  
27 municipal authorities, authorized to do business within [such]  
28 the borough, and from other municipalities operating [waterworks  
29 or distributing water] a water system, for the supply of water  
30 for fire protection and for other municipal purposes, and may

1 contract [therefor] for the supply of water with [such] the  
2 company.

3 Section 2407. Power to Supply Water Beyond Limits of  
4 Borough.--Whenever any borough is maintaining [waterworks] a  
5 water system, it shall be lawful for [such] the borough to  
6 supply water to persons and corporations outside the limits of  
7 [such] the borough[; but no such], but shall be subject to any  
8 applicable approval or regulation imposed by 66 Pa.C.S. Pt. I  
9 (relating to Public Utility Code). The privilege shall not  
10 conflict with the corporate rights of any water company, or the  
11 rights of any other municipality or municipal authority.

12 Section 2408. Assessment for Water Mains.--Boroughs shall  
13 have power to assess the whole cost, or any part of the cost, of  
14 construction of new water mains, built in connection with the  
15 establishment or extension of a municipally owned water supply  
16 system in accordance with Article XXI-A, whether [such mains be]  
17 the mains are located within or without the limits of the  
18 borough[, and serving the properties abutting thereon, against  
19 the properties abutting along the line thereof, by the foot-  
20 front rule, and to collect such assessments as other municipal  
21 claims are now by law collectible: Provided, That the assessment  
22 may be rebated to the owner of the property assessed, out of  
23 rates charged for water consumed in serving the property so  
24 assessed: And provided further, That the borough may issue  
25 negotiable credit memorandum to the amount of the assessment,  
26 which may be used for the payment of any water service to the  
27 extent of the said assessment].

28 Section 2409. Sale of [Waterworks.--] Water System.--(a) By  
29 ordinance, a borough may sell all or part of its [waterworks  
30 and/or water distribution] water system to a purchaser at [such]

1 an agreed upon price [as the parties may agree upon], and  
2 thereafter for all purposes that price shall be deemed to be the  
3 purchaser's original cost less accrued depreciation of the plant  
4 at the date of purchase[: Provided, That no]. No such ordinance,  
5 however, shall take effect until the expiration of ten days  
6 following its enactment and if, within [such] that ten-day  
7 period, a protest, signed by at least ten percent of the  
8 registered electors of the borough [shall be] is filed with the  
9 borough council, [such] the sale shall be stayed pending a  
10 referendum on the ordinance.

11 (b) The borough secretary within five days following the  
12 filing of [such] the protest, shall certify to the county board  
13 of elections a copy of the ordinance and the fact of the  
14 protest, together with the number of signers [thereof] of the  
15 protest, and the county board of elections shall direct a  
16 referendum to be held on the matter at a special election to be  
17 held at the time of the next general or municipal or primary  
18 election occurring not less than sixty days from the date of  
19 [such] the certification by the borough secretary. [Such] The  
20 referendum shall be conducted by the county board of elections  
21 in the manner provided by the Pennsylvania Election Code for the  
22 holding of special elections. The ballot used when voting upon  
23 the question shall contain a question stating the nature and  
24 purpose of the ordinance and providing that a "yes" vote shall  
25 be to sustain the ordinance and a "no" vote shall be to reject  
26 it. If more electors vote to sustain the ordinance than to  
27 reject it, [such] the ordinance shall take effect immediately[;  
28 if]. If more electors shall vote to reject the ordinance than to  
29 sustain it, [such] the ordinance shall be null and void and  
30 shall not take effect.

1 Section 264. Article XXIV subdivision (a)(2) heading of the  
2 act is renumbered and amended to read:

3 [(2)] (a.1) Acquisition by Eminent Domain

4 Section 265. Sections 2411 and 2412 of the act are amended  
5 to read:

6 Section 2411. Appropriation of Lands and Waters.--Any  
7 borough desiring to [erect waterworks,] build a water system or  
8 to improve its water supply[, ] may appropriate springs, streams,  
9 rivers, or creeks and lands, easements and rights of way, within  
10 or without its limits[, and, for], provided that if the  
11 appropriation is outside its limits, the appropriation shall be  
12 in compliance with 26 Pa.C.S. § 206 (relating to  
13 extraterritorial takings). For the purpose of conducting water  
14 obtained outside [the] its limits [of the borough,] a borough  
15 may lay pipes under and over any lands, rivers, streams,  
16 bridges, highways and under railroads. No water appropriated  
17 under the provisions of this section shall be used in [such] a  
18 manner as to deprive the owner [thereof] of the water of the  
19 free use and enjoyment of the same for domestic or farm  
20 purposes. The exercise of the powers in this section shall be  
21 subject to any required approvals or permits from the Department  
22 of Environmental Protection or other Federal or State entity.

23 Section 2412. Agreements as to Damages; Bonds.--Prior to any  
24 [such] appropriation pursuant to section 2411, the borough shall  
25 attempt to agree with the owner as to the damage done, or likely  
26 to be done[, and, if]. If the parties cannot agree, the borough  
27 shall [file its bond in the court of common pleas, conditioned  
28 for the payment to the owner of the property of the damages for  
29 the taking thereof, when the same shall have been ascertained.  
30 Upon the approval of the bond and filing thereof, the borough



1 may enter upon such property.] proceed pursuant to 26 Pa.C.S.  
2 (relating to eminent domain).

3 Section 266. Section 2413 of the act is repealed:

4 [Section 2413. Appointment of Viewers; Proceedings.--Upon  
5 petition of either the property owner or borough, at any time  
6 thereafter, the court shall appoint three viewers from the  
7 county board of viewers, who shall assess the damages for the  
8 property or rights appropriated, and shall fix a time for their  
9 meeting, of which notice shall be given to all parties  
10 interested. The proceedings for the assessment of damages shall  
11 be as provided in the law governing eminent domain.]

12 Section 267. Article XXIV subdivision (a)(3) heading of the  
13 act is renumbered and amended to read:

14 [(3)] (a.2) Acquisition by Purchase after Appraisement

15 Section 268. Sections 2421, 2422 and 2423 of the act are  
16 amended to read:

17 Section 2421. Petition to Court Expressing Desire to Acquire  
18 [Waterworks] a Water System.--Whenever any person, firm, or  
19 corporation [shall own] owns any [waterworks or] water system,  
20 and a borough is desirous of owning and operating [such  
21 waterworks or] the water system, [such] a borough may present  
22 its petition to the court of common pleas of the county where  
23 the water system is located, setting forth that the borough is  
24 desirous of owning [such waterworks or] the water system, and  
25 that it will be necessary to issue bonds, and that a value  
26 should be placed upon [such waterworks or] the water system,  
27 including all property, real and personal, used in connection  
28 therewith.

29 Section 2422. Appointment of Engineers as Appraisers to Make  
30 Valuation.--The court shall [thereupon] appoint three civil

1 engineers as appraisers, to value and appraise [such waterworks  
2 or] the water system, and the property used in connection  
3 [therewith] with the water system, and the contracts or  
4 agreements with municipalities [or townships, who]. The civil  
5 engineers shall file their report in the court within three  
6 months after their appointment, unless [such] the time [be] is  
7 extended by the court.

8 Section 2423. Powers of Appraisers.--The appraisers shall  
9 have access to the books and records of the person, firm, or  
10 corporation owning [such waterworks or] the water system, to  
11 inform themselves as to the income and value [thereof] of the  
12 water system. They shall have power to administer oaths and are  
13 authorized to take the testimony of witnesses. Their report  
14 shall be final if not appealed from.

15 Section 269. Section 2424 of the act, repealed in part June  
16 3, 1971 (P.L.118, No.6), is amended to read:

17 Section 2424. Appeal from Appraisalment.--Within ten days  
18 after notice of the filing of any report in court, either party  
19 may appeal from [such] the appraisalment by filing a petition for  
20 a hearing before the court, alleging an undervaluation or  
21 overvaluation of the property[, and praying for a hearing before  
22 the court]. The court shall [thereupon] fix a time when [such]  
23 the appeal may be heard, [of which time at least ten days'  
24 notice shall be given to the parties] giving at least ten days'  
25 notice to the parties, and, upon such hearing, the court shall  
26 have power to affirm or modify [such] the report as to it  
27 appears just and proper.

28 Section 270. Sections 2425 and 2426 of the act are amended  
29 to read:

30 Section 2425. Effect of Failure of Owner of Works to Accept

1 Price Fixed.--After the value is finally determined, the borough  
2 is authorized to buy [such waterworks or] the water system at  
3 the valuation so fixed[; and the]. The person, firm, or  
4 corporation owning the [same] water system shall, within ten  
5 days after notice, file in court its consent to sell and convey  
6 its [waterworks or] water system and property to the borough at  
7 the valuation fixed[;] and, in default [thereof, such] of the  
8 filing of the consent, the person, firm, or corporation shall  
9 cease to have any exclusive privilege of supplying the borough,  
10 or the citizens [thereof] of the borough, with water, and the  
11 borough may install [such waterworks or] the water system as may  
12 be necessary for the accommodation of the public.

13 Section 2426. [Issue of Bonds] Bond Issue and Limitations.--  
14 For the purpose of [such purchase] purchasing a water system,  
15 the borough may issue utility bonds in the manner provided by  
16 [the Municipal Borrowing Law.] 53 Pa.C.S. Pt. VII Subpt. B  
17 (relating to indebtedness and borrowing). The bonds shall not  
18 exceed in amount the value fixed by the appraisers or the court.  
19 The proceeds of the sale of the bonds shall be used exclusively  
20 for the purpose of paying for the property acquired.

21 Section 271. Section 2427 of the act is repealed:

22 [Section 2427. Limit of Bond Issue.--Such bonds shall not  
23 exceed in amount the value fixed by the appraisers or the court.  
24 The proceeds of the sale of such bonds shall be used exclusively  
25 for the purpose of paying for the property acquired.]

26 Section 272. Article XXIV subdivision (a)(4) heading of the  
27 act is renumbered and amended to read:

28 [(4)] (a.3) Power to Lease [Waterworks] a Water System

29 Section 273. Sections 2431, 2432 and 2433 of the act are  
30 amended to read:

1       Section 2431. Lease of [Waterworks] a Water System.--The  
2 council of any borough may enter into a contract with any  
3 individual, [copartnership] partnership, association, or  
4 corporation, for the leasing of any water [supply, works,  
5 systems, and property, or both of such] system of the  
6 individual, [copartnership] partnership, association, or  
7 corporation.

8       Section 2432. Term of Lease; Rental.--[Such leasing] The  
9 lease term may be for [such] a term of years and at [such] a  
10 rental price, as shall be agreed upon by the borough and the  
11 individual, copartnership, association, or corporation.

12       Section 2433. Operation of Property.--[The property, so  
13 acquired, shall be operated in the same manner as if the same  
14 had been acquired by such borough by purchase or condemnation  
15 proceedings] A borough shall have the same powers in operating a  
16 leased water system as it would have in operating a purchased or  
17 condemned water system.

18       Section 274. Section 2434 of the act is repealed:

19       [Section 2434. Rates.--The council of the borough shall fix  
20 the rates to be charged for the water furnished without the  
21 limits of such borough to individuals, copartnerships,  
22 associations, or corporations.]

23       Section 275. Article XXIV subdivision (a)(5) heading of the  
24 act is renumbered and amended to read:

25               [(5)] (a.4) Joint [Waterworks] Water System

26       Section 276. Sections 2436, 2437 and 2438 of the act are  
27 amended to read:

28       Section 2436. Joint Acquisitions and Constructions.--[Two or  
29 more boroughs may unite, or any borough may unite with a city or  
30 township] A borough may join with one or more municipal

1 corporations in the construction or acquisition and maintenance  
2 of [waterworks] a water system.

3 Section 2437. Permit of [Sanitary Water Board] Department of  
4 Environmental Protection.--The construction of [such waterworks]  
5 a water system shall be commenced only after plans for [such  
6 waterworks have] the water system has been filed with the  
7 Department of [Health and the Water and Power Resources Board]  
8 Environmental Protection and, if required by law, other Federal  
9 or State entities, and permits issued in accordance with law.

10 Section 2438. Joint Commission of [Waterworks] a Water  
11 System.--The [boroughs, cities and townships] municipal  
12 corporations joining in [any such] the construction or  
13 acquisition and maintenance of [waterworks, in order to  
14 facilitate the building, operation and maintenance of the same,  
15 and in securing preliminary surveys and estimates,] a water  
16 system may, by ordinance, provide for the appointment of a joint  
17 commission of [waterworks, composed of one representative from  
18 each of the boroughs, cities and townships joining, which] a  
19 water system in order to facilitate the construction, operation  
20 and maintenance of the water system and to secure preliminary  
21 surveys and estimates. The joint commission shall act generally  
22 as the advisory and administrative agency in the construction of  
23 [such] the improvement and its subsequent operation and  
24 maintenance and shall be composed of one representative from  
25 each of the joining municipal corporations. The members of [such  
26 board] the commission shall serve for terms of six years each  
27 from the dates of their respective appointments and until their  
28 successors are appointed. The commission shall organize by the  
29 election of a [chairman] chair, secretary and treasurer. The  
30 secretary and treasurer may be the same person. The [several

1 boroughs, cities and townships] municipal corporations may in  
2 the ordinances creating the commission authorize it to appoint  
3 an engineer, a solicitor and [such] other assistants as are  
4 deemed necessary and agree to share the compensation for  
5 attending its meetings as shall be fixed in the budget prepared  
6 by the commission and submitted to and adopted by the [several  
7 boroughs, cities and townships] joining municipal corporations.

8 The budget item providing for the compensation to the members  
9 for attending meetings shall not exceed five hundred dollars  
10 (\$500) per year, but members in addition thereto shall be  
11 entitled to actual expenses to be paid by the respective  
12 [boroughs, cities and townships which such] municipal  
13 corporations that the members represent. The fee for each  
14 attendance at meetings shall be stipulated and no member shall  
15 be paid a fee for any meeting [he] the member does not attend.

16 Section 277. Article XXIV subdivision (a)(6) heading of the  
17 act is renumbered and amended to read:

18 [(6)] (a.5) Condemnation of Lands for Road Purposes  
19 and to Prevent Contamination

20 Section 278. Sections 2441 and 2442 of the act are amended  
21 to read:

22 Section 2441. [Overflowing Roads] Prevention of  
23 Contamination of Water Supply; Acquisition of Lands to  
24 Reconstruct Roads.--[Whenever any borough, in supplying water to  
25 the public, shall find it necessary, in storing water] (a) If a  
26 borough finds it necessary, when storing water for supply to the  
27 public, to occupy and overflow [with water] portions of any  
28 public road with water, or whenever any public road leads into  
29 or crosses over any reservoir used for the storage of water, the  
30 borough shall [cause such road to be reconstructed, at its own

1 expense, on a favorable location, and in as perfect manner as  
2 the original road, and, for such purposes is authorized to  
3 condemn land, whenever an agreement as to the price cannot be  
4 had with the owners.], at its own expense, reconstruct or build  
5 a road in a favorable location and it shall be in the same or  
6 better condition as the original road. A borough is authorized  
7 to condemn land for these purposes if an agreement as to price  
8 cannot be reached with the landowner. A condemnation of land  
9 outside the borough limits shall be in conformity with 26  
10 Pa.C.S. § 206 (relating to extraterritorial takings).

11 (b) A borough may acquire, by purchase or condemnation, land  
12 along and contiguous to streams of water or reservoirs from  
13 which water is taken for public use if necessary to preserve the  
14 water from contamination.

15 Section 2442. Filing Maps and Plans.--[After such] If a  
16 change is made pursuant to section 2441(a), the borough shall  
17 file in the court of [quarter sessions of the county] common  
18 pleas a map or plan showing [such] the change of road, and if  
19 the road is outside the limits of the borough, it shall furnish  
20 to the [supervisors or other authorities of the township, or  
21 municipal corporation] governing body of the municipal  
22 corporation, a copy of [such] the map.

23 Section 279. Sections 2443 and 2444 of the act are repealed:

24 [Section 2443. Condemnation of Lands to Prevent  
25 Contamination.--Any borough may acquire, by purchase or  
26 condemnation, such land along and contiguous to the streams of  
27 water or reservoirs from which water is taken for public use, as  
28 may be necessary to preserve the same from contamination.

29 Section 2444. Condemnation Proceedings.--The damages  
30 incurred in changing the location of any such public road, and

1 in condemning land to preserve water from contamination, shall  
2 be ascertained in the manner provided in the law governing  
3 eminent domain, and shall be paid by the borough.]

4 Section 280. Article XXIV subdivision(a)(7) heading of the  
5 act is renumbered and amended to read:

6 [(7)] (a.6) Commission of [Waterworks] the Water System

7 Section 281. Sections 2451 and 2452 of the act, amended July  
8 11, 1996 (P.L.549, No.97), are amended to read:

9 Section 2451. Commission May Be Established.--Whenever any  
10 borough owns and maintains [waterworks] a water system, there  
11 may be established in [such] the borough, by ordinance, a  
12 commission of [waterworks] the water system, which shall have  
13 the power of a nonprofit corporation, to be composed of either  
14 three or five citizens of the borough, appointed by the borough  
15 council who shall be known as commissioners of [waterworks] the  
16 water system. At any time after three years from the first  
17 appointment of the commissioners of [waterworks] the water  
18 system, the borough may abolish [such] the commission by  
19 repealing the ordinance establishing the same[, and therefore],  
20 which shall terminate the terms of the commissioners then in  
21 office [shall terminate].

22 Section 2452. Terms of Commissioners; Compensation.--(a)  
23 [It] If a borough establishes a commission of the water system,  
24 it shall be the duty of the borough council to appoint [such]  
25 the commissioners of [waterworks] the water system. If there are  
26 three commissioners, one shall be appointed to serve for one  
27 year, one for two years, and one for three years[;],  
28 annually thereafter, the council shall appoint one commissioner  
29 of [waterworks] the water system to serve a term of three years.  
30 If there are five commissioners, one shall be appointed to serve



1 for one year, one for two years, one for three years, one for  
2 four years and one for five years[;], and annually thereafter, the  
3 the council shall appoint one commissioner of [waterworks] the  
4 water system to serve a term of five years. [The terms of  
5 commissioners of waterworks in office on the effective date of  
6 this act shall terminate on the effective date of this act.] In  
7 case of a vacancy, the council shall fill the same for the  
8 unexpired term. [Such] The commissioners of [waterworks] the  
9 water system may receive a salary for their services and shall  
10 be reimbursed by the borough for all expenses necessarily  
11 incurred in the performance of their [duty] duties.

12 (b) The salary of the commissioners shall not exceed in  
13 service areas with fewer than five thousand metered accounts a  
14 maximum of one thousand eight hundred seventy-five dollars  
15 (\$1875) per year or one hundred fifty-six dollars and twenty-  
16 five cents (\$156.25) per month; in service areas with five  
17 thousand but fewer than ten thousand metered accounts, a maximum  
18 of two thousand five hundred dollars (\$2500) per year or two  
19 hundred and eight dollars and thirty-three cents (\$208.33) per  
20 month; in service areas with ten thousand but fewer than fifteen  
21 thousand metered accounts, a maximum of three thousand two  
22 hundred and fifty dollars (\$3250) per year or two hundred and  
23 seventy dollars and eighty-three cents (\$270.83) per month; in  
24 service areas with fifteen thousand but fewer than twenty-five  
25 thousand metered accounts, a maximum of four thousand one  
26 hundred and twenty-five dollars (\$4125) per year or three  
27 hundred and forty-three dollars and seventy-five cents (\$343.75)  
28 per month; in service areas with twenty-five thousand but fewer  
29 than thirty-five thousand metered accounts, a maximum of four  
30 thousand three hundred seventy-five dollars (\$4375) per year or

1 three hundred sixty-four dollars and fifty-eight cents (\$364.58)  
2 per month; and in service areas with thirty-five thousand or  
3 more metered accounts, a maximum of five thousand dollars  
4 (\$5000) per year or four hundred and sixteen dollars and sixty-  
5 seven cents (\$416.67) per month.

6 Section 282. Sections 2453, 2454, 2455, 2456, 2457 and 2458  
7 of the act are amended to read:

8 Section 2453. Organization of Commissioners.--It shall be  
9 the duty of the commissioners of [waterworks] the water system  
10 to meet within ten days after their first appointment, and  
11 annually thereafter, and organize by electing a president and  
12 secretary.

13 Section 2454. Powers of Commission.--After organization, the  
14 commissioners shall take charge and control of the [waterworks]  
15 water system of [such] the borough. The commission shall have  
16 power to appoint all necessary officers and agents, and take  
17 from [them such] the officers and agents security for the  
18 faithful performance of their [duty] duties as [they] the  
19 commission shall deem proper[; and], to fix the salaries and  
20 wages of [such] the officers and agents[;], to provide for the  
21 repair, extension, improvement and maintenance of [such  
22 waterworks] the water system, and the [erection] construction of  
23 a new [waterworks;] water system, to collect water rents and to  
24 make and establish the rates and conditions upon which water  
25 will be furnished to applicants [therefor], subject to any  
26 applicable approval, regulation or control imposed by 66 Pa.C.S.  
27 Pt. I (relating to Public Utility Code) and to make bylaws and  
28 regulations for the economic and efficient management of [such  
29 waterworks] the water system, which shall not be inconsistent  
30 with any of the laws of the Commonwealth, or the rules and

1 regulations of the [Sanitary Water Board or the Water and Power  
2 Resources Board of the Commonwealth] Department of Environmental  
3 Protection. No such bylaws or regulations shall become effective  
4 until they have been approved by the borough council and enacted  
5 as ordinances of the borough.

6 Section 2455. Issue of Bonds.--The borough may, upon the  
7 request of the commissioners of [waterworks] the water system,  
8 issue general obligation or non-debt revenue bonds for the  
9 extension of the [waterworks] water system or the erection of a  
10 new [waterworks. Such] water system. The bonds shall be  
11 designated ["waterworks] "water system bonds" and shall be  
12 issued and sold in the manner provided by [the Municipal  
13 Borrowing Law] 53 Pa.C.S. Pt. VII Subpt. B (relating to  
14 indebtedness and borrowing).

15 Section 2456. Plans and Specifications for the Improvements;  
16 Contracts.--The commissioners shall prepare plans and  
17 specifications of all work to be performed and materials  
18 necessary for the repair, maintenance, and extension of [such  
19 waterworks] the water system, or the [erection] construction of  
20 a new [waterworks; and] water system. The commissioners shall,  
21 after plans and specifications for the extension or the  
22 [erection] construction of [waterworks have] a water system has  
23 been submitted to and approved by the [Sanitary Water Board]  
24 Department of Environmental Protection, and a permit granted  
25 [therefor by the board] as may be required by law, invite  
26 proposals for the performing of [such] the work and the  
27 furnishing of [such] materials[;], and shall advertise for bids  
28 as required by law, and shall let contracts [therefor] to the  
29 lowest responsible bidder, and shall take adequate security for  
30 the performance of all such contracts and for the payment of all

1 labor and materials.

2 Section 2457. Reports by Commission.--The commissioners  
3 shall make a monthly report to the borough council of the  
4 receipts and disbursements during the preceding month, and  
5 annually make a detailed report of the condition of the  
6 [waterworks, which shall be published or otherwise made  
7 available by the council for the information of the public.]  
8 water system. Both the monthly and annual reports shall be  
9 deemed to be public records.

10 Section 2458. Care of Funds.--[The commissioners shall cause  
11 all moneys collected to be deposited weekly, by the collectors,]  
12 Collectors shall be appointed by the commissioners, pursuant to  
13 section 2454, who shall collect all moneys for water rents. The  
14 moneys collected shall be deposited weekly with the borough  
15 treasurer, who shall return a receipt [therefor] to the  
16 commissioners. All moneys [so] collected shall be kept in a  
17 separate fund, and shall be used for the purpose of repairing,  
18 maintaining and extending [such waterworks] the water system,  
19 and the [erection] construction of a new [waterworks] water  
20 system. All moneys remaining after [such] the expenditures shall  
21 be used solely for the payment of any indebtedness on [said  
22 waterworks] the water system and any indebtedness incurred by  
23 the borough for constructing, maintaining, improving, enlarging  
24 or extending [said waterworks] the water system. [Said moneys  
25 shall be used for no purpose other than as provided in this  
26 section.] No money shall be drawn from [such] the fund except  
27 upon order countersigned by the president and secretary of the  
28 commission.

29 Section 283. Article XXIV subdivision (a)(8) heading of the  
30 act is renumbered and amended to read:

1                    [(8)] (a.7) Water Connections

2        Section 284. Sections 2461, 2462 and 2463 of the act are  
3 amended to read:

4        Section 2461. Ordinances to Require Water Connections.--[Any  
5 borough supplying water for the use of the public within such  
6 borough, in any manner mentioned in section 2401 of this act,]

7 (a) Borough council may, by ordinance, require any owner of  
8 property [abutting upon any street in which there is a water  
9 main constructed or acquired by the borough, to make connections  
10 with such water line, for the purpose of conducting water to  
11 such property. The borough may by penalties enforce any  
12 regulation it may ordain with reference to such water  
13 connections.] to connect with and use a water system of the  
14 borough or municipal authority or a joint water board in either  
15 of the following cases:

16        (1) Except as provided in subsection (b), if the property  
17 owner's principal building is located within one hundred fifty  
18 feet of a water system or any part or extension of the system.

19        (2) If the property owner's principal building has no supply  
20 of water which is safe for human consumption.

21        (b) A property owner who, after the effective date of this  
22 subsection, is subject to mandatory connection pursuant to  
23 subsection (a) (1) shall not be required to connect to the water  
24 system pursuant to that subsection if all of the following  
25 conditions exist:

26        (1) The water system or part or extension of the system that  
27 is within one hundred fifty feet of the principal building was  
28 in existence on the effective date of this subsection.

29        (2) The principal building has its own supply of water which  
30 is safe for human consumption.

1 (3) Prior to the effective date of this subsection, the  
2 property owner was not required to connect to the existing  
3 system.

4 (c) A borough may also require any owner of property to  
5 install and maintain a backflow prevention device based on the  
6 degree of potential hazard of the connected property in  
7 accordance with the act of November 10, 1999 (P.L.491, No.45),  
8 known as the "Pennsylvania Construction Code Act," and  
9 regulations promulgated thereunder.

10 (d) A borough may assess penalties for the violation of  
11 ordinances pertaining to water connections or backflow  
12 prevention devices.

13 Section 2462. Notice of Ordinance; Failure to Comply With  
14 Ordinance.--The owner shall be given at least forty-five days'  
15 notice of any ordinance requiring [such] a water connection,  
16 and, upon failure of [such] the owner to make [such] the  
17 required connection, the borough may make the [same] connection,  
18 and collect the cost [thereof] from the owner by a municipal  
19 claim or in an action of assumpsit. All connections required  
20 shall be uniform.

21 Section 2463. Water Main Tapping Fees.--Any borough may, by  
22 ordinance, provide for charging a tapping fee calculated in  
23 accordance with 53 Pa.C.S. § 5607 (relating to purposes and  
24 powers) whenever the owner of any property connects [such] the  
25 property with a water main constructed or acquired by the  
26 borough[, which]. The tapping fee shall be in addition to any  
27 charges assessed and collected against [such] the property in  
28 the construction or acquisition of [such] the water main by the  
29 borough. Whenever a water main or part or extension [thereof]  
30 owned by a borough has been constructed by the borough at the

1 expense of a private person or corporation or has been  
2 constructed by a private person or corporation under the  
3 supervision of the borough at the expense of the private person  
4 or corporation, the borough shall have the right to charge a  
5 tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and  
6 refund [said] the tapping fee or any part [thereof] of the  
7 tapping fee to the person or corporation who has paid for the  
8 construction of [said] the water main or any part or extension  
9 [thereof]. The total of [said] the refunds shall never exceed  
10 the cost of [said] the system or any part or extension [thereof]  
11 to the person or corporation paying for the construction  
12 [thereof].

13 Section 285. Article XXIV subdivision (b) heading of the act  
14 is repealed:

15 [(b) Manufacture and Supply of Electricity]

16 Section 286. Section 2471 of the act, amended December 16,  
17 1992 (P.L.1215, No.158), is repealed:

18 [Section 2471. Manufacture and Purchase of Electricity.--Any  
19 borough may manufacture or purchase electricity for the use of  
20 the inhabitants of such borough. Any borough owning or operating  
21 electric light plants may make contracts for supplying  
22 electricity for commercial purposes outside the limits of such  
23 borough, with the consent of the municipal and township  
24 authorities. Nothing in this section shall conflict with the  
25 corporate rights of any corporation empowered to supply  
26 electricity in territory adjacent to such boroughs, or with the  
27 rights of any other borough. No person, firm, or corporation  
28 shall introduce electric current for light, heat, or power  
29 purposes, without the consent of the borough authorities, into  
30 the limits of any borough which is furnishing electric current

1 to the inhabitants: Provided, however, That this section shall  
2 not apply to any person, firm, or corporation manufacturing  
3 electricity exclusively for its own use: And provided further,  
4 That any borough which constructs an electric light plant, or  
5 purchases the property of any person, copartnership, or electric  
6 light company, and incurs debt for any of such purposes, shall  
7 incur such debt in accordance with and to the extent permitted  
8 by the act of July 12, 1972 (P.L.781, No.185), known as the  
9 "Local Government Unit Debt Act." Nothing in this act shall be  
10 construed so as to disallow any borough from operating a cable  
11 television system.]

12 Section 287. Sections 2471.1 and 2471.2 of the act, added  
13 December 30, 1982 (P.L.1465, No.333), are repealed:

14 [Section 2471.1. Operation of Electric Plants.--(a) The  
15 following words and phrases when used in this section shall  
16 have, unless the context clearly indicates otherwise, the  
17 meanings given to them in this subsection:

18 (1) "Project" means any electric plants, hydroelectric plant  
19 works, system, facilities, or real or personal property,  
20 together with all parts thereof and appurtenances thereto, used  
21 or useful in connection with the generation, production,  
22 transmission, purchase, sale, exchange or interchange of  
23 electric power or energy, or any interest therein or right to  
24 capacity thereof.

25 (2) "Revenue bond" means an instrument imposing an  
26 obligation for the repayment of money borrowed, payable as to  
27 both principal and interest exclusively from the income and  
28 revenues derived from an interest in an electric light plant or  
29 project.

30 (b) A borough may own, construct, acquire by lease, purchase



1 or otherwise gain an interest as co-owner or tenant in common  
2 and operate and manage or cause to be operated and managed an  
3 electric light plant or project located within or without this  
4 Commonwealth jointly with any other borough, political  
5 subdivision, subdivision of the Federal Government, State,  
6 political subdivision of another state, private corporation  
7 empowered to supply electricity, electric cooperative  
8 corporation formed under the act of June 21, 1937 (P.L.1969,  
9 No.389), known as the "Electric Cooperative Corporation Act," or  
10 electric cooperative corporation in another state.

11 (c) A borough which jointly owns, constructs, leases,  
12 purchases or otherwise gains an interest in an electric light  
13 plant or project shall have the power to do and accomplish all  
14 actions reasonably necessary and incident to the administration,  
15 operation and management of the plant or project. This power  
16 shall be vested in the corporate authorities: Provided, however,  
17 That a borough shall not become a stockholder in, obtain or  
18 appropriate money for or loan its credit to any corporation,  
19 association, institution or individual or otherwise act contrary  
20 to the provisions of section 9 of Article IX of the Constitution  
21 of Pennsylvania. In addition to the powers enjoyed by all  
22 boroughs, a borough which gains an interest in an electric light  
23 plant or project under subsection (b) shall have the following  
24 powers:

25 (1) to cooperate with private power companies, other  
26 boroughs, electric cooperative corporations and other public or  
27 private electric power entities, inside and outside of this  
28 Commonwealth, in the development of electric power and energy;

29 (2) to make such studies as may be necessary to determine  
30 the feasibility and cost of any additional sources and supplies

1 of electric power and energy;

2 (3) to contract for the purchase, sale, exchange,  
3 interchange, wheeling, pooling or transmission of electric power  
4 and energy or for the right to the capacity thereof, inside and  
5 outside of this Commonwealth, to and from any public or private  
6 power entities, private power companies, other boroughs and  
7 electric cooperative corporations;

8 (4) to procure insurance against any losses in connection  
9 with its property, operations or assets in such amounts and from  
10 such insurers as the corporate authorities deem desirable;

11 (5) to contract for and to accept any gifts or grants or  
12 loans of funds or property or financial or other aid in any form  
13 from the United States of America or any agency or  
14 instrumentality thereof, or from any other source;

15 (6) to grant the use, by lease or otherwise, and to make  
16 charges for the use, of any property or facility owned or  
17 controlled by it;

18 (7) to procure from the United States of America or any  
19 agency or instrumentality thereof, or from any state or agency  
20 or instrumentality thereof, any consents, authorizations or  
21 approvals which may be requisite to enable ownership, operation,  
22 construction or repair;

23 (8) to borrow money and from time to time to issue revenue  
24 bonds, and to enter into agreements with the purchasers of such  
25 revenue bonds; and

26 (9) to mortgage any property acquired or owned under  
27 subsection (b) to secure the payment of its revenue bonds, or  
28 other obligations issued to finance such acquisition, ownership  
29 or repair.

30 (d) In the erection and extension of an electric light plant

1 or project under subsection (b) and for all other purposes  
2 authorized by this act, a borough may enter upon, appropriate,  
3 injure, or destroy private lands, property or material according  
4 to the proceedings set forth in the law governing eminent  
5 domain: Provided, however, That a borough shall not have the  
6 power of condemnation with regard to any property of a private  
7 or public retail electric supplier which geographically lies  
8 beyond the boundaries of the corporate limits of the borough.

9 (e) A borough which gains an interest in an electric light  
10 plant or project under subsection (b) may fix, establish,  
11 maintain and collect or authorize by contract or otherwise the  
12 establishment, levying and collection of such rates, fees,  
13 rental or other charges, including connection charges, for the  
14 services afforded by or in connection with any properties which  
15 it constructs, erects, owns, acquires, operates or manages, and  
16 for the sale or transmission of electric energy and power as it  
17 may deem necessary, proper, desirable and reasonable.

18 (f) A borough which gains an interest in an electric light  
19 plant or project under subsection (b) may pay all or part of the  
20 cost therefor from the revenues derived from the sale of revenue  
21 bonds issued in the manner provided by the act of July 12, 1972  
22 (P.L.781, No.185), known as the "Local Government Unit Debt  
23 Act."

24 (g) Interest and principal paid on revenue bonds issued by a  
25 borough under subsection (f) shall be exempt from all State  
26 taxes of whatsoever kind or nature.

27 Section 2471.2. Municipal Power Agencies.--(a) The  
28 following words and phrases when used in this section shall  
29 have, unless the context clearly indicates otherwise, the  
30 meanings given to them in this subsection:

1       (1) "Municipal power agency" means a separate body politic  
2 and corporate under the laws of the Commonwealth of Pennsylvania  
3 created by agreement between or among two or more boroughs  
4 pursuant to this section.

5       (2) "Project" means any electric plant or plants,  
6 hydroelectric plant works, system, facilities or real or  
7 personal property, together with all parts thereof and  
8 appurtenances thereto, used or useful in connection with the  
9 generation, production, transmission, purchase, sale, exchange  
10 or interchange of electric power or energy, or any interest  
11 therein or right to capacity thereof.

12       (3) "Revenue bond" means an instrument imposing an  
13 obligation for the repayment of money borrowed, payable as to  
14 both principal and interest exclusively from the income and  
15 revenues derived from an interest in an electric light plant or  
16 project.

17       (b) Any two or more boroughs may form a municipal power  
18 agency by the execution of any agency agreement authorized by a  
19 resolution of the corporate authorities of each borough. Such  
20 agency agreement shall state:

21       (1) The name of the agency, which shall include the words  
22 "municipal power agency."

23       (2) The names of the boroughs which have approved the agency  
24 agreement and are initial members of the municipal power agency.

25       (3) That the municipal power agency is created pursuant to  
26 the authority granted by this act.

27       (4) The names and addresses of the persons initially  
28 appointed by the corporate authorities to act as representatives  
29 to the municipal power agency from the member boroughs.

30       (5) The limitations, if any, placed on the powers or terms

1 of representatives appointed by the corporate authorities of the  
2 member boroughs.

3 (6) The names and addresses of the initial board of  
4 directors of the municipal power agency, if known by the time of  
5 filing, which shall be constituted by not less than five persons  
6 who are representatives of the member boroughs, selected by the  
7 vote of a majority of such representatives.

8 (c) The agency agreement referred to in subsection (b) and a  
9 certified copy of the resolution of the corporate authorities of  
10 each borough shall be filed for record with the Secretary of the  
11 Commonwealth. If the agency agreement meets the requirements of  
12 this subsection, the Secretary of the Commonwealth shall record  
13 it and issue and record a certificate of incorporation which  
14 shall be conclusive proof of a substantial compliance with the  
15 requirements of this subsection. The certificate shall state the  
16 name of the municipal power agency and the fact and date of  
17 incorporation. Upon the issuance of the certificate of  
18 incorporation the existence of the municipal power agency as a  
19 political instrumentality of the Commonwealth shall begin.

20 (d) The bylaws of the municipal power agency and any  
21 amendments thereto, shall be proposed by the board of directors  
22 and shall be adopted by a majority vote of the representatives  
23 of the member boroughs, unless the agency agreement requires a  
24 greater vote, at a meeting held after notice. Subject to the  
25 provisions of the agency agreement, the bylaws shall state:

26 (1) the qualifications of member boroughs, and limitations,  
27 if any, upon their number;

28 (2) conditions of membership, if any;

29 (3) manner and time of calling regular meeting of  
30 representatives of member boroughs;

1 (4) manner and conditions of termination of membership; and  
2 (5) such other provisions for regulating the affairs of the  
3 municipal power agency as the representatives of the member  
4 boroughs shall determine to be necessary.

5 (e) Every municipal power agency shall maintain an office in  
6 this Commonwealth to be known as its registered office. When a  
7 municipal power agency desires to change the location of its  
8 registered office, it shall file with the Secretary of the  
9 Commonwealth a certificate of change of location of registered  
10 office, stating the new location by city, town or other  
11 community and effective date of change. When the certificate of  
12 change of location has been duly filed, the board of directors  
13 may make the change without any further action.

14 (f) Each of the directors shall hold office for the term for  
15 which he has been selected and until a successor has been  
16 selected and has qualified. Directors shall discharge their  
17 duties in good faith, and with that diligence and care which an  
18 ordinary prudent person in a like position would exercise under  
19 similar circumstances. The agency agreement, or the bylaws may  
20 prescribe the number, term of office, powers, authority and  
21 duties of directors, the time and place of their meetings and  
22 other regulations concerning directors. Except where the agency  
23 agreement or bylaws prescribe otherwise, the term of office of a  
24 director shall be for one year. Except where the agency  
25 agreement or bylaws prescribe otherwise, a meeting of the board  
26 of directors may be held at any place, within the Commonwealth,  
27 designated by the board, after notice, and an act of the  
28 majority of the directors present at a meeting at which a quorum  
29 is present is the act of the board. Except where the agency  
30 agreement or bylaws prescribe otherwise, any vacancy occurring

1 on the board shall be filled by a person nominated by the  
2 remaining members of the board and elected by a majority of  
3 representatives of the member boroughs.

4 (g) Except where the agency agreement or bylaws prescribe  
5 otherwise, the board of directors shall appoint a president from  
6 its membership, and a secretary and treasurer, and any other  
7 officers or agents deemed to be necessary, who may but need not  
8 be borough representatives or directors. An officer may be  
9 removed with or without cause by the board of directors.

10 Officers of the municipal power agency shall have the authority  
11 and duties in the management of the business of the municipal  
12 power agency that the agency agreement or bylaws prescribe, or,  
13 in the absence of such prescription, as the board of directors  
14 determines.

15 (h) Except as otherwise provided in the agency agreement or  
16 the bylaws, the duly authorized representatives of each member  
17 borough shall act as, and vote on behalf of, such borough.  
18 Except where the agency agreement or bylaws provide otherwise,  
19 representatives of the member boroughs shall hold at least one  
20 meeting each year for the election of directors and for the  
21 transaction of any other business. Except where the agency  
22 agreement or bylaws prescribe otherwise, special meetings of the  
23 representatives may be called for any purpose upon written  
24 request to the president or secretary to call the meeting. Such  
25 officer shall give notice of the meeting to be held between ten  
26 and sixty days after receipt of such request. Unless the agency  
27 agreement or bylaws provide for a different percentage, a quorum  
28 for a meeting of the representatives of the member boroughs is a  
29 majority of the total members and a quorum for meetings of the  
30 board of directors is a majority of the membership of such

1 board.

2 (i) The agency agreement may be amended as proposed at any  
3 meeting of the representatives of the members for which notice,  
4 stating the purpose, shall be given to each representative and,  
5 unless the agency agreement or bylaws require otherwise, shall  
6 become effective when ratified by resolutions of a majority of  
7 the corporate authorities of the member boroughs. Each amendment  
8 and the resolutions approving it shall be filed for record with  
9 the Secretary of the Commonwealth.

10 (j) Each member borough shall have full power and authority,  
11 within budgetary limits applicable to it, to appropriate money  
12 for the payment of expenses of the formation of the municipal  
13 power agency and of its representative in exercising its  
14 functions as a member of the agency.

15 (k) A municipal power agency may own, construct, acquire by  
16 lease, purchase or otherwise gain an interest by itself or as  
17 co-owner or tenant in common and operate and manage or cause to  
18 be operated and managed an electric light plant or project  
19 located within or without this Commonwealth jointly with any  
20 political subdivision, subdivision of the Federal Government,  
21 State, political subdivision of another state, private  
22 corporation empowered to supply electricity, electric  
23 cooperative corporation formed under the act of June 21, 1937  
24 (P.L.1969, No.389), known as the "Electric Cooperative  
25 Corporation Act," or electric cooperative corporation in another  
26 state.

27 (l) All powers of a municipal power agency shall be  
28 exercised by its board of directors, unless otherwise provided  
29 by the agency agreement or bylaws. A municipal power agency  
30 shall have the power to do and accomplish all actions reasonably



1 necessary and incident to the ownership, construction,  
2 acquisition, administration, operation and management of an  
3 electric light plant or project. Among the specific powers of a  
4 municipal power agency shall be the following:

5 (1) to sue and be sued;

6 (2) to enter into contracts;

7 (3) to cooperate with private power companies, boroughs,  
8 electric cooperative corporations and other public or private  
9 electric power entities, inside and outside of this  
10 Commonwealth, in the development of electric power and energy;

11 (4) to make such studies as may be necessary to determine  
12 the feasibility and cost of any additional sources and supplies  
13 of electric power and energy;

14 (5) to contract for the purchase, sale, exchange,  
15 interchange, wheeling, pooling or transmission of electric power  
16 and energy or for the right to the capacity thereof, inside and  
17 outside of this Commonwealth, to and from any public or private  
18 power entities, private power companies, other boroughs and  
19 electric cooperative corporations;

20 (6) to procure insurance against any losses in connection  
21 with its property, operations or assets in such amounts and from  
22 such insurers as the board of directors deems desirable;

23 (7) to contract for and to accept any gifts or grants or  
24 loans of funds or property or financial or other aid in any form  
25 from the United States of America or any agency or  
26 instrumentality thereof, or from any other source;

27 (8) to acquire, hold, use, operate and dispose of personal  
28 property;

29 (9) to acquire, hold, use and dispose of its income,  
30 revenues, funds and moneys;

1       (10) to acquire, own, use, lease, operate and dispose of  
2 real property and interests in real property and to make  
3 improvements thereon;

4       (11) to grant the use, by lease or otherwise, and to make  
5 charges for the use, of any property or facility owned or  
6 controlled by it;

7       (12) to procure from the United States of America or any  
8 agency or instrumentality thereof, or from any state or agency  
9 or instrumentality thereof, any consents, authorizations or  
10 approvals which may be requisite to enable ownership, operation,  
11 construction or repair;

12       (13) to borrow money and from time to time to issue revenue  
13 bonds and to enter into agreements with the purchasers of such  
14 revenue bonds;

15       (14) to invest funds not required for immediate use,  
16 including but not limited to proceeds from the sale of revenue  
17 bonds: Provided, however, That the power of a municipal power  
18 agency to invest shall be the same as that of a borough, as  
19 exercised by the borough council pursuant to clause (6) of  
20 section 1005 and section 1316; and

21       (15) to mortgage any property acquired or owned to secure  
22 the payment of its revenue bonds or other obligations issued to  
23 finance such acquisition, ownership or repair.

24       (m) In the erection and extension of an electric light plant  
25 or project, and for all other purposes authorized by this act, a  
26 municipal power agency may enter upon, appropriate, injure or  
27 destroy private lands, property or material according to the  
28 proceedings set forth in the law governing eminent domain:  
29 Provided, however, That a municipal power agency shall not have  
30 the power of condemnation with regard to any property of a

1 private or public retail electric supplier which geographically  
2 lies beyond the boundaries of the corporate limits of its member  
3 boroughs.

4 (n) A municipal power agency which gains an interest in an  
5 electric light plant or project may pay all or part of the cost  
6 therefor from the revenues derived from the sale of revenue  
7 bonds issued in the manner provided by the act of July 12, 1972  
8 (P.L.781, No.185), known as the "Local Government Unit Debt  
9 Act."

10 (o) A municipal power agency may make and enforce bylaws or  
11 rules which it deems necessary or desirable and may establish,  
12 fix, levy and collect or may authorize, by contract, franchise,  
13 lease or otherwise, the establishment, levying and collection  
14 of, rents, rates and other charges for the services afforded by  
15 the municipal power agency, including connection for the  
16 services afforded by the municipal power agency, including  
17 connection charges or by or in connection with any project or  
18 properties which it may construct, erect, acquire, own, operate  
19 or control, or with respect to which it may have any interest or  
20 any right to capacity thereof and for the sale of electric  
21 energy or of generation or transmission capacity or services as  
22 it may deem necessary, proper, desirable and reasonable. Rents,  
23 rates and other charges shall be at least sufficient to meet  
24 expenses thereof, including reasonable reserves, interest and  
25 principal payments.

26 (p) Interest and principal paid on revenue bonds, issued by  
27 a municipal power agency shall be exempt from all State taxes of  
28 whatsoever kind or nature.]

29 Section 288. Section 2471.3 of the act, added October 27,  
30 2010 (P.L.862, No.87), is repealed:

[Section 2471.3. Additional Contracting Authority for Electric Power and Energy.--(a) In addition to the authority provided under section 2471, a borough that, on the effective date of this section, owns or operates electric generation or distribution facilities and a borough that is a member of a non-profit membership corporation may contract with the non-profit membership corporation for the following:

(1) The development of electric power and associated energy, including the conduct of investigations or studies necessary to determine the feasibility and cost of additional sources and supplies of electric power and associated energy.

(2) The purchase, sale, exchange, interchange, wheeling, pooling or transmission of electric power and associated energy or the right to the capacity from sources and projects in this Commonwealth or another state for a period not to exceed fifty years.

(b) A contract under subsection (a)(2) shall include the purpose of the contract, the duration of the contract and available procedures to terminate the contract subsequent to the repayment of all indebtedness secured under the contract.

(c) If a borough is a member of a non-profit membership corporation, a contract under subsection (a)(2) may, if specifically set forth in the contract, obligate the borough to:

(1) take and pay for a minimum quantity of electric power and associated energy if the power and energy is available for delivery;

(2) in connection with a project owned by the non-profit membership corporation or in which the non-profit membership corporation obtains an undivided ownership interest, to take or pay for a minimum amount of electric power and energy; or

(3) pay for electric power and energy only if utilized by the borough.

(d) (1) The authority under subsection (c)(1) shall apply whether or not the borough accepts delivery of the power and energy.

(2) The authority under subsection (c)(2) shall apply notwithstanding the suspension, interruption, interference or reduction or curtailment of the output of the project or the electric power and energy contracted for and whether or not:

(i) the electric power and energy is available for delivery to the borough; or

(ii) the borough accepts delivery of the electric power and energy.

(e) No borough may be obligated under a take-or-pay or take-and-pay arrangement entered into with a non-profit membership corporation in which the borough maintains membership unless that obligation is expressly authorized by an act of the borough council.

(f) A non-profit membership corporation shall not:

(1) condition membership in the non-profit membership corporation on the inclusion of any take-or-pay or take-and-pay obligations in a contract under subsection (a)(2); or

(2) except as set forth in subsection (g), require take-or-pay or take-and-pay obligations in a contract with a borough unless the contract meets the criteria of subsection (c)(1) or (2).

(g) A borough which is a member of a non-profit membership corporation may enter into future power supply contracts, contract renewals or contract extensions with the non-profit membership corporation under subsection (c)(3):

(1) with no take-or-pay or take-and-pay obligations as permitted by subsection (c)(1) and (2); and

(2) without prejudice or discrimination as compared to any other borough which chooses to enter into contracts permitted by subsection (c)(1) and (2) with the non-profit membership corporation.

(h) In order to carry out subsection (g), a non-profit membership corporation which provides or offers electric power and associated energy to a member borough in this Commonwealth under subsection (a)(2) shall offer, to all of its member boroughs in this Commonwealth, future power supply contract terms, contract renewals or contract extensions under subsection (c)(3) on a comparable and nondiscriminatory basis and with similar terms and conditions to future power supply contract terms, contract renewals or contract extensions that would be appropriate under subsection (c)(3) which the non-profit membership corporation contemporaneously offers to its members in other states.

(i) All obligations under a contract under subsection (a)(2) shall be paid from revenues derived from the operation of the borough's electric system, and payments shall be an operating expense of the borough's electric system.

(j) If explicitly set forth in a contract under subsection (a)(2), a borough may agree to assume, prorate or otherwise become liable for the obligations of another borough of this Commonwealth or of a political subdivision of another state that is a member of the non-profit membership corporation if the borough or other political subdivision defaults in the payment of its obligations for the purchase of the electric power and associated energy. The contract may include provisions to permit

1 a borough to succeed to the rights and interests of the  
2 defaulting borough or political subdivision to purchase electric  
3 power and associated energy. A borough's liability for the  
4 obligations of a defaulting borough of this Commonwealth or a  
5 political subdivision of another state shall not exceed twenty-  
6 five percent of a borough's initial nominal entitlement to  
7 electric power and associated energy under the contract.

8 (k) None of the obligations under the contract shall  
9 constitute a legal or equitable pledge, charge, lien or  
10 encumbrance on any property of the borough or on any of its  
11 income, receipts or revenues, except revenues of its electric  
12 system. The full faith and credit and the taxing power of the  
13 borough shall not be pledged for the payment of an obligation  
14 under the contract.

15 (l) The provisions of this section are intended to add to  
16 the powers and rights of a borough, and nothing in this section  
17 shall be construed to limit either the general or specific  
18 powers or rights of a borough set forth in this act.

19 (m) As used in this section, the term "non-profit membership  
20 corporation" means an entity the membership of which:

21 (1) consists solely of Pennsylvania boroughs, such as a  
22 consortium, buying group or municipal power agency under section  
23 2471.2; or

24 (2) consists of Pennsylvania boroughs and political  
25 subdivisions of another state or states.]

26 Section 289. Sections 2472, 2473, 2474, 2475 and 2476 of the  
27 act are repealed:

28 [Section 2472. May Regulate Use and Prices.--Any borough  
29 furnishing electricity may regulate the use of electricity in  
30 dwellings, business places, and other places in such borough,

1 and the rate to be charged for the same.

2 Section 2473. Sale of Electric Light Works.--By ordinance, a  
3 borough may sell all or part of its electric light works to a  
4 purchaser for such sale price as the parties may agree upon, and  
5 thereafter for all purposes that price shall be deemed to be the  
6 purchaser's original cost less accrued depreciation of the plant  
7 at the date of purchase.

8 Section 2474. Purchase of Electric Light Works.--Whenever  
9 any person, copartnership, or any electric light company  
10 organized under the laws of the Commonwealth, is furnishing  
11 light to any borough or the public within such borough, such  
12 borough may purchase the works of such person, copartnership, or  
13 corporation, at such price as may be agreed upon by the borough  
14 and such person or copartnership, or a majority in value of the  
15 stockholders of such corporation.

16 Section 2475. Petition for Viewers.--Upon failure so to  
17 agree on purchase price the borough may present a petition to  
18 the court of common pleas, asking for the appointment of viewers  
19 to assess the value of the plant and works so proposed to be  
20 purchased whereupon the court shall appoint three viewers from  
21 the county board of viewers, neither of whom shall be interested  
22 in such works, or be stockholders in such corporation, or  
23 taxpayers in such borough, and shall appoint a time for their  
24 meeting, of which ten days' notice shall be given to all parties  
25 in interest.

26 Section 2476. Duty of Viewers.--The viewers, having been  
27 sworn or affirmed justly and impartially to appraise the  
28 property, and having viewed the premises and taken such  
29 testimony as may be offered by any party touching the value of  
30 the property and franchises, they shall determine the amount of



1 damages that such person, copartnership, or corporation will  
2 sustain, and to whom payable, and make report thereof to the  
3 court; which report shall be confirmed "nisi" by the court, and  
4 if no appeal is taken as hereinafter provided, shall be  
5 confirmed absolutely.]

6 Section 290. Section 2477 of the act, repealed in part June  
7 3, 1971 (P.L.118, No.6), is repealed:

8 [Section 2477. Appeal from Report; Trial by Jury.--Either  
9 party may, at any time within thirty days after the confirmation  
10 "nisi" of any such report, appeal therefrom to the court of  
11 common pleas of the county. After such appeal, either party may  
12 put the cause at issue, in the form directed by the court, and  
13 the same shall be tried before a jury.]

14 Section 291. Sections 2478 and 2479, Article XXIV  
15 subdivision (c) heading, section 2481, subdivision (d) heading  
16 and sections 2491, 2492 and 2493 of the act are repealed:

17 [Section 2478. Exceptions to Report.--If any exceptions are  
18 filed with any appeal, they shall be speedily disposed of, and,  
19 if allowed, a new view shall be ordered; but if disallowed, the  
20 appeal shall proceed as before provided.

21 Section 2479. Notices.--The court shall have power to order  
22 what notice shall be given in connection with any part of such  
23 proceedings.

24 (c) Operation of Gas Wells; Gas Works

25 Section 2481. Authority to Purchase Natural Gas Well.--Any  
26 borough shall have authority to purchase, own, use, operate and  
27 control any natural gas well, or wells, for the purpose of  
28 supplying natural gas for its own municipal purposes.

29 (d) Airports

30 Section 2491. Authority to Secure Lands for Airports.--Any

1 borough is hereby authorized and empowered to acquire, by lease  
2 or purchase, any land, lying either within or without the limits  
3 of such borough, which, in the judgment of the council thereof,  
4 may be necessary and desirable for the purpose of establishing  
5 and maintaining municipal airport facilities. The proceedings  
6 for the condemnation of land under the provisions of this  
7 subdivision, and for the assessment of damages for property  
8 taken, injured or destroyed, shall be conducted in the manner  
9 provided by the law governing eminent domain. The title acquired  
10 by the borough exercising the power of condemnation shall be a  
11 title in fee simple.

12 Section 2492. Authority to Establish Airports and Lease the  
13 Same.--Any borough, acquiring land under the provisions of this  
14 subdivision, is authorized and empowered to establish, equip,  
15 condition, operate and maintain the same as a municipal airport,  
16 and may lease the same, or any part thereof, to any individual  
17 or corporation desiring to use the same for aviation purposes;  
18 and any borough may enter into a contract, in the form of a  
19 lease, providing for the use of said land, or any part thereof,  
20 by the Government of the United States, for the use by said  
21 Government of said land for aviation purposes upon nominal  
22 rental or without consideration.

23 Section 2493. Joint Airports.--Any borough, acquiring land  
24 under the provisions of this subdivision, is authorized and  
25 empowered to acquire, by lease or purchase, land for aviation  
26 purposes, as hereinbefore provided, jointly with any county,  
27 city, borough, township, or political subdivision of this  
28 Commonwealth, and is hereby authorized and empowered to operate  
29 and maintain said airport, jointly, with any county, city,  
30 borough, township, or other political subdivision of this

1 Commonwealth, upon such terms and conditions as may be agreed  
2 upon between the proper authorities of the county, city,  
3 borough, township, or other political subdivision of this  
4 Commonwealth.]

5 Section 292. The act is amended by adding an article to  
6 read:

7 ARTICLE XXIV-A

8 MANUFACTURE AND SUPPLY OF ELECTRICITY

9 Section 2401-A. Definitions.

10 The following words and phrases when used in this article  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Municipal power agency." A separate body politic and  
14 corporate under the laws of this Commonwealth created by  
15 agreement between or among two or more boroughs pursuant to  
16 section 2404-A.

17 "Project." Electric plants, hydroelectric plant works,  
18 system, facilities or real or personal property, together with  
19 their parts and appurtenances, used or useful in connection with  
20 the generation, production, transmission, purchase, sale,  
21 exchange or interchange of electric power or energy, or any  
22 interest therein or right to capacity thereof.

23 "Revenue bond." An instrument imposing an obligation for the  
24 repayment of money borrowed, payable as to both principal and  
25 interest exclusively from the income and revenues derived from  
26 an interest in an electric plant or project.

27 Section 2402-A. General powers.

28 (a) Electric plants and projects.--A borough may, either  
29 singly or jointly, manufacture or purchase electricity for the  
30 use of its inhabitants, own, construct, acquire by lease,

purchase or otherwise gain an interest in, operate and manage or  
cause to be operated and managed, an electric plant or project  
located within or without this Commonwealth. In the exercise of  
any of the foregoing powers, a borough may join with any other  
borough, political subdivision, agency or instrumentality of the  
Federal Government, State government, political subdivision of  
another state, private corporation empowered to supply  
electricity, electric cooperative corporation formed under 15  
Pa.C.S. Ch. 73 Subchs. A (relating to preliminary provisions)  
and B (relating to powers, duties and safeguards), or previously  
formed under the act of June 21, 1937 (P.L.1969, No.389), known  
as the Electric Cooperative Corporation Act (REPEALED 1990-198),  
or electric cooperative corporation in another state.

(b) Contracts for supplying electricity.--A borough owning  
or operating an electric plant may make contracts for supplying  
electricity for commercial purposes outside the limits of the  
borough, provided that the borough has received the consent of  
the other municipal governing body and, if applicable, subject  
to 66 Pa.C.S. Pt. I (relating to Public Utility Code).

(c) Additional sources.--A borough may conduct studies as  
necessary to determine the feasibility and cost of any  
additional sources and supplies of electric power and energy and  
may cooperate with private power companies, other boroughs,  
electric cooperative corporations and other public or private  
electric power entities, within or without this Commonwealth, in  
the development of electric power and energy.

(d) Consent of borough to supply electricity.--No person,  
partnership or corporation may introduce electric current for  
light, heat or power purposes, without the consent of the  
borough council, into the limits of any borough that is

1 furnishing electric current to its inhabitants, provided,  
2 however, that this subsection shall not apply to any person,  
3 partnership or corporation manufacturing electricity exclusively  
4 for its own use.

5 (e) Corporate rights.--Nothing in this article may conflict  
6 with the corporate rights of any corporation empowered to supply  
7 electricity in the territory adjacent to the borough, or with  
8 the rights of any other municipality.

9 (f) Restrictions.--A borough shall not become a stockholder  
10 in, obtain or appropriate money for or loan its credit to any  
11 corporation, association, institution or individual or otherwise  
12 act contrary to the provisions of section 9 of Article IX of the  
13 Constitution of Pennsylvania.

14 (g) General powers.--A borough, through its governing body,  
15 shall have the power to do and accomplish all actions reasonably  
16 necessary and incident to the administration, operation and  
17 management of a plant or project.

18 Section 2403-A. Specific powers.

19 (a) Specific powers enumerated.--In addition to exercising  
20 its general powers under section 2402-A, a borough, through its  
21 governing body, shall have the following powers:

22 (1) To contract for the purchase, sale, exchange,  
23 interchange, wheeling, pooling or transmission of electric  
24 power and energy or for the right to the capacity thereof,  
25 inside and outside of this Commonwealth, to and from any  
26 public or private power entities, private power companies,  
27 other boroughs and electric cooperative corporations.

28 (2) To regulate the use of and the charge for  
29 electricity furnished by the borough for use throughout the  
30 borough. A borough may fix, establish, maintain and collect

1 or authorize by contract or otherwise the establishment,  
2 levying and collection of the rates, fees, rental or other  
3 charges, including connection charges, for the services  
4 afforded by or in connection with any properties which the  
5 borough constructs, erects, owns, acquires, operates or  
6 manages, and for the sale or transmission of electric energy  
7 and power as it deems necessary, proper, desirable and  
8 reasonable.

9 (3) To procure insurance against any losses in  
10 connection with its property, operations or assets in the  
11 amounts and from such insurers as the governing body or  
12 bodies deem desirable.

13 (4) To contract for and to accept any gifts, grants or  
14 loans of funds or property, or financial or other aid in any  
15 form from the United States of America or any agency or  
16 instrumentality of the United States of America, or from any  
17 other source.

18 (5) To lease, or otherwise grant the use of, and to make  
19 charges for the use of any property or facility owned or  
20 controlled by the borough.

21 (6) To procure from the United States of America or any  
22 agency or instrumentality of the United States of America, or  
23 from any state or agency or instrumentality of the State, any  
24 consents, authorizations or approvals which may be requisite  
25 to enable ownership, operation, construction or repair.

26 (7) To borrow money and from time to time to issue  
27 revenue bonds, and to enter into agreements with the  
28 purchasers of the revenue bonds. Any borough that incurs debt  
29 for the construction or purchase of an electric plant, or  
30 land on which to construct an electric plant, or gains an

1 interest in an electric plant or project under section 2402-A  
2 shall incur the debt in accordance with and to the extent  
3 permitted by 53 Pa.C.S. Pt. VII Subpt. B (relating to  
4 indebtedness and borrowing). Interest and principal paid on  
5 revenue bonds issued by a borough under this article shall be  
6 exempt from all State taxes of whatsoever kind or nature.

7 (8) To mortgage any property acquired or owned under  
8 section 2402-A to secure the payment of its revenue bonds or  
9 other obligations issued to finance the acquisition,  
10 ownership or repair.

11 (9) To sell, by ordinance, all or part of its electric  
12 works to a purchaser for the sale price agreed upon by the  
13 parties, and thereafter, for all purposes, that price shall  
14 be deemed to be the purchaser's original cost less accrued  
15 depreciation of the plant at the date of purchase.

16 (10) To purchase the electric works of any person,  
17 partnership, or electric company organized under the laws of  
18 this Commonwealth that is furnishing light to the borough or  
19 the public within the borough. The borough and the person,  
20 partnership or a majority in value of the stockholders of a  
21 corporation, may agree upon the purchase price, but upon  
22 failure of the parties to agree on the price, the borough may  
23 proceed according to the laws of eminent domain.

24 (b) Eminent domain.--In the erection and extension of an  
25 electric plant or project under this article, and for all other  
26 purposes authorized by this act, a borough may enter upon,  
27 appropriate, injure or destroy private lands, property or  
28 material according to the proceedings set forth in 26 Pa.C.S.  
29 (relating to eminent domain). A borough, however, shall not have  
30 the power of condemnation with regard to any property of a

private or public retail electric supplier which geographically  
lies beyond the boundaries of the corporate limits of the  
borough.

Section 2404-A. Municipal power agencies.

(a) General rule.--Two or more boroughs may form a municipal  
power agency by the execution of an agency agreement authorized  
by an ordinance of the governing bodies of each borough. The  
agency agreement shall state:

(1) The name of the agency, which shall include the  
words "municipal power agency."

(2) The names of the boroughs which have approved the  
agency agreement and are initial members of the municipal  
power agency.

(3) That the municipal power agency is created pursuant  
to the authority granted by this act.

(4) The names and addresses of the persons initially  
appointed by the governing bodies to act as representatives  
to the municipal power agency from the member boroughs.

(5) The limitations, if any, placed on the powers or  
terms of representatives appointed by the governing bodies of  
the member boroughs.

(6) The names and addresses of the initial board of  
directors of the municipal power agency, if known by the time  
of filing, which shall be constituted by not less than five  
persons who are representatives of the member boroughs,  
selected by the vote of a majority of the representatives.

(b) Certificate of incorporation.--The agency agreement  
under subsection (a) and a certified copy of the ordinance of  
the governing body of each borough shall be filed for record  
with the Secretary of the Commonwealth. If the agency agreement



1 meets the requirements of this section, the Secretary of the  
2 Commonwealth shall record the agreement and issue and record a  
3 certificate of incorporation which shall be conclusive proof of  
4 substantial compliance with the requirements of this section.  
5 The certificate shall state the name of the municipal power  
6 agency and the fact and date of incorporation. Upon the issuance  
7 of the certificate of incorporation, the existence of the  
8 municipal power agency as a political instrumentality of the  
9 Commonwealth shall begin.

10 (b.1) Open meetings.--Regular and special meetings of the  
11 representatives of member boroughs and the board of directors as  
12 provided in this section shall be subject to 65 Pa.C.S. Ch. 7  
13 (relating to open meetings).

14 (c) Bylaws.--The bylaws of the municipal power agency and  
15 any amendments, shall be proposed by the board of directors and  
16 shall be adopted by a majority vote of the representatives of  
17 the member boroughs, unless the agency agreement requires a  
18 greater vote at a meeting held after notice. Subject to the  
19 provisions of the agency agreement, the requirements of this act  
20 and the laws of this Commonwealth, the bylaws shall state:

21 (1) the qualifications of member boroughs, and  
22 limitations, if any, upon their number;

23 (2) conditions of membership, if any;

24 (3) the manner and time of calling regular meetings of  
25 representatives of member boroughs;

26 (4) the manner and conditions of termination of  
27 membership; and

28 (5) such other provisions for regulating the affairs of  
29 the municipal power agency as the representatives of the  
30 member boroughs shall determine to be necessary.

1     (d) Registered office.--Every municipal power agency shall  
2 maintain an office in this Commonwealth to be known as its  
3 registered office. When a municipal power agency desires to  
4 change the location of its registered office, it shall file with  
5 the Secretary of the Commonwealth a certificate of change of  
6 location of registered office, stating the new location by  
7 address, including street and number, if any, and effective date  
8 of change. When the certificate of change of location has been  
9 duly filed, the board of directors may make the change without  
10 any further action.

11     (e) Directors.--Each of the directors shall hold office for  
12 the term for which the director has been selected and until a  
13 successor has been selected and has qualified. Directors shall  
14 discharge their duties in good faith, and with that diligence  
15 and care which an ordinary prudent person in a like position  
16 would exercise under similar circumstances. The agency agreement  
17 or the bylaws may prescribe the number, term of office, powers,  
18 authority and duties of directors, the time and place of their  
19 meetings and other regulations concerning directors, in a manner  
20 consistent with law. Except where the agency agreement or bylaws  
21 prescribe otherwise, the term of office of a director shall be  
22 for one year. Except where the agency agreement or bylaws  
23 prescribe otherwise, a meeting of the board of directors may be  
24 held at any place within this Commonwealth designated by the  
25 board, after notice, and an act of the majority of the directors  
26 present at a meeting at which a quorum is present is the act of  
27 the board. Except where the agency agreement or bylaws prescribe  
28 otherwise, any vacancy occurring on the board shall be filled by  
29 a person nominated by the remaining members of the board and  
30 elected by a majority of representatives of the member boroughs.

1 (f) Officers.--Except where the agency agreement or bylaws  
2 prescribe otherwise, the board of directors shall appoint a  
3 president from its membership, and a secretary, treasurer and  
4 any other officers or agents deemed necessary who may, but need  
5 not be, borough representatives or directors. An officer may be  
6 removed with or without cause by the board of directors.

7 Officers of the municipal power agency shall have the authority  
8 and duties in the management of the business of the municipal  
9 power agency that the agency agreement or bylaws prescribe or,  
10 in the absence of such prescription, as the board of directors  
11 determines.

12 (g) Representatives of member boroughs.--Except as otherwise  
13 provided in the agency agreement or the bylaws, the duly  
14 authorized representatives of each member borough shall act as  
15 and vote on behalf of that borough. Except where the agency  
16 agreement or bylaws provide otherwise, representatives of the  
17 member boroughs shall hold at least one meeting each year for  
18 the election of directors and for the transaction of any other  
19 business. Except where the agency agreement or bylaws prescribe  
20 otherwise, special meetings of the representatives may be called  
21 for any purpose upon written request to the president or  
22 secretary to call the meeting. Such officer shall give notice of  
23 the meeting to be held between ten and 60 days after receipt of  
24 the request. Unless the agency agreement or bylaws provide for a  
25 different percentage, a quorum for a meeting of the  
26 representatives of the member boroughs is a majority of the  
27 total members and a quorum for meetings of the board of  
28 directors is a majority of the membership of the board.

29 (h) Amendment of agency agreement.--The agency agreement may  
30 be amended as proposed at any meeting of the representatives of

1 the members for which notice stating the purpose shall be given  
2 to each representative and, unless the agency agreement or  
3 bylaws require otherwise, shall become effective when ratified  
4 by ordinances of a majority of the governing bodies of the  
5 member boroughs. Each amendment and the ordinances approving it  
6 shall be filed for record with the Secretary of the  
7 Commonwealth.

8 (i) Appropriations.--Each member borough shall have full  
9 power and authority, within budgetary limits applicable to it,  
10 to appropriate money for the payment of expenses of the  
11 formation of the municipal power agency and of its  
12 representative in exercising its functions as a member of the  
13 agency.

14 (j) General powers.--A municipal power agency may own,  
15 construct, acquire by lease, purchase or otherwise gain an  
16 interest by itself or as co-owner or tenant in common and  
17 operate and manage or cause to be operated and managed an  
18 electric plant or project located within or without this  
19 Commonwealth jointly with any political subdivision, subdivision  
20 of the Federal Government, State government, political  
21 subdivision of another state, private corporation empowered to  
22 supply electricity, electric cooperative corporation formed  
23 under the act of June 21, 1937 (P.L.1969, No.389), known as the  
24 Electric Cooperative Corporation Act, (REPEALED 1990-198) or  
25 electric cooperative corporation in another state.

26 (k) Specific powers.--All powers of a municipal power agency  
27 shall be exercised by its board of directors, unless otherwise  
28 provided by the agency agreement or bylaws. A municipal power  
29 agency shall have the power to do and accomplish all actions  
30 reasonably necessary and incident to the ownership,

1 construction, acquisition, administration, operation and  
2 management of an electric plant or project. Among the specific  
3 powers of a municipal power agency shall be the following:

4 (1) to sue and be sued;

5 (2) to enter into contracts;

6 (3) to cooperate with private power companies, boroughs,  
7 electric cooperative corporations and other public or private  
8 electric power entities inside and outside of this  
9 Commonwealth in the development of electric power and energy;

10 (4) to make such studies as may be necessary to  
11 determine the feasibility and cost of any additional sources  
12 and supplies of electric power and energy;

13 (5) to contract for the purchase, sale, exchange,  
14 interchange, wheeling, pooling or transmission of electric  
15 power and energy or for the right to the capacity thereof  
16 inside and outside of this Commonwealth, to and from any  
17 public or private power entities, private power companies,  
18 other boroughs and electric cooperative corporations;

19 (6) to procure insurance against any losses in  
20 connection with its property, operations or assets in such  
21 amounts and from such insurers as the board of directors  
22 deems desirable;

23 (7) to contract for and to accept any gifts or grants or  
24 loans of funds or property or financial or other aid in any  
25 form from the United States of America or any agency or  
26 instrumentality of the United States of America, or from any  
27 other source;

28 (8) to acquire, hold, use, operate and dispose of  
29 personal property;

30 (9) to acquire, hold, use and dispose of its income,

1 revenues, funds and moneys;

2 (10) to acquire, own, use, lease, operate and dispose of  
3 real property and interests in real property and to make  
4 improvements thereon;

5 (11) to grant the use, by lease or otherwise, and to  
6 make charges for the use of any property or facility owned or  
7 controlled by it;

8 (12) to procure from the United States of America or any  
9 agency or instrumentality of the United States of America, or  
10 from any state or agency or instrumentality of a state, any  
11 consents, authorizations or approvals which may be requisite  
12 to enable ownership, operation, construction or repair;

13 (13) to borrow money and from time to time to issue  
14 revenue bonds and to enter into agreements with the  
15 purchasers of such revenue bonds;

16 (14) to invest funds not required for immediate use,  
17 including, but not limited to, proceeds from the sale of  
18 revenue bonds, provided, however, that the power of a  
19 municipal power agency to invest shall be the same as that of  
20 a borough, as exercised by the borough council pursuant to  
21 clause (6) of section 1005 and section 1316; and

22 (15) to mortgage any property acquired or owned to  
23 secure the payment of its revenue bonds or other obligations  
24 issued to finance the acquisition, ownership or repair.

25 (1) Eminent domain.--In the erection and extension of an  
26 electric plant or project, and for all other purposes authorized  
27 by this act, a municipal power agency may enter upon,  
28 appropriate, injure or destroy private lands, property or  
29 material according to the proceedings set forth in the law  
30 governing eminent domain, provided, however, that a municipal

1 power agency shall not have the power of condemnation with  
2 regard to any property of a private or public retail electric  
3 supplier which geographically lies beyond the boundaries of the  
4 corporate limits of its member boroughs.

5 (m) Revenue bonds.--A municipal power agency which gains an  
6 interest in an electric plant or project may pay all or part of  
7 the cost from the revenues derived from the sale of revenue  
8 bonds issued in the manner provided by 53 Pa.C.S. Pt. VII Subpt.  
9 B (relating to indebtedness and borrowing).

10 (n) Bylaws.--A municipal power agency may make and enforce  
11 bylaws or rules which it deems necessary or desirable and may  
12 establish, fix, levy and collect or may authorize, by contract,  
13 franchise, lease or otherwise, the establishment, levying and  
14 collection of rents, rates and other charges for the services  
15 afforded by the municipal power agency, including connection for  
16 the services afforded by the municipal power agency, including  
17 connection charges or by or in connection with any project or  
18 properties which it may construct, erect, acquire, own, operate  
19 or control, or with respect to which it may have any interest or  
20 any right to capacity thereof and for the sale of electric  
21 energy or of generation or transmission capacity or services as  
22 it may deem necessary, proper, desirable and reasonable. Rents,  
23 rates and other charges shall be at least sufficient to meet  
24 expenses thereof, including reasonable reserves, interest and  
25 principal payments.

26 (o) State tax exemptions.--Interest and principal paid on  
27 revenue bonds issued by a municipal power agency shall be exempt  
28 from all State taxes of whatsoever kind or nature.

29 Section 2405-A. Additional contracting authority for electric  
30 power and energy.

1     (a) Additional contracting authority.--In addition to the  
2 authority provided under section 2402-A, a borough that, on  
3 October 27, 2010, owns or operates electric generation or  
4 distribution facilities and a borough that is a member of a  
5 nonprofit membership corporation may contract with the nonprofit  
6 membership corporation for the following:

7         (1) The development of electric power and associated  
8 energy, including the conduct of investigations or studies  
9 necessary to determine the feasibility and cost of additional  
10 sources and supplies of electric power and associated energy.

11         (2) The purchase, sale, exchange, interchange, wheeling,  
12 pooling or transmission of electric power and associated  
13 energy or the right to the capacity from sources and projects  
14 in this Commonwealth or another state for a period not to  
15 exceed 50 years.

16     (b) Contract requirements.--A contract under subsection (a)  
17 (2) shall include the purpose of the contract, the duration of  
18 the contract and available procedures to terminate the contract  
19 subsequent to the repayment of all indebtedness secured under  
20 the contract.

21     (c) Minimum quantity of electric power and energy.--If a  
22 borough is a member of a nonprofit membership corporation, a  
23 contract under subsection (a) (2) may, if specifically set forth  
24 in the contract, obligate the borough to:

25         (1) take and pay for a minimum quantity of electric  
26 power and associated energy if the power and energy is  
27 available for delivery;

28         (2) in connection with a project owned by the nonprofit  
29 membership corporation or in which the nonprofit membership  
30 corporation obtains an undivided ownership interest, to take



1 or pay for a minimum amount of electric power and energy; or  
2 (3) pay for electric power and energy only if utilized  
3 by the borough.

4 (d) Applicability of minimum requirements.--

5 (1) The authority under subsection (c)(1) shall apply  
6 whether or not the borough accepts delivery of the power and  
7 energy.

8 (2) The authority under subsection (c)(2) shall apply  
9 notwithstanding the suspension, interruption, interference or  
10 reduction or curtailment of the output of the project or the  
11 electric power and energy contracted for, and whether or not:

12 (i) the electric power and energy is available for  
13 delivery to the borough; or

14 (ii) the borough accepts delivery of the electric  
15 power and energy.

16 (e) Take-or-pay or take-and-pay arrangements.--No borough  
17 may be obligated under a take-or-pay or take-and-pay arrangement  
18 entered into with a nonprofit membership corporation in which  
19 the borough maintains membership unless that obligation is  
20 expressly authorized by an act of the borough council.

21 (f) Restrictions.--A nonprofit membership corporation shall  
22 not:

23 (1) condition membership in the nonprofit membership  
24 corporation on the inclusion of any take-or-pay or take-and-  
25 pay obligations in a contract under subsection (a)(2); or

26 (2) except as set forth in subsection (g), require take-  
27 or-pay or take-and-pay obligations in a contract with a  
28 borough unless the contract meets the criteria of subsection  
29 (c)(1) or (2).

30 (g) Future contracts.--A borough that is a member of a

nonprofit membership corporation may enter into future power supply contracts, contract renewals or contract extensions with the nonprofit membership corporation under subsection (c)(3):

(1) with no take-or-pay or take-and-pay obligations as permitted by subsection (c)(1) and (2); and

(2) without prejudice or discrimination as compared to any other borough which chooses to enter into contracts permitted by subsection (c)(1) and (2) with the nonprofit membership corporation.

(h) Future power supply contract terms.--In order to carry out subsection (g), a nonprofit membership corporation which provides or offers electric power and associated energy to a member borough in this Commonwealth under subsection (a)(2) shall offer, to all of its member boroughs in this Commonwealth, future power supply contract terms, contract renewals or contract extensions under subsection (c)(3) on a comparable and nondiscriminatory basis and with similar terms and conditions to future power supply contract terms, contract renewals or contract extensions that would be appropriate under subsection (c)(3) which the nonprofit membership corporation contemporaneously offers to its members in other states.

(i) Payments.--All obligations under a contract under subsection (a)(2) shall be paid from revenues derived from the operation of the borough's electric system, and payments shall be an operating expense of the borough's electric system.

(j) Obligations of other entities.--If explicitly set forth in a contract under subsection (a)(2), a borough may agree to assume, prorate or otherwise become liable for the obligations of another borough of this Commonwealth or of a political subdivision of another state that is a member of the nonprofit

membership corporation if the borough or other political subdivision defaults in the payment of its obligations for the purchase of the electric power and associated energy. The contract may include provisions to permit a borough to succeed to the rights and interests of the defaulting borough or political subdivision to purchase electric power and associated energy. A borough's liability for the obligations of a defaulting borough of this Commonwealth or a political subdivision of another state shall not exceed 25% of a borough's initial nominal entitlement to electric power and associated energy under the contract.

(k) Pledge of borough property prohibited.--None of the obligations under the contract may constitute a legal or equitable pledge, charge, lien or encumbrance on any property of the borough or on any of its income, receipts or revenues, except revenues of its electric system. The full faith and credit and the taxing power of the borough shall not be pledged for the payment of an obligation under the contract.

(l) Construction.--The provisions of this section are intended to add to the powers and rights of a borough, and nothing in this section may be construed to limit either the general or specific powers or rights of a borough set forth in this act.

(m) Definition.--As used in this section, the term "non-profit membership corporation" means an entity the membership of which:

(1) consists solely of Pennsylvania boroughs, such as a consortium, buying group or municipal power agency under section 2404-A; or

(2) consists of Pennsylvania boroughs and political

1     subdivisions of another state or states.

2     Section 293. Article XXV and subdivision (a) headings,  
3     sections 2501, 2502, 2503, 2504 and 2505, Article XXV  
4     subdivision (b) heading and sections 2511 and 2512 of the act  
5     are repealed:

6                                     [ARTICLE XXV

7                                     PUBLIC BUILDINGS AND WORKS

8                     (a) Eminent Domain; General Provisions

9     Section 2501. Exercise of Eminent Domain.--Any borough may  
10    enter upon and appropriate private property, and also land  
11    previously granted or dedicated to public use or other use, and  
12    which is no longer used for the purpose for which the same was  
13    granted or dedicated, and also land where the title may be  
14    defective, disputed, or doubtful, for the erection thereon of  
15    public auditoriums, public libraries, public memorial buildings  
16    and monuments and such other public buildings and works as are  
17    necessary for municipal purposes within the limits of such  
18    borough.

19    Section 2502. Lands Excepted.--No land or property used for  
20    any cemetery, burying-ground, or place of public worship, shall  
21    be taken or appropriated by virtue of any power contained in the  
22    preceding section of this article.

23    Section 2503. Declaration of Intention.--Whenever the  
24    borough shall desire to acquire, enter upon, take, use and  
25    appropriate any such private property or land, for any such  
26    purposes, it shall declare such intention by an ordinance duly  
27    enacted.

28    Section 2504. Proceedings.--The compensation and damages  
29    arising from such taking, using and appropriating of private  
30    property for the purposes aforesaid, shall be considered,

1 ascertained, determined, awarded and paid in the manner provided  
2 in the law governing eminent domain.

3 Section 2505. Payment of Damages and Costs.--All damages  
4 when ascertained, the costs of the viewers, and all court costs  
5 incurred in such proceedings, including advertising, printing  
6 and posting notices, shall be paid by the borough.

7 (b) Refuse Disposal Facilities

8 Section 2511. Power to Purchase Real Estate.--Any borough,  
9 separately, or jointly, with another borough, city or township,  
10 may purchase any real estate within or without the limits of  
11 such borough or of any such other boroughs, cities, or  
12 townships, as the case may be, upon which to erect and maintain  
13 garbage or incinerating plants, or for sanitary landfill.

14 Section 2512. Approval of Site.--Boroughs desiring to locate  
15 any garbage or incinerating plant or sanitary landfill, shall  
16 first apply separately or jointly as the case may be to the  
17 court of common pleas for its approval of the location thereof;  
18 whereupon the court shall fix a date when objections to the  
19 location will be heard and shall prescribe what notice of such  
20 hearing shall be given. If at the time fixed for such hearing no  
21 objections shall be made to such location, the same shall be  
22 approved; but, if objection is made, the court shall proceed to  
23 hear the matter and determine whether the location is a  
24 detriment to neighboring properties. The finding of the court  
25 shall be conclusive, but shall in no way adjudicate any question  
26 relating to damages for injury to property.]

27 Section 294. Section 2513 of the act, amended December 21,  
28 1984 (P.L.1263, No.239), is repealed:

29 [Section 2513. Authority to Take or Appropriate Real  
30 Estate.--In case the borough or boroughs cannot agree with the

owner of such property as to the price, the borough or boroughs, separately or jointly, may take and appropriate, for any of such purposes, any real estate, after an ordinance or ordinances shall have been enacted providing for such taking and appropriating. Notwithstanding the provisions of this section, no borough or boroughs, separately or jointly, may take or appropriate any real estate that is located outside the limits of the borough or boroughs and contains or is being utilized as an existing garbage dump or sanitary landfill.]

Section 295. Section 2514 of the act is repealed:

[Section 2514. Proceedings.--The proceedings before the viewers for the assessment of damages for property taken, injured, or destroyed under this subdivision of this article and the proceedings upon their report shall be as provided in the law governing eminent domain.]

Section 296. The act is amended by adding an article to read:

#### ARTICLE XXV-A

##### AIRPORTS

Section 2501-A. Authority to secure lands for airports.

Any borough is hereby authorized and empowered to acquire, by lease, purchase or condemnation, any land lying either within or without the limits of the borough which, in the judgment of the council, may be necessary and desirable for the purpose of establishing and maintaining municipal airport facilities. The proceedings for the condemnation of land under the provisions of this article and for the assessment of damages for property taken, injured or destroyed, shall be conducted in the manner provided by the law governing eminent domain. The title acquired by the borough exercising the power of condemnation shall be a

1 title in fee simple.

2 Section 2502-A. Authority to establish and lease airports.

3 Any borough acquiring land under the provisions of this  
4 article is authorized and empowered to establish, equip,  
5 condition, operate and maintain the land as a municipal airport,  
6 and may lease the land, or any part, to any individual or  
7 corporation desiring to use the same for aviation purposes. Any  
8 borough may enter into a contract, in the form of a lease,  
9 providing for the use of the land, or any part, by the Federal  
10 Government, for its use of the land for aviation purposes upon  
11 nominal rental or without consideration.

12 Section 2503-A. Joint airports.

13 Pursuant to the powers in this article, any borough may,  
14 jointly with another municipality, acquire land for aviation  
15 purposes, and may jointly operate and maintain the airport on  
16 the terms and conditions as agreed upon by the governing bodies  
17 of the borough and other municipality.

18 Section 297. Article XXVI heading of the act is reenacted to  
19 read:

20 ARTICLE XXVI

21 WHARVES AND DOCKS

22 Section 298. Section 2601 of the act is amended to read:

23 Section 2601. Power With Regard to Wharves and Docks.--[Any  
24 borough may erect and repair wharves and docks, regulate and fix  
25 the rate of wharfage for all public wharves and docks within its  
26 limits, and enforce the collection of wharfage for the use of  
27 the same, and may also regulate the anchoring of vessels, boats,  
28 or rafts within the borough limits, and the depositing of  
29 freight on such public wharves.] (a) Boroughs shall have the  
30 power to construct and repair wharves and docks and may acquire,

1 by purchase or condemnation, real estate along navigable waters  
2 and within the borough limits as needed for the construction.  
3 Prior to any condemnation, a borough shall enact an ordinance  
4 authorizing the same.

5 (b) Boroughs shall also have the following powers:

6 (1) To regulate, fix, and enforce the collection of the rate  
7 of wharfage for all public wharves and docks within its limits.

8 (2) To regulate the anchoring of vessels, boats or rafts  
9 within the borough limits.

10 (3) To regulate the depositing of freight on the public  
11 wharves.

12 Section 299. Section 2602 of the act is repealed:

13 [Section 2602. Purchase and Condemnation of Real Estate.--  
14 Any such borough may acquire, by purchase or condemnation, such  
15 real estate as it may need for the construction of wharves and  
16 docks within the limits of the borough, along navigable waters.  
17 No real estate for the erection of wharves and docks shall be so  
18 taken or appropriated until an ordinance authorizing the same  
19 shall have been enacted.]

20 Section 300. Section 2603 of the act is reenacted to read:

21 Section 2603. Proceedings.--The proceedings before the  
22 viewers for the assessment of damages for property taken,  
23 injured, or destroyed under this article, and the proceedings on  
24 their report shall be as provided in the law governing eminent  
25 domain. The costs of all proceedings, including the compensation  
26 of the viewers, shall be paid by the borough.

27 Section 301. Sections 2604, 2605 and 2606 of the act are  
28 amended to read:

29 Section 2604. How Damages Assessed.--The damages for the  
30 taking or injury of any property for use as a wharf, pier, or



1 bulkhead, shall include full compensation for the value of the  
2 property taken or injured[; and if]. If the property [so] taken  
3 or injured shall constitute a part of a plant used as an  
4 entirety, the damage to the owner or tenant shall be assessed by  
5 taking the difference in market value of [such] the plant as a  
6 whole, including buildings and all equipment installed and used  
7 in [such] the plant, before and after taking or injury, and  
8 notwithstanding that part of [such] the plant may be separated  
9 by a street or highway.

10 Section 2605. Leases.--Any borough may lease any wharf or  
11 part [thereof] and collect rent [therefor] by distress or  
12 otherwise. No one term of [any such] a lease shall be for a  
13 period longer than three years.

14 Section 2606. Market-Houses and Terminal Sheds.--Boroughs  
15 may erect and maintain market-houses and terminal sheds on  
16 wharves, for the receipt and distribution of freight and  
17 express. Boroughs may also construct railroad and street railway  
18 tracks, or other facilities, on wharves, to provide for the  
19 convenient hauling of [such] freight or express matter and may  
20 collect rents, tolls, or charges for the use of [such] market-  
21 houses, terminal sheds, tracks and facilities. No permit other  
22 than a license revocable at will shall be granted, and no  
23 exclusive permit for the use of such facilities shall be  
24 granted.

25 Section 302. Section 2607 of the act is reenacted to read:

26 Section 2607. Public Use Preserved.--No structure erected,  
27 and no right granted under the powers conferred by any of the  
28 preceding sections of this article, shall interfere with the  
29 public use of wharves for water-borne commerce.

30 Section 303. Section 2608 of the act is amended to read:

1 Section 2608. Saving Clause.--Nothing contained in this  
2 article shall be construed as conferring upon boroughs any power  
3 conferred by existing law on the Navigation [Commissioners]  
4 Commission for the Delaware River and its Navigable Tributaries,  
5 or to permit boroughs to do any act, or to enact any ordinance,  
6 inconsistent with the laws, rules and regulations relating to  
7 [said board, or the rules and regulations of said board] the  
8 commission.

9 Section 304. Article XXVII and subdivision (a) headings of  
10 the act are reenacted to read:

11 ARTICLE XXVII

12 RECREATION PLACES, SHADE TREES, FORESTS

13 (a) Parks and Playgrounds, Et Cetera

14 Section 305. Sections 2701, 2702 and 2703 of the act are  
15 amended to read:

16 Section 2701. Power to Maintain [and Improve], Improve and  
17 Acquire.--(a) Any borough may provide, improve, maintain and  
18 regulate public parks, parkways and playgrounds, playfields,  
19 swimming pools, public baths, bathing places, indoor recreation  
20 centers and gymnasiums, hereinafter called "recreation places,"  
21 within the borough limits or in any adjacent [township or in any  
22 city or other borough] municipal corporation if the other  
23 [borough or city] municipal corporation shall, by ordinance,  
24 signify its consent thereto. [Two or more boroughs may jointly  
25 provide, improve, maintain and regulate such recreation places  
26 within the limits of any township adjacent to any one of such  
27 boroughs. All expenses relative thereto shall be borne by the  
28 respective boroughs, in such proportion as may be agreed upon by  
29 the councils thereof.

30 Section 2702. Power to Acquire.--Any] (b) Any borough may

1 enter upon, appropriate and acquire by gift, devise, purchase,  
2 lease, or otherwise, private property [within the limits of the  
3 borough, or in any adjacent township,] or [any borough] may  
4 designate and set apart any lands or buildings, owned by the  
5 borough and not dedicated or devoted to other public uses[; and  
6 two or more boroughs may jointly appropriate and acquire by  
7 gift, devise, purchase, lease, or otherwise, private property  
8 within the limits of any township adjacent to any of such  
9 boroughs,] for the purpose of making, enlarging and maintaining  
10 recreation places. [All the costs and expenses relative to any  
11 such property, acquired by two or more boroughs jointly, shall  
12 be paid by the respective boroughs in such proportions as may be  
13 agreed upon by the councils thereof.

14 Any]

15 (c) Any borough may join with one or more political  
16 subdivisions to acquire, create, equip, improve, regulate,  
17 maintain and operate any recreation place in accordance with 53  
18 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental  
19 cooperation).

20 (d) No borough, acting individually or jointly, may  
21 [likewise] acquire private property within the limits of another  
22 [borough or city,] municipal corporation for the purposes  
23 designated in this section, [if the other borough or city shall,  
24 by ordinance, signify its consent thereto] without the consent  
25 of the governing body of the municipal corporation in which the  
26 property is located in accordance with the law governing eminent  
27 domain.

28 (e) All expenses incurred in the maintenance, improvement,  
29 acquisition or operation of recreation places, as provided in  
30 this section, shall be payable from the treasury of the borough,

1 or the borough and other political subdivisions as may be  
2 provided for by agreement of the governing bodies. The borough  
3 council may annually appropriate, and cause to be raised by  
4 taxation, an amount necessary for the purpose of maintaining and  
5 operating recreation places, or for paying its share of such  
6 amount.

7       Section 2703. Appropriations for Public Purposes.--The  
8 appropriation of private property for the purpose of making,  
9 enlarging and maintaining recreation places, is declared to be  
10 the taking of private property for public use, and for all  
11 damage suffered by the owners of any property so taken, the  
12 funds of the borough raised by taxation shall be pledged as  
13 security. The proceedings for the taking of private property and  
14 the assessment of damages for private property taken, injured or  
15 destroyed under this article shall be as provided in the law  
16 governing eminent domain.

17       Section 306. Sections 2704 and 2705 of the act are repealed:

18       [Section 2704. Proceedings.--The proceedings before the  
19 viewers for the assessment of damages for property taken,  
20 injured or destroyed under this article and the proceedings upon  
21 their report shall be as provided in the law governing eminent  
22 domain.]

23       Section 2705. Validation of Prior Acquisitions.--Whenever,  
24 prior to June 1, 1911, any borough acquired land outside its  
25 corporate limits for park purposes, such borough may own and  
26 possess such land for park purposes, and is authorized to lay  
27 out and maintain the same and to appropriate money to defray  
28 expenses incident to such work.]

29       Section 307. Sections 2708, 2709 and 2710 of the act are  
30 amended to read:

1       Section 2708.   Creation of Recreation Board.--(a)   The  
2   authority to supervise and maintain recreation places, may be  
3   vested in any existing body or board, including the borough  
4   council, or in a recreation board, as the borough council shall  
5   determine. The council of any such borough may equip, operate  
6   and maintain the recreation places, as authorized by this  
7   article, and may, for the purpose of carrying out the provisions  
8   of this article, employ [play leaders, recreation directors,  
9   supervisors, superintendents, or] any [other] officers or  
10   employees, as it may deem proper.

11       (b)   Notwithstanding subsection (a), a borough council shall  
12   not delegate the power to maintain accounts or expend funds from  
13   the borough treasury for the purposes authorized by this  
14   subdivision to any existing or newly created body or board.

15       (c)   Any borough may join or create, with one or more  
16   municipalities, a joint recreation board in accordance with 53  
17   Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental  
18   cooperation). The composition of the board and its powers and  
19   duties shall be as provided by agreement of the governing bodies  
20   of the municipalities.

21       Section 2709.   Composition of Board.--[(a)]   If the borough  
22   council shall determine that the power to equip, operate, and  
23   maintain recreation places, shall be exercised by a recreation  
24   board, it may, by ordinance, establish in [said] the borough  
25   [such] a recreation board, which shall possess [all the powers,  
26   and be subject to all the responsibilities, of the respective  
27   authorities under this article. Such] those powers and duties as  
28   may be delegated to it by ordinance. The board shall consist of  
29   a minimum of five and a maximum of nine persons. Two of the  
30   members may be members or appointees of the school board of the

1 school district in which the borough is located. If the board  
2 [consist] consists of seven members, three of the members may be  
3 members or appointees of [such] the school board. The borough  
4 members of the board shall be appointed by the borough council,  
5 and shall serve no longer than five years and the terms of the  
6 members shall be staggered in such a manner that at least one  
7 expires annually. Members of [such] the board shall serve  
8 without pay. Vacancies in [such] the board, occurring otherwise  
9 than by expiration of term, shall be filled for the unexpired  
10 term in the same manner as original appointments.

11 [(b) In addition to the establishment of a borough  
12 recreation board, the borough council may appoint persons to  
13 serve as members of a school district recreation board  
14 established by the school district wherein the borough is  
15 located.]

16 Section 2710. Organization of Board; Employees.--The members  
17 of a recreation board, established pursuant to this article,  
18 shall elect their own [chairman] chair and secretary and select  
19 all other necessary officers, to serve for a period of one  
20 year[, and may employ such persons as may be needed, as  
21 authorized by this article. Such] The recreation board may, with  
22 the approval of council, establish employment positions and hire  
23 employees to fill the approved positions. The board shall have  
24 power to adopt rules and regulations for the conduct of all  
25 business within its jurisdiction.

26 Section 308. Sections 2711 and 2712 of the act are repealed:  
27 [Section 2711. Joint Ownership and Maintenance.--Any two or  
28 more boroughs, or a borough with any city or township, or a  
29 borough with a county, may jointly acquire property for, and  
30 operate and maintain, any recreation places. Any borough or

1 boroughs shall have power to join with any school district in  
2 equipping, operating and maintaining recreation places, and may  
3 appropriate money therefor.

4 Section 2712. Maintenance and Tax Levy.--All expenses  
5 incurred in the operation of such recreation places, established  
6 as herein provided, shall be payable from the treasury of such  
7 borough, or boroughs, township, city, county or school districts  
8 as may be provided for by agreement of the corporate  
9 authorities. The borough council may annually appropriate, and  
10 cause to be raised by taxation, an amount necessary for the  
11 purpose of maintaining and operating recreation places, or for  
12 paying its share of such amount.]

13 Section 309. Section 2713 of the act is amended to read:

14 Section 2713. Lease for School Athletics.--Any borough  
15 maintaining a recreation place, may lease [such] a recreation  
16 place or [such] a portion [thereof] of a recreation place,  
17 suitable for athletic sports and athletic games, to any school  
18 board, or school athletic association organized by a school  
19 board, and organized for the purpose of conducting amateur  
20 athletic sports and games among pupils of the public school, and  
21 may permit [such] a school board or school athletic association  
22 to charge admission to [such] sports and games and to deny  
23 persons refusing to pay admission access to the grounds where  
24 [such] sports or games are being conducted, if [such] sports and  
25 games are not conducted for individual profit.

26 Section 310. Article XXVII subdivision (b)(1) heading of the  
27 act is amended to read:

28 (b) Shade Trees

29 (1) [Shade Tree Commission] Power of Boroughs  
30 as to Shade Trees

1 Section 311. The act is amended by adding sections to read:

2 Section 2720. Care, Custody and Control of Shade Trees.--(a)  
3 Council shall have exclusive care, custody and control of shade  
4 trees in the borough. Council may plant, transplant, remove,  
5 maintain and protect shade trees on the streets and highways in  
6 the borough, employ and pay persons and make and enforce  
7 regulations as may be necessary for the care and protection of  
8 the shade trees of the borough.

9 (b) Council may, by ordinance, and with or without the  
10 petition of a majority of the property owners upon any public  
11 street in the borough, plant, transplant or remove shade trees.  
12 Council may, with or without petition, require the planting and  
13 replanting of suitable shade trees along and upon the sides of  
14 the streets, upon such alignment and at such points as may be  
15 designated by ordinance, by the owners of property abutting the  
16 street at the points designated. Nothing in this act may  
17 authorize council to plant or replant, or require the planting  
18 or replanting, of trees at any point which may interfere with  
19 the necessary or reasonable use of any street or abutting  
20 property or the business conducted on the property. On failure  
21 of any owner, after reasonable notice, to comply with the terms  
22 of an ordinance requiring the planting or replanting of shade  
23 trees, the borough may cause such trees to be planted or  
24 replanted and assess the cost against the owner in accordance  
25 with section 2720.2.

26 (c) Council may, upon notice as may be provided by  
27 ordinance, require owners of property to cut and remove plants,  
28 shrubs and trees afflicted with any disease that threatens to  
29 injure or destroy plants, shrubs and shade trees in the borough  
30 under regulations prescribed by ordinance. Upon failure of any



1 owner to comply with the notice, the borough may cause the work  
2 to be done by the borough, and assess the cost against the owner  
3 in accordance with section 2720.2.

4 Section 2720.1. Maintenance by Borough; Tax Levy.--(a) The  
5 cost and expenses of caring for shade trees after having been  
6 planted or transplanted and the expense of publishing any notice  
7 required by this subdivision shall be paid by the borough.

8 (b) Council may levy a general tax, not to exceed the sum of  
9 one-tenth of one mill on the dollar on the assessed valuation of  
10 the property in the borough taxable for county purposes, for the  
11 purpose of defraying the cost and expenses of caring for the  
12 shade trees and the expense of publishing notices; or it may  
13 provide for the expense of the caring for trees already planted  
14 and of publishing the notice by appropriations.

15 Section 2720.2. Payment by Owners; Assessments.--The cost of  
16 planting, transplanting or removing any shade trees or the  
17 necessary and suitable guards, curbing or grading for their  
18 protection and of the replacing of pavement or sidewalk  
19 necessarily disturbed in the execution of the work shall be paid  
20 by the owners of the real estate abutting the location of the  
21 work. In the event that the borough undertakes the work  
22 described in this section, costs shall be certified, assessed  
23 against the abutting owners and collected in accordance with  
24 Article XXI-A.

25 Section 2720.3. Notice of Work.--Whenever council proposes  
26 to plant, transplant or remove shade trees on any street, notice  
27 of the time and place of the meeting at which the work is to be  
28 considered shall be given in one newspaper of general  
29 circulation once a week for two weeks immediately preceding the  
30 time of the meeting. The notice shall specify in detail the

1 streets or portions upon which trees are proposed to be planted,  
2 transplanted or removed. In the event that a shade tree  
3 commission is to undertake the work, the commission shall  
4 provide the notice.

5 Section 2720.4. Penalties.--(a) To the extent provided by  
6 ordinance, council may assess penalties for the violation of  
7 regulations relating to shade trees or delegate the power to  
8 assess such penalties to a shade tree commission. Any penalty so  
9 assessed shall be a lien upon the real estate of the offender  
10 and may be collected as municipal claims are collected.

11 (b) All penalties or assessments imposed under this  
12 subdivision shall be paid to the borough treasurer, to be kept  
13 in a separate fund and utilized only for the purposes authorized  
14 by this subdivision.

15 Section 312. Article XXVII subdivision (b) of the act is  
16 amended by adding a subdivision to read:

17 (2) Shade Tree Commission

18 Section 313. Section 2721 of the act is amended to read:

19 Section 2721. Shade Tree Commission.--[A borough] (a)  
20 Council by ordinance may establish a commission to be known as  
21 the shade tree commission, [but in boroughs where the council  
22 shall not elect by ordinance a shade tree commission council may  
23 exercise all the rights and perform the duties and obligations  
24 imposed by this subdivision of this article upon the shade tree  
25 commission.] and delegate to the commission the exclusive care,  
26 custody and control of shade trees and authorization to plant,  
27 transplant, remove, maintain and protect shade trees on the  
28 streets and highways in the borough. The commission may make and  
29 enforce regulations for the care and protection of shade trees.  
30 No regulation may be in force until it has been approved by the

1 council and enacted as an ordinance.

2 (b) Whenever in any borough there exists a commission for  
3 the care of public parks, the council may, by ordinance, confer  
4 on the park commission all the powers and all the duties  
5 prescribed by this article for the shade tree commission.

6 Section 314. Section 2722 of the act, amended April 17, 2002  
7 (P.L.243, No.31), is reenacted to read:

8 Section 2722. Composition of Commission.--(a) Except as  
9 provided in subsection (b), the commission shall be composed of  
10 three residents of the borough, who shall be appointed by the  
11 council and shall serve without compensation.

12 (b) The council, by ordinance, may provide that the  
13 commission be composed of five members who shall be residents of  
14 the borough, shall be appointed by the council and shall serve  
15 without compensation.

16 (c) Whenever a shade tree commission of three members is  
17 established by any borough, the council shall appoint one member  
18 for a term of three years, one for a term of four years, and one  
19 for a term of five years. On the expiration of the term of any  
20 commissioner, a successor shall be appointed by the council to  
21 serve for a term of five years.

22 (d) Whenever a shade tree commission of five members is  
23 established by any borough, the council shall appoint members to  
24 staggered terms so that one term expires every year. On the  
25 expiration of the term of any commissioner, a successor shall be  
26 appointed by the council to serve for a term of five years.

27 (e) Vacancies in the office of commissioner shall be filled  
28 by the council for the unexpired term.

29 Section 315. Sections 2723 and 2724 of the act are repealed:

30 [Section 2723. Powers May Be Vested in Park Commission.--

1 Whenever in any borough there exists a commission for the care  
2 of public parks, the council may by ordinance, confer on the  
3 park commission all the powers and all the duties prescribed by  
4 this article for the shade tree commission.

5 Section 2724. Powers of Commission.--The commission shall  
6 have exclusive custody and control of the shade trees in the  
7 borough, and is authorized to plant, remove, maintain and  
8 protect shade trees on the streets and highways in the borough.

9 The commission may employ and pay such superintendents,  
10 engineers, foresters, tree-wardens, or other assistants, as the  
11 proper performance of the duties devolving upon it shall  
12 require, and may make, and enforce regulations for the care and  
13 protection of the shade trees of the borough. No such regulation  
14 shall be in force until it has been approved by the council and  
15 enacted as an ordinance.]

16 Section 316. The act is amended by adding a section to read:

17 Section 2724.1. Duties of Commission.--(a) The shade tree  
18 commission shall annually report in full to the council its  
19 transactions and expenses for the last fiscal year of the  
20 borough.

21 (b) Whenever any shade tree commission proposes to plant,  
22 transplant or remove shade trees on any street, notice of the  
23 time and place of the meeting at which such work is to be  
24 considered shall be given by the commission in accordance with  
25 section 2720.3.

26 (c) The commission shall each year certify to council an  
27 amount needed for the care of shade trees and for the  
28 publication of notices required by this subdivision. The  
29 commission shall use funds appropriated or raised by taxation in  
30 accordance with section 2720.1 for any purpose authorized by

1 council.

2 (d) The commission shall ascertain and certify to council  
3 and the borough treasurer the amount of any assessment imposed  
4 in accordance with this subdivision for the planting,  
5 transplanting or removal of plants, shrubs and trees.

6 Section 317. Sections 2725, 2726, 2727, 2728, 2729 and 2730,  
7 Article XXVII(b)(2) heading and sections 2741, 2742 and 2743 of  
8 the act are repealed:

9 [Section 2725. Report of Commission.--The shade tree  
10 commission shall annually report in full to the council its  
11 transactions and expenses for the last fiscal year of the  
12 borough.

13 Section 2726. Notices by Commission.--Whenever any shade  
14 tree commission proposes to plant, transplant, or remove shade  
15 trees on any street, notice of the time and place of the meeting  
16 at which such work is to be considered shall be given in one  
17 newspaper of general circulation in the borough once a week for  
18 two weeks immediately preceding the time of the meeting. The  
19 notice shall specify in detail the streets or portions upon  
20 which trees are proposed to be so planted, replanted, or  
21 removed.

22 Section 2727. Payment by Owners.--The cost of planting,  
23 transplanting, or removing any shade trees in and along the  
24 streets and highways in the borough, of the necessary and  
25 suitable guards, curbing or grading for the protection thereof,  
26 and of the replacing of any pavement or sidewalk necessarily  
27 disturbed in the execution of such work, shall be paid by the  
28 owner of the real estate abutting which the work is done.

29 The amount each owner is to pay shall be ascertained and  
30 certified by the commission to council and to the borough

1 treasurer.

2 Section 2728. Assessments; Liens.--Upon the filing of the  
3 certificate with the council, the borough secretary shall cause  
4 thirty days' written notice to be given to every person against  
5 whose property an assessment has been made. The notice shall  
6 state the amount of the assessment, and the time and place of  
7 payment, and shall be accompanied with a copy of the  
8 certificate.

9 The amount assessed against the real estate shall be a lien  
10 from the time of the filing of the certificate with the council,  
11 and if not paid within the time designated in the notice, a  
12 claim may be filed and collected by the borough solicitor in the  
13 same manner as municipal claims are filed and collected.

14 Section 2729. Maintenance by Borough; Tax Levy.--The cost  
15 and expenses of caring for such trees after having been planted  
16 and the expense of publishing the notice hereinbefore provided  
17 for shall be paid by the borough.

18 The needed amount shall each year be certified by the  
19 commission to the council and shall be drawn against, as  
20 required by the commission, in the same manner as money  
21 appropriated for borough purposes.

22 The council may levy a general tax, not to exceed the sum of  
23 one-tenth of one mill on the dollar on the assessed valuation of  
24 the property in said borough taxable for county purposes, for  
25 the purpose of defraying the cost and expenses of caring for  
26 such shade trees and the expense of publishing the notice; or it  
27 may provide for the expense of the caring for trees already  
28 planted and of publishing the notice by appropriations equal to  
29 the amount certified to be required by the commission.

30 Section 2730. Penalties.--The commission, to the extent as

1 may be provided by ordinance of the borough, may assess  
2 penalties for the violation of its regulations and of this  
3 article so far as it relates to shade trees. Any penalty so  
4 assessed shall be a lien upon the real estate of the offender  
5 and may be collected as municipal claims are collected.

6 All penalties or assessments imposed under this article shall  
7 be paid to the borough treasurer, to be placed to the credit of  
8 the commission, subject to be drawn upon by the commission for  
9 the purposes of the preceding sections of this subdivision of  
10 this article.

11 (2) Power of Boroughs as to Shade Trees

12 Section 2741. Ordinances to Require Planting and  
13 Replanting.--Any borough may, by ordinance, upon the petition of  
14 a majority of the property owners upon any public street  
15 thereof, require the planting and replanting of suitable shade  
16 trees along and upon the sides of such streets, upon such  
17 alignment and at such points as may be designated by such  
18 ordinance, by the owners of property abutting the street at the  
19 points designated. This section shall not authorize any borough  
20 to require the planting or replanting of trees at any point  
21 which may interfere with the necessary or reasonable use of any  
22 street or abutting property or unreasonably interfere with any  
23 business conducted thereon.

24 Section 2742. Power of Borough Where Owners Fail to  
25 Comply.--On failure of any owner, after reasonable notice, to  
26 comply with the terms of any such ordinance, the borough may  
27 cause such trees to be planted or replanted at the expense of  
28 the borough, and thereupon, in the name of the borough, collect  
29 the cost of such work from the owners in default, as debts of  
30 like amount are by law collectible.

1       Section 2743. Removal of Diseased Plants, Shrubs and  
2 Trees.--The commission may upon such notice as may be provided  
3 by ordinance, require owners of property to cut and remove  
4 plants, shrubs and trees, afflicted with the Dutch elm or other  
5 disease, which threatens to injure or destroy plants, shrubs and  
6 shade trees, in the borough under regulations prescribed by  
7 ordinance. Upon failure of any such owner to comply with such  
8 notice, the borough may cause the work to be done by the  
9 borough, and levy and collect the cost thereof from the owner of  
10 the property. The cost of such work shall be a lien upon the  
11 premises from the time of the commencement of the work, which  
12 date shall be fixed by the borough engineer and shall be filed  
13 with the borough secretary. Any such lien may be collected by  
14 action in assumpsit or by lien filed in the manner provided by  
15 law for the filing and collection of municipal claims.]

16       Section 318. Article XVII subdivision (c) heading of the act  
17 is reenacted to read:

18                                       (c) Forests

19       Section 319. Section 2751 of the act is amended to read:

20       Section 2751. Acquisition of Land for Forest Purposes.--Any  
21 borough may acquire, by purchase, gift, or lease, and hold  
22 tracts of land covered with forest or tree growth or suitable  
23 for the growth of trees, and administer the same[, under the  
24 direction of the Department of Forests and Waters,] in  
25 accordance with the practices and principles of scientific  
26 forestry, for the benefit of the borough. Such tracts may be of  
27 any size suitable for the purpose and may be located within or  
28 without the borough limits.

29       Section 320. Section 2752 of the act is repealed:

30       [Section 2752. Approval of Department of Forests and



1 Waters.--Before the passage of any ordinance for the acquisition  
2 of land to be used as a municipal forest, the borough shall  
3 submit to the Department of Forests and Waters, and secure its  
4 approval of, the area and location of such land.]

5 Section 320.1. section 2753 of the act is reenacted to read:

6 Section 2753. Ordinance Declaring Intention.--Whenever the  
7 council of any borough deems it expedient to acquire any land  
8 for the purposes of municipal forests, it shall so declare in an  
9 ordinance wherein shall be set forth all facts and conditions  
10 relating to the proposed action.

11 Section 321. Sections 2754, 2755, 2756 and 2757 of the act  
12 are amended to read:

13 Section 2754. Appropriations of Money.--All moneys necessary  
14 for the purchase of such tracts shall be appropriated in the  
15 same manner as appropriations for borough purposes, and [such]  
16 the funds may be provided from the current revenue or by the  
17 proceeds of a sale of general obligation bonds in accordance  
18 with existing law.

19 Section 2755. Rules and Regulations.--Upon the acquisition  
20 of any municipal forest or land suitable [therefor] for  
21 municipal forests, the council [shall notify the Department of  
22 Forests and Waters, which shall] may make [such] rules for the  
23 government and proper administration of the same as may be  
24 deemed necessary[, and the council shall publish such rules,  
25 declare the uses of the forest in accordance with the intent of  
26 this subdivision of this article, and make such provision for  
27 its administration, maintenance, protection and development as  
28 shall be necessary or expedient]. The rules governing the  
29 administration of [such] the forest shall have for their main  
30 purpose the [producing of a] production of continuing borough

1 revenue by the sale of forest products.

2 Section 2756. Appropriations and Revenues.--All moneys  
3 necessary to be expended for the administration, maintenance,  
4 protection and development of [such] forests, shall be  
5 appropriated and applied as is now done for borough purposes[;].  
6 [all] All revenue and emoluments arising from [such] the forests  
7 shall be paid into the borough treasury to be used for general  
8 borough purposes.

9 Section 2757. Use of Forests.--Municipal forests may be used  
10 by the public as general outing or recreation grounds subject to  
11 the rules [of the Department of Forests and Waters governing  
12 their administration as municipal forests and rules] adopted by  
13 the council [of the borough not inconsistent with law or the  
14 regulations of the department].

15 Section 322. Section 2758 of the act is reenacted to read:

16 Section 2758. Ordinance of Sale.--Whenever the council of  
17 any borough deems it expedient to sell or lease any municipal  
18 forest or part thereof, or products therefrom, it shall so  
19 declare in an ordinance wherein shall be set forth all the facts  
20 and conditions relating to the proposed action. No ordinance for  
21 the sale of a municipal forest, or part thereof, shall be  
22 enacted until the provisions of this act relative to the sale of  
23 borough-owned real estate have been complied with.

24 Section 323. Section 2759 of the act is amended to read:

25 Section 2759. Pruning or Thinning Out; Sale of Products  
26 Thereof.--In order to comply with the practices and principles  
27 of scientific forestry, the council, by resolution, shall have  
28 the power to prune or thin out any municipal forest or portion  
29 [thereof] of a municipal forest, and shall have the right to  
30 sell the products of [such] the pruning or thinning out without

1 complying with the provisions of this act relative to  
2 advertising and bidding. In doing so, the borough may either use  
3 its own personnel or hire or contract with skilled personnel,  
4 and in [such] the hiring or contracting, council shall not be  
5 required to obtain bids or to advertise.

6 Section 324. Article XXVIII heading of the act is reenacted  
7 to read:

8 ARTICLE XXVIII

9 CEMETERIES

10 Section 325. The act is amended by adding sections to read:

11 Section 2800. Appropriations for Burial Ground  
12 Maintenance.--Any borough may appropriate annually, out of the  
13 general funds of the borough, a sum for the care, upkeep,  
14 maintenance and beautifying of cemeteries, burial grounds and  
15 private roads in or leading to those areas, lying wholly or  
16 partly within the boundary limits of the borough or in the  
17 territory immediately adjacent to the borough.

18 Section 2800.1. Burial of Deceased Persons.--Any borough may  
19 prohibit, within the borough limits, or within any described  
20 territory within the limits, the burial or interment of deceased  
21 persons.

22 Section 326. Sections 2801 and 2802 of the act are amended  
23 to read:

24 Section 2801. Management by Commission[; Transfer from  
25 Borough to Company].--When the title and management of any  
26 cemetery is vested in a borough, the council of [such] the  
27 borough may [in its discretion], by ordinance, vest the care,  
28 management and operation of [such] the cemetery in a commission  
29 of three citizens to be appointed by the council[, such care,  
30 management and operation, and the terms of the commissioners to

1 be as provided in the ordinance establishing such cemetery  
2 commission. Upon petition of at least ten lot owners in such  
3 cemetery, the council may, in its discretion, transfer such  
4 cemetery and the management thereof to an incorporated cemetery  
5 company in the manner hereinafter provided]. The ordinance shall  
6 provide for the terms of the cemetery commissioners.

7 Section 2802. [Vesting Title.--] Transfer from Borough to  
8 Company.--(a) Upon petition of at least ten per centum of  
9 living cemetery lot owners, the council may, in its discretion,  
10 transfer the cemetery and the management thereof to an  
11 incorporated cemetery company.

12 (b) Upon the presentation to council of [such] the petition,  
13 the council may enact an ordinance declaring that, upon the  
14 acceptance of the provisions of [such] the ordinance by the  
15 incorporated cemetery company, filed with the borough secretary,  
16 the title and control of [such] the cemetery shall vest in  
17 [such] the incorporated cemetery company.

18 (c) A copy of the ordinance and the acceptance thereof,  
19 certified by the borough secretary, shall be recorded in the  
20 office of the recorder of deeds of the county.

21 Section 327. Sections 2803 and 2804 of the act are repealed:

22 [Section 2803. Recording of Ordinance and Acceptance.--A  
23 copy of the ordinance and the acceptance thereof, certified by  
24 the borough secretary, shall be recorded in the office of the  
25 recorder of deeds of the county.

26 Section 2804. Orders of Court as to Neglected Cemeteries.--

27 (a) Authority is vested in the court of quarter sessions to  
28 make such orders for the regulation of cemeteries, situated in  
29 or adjacent to boroughs, as the public good shall require; and  
30 when any cemetery shall become so neglected as, in the opinion

1 of the court, to become a public nuisance, the court may direct  
2 the removal of the dead therefrom by the borough authorities to  
3 some other cemetery.

4 (b) When any cemetery situated in a borough shall become so  
5 neglected as, in the opinion of the court of quarter sessions,  
6 to become a public nuisance, such court, upon petition of the  
7 borough council and after such notice as is required in  
8 subsection (c) of this section, may authorize the borough  
9 without the removal of any dead from the cemetery to improve and  
10 maintain the cemetery by the restoration, improvement or removal  
11 of some or all of the gravestones, posts, railings, fences or  
12 other structures and improvements. If the court authorizes the  
13 removal of gravestones, it shall direct the borough to erect and  
14 maintain at a prominent location in the cemetery a suitable  
15 memorial of stone, bronze or similar material having inscribed  
16 thereon the available names and dates of all persons in the  
17 cemetery the gravestones for whom have been authorized to be  
18 removed. The petition filed by the council shall include such  
19 facts as to the ownership of the cemetery as are known to the  
20 borough and shall set forth the proposed plans of the borough  
21 for the improvement of the cemetery including, if it proposes to  
22 remove the gravestones, a description of the memorial it intends  
23 to erect.

24 (c) Whenever the council shall file a petition as  
25 hereinbefore provided, the court shall direct such notice of the  
26 filing of the petition to be given in such manner as it shall  
27 deem appropriate and shall afford the owner or owners of the  
28 cemetery or the owners of any burial rights therein, if any  
29 appear, an opportunity to be heard before making an order  
30 authorizing the borough to improve and maintain the burial

1 ground.]

2 Section 328. Section 2805 of the act is amended to read:

3 Section 2805. Transfer from Company to Borough.--(a) Upon  
4 the petition of any incorporated cemetery company and the owners  
5 of a majority of the taxable real estate in any borough, the  
6 court of [quarter sessions] common pleas may authorize the  
7 transfer of any cemetery to any borough in which [such] the  
8 cemetery may be located or [be adjacent thereto.] which is  
9 adjacent to the borough. A copy of the court order authorizing  
10 the transfer shall be filed with the recorder of deeds.

11 (b) The transfer shall be made without cost to the borough  
12 and upon being made the borough shall exercise the powers and  
13 privileges of the incorporated company, and may purchase land  
14 within or adjacent to the borough limits, not to exceed thirty  
15 acres, for the extension of the cemetery, and may raise the  
16 means to pay for the same, by the sale of lots or otherwise, but  
17 in no event by taxation. The borough may lay out lots so  
18 purchased and alter the original plot of the cemetery, and may  
19 dispose of such grounds in the same manner as the incorporated  
20 company could have done.

21 (c) A deed for any lot, made by the borough, shall be of the  
22 same validity as the deed of the incorporated cemetery company  
23 and the borough may make deeds to those who theretofore  
24 purchased lots, but had not been furnished with deeds by the  
25 cemetery company.

26 Section 329. The act is amended by adding a section to read:

27 Section 2805.1. Neglected or Abandoned Cemeteries.--Borough  
28 council shall have the power to direct the removal of weeds,  
29 refuse and debris from an abandoned or neglected cemetery. To  
30 exercise this power, council shall give personal notice to the

owner, if known, directing the removal of weeds, refuse and debris from the cemetery within thirty days from the giving of personal notice. Personal notice shall be by any of the following means: (1) personal service on the owner, (2) certified mail, addressee only, return receipt requested, to the owner at the owner's last known address, or (3) posting notice at or upon the property after reasonable attempts to give personal notice pursuant to (1) or (2) has failed. If the removal is not completed within thirty days after personal notice was effected, borough council shall provide for the removal to be done by employees of the borough or persons hired for that purpose at the expense of the borough. The costs of removal shall be assessed against the owner of the cemetery, if known, and collected pursuant to Article XXI-A.

Section 330. Sections 2806 and 2807 of the act are repealed:

[Section 2806. Powers of Borough.--Such transfer shall be made without cost to the borough and upon being made the borough shall exercise the powers and privileges of such incorporated company, and may purchase land within or beyond the borough limits, not to exceed thirty acres, for the extension of such cemetery, and may raise the means to pay for the same, by the sale of lots or otherwise, but in no event by taxation; the borough may lay out lots so purchased and alter the original plot of such cemetery, and may dispose of such grounds in the same manner as such incorporated company could have done.

Section 2807. Deeds to Lots.--A deed for any lot, made by the borough, shall be of the same validity as the deed of such incorporated cemetery company; and the borough is authorized to make deeds to those who theretofore purchased lots, but had not been furnished with deeds by the cemetery company.]

1       Section 331.   Sections 2808 and 2809 of the act are amended  
2 to read:

3       Section 2808.   Removing Bodies to Alter Plots.--In altering  
4 the plot of any [such] cemetery, the bodies may be removed and  
5 reinterred in a suitable place, but without cost to surviving  
6 relatives.

7       Section 2809.   Removal of Bodies to Other [Cemeteries.--  
8 Whenever any cemetery privately owned and in charge of no  
9 person, or any cemetery in charge of any religious society or  
10 church, has ceased to be used for interments, or has become so  
11 neglected as to become a public nuisance; or when such cemetery  
12 hinders the improvement and progressive interests of any  
13 borough, or is desired by the borough as a site for any free  
14 public library building, or for any other public purpose, the  
15 court of quarter sessions of the county, upon petition of the  
16 managers of such cemetery; or upon the petition of fifty  
17 residents in the vicinity in case such cemetery is not in charge  
18 of anyone, setting forth that the improvements and progressive  
19 interests of such borough are hampered and the welfare of such  
20 borough is injured; or upon the petition of such borough setting  
21 forth that such cemetery is desired by the borough for the  
22 erection thereon of a free public library building, or for use  
23 as a recreation place, or the opening, laying out or extension  
24 through said land of any street, or for any other public  
25 purpose; and after three successive weeks of advertisement in a  
26 newspaper of general circulation in the borough may direct the  
27 removal of the remains of the dead from such cemetery.]  
28 Cemeteries.--(a)   The court of common pleas may, upon petition  
29 and notice as set forth in this section, direct the removal of  
30 the remains of the dead from a privately owned cemetery,



1 borough-owned cemetery, any cemetery affiliated with any  
2 religious society or church or with any other organization, when  
3 the cemetery has ceased to be used for interments, or has become  
4 so neglected as to become a public nuisance, or when the  
5 cemetery hinders the improvement and progressive interests of  
6 the borough, or is desired by the borough as a site for any  
7 public purpose.

8 (b) The petition to the court for the removal of the remains  
9 of the dead shall be made in accordance with any of the  
10 following:

11 (1) The managers of the cemetery in charge of a religious  
12 society or church or any other organization, but only in  
13 pursuance of the wishes of a majority of the members of the  
14 society or church or any other organization, expressed at a  
15 meeting held for that purpose after two weeks' public notice.  
16 The managers' petition shall set forth that the cemetery has  
17 ceased to be used for interments.

18 (2) Approval of fifty residents of the borough if the  
19 cemetery is not in charge of anyone, setting forth that the  
20 improvements and progressive interests of the borough are  
21 hampered and the welfare of the borough is injured by the  
22 presence of the cemetery.

23 (3) Borough council setting forth that the cemetery has  
24 become so neglected as to become a public nuisance, or that the  
25 improvements and progressive interests of the borough are  
26 hampered and the welfare of the borough is injured by the  
27 presence of the cemetery, or that the land is desired for a  
28 public purpose.

29 (c) Prior to the court authorizing the removal of the  
30 remains of the dead from a cemetery, notice shall be given by

1 advertisement in a newspaper of general circulation once a week  
2 for three successive weeks.

3 (d) The removal shall be made by the managers of the  
4 cemetery, or by the borough when the cemetery is in charge of no  
5 one or is a borough-owned cemetery, in a careful manner, at the  
6 expense of the party making the removal, to another cemetery as  
7 may be selected, or if so desired by relatives or other  
8 interested parties, to some cemetery in the vicinity.

9 (e) Relatives or other interested parties of the dead may  
10 remove the remains, at any time during the proceedings, at their  
11 own expense, before removal by the managers or the borough.

12 (f) All bodies, when so removed, shall be placed in separate  
13 caskets and graves, and the markers placed over the remains of  
14 the bodies shall be taken by the persons authorized to make the  
15 removal, and placed as near as can be in the same relative  
16 position as before removal.

17 (g) After the removal of all dead bodies from any such  
18 cemetery, the land shall cease to be a cemetery or burial  
19 ground, and may be acquired by the borough as other real estate  
20 is acquired for borough purposes.

21 Section 332. Sections 2810, 2811, 2812, 2813, 2814 and 2815  
22 of the act are repealed:

23 [Section 2810. Applications for Removal.--No application, as  
24 provided in the preceding section, shall be made by the managers  
25 of any cemetery, in charge of any society or church, except in  
26 pursuance of the wishes of a majority of the members of such  
27 society or church, expressed at a meeting held for that purpose  
28 after two weeks' public notice.

29 Section 2811. Removals; How Made.--Such removal shall be  
30 made by the managers of such cemetery, or by the borough when

1 such cemetery is in charge of no one, in a careful manner, at  
2 the expense of the party making such removal, to such other  
3 cemetery as may be selected; or if so desired by relatives or  
4 friends, to some cemetery in the vicinity.

5 Section 2812. Notice of Removal.--The parties making such  
6 removal shall publish, for two successive weeks, in a newspaper  
7 of general circulation in the borough, a notice declaring their  
8 intention to remove such remains.

9 Section 2813. Removal by Relatives and Friends.--Relatives  
10 and friends of such dead may remove such remains, at any time  
11 during such proceedings, at their own expense, before removal by  
12 the managers.

13 Section 2814. Care in Removal.--All bodies, when so removed,  
14 shall be placed in separate caskets and graves, and the markers  
15 placed over the remains of such bodies shall be taken by the  
16 persons authorized to make such removal, and placed as near as  
17 can be in the same relative position as before removal.

18 Section 2815. Right to Use Property From Which Bodies  
19 Removed.--After the removal of all dead bodies from any such  
20 cemetery, the said land shall cease to be a cemetery or burial  
21 ground for all and any purpose whatsoever; and may be acquired  
22 by the borough as other real estate is acquired for borough  
23 purposes.]

24 Section 333. Section 2816 of the act, amended October 4,  
25 1978 (P.L.962, No.189), is amended to read:

26 Section 2816. Purchase of Plots for Burial of Deceased  
27 Service Persons.--Any borough may purchase plots of ground, in  
28 any cemetery or burial ground within its limits, for the  
29 interment of [such] deceased members of the armed forces, as  
30 have [heretofore] died before or shall [hereafter] die later

1 within [such] the borough, or shall die beyond [such] the  
2 borough and shall have a legal residence within the borough at  
3 the time of their death, and whose bodies are entitled to be  
4 buried by the county under the provisions of existing law.  
5 [Such] The plots of ground shall be paid for out of the treasury  
6 of [such] the borough.

7 Section 334. Article XXIX heading of the act is reenacted to  
8 read:

9 ARTICLE XXIX

10 LICENSES AND LICENSE FEES

11 Section 335. Sections 2901 and 2902 of the act are amended  
12 to read:

13 Section 2901. Licensing Transient Retail Business.--[Every  
14 borough shall have power] (a) Any borough may, by ordinance,  
15 [to] regulate and license [each and every person, firm or  
16 corporation] transient merchants engaged in any transient retail  
17 business[, ] within [such] the borough[, ]. Transient merchants  
18 shall include any person, partnership or corporation engaged in  
19 any transient retail business for the sale of goods, wares, or  
20 merchandise, whether [such] the business [shall be] is conducted  
21 from a fixed location within the borough or by any person or  
22 persons engaged in peddling, soliciting, or taking of orders  
23 from house to house[, and to]. The ordinance may prohibit the  
24 commencement or doing of any [such] transient retail business  
25 [or] unless the license required by [such] the ordinance has  
26 been procured from the proper authorities by the person, firm,  
27 or corporation desiring to commence [such] the transient retail  
28 business[, and to enforce such ordinances]. The ordinance may  
29 provide for enforcement by penalties or [by] other appropriate  
30 means. The amount of any [such] license fee shall bear a

1 reasonable relationship to the cost of administering [such] the  
2 ordinance and regulating[, investigating,] and inspecting [and  
3 supervising such] the transient retail business.

4 (b) No license fee shall be charged under this section to  
5 the following transient merchants, unless such transient  
6 merchant is also selling other goods, wares and merchandise not  
7 excepted:

8 (i) [to farmers] Farmers selling their own produce[,].

9 (ii) [for the sale of] Persons selling goods, wares and  
10 merchandise[, donated by the owners thereof,] if the proceeds  
11 [whereof] of the sale are to be applied to any charitable or  
12 philanthropic purpose[, or].

13 (iii) [to any manufacturer or producer] Manufacturers or  
14 producers in the sale of bread and bakery products, meat and  
15 meat products, or milk [or] and milk products, [but the]  
16 provided that milk and milk products shall not include or apply  
17 to ice cream or other frozen desserts.

18 (c) The ordinance may require [any person, partnership, firm  
19 or corporation in any or all of these excepted categories to]  
20 that the transient merchants excepted from payment of a license  
21 fee in subsection (b) must register with the borough[, and  
22 otherwise be subject to all other provisions of the ordinance  
23 [except those pertaining to the payment of license fees:

24 Provided, the term "milk or milk products" shall not include or  
25 apply to ice cream or other frozen desserts: And provided  
26 further, That any transient retail business dealing in one or  
27 more of the excepted categories and selling other goods, wares  
28 and merchandise not excepted shall be subject to the license fee  
29 fixed by the ordinance for its activities in connection with the  
30 sale of goods, wares and merchandise not in any of the excepted

1 categories].

2 Section 2902. Commonwealth Licenses Saved.--Nothing  
3 contained in [section 2901 of this act] this article shall be  
4 construed to relieve any person, partnership, or corporation  
5 from the duty of taking out a license, or from the payment of  
6 any license tax or fee imposed or authorized by any other  
7 statute of this Commonwealth, nor shall any Commonwealth license  
8 tax or fee preempt the registration, license, or regulatory  
9 powers of a borough in accordance with this article, unless the  
10 preemption is expressly authorized.

11 Section 336. Section 2903 of the act, amended October 5,  
12 1979 (P.L.197, No.66), is amended to read:

13 Section 2903. Licensing Parking Lots and Parking Garages  
14 Operated for Profit.--Any borough may, by ordinance, regulate  
15 the business of operating parking lots or parking garages for  
16 profit within the borough and may require such lots or garages  
17 to reserve areas exclusively for parking by handicapped  
18 individuals. Ordinances shall be consistent with 75 Pa.C.S.  
19 (relating to vehicles). Nothing in this section may be construed  
20 to limit the protections and prohibitions contained in any law  
21 or regulation relating to the rights of the disabled. License or  
22 permit fees may be charged and collected from the operators of  
23 [such] the parking lots or parking garages. Any borough adopting  
24 such a regulatory plan shall require from each operator of  
25 [such] a parking lot or parking garage a bond to be approved by  
26 council for the protection of the public from loss of or damage  
27 to vehicles parked, stored or placed under the jurisdiction of  
28 [such] a parking lot or parking garage operator[: Provided,  
29 That], provided that nothing in this section shall apply to  
30 parking lots or parking garages operated by a municipal

1 authority or a parking authority.

2 Section 337. Sections 2904 and 2905 of the act are amended  
3 to read:

4 Section 2904. Persons Taking Orders by Samples.--It shall be  
5 unlawful for any borough to impose, levy or collect any license  
6 fee or mercantile tax upon any persons taking orders for  
7 merchandise by sample, from dealers or merchants[, ] for  
8 individuals or companies who pay a license fee or mercantile tax  
9 at their chief places of business. Nothing in this section shall  
10 authorize any such person, firm or corporation to sell by retail  
11 to others than dealers or merchants without payment of a license  
12 or permit fee.

13 Section 2905. Equality of Residents and Non-Residents.--It  
14 shall be unlawful for any borough to impose, by ordinance, [or  
15 exact] or collect under the provisions of any ordinance  
16 [heretofore or hereafter enacted], any license [tax or] fee upon  
17 or from any manufacturer, or the agent, representative or  
18 employe of any manufacturer who is a resident of the  
19 Commonwealth, for soliciting orders for, or for selling, any  
20 goods, merchandise or wares manufactured within this  
21 Commonwealth, that is not or cannot legally be imposed upon, [or  
22 exacted,] or collected from, any manufacturer or dealer, or the  
23 agent, representative, or employe of any manufacturer, who is a  
24 non-resident of the Commonwealth, for soliciting orders for or  
25 for selling any goods, merchandise, or wares manufactured  
26 [without the] outside this Commonwealth.

27 Section 338. Section 2906 of the act is reenacted to read:

28 Section 2906. Insurance Business.--It shall be unlawful for  
29 any borough to impose or collect any license fee upon any  
30 insurance company or its agents, or insurance broker, authorized

1 to transact business under the laws of the Commonwealth.

2 Section 339. The act is amended by adding an article to  
3 read:

4 ARTICLE XXIX-A

5 VETERANS' AFFAIRS

6 (a) Pennsylvania National Guard

7 Section 2901-A. Eminent domain for National Guard purposes.

8 Borough council may take, by right of eminent domain, for the  
9 purpose of appropriating to the borough for the use of the  
10 Pennsylvania National Guard, public lands, easements and public  
11 property, as may be in its possession or control and used or  
12 held by the borough for any other purpose. The right, however,  
13 shall not be exercised as to any street or wharf.

14 Section 2902-A. Lands for armory purposes.

15 Borough council may acquire, by purchase or by gift or by the  
16 right of eminent domain, any land for the use of the  
17 Pennsylvania National Guard, to convey the lands so acquired to  
18 the Commonwealth in order to assist the State Armory Board in  
19 the erection of armories. The power conferred by this section  
20 shall not be exercised to take any church property, graveyard,  
21 cemetery or any dwelling-house or the curtilage of the same in  
22 the actual occupancy of the owner.

23 Section 2903-A. Appropriation to assist in erection of  
24 armories.

25 Borough council may appropriate money or convey land, either  
26 independently or in conjunction with any municipality for the  
27 purpose of assisting the State Armory Board in the erection of  
28 armories for the use of the Pennsylvania National Guard and to  
29 furnish water, sewer service, light or fuel, free of cost, to  
30 the Commonwealth for use in any armory of the Pennsylvania



1 National Guard, and to do all things necessary to accomplish the  
2 purpose of this section.

3 Section 2904-A. Support of Pennsylvania National Guard units.

4 Borough council may appropriate annually a sum to be used and  
5 expended exclusively for the support and maintenance, discipline  
6 and training of any company, battalion, regiment or similar unit  
7 of the Pennsylvania National Guard. Where the units are  
8 organized as a company, battalion, regiment or similar  
9 organization, the total amount due may be paid to the commanding  
10 officer of the company, battalion, regiment or similar  
11 organization. Any moneys so appropriated shall be paid by  
12 warrant drawn to the order of the commanding officer of the  
13 company, battalion, regiment or similar organization, only when  
14 it shall be certified to the borough, by the Adjutant General,  
15 that the company or companies have satisfactorily passed the  
16 annual inspection provided by law. The commanding officer shall  
17 account, by proper vouchers to the borough each year, for the  
18 expenditure of the money appropriated, and no appropriation  
19 shall be made for any subsequent year until the expenditure of  
20 the previous year is duly and satisfactorily accounted for. The  
21 accounts of the expenditures shall be subject to the inspection  
22 of the Department of Military and Veterans Affairs, and shall be  
23 audited by the Auditor General in the manner provided by law for  
24 the audit of accounts of State moneys.

25 (b) Support of Veterans' Organizations

26 Section 2911-A. Appropriations to organizations of veterans and  
27 American Gold Star Mothers.

28 Borough council may appropriate annually a sum to be divided  
29 in amounts as council deems proper to organizations composed of  
30 veterans of any war in which the United States was engaged or

1 the American Gold Star Mothers' Organization, to aid in  
2 defraying the expenses of Memorial Day, Veterans' Day or any  
3 similar day hereafter provided for by Federal or State law. The  
4 payments shall be made to defray actual expenses only. Before  
5 any payment is made, the organization receiving the  
6 appropriation shall submit verified accounts of its  
7 expenditures.

8 Section 2912-A. Payment of rent for veterans' organizations.

9 Borough council may appropriate annually a sum as council  
10 deems proper to incorporated organizations of American veterans  
11 of any war in which the United States was engaged, to be used in  
12 the payment of the rent of any building or room or rooms in  
13 which the post, branch, camp, detachment or lodge has its  
14 regular meetings.

15 Section 2913-A. Rooms for veterans' and children of veterans'  
16 organizations.

17 Borough council may furnish without charge to each  
18 organization composed of American veterans of any war in which  
19 the United States was engaged and children of such veterans, a  
20 room or rooms in any public building of the borough.

21 Section 2914-A. Care and erection of memorials.

22 Borough council may take charge of, care for, maintain and  
23 keep in good order and repair, at the expense of the borough,  
24 any soldiers' monument, gun or carriage or similar memorial  
25 situated in the borough, and not in the charge or care of any  
26 person, body or organization, and not put up or placed by the  
27 Government of the United States, the Commonwealth of  
28 Pennsylvania, or the commissioners of the county, or by the  
29 direction or authority of any other state. Borough council may  
30 also receive and expend any moneys or funds from any person or

1 organization to be used for the maintenance of the memorials.  
2 Additionally, borough council may contribute to the erection of  
3 memorials in honor of those who served in any war in which the  
4 United States was engaged and thereafter to properly and  
5 adequately maintain the same.

6 Section 340. Article XXX heading and sections 3001, 3002,  
7 3003, 3004 and 3005 of the act are repealed:

8 [ARTICLE XXX

9 REAL ESTATE REGISTRY

10 Section 3001. Real Estate Registry Established.--For the  
11 purpose of procuring accurate information in reference to the  
12 ownership of real estate the council of any borough may provide  
13 by ordinance for a registry thereof.

14 Section 3002. Maintenance of Real Estate Registry.--The  
15 borough council in any borough in which a registry shall be  
16 established shall appoint or designate any officer of the  
17 borough or any other person to have charge of the real estate  
18 registry, who shall, under the direction of the council, cause  
19 to be made all necessary books, maps and plans, as will show the  
20 situation and dimensions of each property thereon; which books,  
21 maps, or plans shall be so prepared as to show the location and  
22 the name of the owner or owners thereof, with blank spaces for  
23 the name of the owner of each lot, and with provision for the  
24 names of future owners and the dates of future transfers of  
25 title.

26 Section 3003. Access to Public Records.--For the purpose of  
27 establishing such registry, the person in charge of the real  
28 estate registry of any borough shall have access without charge  
29 to any public records wherein the necessary information may be  
30 obtainable, and may also cause a search to be made in other

1 places for any muniments or evidences of title, not reported to  
2 him as herein provided, and requisite for the completion of such  
3 books, maps, or plans.

4 Section 3004. Keeping of Records.--The registry, books, maps  
5 and plans shall be carefully preserved, and shall be so kept, by  
6 additions from time to time, as to show the ownership of every  
7 lot, or piece of real estate, or subdivision thereof, within the  
8 limits of the borough, with the succeeding transmissions of  
9 title from the time of the commencement of such plans, but  
10 nothing contained therein shall, at any time, invalidate any  
11 municipal or tax claim by reason of the fact that the same is  
12 not assessed or levied against the registered owner.

13 Section 3005. Duties of Owners of Real Estate.--It shall be  
14 the duty of all owners of real estate within the limits of the  
15 borough, within one month after the date of the enactment of any  
16 ordinance establishing such registry, and of every subsequent  
17 purchaser, devise, or other owner, within one month after  
18 acquiring title in any manner whatsoever to any real estate in  
19 such borough, to furnish to the person in charge of the real  
20 estate registry, at his office, descriptions of their respective  
21 properties upon blanks to be furnished by the borough, and at  
22 the same time to present their conveyances to be stamped as  
23 evidence of the registry thereof.]

24 Section 341. Section 3006 of the act, amended October 9,  
25 1967 (P.L.360, No.158), is repealed:

26 [Section 3006. Registry Required Before Recording.--The  
27 sheriffs of the respective counties in which any such borough is  
28 situated shall present for registry the deeds of all properties  
29 within such borough sold by them at judicial sales; and the  
30 recorders of deeds of such counties shall not admit for record

1 any deed of any property in such borough, bearing dates  
2 subsequent to the enactment of an ordinance providing for the  
3 establishment of such registry, unless the same shall first have  
4 been duly stamped as herein provided.]

5 Section 342. Article XXXI heading of the act is reenacted to  
6 read:

7 ARTICLE XXXI

8 HEALTH AND SANITATION

9 Section 343. Sections 3101 and 3102 of the act are amended  
10 to read:

11 Section 3101. Establishment of Board of Health; Health  
12 Officers.--[The administration of the health laws and ordinances  
13 in boroughs shall be enforced by a board of health, or by a  
14 health officer or officers, as the case may be, appointed by the  
15 borough council.

16 Where the borough council elects to appoint a health officer  
17 or officers the said health officer or officers] (a) Borough  
18 council may, by ordinance, appoint a board of health, or a  
19 health officer or officers in lieu of a board of health, to  
20 administer and enforce the health laws and related ordinances of  
21 the borough. Health officers appointed by borough council shall  
22 have the same powers and duties, and exercise the same  
23 authority, as is prescribed for boards of health in boroughs.  
24 All health officers, whether appointed by boards of health  
25 pursuant to section 3106(b) or by the borough council, shall  
26 have had some experience or training in public health work [in  
27 accordance with rules and regulations established by the  
28 Advisory Health Board of the State] and shall be, or within six  
29 months of taking the oath of office, shall become certified for  
30 the office of health officer by the Department of Health. [Such

1 health officers shall not enter upon the performance of their  
2 duties until they are certified so to do by the State Department  
3 of Health.]

4 (b) All expenses incurred by the board of health, its  
5 officers or employees in the performance of the duties required  
6 by law or by ordinance, shall be paid by the borough where the  
7 duties are performed, in the same manner as other expenses of  
8 the borough are paid.

9 (c) A borough may, by ordinance, dissolve a board of health  
10 and decide to become subject to the jurisdiction of a county  
11 department of health or joint county department of health in  
12 accordance with the act of August 24, 1951 (P.L.1304, No.315),  
13 known as the "Local Health Administration Law."

14 Section 3102. Members of Board of Health.--(a) Where the  
15 borough council decides to appoint a board of health [such], the  
16 board shall be composed of three or five members, appointed by  
17 borough council, at least one of whom shall be a [physician]  
18 professional health care provider of not less than two years'  
19 experience in the practice of [his] the respective profession.  
20 [The members of the board shall be appointed by the borough  
21 council.] If no professional health care provider can be  
22 identified to serve on the board, council may, instead, appoint  
23 an individual who has experience in or is knowledgeable of  
24 public health issues. At the first appointment one member shall  
25 be appointed to serve for one year, one for two years, one for  
26 three years, and, in the case of boards with five members, one  
27 for four years, and one for five years; and thereafter one  
28 member shall, in like manner, be appointed each year to serve  
29 for three years or, in the case of boards with five members,  
30 five years. The members of the board of health shall serve

1 without compensation, but if any member of the board shall be  
2 elected to the office of secretary of the board of health, [he]  
3 the member shall be entitled to receive a salary fixed by the  
4 board for that office.

5 (b) "Professional health care provider" as described in this  
6 section shall mean an individual who is approved, licensed,  
7 certified or otherwise regulated to practice or operate in the  
8 health care field under the laws of this Commonwealth,  
9 including, but not limited to, a physician, a dentist, a  
10 podiatrist, a chiropractor, an optometrist, a psychologist, a  
11 pharmacist, a registered or practical nurse, a physical  
12 therapist, a physician's assistant, a paramedic, an  
13 administrator of a hospital, nursing or convalescent home or  
14 other health care facility or individuals licensed to practice  
15 veterinary medicine under the laws of this Commonwealth.

16 Section 344. Section 3103 of the act, amended June 25, 2001  
17 (P.L.651, No.56), is amended to read:

18 Section 3103. Oaths of Members, Secretary and Health  
19 Officer; Organization; Bonds.--The members of the board shall  
20 severally take and subscribe to the oath prescribed for borough  
21 members of council [together with such loyalty oath as is  
22 prescribed and required by law;] and shall annually organize by  
23 electing a president from among the members of the board, a  
24 secretary who may or may not be a member of the board, and a  
25 health officer. The secretary and the health officer shall  
26 receive such salary as may be fixed by the board, and ratified  
27 by the borough council, and shall serve [for a period] until  
28 such time as their successors may be elected and qualified. If  
29 the borough council shall so require, they shall severally give  
30 bond to the borough in such sums as council shall prescribe for

1 the faithful discharge of their duties. They shall take and  
2 subscribe to the oaths required of members of the board.

3 Section 345. Sections 3104, 3105, 3106, 3107, 3108, 3109,  
4 3110 and 3111 of the act are amended to read:

5 Section 3104. Duties of Secretary.--The secretary of the  
6 board shall [keep]:

7 (1) Keep and maintain, in accordance with 53 Pa.C.S. Ch. 13  
8 Subch. F (relating to municipal records), the minutes of the  
9 proceedings of the board[; shall] and keep accurate accounts of  
10 the expenditures of the board[; shall draw].

11 (2) Draw all requisitions for the payment of moneys on  
12 account of the board of health from appropriations made by the  
13 borough council [of] to the board, and [shall] present the same  
14 to the president of the board for [his] the president's  
15 approval[; shall render].

16 (3) Render statements of the expenditures to the board at  
17 each stated meeting, or as frequently as the board may require[;  
18 shall prepare,].

19 (4) Prepare, under the directions of the board, the annual  
20 report to the borough council together with the estimate of  
21 appropriation needed for the ensuing year. [He shall report]

22 (5) Report to the State Department of Health at such  
23 intervals as shall be specified by [the State] law or  
24 regulation, the cases of communicable disease reported to the  
25 board of health, on the form provided for that purpose by [such]  
26 the department[;] and [shall also] make an annual report to  
27 [such] the department[; and shall make].

28 (6) Make such other reports and perform such other duties as  
29 the board may require.

30 Section 3105. Powers and Duties of Health Officer.--It shall



1 be the duty of the health officer to attend all [stated] regular  
2 and special meetings of the board of health, and at all times be  
3 ready and available for the prompt performance of [his] the  
4 officer's official duties[. He shall perform], including such  
5 duties as are vested in local health officers by State laws and  
6 regulations. [He] The health officer shall make sanitary  
7 inspection and shall execute the orders of the board of health  
8 and shall, in the performance of [his] the health officer's  
9 duties, have the power and authority [of a policeman] to issue  
10 citations for the violation of applicable laws and ordinances.

11 Section 3106. Powers of Board of Health.--(a) The board of  
12 health shall have the power, and it shall be its duty to  
13 [enforce]:

14 (1) Enforce the laws of the Commonwealth, the regulations of  
15 the State Department of Health, and all ordinances of the  
16 borough enacted to promote public health and prevent the  
17 introduction and spread of infectious or contagious disease[; to  
18 abate].

19 (2) Abate and remove all nuisances [which] that the board  
20 shall deem [prejudicial] detrimental to the public health[;] and  
21 to mark infected houses or places[; to recommend].

22 (3) Recommend rules [for the construction and maintenance of  
23 house-drains, wash-pipes, soil-pipes and cesspools; and to  
24 recommend all such other rules] and regulations as shall be  
25 deemed necessary for the preservation of the public health and  
26 for carrying into effect the powers and functions of the board.

27 [Such] The rules and regulations shall not become effective  
28 until they have been approved by the borough council and enacted  
29 as ordinances of the borough. [The board shall also have power,  
30 with the consent of council, in case of a prevalence of any

1 contagious or infectious disease to establish one or more  
2 emergency hospitals, and to make provisions and regulations for  
3 the maintenance and management of the same.

4 The board shall also have the power to recommend to council  
5 all necessary rules and regulations not inconsistent with law,  
6 for carrying into effect the powers and functions with which the  
7 board is invested by law, and the power and authority relating  
8 to the public health conferred on boroughs. Such rules and  
9 regulations shall not become effective until they have been  
10 approved by the borough council and enacted as ordinances of the  
11 borough.]

12 (b) The board of health may appoint a health officer or  
13 officers.

14 Section 3107. Entry Upon Premises.--(a) The board of health  
15 as a body, or by committee, as well as the health officer,  
16 together with their assistants, subordinates, and [workmen]  
17 employes, under and by order of the [said] board, shall have the  
18 power to enter at [any time] a reasonable time and in a  
19 reasonable manner upon any premises in the borough upon which  
20 there is suspected to be any infectious or contagious disease,  
21 or nuisance detrimental to the public health, for the purpose of  
22 examining and abating the same.

23 (b) In the event that entry upon any premises is refused by  
24 an owner, an agent of an owner or a tenant, the board of health  
25 or health officer shall obtain an administrative search warrant  
26 from any magisterial district judge within the judicial district  
27 where the premises to be inspected is located.

28 (c) It shall be sufficient to support the issuance of a  
29 warrant for the board of health or health officer to provide to  
30 the magisterial district judge evidence of any of the following:

1     (1) Reasonable standards and an administrative plan for  
2 conducting inspections.

3     (2) The condition of the premises or general area and the  
4 passage of time since the last inspection.

5     (3) Facts, supported by oath or affirmation, alleging that  
6 probable cause exists that a law, regulation or ordinance  
7 subject to enforcement by the board of health or health officer  
8 has been violated.

9     Section 3108. Inspections; Abatement of Nuisances.--The  
10 board of health [may inspect house-drains, waste and soil-pipes,  
11 cesspools, water-closets, slaughter-houses, hog-pens, stable-  
12 yards and] shall have the power to inspect any conditions or  
13 places [whatsoever] in the borough which may constitute a  
14 nuisance or a menace to public health[; and whenever]. Whenever  
15 any condition or place in the borough is found by the board to  
16 be a nuisance or a menace to the health of the people of the  
17 borough it shall issue a written order of abatement, directed to  
18 the owner, or agent of the owner, of the premises, stating that  
19 the conditions specified [therein] in the premises constitute a  
20 nuisance or a menace to health, and ordering an abatement  
21 thereof within [such] reasonable time as may be specified by the  
22 board in [such] the order. [In case such] If the order of  
23 abatement is not obeyed within the time specified [therein], the  
24 board shall [thereupon] issue a further written order to the  
25 health officer, directing [him] the health officer to remove or  
26 abate the same[; which]. The order shall be executed by [him and  
27 his] the health officer and subordinates and [workmen] agents,  
28 and the expense [thereof] of execution with a penalty of ten  
29 percent [thereof added thereto], shall be recoverable from the  
30 owner of the premises upon or from which the nuisance or menace

1 to health is abated or removed, in the same manner as debts of  
2 like character are now collected by law[; or the said board of  
3 health may proceed to enforce such other remedy, or inflict such  
4 penalty, as may be provided by ordinance of the borough]. In  
5 lieu of, or in addition to the above procedure, borough council  
6 may seek relief from a nuisance or threatened nuisance by an  
7 action at law or in equity. Council may seek the guidance of the  
8 board of health or the health officer in determining the nature  
9 of the relief requested.

10 Section 3109. Estimates of Expenditures; Report.--It shall  
11 be the duty of the board of health or of the health officer or  
12 officers appointed by borough council to submit annually to the  
13 council, before the commencement of the fiscal year, an estimate  
14 of the probable expenditures of the board or the health officer  
15 or officers during the ensuing year; and council shall then  
16 proceed to make [such] appropriations as may be deemed  
17 necessary. The board of health, or the health officer or  
18 officers, shall, in the month of January of each year, submit a  
19 report, in writing, to council of its appropriation and  
20 expenditures for the preceding year, together with such other  
21 information on subjects relative to the sanitary conditions or  
22 requirements of the borough as may be necessary.

23 Section 3110. Cooperation With Other Units.--Any borough may  
24 cooperate with the county or counties in which it is located, or  
25 with any [city, borough, or township] municipal corporation, as  
26 well as with the State Department of Health, in the  
27 administration and enforcement of health laws.

28 Section 3111. Powers of [Secretary of Health.--Whenever, in  
29 the opinion of the Secretary of Health, conditions found by him  
30 to exist in any borough shall constitute a menace to the lives

1 and health of people living outside the corporate limits of such  
2 borough or if it be known by him that any borough is without an  
3 existing or efficient board of health, he or his agents may take  
4 full charge of and administer the health laws, regulations and  
5 ordinances in such borough; and may continue in charge thereof  
6 until he shall decide that a competent and efficient board of  
7 health, or health officer or officers, has been appointed and  
8 qualified for such borough and is ready, able and willing to  
9 assume and carry into effect the duties imposed upon it by law.]

10 Department of Health to Administer Health Laws; Expenses.--(a)  
11 Nothing in this act may be construed as to limit any power or  
12 duty of the Department of Health, including the power to take  
13 full charge of the administration of health laws, regulations  
14 and ordinances in a borough and collect any costs associated  
15 therewith in accordance with Article XXI of the act of April 9,  
16 1929 (P.L.177, No.175), known as "The Administrative Code of  
17 1929."

18 (b) Any expenses of the Department of Health for which the  
19 borough is liable shall be paid by the borough where the  
20 expenses have been incurred, in the same manner as other  
21 expenses of the borough are paid. All expenses incurred by the  
22 Department of Health, when paid or when collected, shall be  
23 returned by the department to the State Treasurer, who shall  
24 credit the amount so received to the appropriation made to the  
25 Department of Health.

26 (c) Whenever expenses incurred in accordance with the  
27 provisions of subsection (b) shall remain unpaid by a borough  
28 for a period over three months after a statement of the expense  
29 has been rendered to the borough and demand for payment is made,  
30 the Secretary of Health shall, with the approval of the

Governor, institute, in the name of the Commonwealth as plaintiff, an action of assumpsit against the borough for the collection of the expense from the borough in the same manner as debts of like amount are collected by law. Upon the trial of the action, the reasonableness of the expenditures made by the secretary shall be submitted to the jury for its determination.

Section 346. Sections 3112, 3113 and 3114 and Article XXXIII heading of the act are repealed:

[Section 3112. Expenses of Board or Secretary of Health.-- All expenses incurred by any local board of health, its officers or employes, in the performance of the duties imposed upon it by law, and all expenses incurred by the Secretary of Health or his agents in accordance with the provisions of this article shall be paid by the borough wherein such duties are performed, in the same manner as other expenses of such borough are paid.

Section 3113. Failure to Pay Expenses Incurred by State Secretary.--Whenever expenses incurred by the Secretary of Health or his agents in the administration of health laws in any borough in accordance with the provisions of this article, shall remain unpaid by said borough for a period over three months after a statement of such expense has been rendered by him to such borough and demand for payment by him made, he shall, with the approval of the Governor, institute, in the name of the Commonwealth as plaintiff, an action of assumpsit against such borough for the collection of such expense from the borough in the same manner as debts of like amount are collected by law: Provided, That upon the trial of any such action of assumpsit, the reasonableness of the expenditures made by the Secretary of Health shall be submitted to the jury for its determination.

Section 3114. Disposition of Collected Funds.--All expenses

1 incurred by the Secretary of Health in the administration of  
2 health laws in any borough, when paid to him by such borough, or  
3 when collected by him, shall be returned by him to the State  
4 Treasurer, who shall credit the amount so received to the  
5 appropriation made to the Department of Health.

6 ARTICLE XXXII

7 ZONING]

8 Section 347. The act is amended by adding an article to  
9 read:

10 ARTICLE XXXII-A

11 UNIFORM CONSTRUCTION CODE, PROPERTY MAINTENANCE

12 CODE AND RESERVED POWERS

13 Section 3201-A. Primacy of Uniform Construction Code.

14 (a) General rule.--The act of November 10, 1999 (P.L.491,  
15 No.45), known as the Pennsylvania Construction Code Act, and the  
16 Uniform Construction Code adopted under section 301 of the  
17 Pennsylvania Construction Code Act shall apply to the  
18 construction, alteration, repair and occupancy of all buildings  
19 and structures within a borough.

20 (b) Primacy.--This section and any ordinance, rule or  
21 regulation adopted pursuant to this section shall not supersede  
22 or abrogate the Pennsylvania Construction Code Act or the  
23 Uniform Construction Code and shall be construed and read in  
24 pari materia with them.

25 Section 3202-A. Changes in Uniform Construction Code.

26 A borough may propose and enact an ordinance to equal or  
27 exceed the minimum requirements of the Uniform Construction Code  
28 in accordance with and subject to the requirements of section  
29 503 of the act of November 10, 1999 (P.L.491, No.45), known as  
30 the Pennsylvania Construction Code Act. Any ordinance exceeding

1 the provisions of the Uniform Construction Code shall be  
2 required to meet the standards provided in section 503(j)(2) of  
3 the Pennsylvania Construction Code Act.

4 Section 3203-A. Public nuisance.

5 Any building, housing or property, or part of any building,  
6 housing or property erected, altered, extended, reconstructed,  
7 removed or maintained, contrary to any of the provisions of any  
8 ordinance passed for any of the purposes specified in this  
9 article may be declared, by a court of law, a public nuisance,  
10 and may be abatable as such, provided, however, that a violation  
11 of the Uniform Construction Code or any ordinance that equals or  
12 exceeds the Uniform Construction Code shall be subject to the  
13 provisions of the Pennsylvania Construction Code Act and the  
14 regulations adopted thereunder by the Department of Labor and  
15 Industry relating to enforcement for noncompliance.

16 Section 3204-A. Property maintenance code.

17 (a) Property maintenance codes.--Notwithstanding the primacy  
18 of the Uniform Construction Code, a borough may enact a property  
19 maintenance ordinance, and it may incorporate any standard or  
20 nationally recognized property maintenance code, or any  
21 variations or changes or parts of the code, published and  
22 printed in book form, without incorporating the text of the code  
23 in the ordinance, or a borough may enact any standard or  
24 nationally recognized property maintenance code or any changes  
25 or variations or parts, as its ordinance. In either event, the  
26 ordinance, or any changes or variations or parts, need not be  
27 advertised after passage, but notice of its consideration, in  
28 reasonable detail, shall be published as will give adequate  
29 notice of its contents and a reference to the place or places  
30 within the borough where copies of the proposed property



1 maintenance code may be examined or obtained. The notice  
2 required by this subsection shall be published once in one  
3 newspaper of general circulation at least one week and not more  
4 than three weeks prior to the presentation of the proposed  
5 property maintenance code to council. No fewer than three copies  
6 of the ordinance adopted by council shall be made available for  
7 public inspection and use during business hours or be made  
8 available to any interested party at the cost of the copies, or  
9 may be furnished or lent without charge. A property maintenance  
10 code adopted by reference need not be recorded in or attached to  
11 the ordinance book, but shall be deemed to have been legally  
12 recorded if the ordinance by which the code was adopted by  
13 reference shall have been recorded, with an accompanying  
14 notation stating where the full text of the code shall have been  
15 filed. The ordinance may provide for reasonable property fines  
16 and penalties for violations of the ordinance. The procedure  
17 under this section relating to the adoption of the ordinance may  
18 likewise be utilized in amending, supplementing or repealing any  
19 of the provisions of the ordinance.

20 (b) Property maintenance inspectors.--Council may appoint  
21 property maintenance inspectors who shall have the right to  
22 enter upon, subject to constitutional standards in a similar  
23 manner as provided in section 3107, and inspect any premises at  
24 all reasonable hours and in a reasonable manner for the  
25 administration and enforcement of the borough's property  
26 maintenance code or ordinance incorporating a standard or  
27 nationally recognized property maintenance code. Any fees  
28 payable to property maintenance inspectors under the ordinance  
29 shall be paid by the property maintenance inspectors to the  
30 borough treasurer for the use of the borough as promptly as may

1 be.

2 (c) Legal actions.--In addition to the penalties provided by  
3 the property maintenance ordinance, the borough may institute  
4 appropriate actions or proceedings at law or in equity to  
5 prevent or restrain property maintenance violations.

6 (d) Construction.--The powers of a borough as provided in  
7 this section shall be in addition to, but not limited to, the  
8 powers provided in the act of November 26, 2008 (P.L.1672,  
9 No.135), known as the Abandoned and Blighted Property  
10 Conservatorship Act, and 53 Pa.C.S. Ch. 61 (relating to  
11 neighborhood blight reclamation and revitalization).  
12 Section 3205-A. Reserved powers.

13 If, as a result of legislative action or final order of court  
14 for which the time for appeal has expired and no appeal has been  
15 taken or from which there is no pending appeal, the Uniform  
16 Construction Code or any replacement code is no longer  
17 applicable in boroughs, a borough may:

18 (1) Enact and enforce ordinances to govern and regulate  
19 the construction, reconstruction, alteration, extension,  
20 repair, conversion, maintenance, occupation, sanitation,  
21 ventilation, heating, egress, lighting, electric wiring,  
22 water supply, toilet facilities, drainage, plumbing, fire  
23 prevention, fireproofing, including prescribing limitations  
24 wherein only buildings of noncombustible material and  
25 fireproofed roofs are used in construction, erection or  
26 substantial reconstruction, use and inspection of all  
27 buildings and housing or parts of buildings and housing and  
28 the roofs, walls and foundations of buildings and housing,  
29 and all facilities and services in or about the buildings or  
30 housing constructed, erected, altered, designed or used, in

1 whole or in part, for any use or occupancy, and the  
2 sanitation and inspection of land appurtenant to the  
3 buildings or housing. The codes may be combined or separately  
4 enacted or combined with the property maintenance code. A  
5 borough may adopt, amend or incorporate by reference any  
6 standard or nationally recognized code or any variations or  
7 changes or parts of the code as its ordinance in the manner  
8 provided in section 3204-A. The ordinance may provide for  
9 reasonable fines and penalties for violations of the  
10 ordinance in compliance with Article XXXIII.

11 (2) Require that before any work of construction,  
12 reconstruction, alteration, extension, repair or conversion  
13 of any building is begun, approval of the plans and  
14 specifications be secured.

15 (3) Council may appoint building inspectors, housing  
16 inspectors, property maintenance inspectors, fire prevention  
17 inspectors, electrical inspectors and plumbing inspectors,  
18 and fix their compensation. The inspectors shall have the  
19 right to enter upon, subject to constitutional standards in a  
20 similar manner as provided in section 3107, and inspect any  
21 premises at all reasonable hours and in a reasonable manner,  
22 for the administration and enforcement of the borough's  
23 adopted codes or ordinances incorporating standard or  
24 nationally recognized codes. Any fees payable to inspectors  
25 under the ordinances shall be paid by them to the borough  
26 treasurer for the use of the borough as promptly as may be.

27 (4) In addition to the penalties provided by ordinances,  
28 the borough may institute appropriate actions or proceedings  
29 at law or in equity to prevent or restrain the unlawful  
30 construction, reconstruction, alteration, extension, repair,

1 conversion, maintenance, use or occupation of property  
2 located within the borough, to restrain, correct or abate the  
3 violation and to prevent the use or occupancy of the  
4 building, housing or structure.

5 Section 348. Article XXXIII heading of the act is amended to  
6 read:

7 ARTICLE XXXIII

8 [ENFORCEMENT OF] ORDINANCES

9 Section 349. Section 3301 of the act, amended October 9,  
10 1967 (P.L.399, No.181) and repealed in part April 28, 1978  
11 (P.L.202, No.53), is repealed:

12 [Section 3301. Prosecution of Ordinance Violators;  
13 Disposition of Fines, Penalties and Costs.--Any violation or  
14 failure to comply with any provision of any borough ordinance  
15 shall constitute a summary offense and prosecution for every  
16 such offense shall be according to the practice in the case of  
17 summary convictions.]

18 Section 350. The act is amended by adding subdivisions to  
19 read:

20 (a) General Provisions

21 Section 3301.1. Ordinances; resolutions.

22 (a) General rule.--Borough council shall enact ordinances in  
23 accordance and not inconsistent with the provisions of this act  
24 and with the laws of this Commonwealth, in which general or  
25 specific powers of the borough shall be exercised as it shall  
26 deem beneficial to the borough and to provide for the  
27 enforcement of the same. Borough council may amend, repeal or  
28 revise existing ordinances by the enactment of subsequent  
29 ordinances.

30 (b) Legislative acts.--Every legislative act of council

shall be by ordinance and these legislative acts shall include,  
but not be limited to, tax ordinances, general appropriation  
ordinances, capital expenditures not payable out of current  
funds, and all legislation exercising the police power of the  
borough, regulating land use, development and subdivision,  
imposing building, plumbing, electrical, property maintenance,  
housing and similar standards, and otherwise regulating the  
conduct of persons or entities within the borough and imposing  
penalties for the violation thereof.

(c) Resolutions.--Borough council shall adopt resolutions in  
accordance and not inconsistent with the provisions of this act  
and the laws of this Commonwealth. The purposes for which  
resolutions may be adopted shall include, but not be limited to,  
ceremonial or congratulatory expressions of the good will of the  
council, statements of public policy of the council, approval of  
formal agreements of the borough, other than agreements arising  
under an established purchasing system of the borough, the  
approval, when required, of administrative rules, regulations  
and bylaws arising under State statutes or borough ordinances  
and the filling of borough-appointed positions and of vacancies  
of elected officials unless otherwise provided.

(d) Real and personal property matters.--Borough council's  
approval of the acquisition, disposition and leasing of real or  
personal property shall be by adoption of a resolution in a  
manner consistent with this act.

Section 3301.2. Publication of proposed ordinances.

(a) Publication requirements.--Except where otherwise  
provided in this act or in other law, borough council shall  
publish every proposed ordinance once in one newspaper of  
general circulation no more than 60 days nor fewer than seven

1 days prior to enactment, which the seventh day shall fall on the  
2 day prior to the day when council shall vote on the proposed  
3 ordinance. Publication of any proposed ordinance shall include  
4 either the full text or the title and a brief summary prepared  
5 by the borough solicitor setting forth all the provisions in  
6 reasonable detail and a reference to a place within the borough  
7 where copies of the proposed ordinance may be examined.

8 (b) Publication of summary.--If the full text is not  
9 included in the publication of the proposed ordinance, the  
10 following shall apply:

11 (1) The newspaper in which the proposed ordinance is  
12 published shall, upon request, be furnished a copy of the  
13 full text.

14 (2) An attested copy of the full text shall be filed in  
15 the county law library or other county office designated by  
16 the county commissioners who may impose a fee no greater than  
17 that necessary to cover the actual costs of storing the  
18 proposed ordinance.

19 (3) The date of the filing with the county, as provided  
20 in paragraph (2), shall not affect the effective date of the  
21 ordinance and shall not be deemed a defect in the process of  
22 the enactment of the ordinance.

23 (c) Notice of amendments.--In the event substantial  
24 amendments are made in the proposed ordinance, before voting  
25 upon enactment, council shall within ten days readvertise in one  
26 newspaper of general circulation, a brief summary setting forth  
27 all the provisions in reasonable detail together with a summary  
28 of the amendments.

29 Section 3301.3. Enactment, approval and veto of ordinances;  
30 effective date.

1     (a) Approval by mayor.--

2         (1) Every ordinance enacted by council shall be  
3     presented to the mayor for the mayor's approval. As a matter  
4     of law, presented to the mayor shall be deemed to mean  
5     delivery to the mayor by hand delivery or certified mail,  
6     addressee only, to the mayor at the mayor's last known  
7     address. Delivery shall be deemed complete upon depositing in  
8     the mail, postage or charges prepaid, as evidenced by a  
9     certificate of mailing.

10        (2) If the mayor approves the ordinance, he or she shall  
11     sign it. If the mayor does not approve the ordinance, the  
12     mayor shall return it with his or her objections which shall  
13     be entered upon the minutes, to the council at its next  
14     scheduled meeting occurring at least ten days after the  
15     meeting at which the ordinance was enacted by council.  
16     Council shall proceed to a reconsideration of the ordinance  
17     either at the meeting at which the vetoed ordinance was  
18     returned or no later than ten days thereafter at any other  
19     scheduled meeting. If, after reconsideration, a majority of  
20     all elected council members plus one votes to override the  
21     mayor's veto, the ordinance shall have full force and effect  
22     as if it had received the approval of the mayor. The vote  
23     shall be determined by yeas and nays, and the names and votes  
24     of the members shall be entered upon the minutes. A scheduled  
25     meeting, as used in this section, may be either a regular,  
26     special or reconvened meeting.

27        (3) If any ordinance shall not be returned by the mayor  
28     at council's next scheduled meeting occurring at least ten  
29     days after its presentation to the mayor, the ordinance shall  
30     have full force and effect as if it had been approved by the

1 mayor.

2 (b) Effective date.--The effective date of an enacted  
3 ordinance, except as otherwise provided in the ordinance, shall  
4 be the date when the mayor shall approve it or the date of  
5 enactment by the council over the veto of the mayor, or in the  
6 case of any ordinance not returned by the mayor at the next  
7 scheduled meeting of council occurring at least ten days after  
8 the meeting at which the ordinance was enacted by the council,  
9 the date of enactment shall be the date of the succeeding  
10 scheduled meeting of council.

11 (c) Tax ordinance.--When council shall present the mayor  
12 with the annual tax ordinance referred to in section 1310.1, the  
13 mayor shall, within ten days of receiving the tax ordinance  
14 approve or return the tax ordinance to the borough secretary  
15 with a statement setting forth the mayor's objections. Council  
16 shall proceed to a reconsideration at any scheduled meeting held  
17 no later than ten days after the mayor has returned the tax  
18 ordinance to the secretary with the mayor's objections. The  
19 mayor's objections shall be entered upon the minutes of the  
20 meeting. A veto of the tax ordinance of the borough may be  
21 overridden by a vote of a majority of all elected council  
22 members plus one. After that action, the ordinance shall have  
23 full force and effect as if it had received the approval of the  
24 mayor. If the mayor neither approves the tax ordinance nor  
25 returns it with objections, the date of enactment of the tax  
26 ordinance shall be the date of the adoption of the tax ordinance  
27 by council.

28 Section 3301.4. Recording, advertising and proof of ordinances.

29 All borough ordinances shall, within 30 days after (1)  
30 approval by the mayor, or (2) council's override of the mayor's



1 veto or (3) council's next scheduled meeting after its  
2 presentation to the mayor, be recorded by the borough secretary  
3 in a book provided for that purpose, which shall be open to the  
4 inspection of citizens during normal business hours. All  
5 ordinances may be proved by the certificate of the borough  
6 secretary, under the corporate seal. When printed or published  
7 in book or pamphlet form by the authority of the borough, the  
8 ordinances shall be read and received as evidence in all courts  
9 and places without further proof. The entry of the borough  
10 ordinance in the ordinance book shall be sufficient, without the  
11 signature of the president of council, mayor or member of  
12 council. Any and all borough ordinances or portions thereof, the  
13 text of which, prior to the effective date of this act, shall  
14 have been attached to the ordinance book, shall be considered in  
15 force just as if the ordinances or portions thereof had been  
16 recorded directly upon the pages of the ordinance book, provided  
17 that all other requirements of this act applicable to the  
18 enactment, approval, advertising and recording of the ordinances  
19 or portions of ordinances were complied with within the time  
20 limits prescribed by this act.

21 Section 3301.5. Codification of ordinances.

22 (a) Consolidation, codification and revision.--When a  
23 borough has prepared a consolidation, codification or revision  
24 of the general body of borough ordinances, or the ordinances on  
25 a particular subject, the borough council may adopt the  
26 consolidation, codification or revision as an ordinance of the  
27 borough in accordance with section 3301.1(a), except as  
28 hereinafter provided.

29 (b) Enactment.--Any consolidation, codification or revision  
30 of borough ordinances to be enacted as a single ordinance shall

1 be introduced in the borough council at least 30 days before its  
2 final enactment. At least 15 days before its final enactment,  
3 notice of the introduction of any consolidation, codification or  
4 revision, specifying its general nature and listing its table of  
5 contents, shall be given by advertisement in a newspaper of  
6 general circulation.

7 (c) Notice.--When any consolidation, codification or  
8 revision has been enacted as an ordinance, it shall not be  
9 necessary to advertise the entire text, but it shall be  
10 sufficient to publish a notice stating that the consolidation,  
11 codification or revision, notice of the introduction of which  
12 had previously been given, was finally enacted.

13 (d) Contents of notice.--In the course of preparing a  
14 consolidation, codification or revision of ordinances, a borough  
15 may utilize the procedure set forth in subsections (a), (b) and  
16 (c) to enact a complete group or body of ordinances, repealing  
17 or amending existing ordinances as may be necessary. In such  
18 cases, the advertisement giving notice of the introduction shall  
19 list, in lieu of a table of contents, the titles only of each of  
20 the ordinances in a complete group or body of ordinances, as was  
21 finally enacted.

22 Section 3301.6. Appeals from ordinances.

23 Complaint as to the legality of any ordinance or resolution  
24 may be made to the court of common pleas. In cases of ordinances  
25 laying out streets over private lands, the court shall have  
26 jurisdiction to review the propriety as well as the legality of  
27 the ordinance.

28 Section 3301.7. Lost ordinance books to be replaced; recording  
29 ordinances.

30 (a) Lost ordinance books.--Whenever any ordinance book or

1 books are lost, destroyed or become unserviceable, the borough  
2 council may provide by ordinance for a new ordinance book or  
3 books into which shall be recorded by the secretary all of the  
4 ordinances contained in the lost, destroyed or unserviceable  
5 ordinance book or books. The secretary, in recording the  
6 ordinances, shall make complete copies of the ordinances,  
7 including the date of enactment and approval and the names of  
8 the officers who signed the same, and, after notice given, as  
9 provided in this section, and corrections made, shall certify  
10 each ordinance as a correct copy of the original.

11 (b) Recording ordinances.--The ordinance providing for the  
12 recording of ordinances shall be recorded in the ordinance book,  
13 immediately following the ordinances so recorded and it shall  
14 provide that the secretary of the borough, upon the completion  
15 of the recording, shall publish once, in one newspaper of  
16 general circulation, a notice stating that ordinances of the  
17 borough contained in lost, destroyed or unserviceable ordinance  
18 book or books, and that the old books and records of borough  
19 ordinances and the new ordinance book are open to public  
20 inspection for the purpose of verification and correction for a  
21 period of 30 days from the date of the notice.

22 (c) Certification by secretary of borough.--The secretary of  
23 the borough, at the expiration of the notice, shall make all  
24 corrections, and shall then certify that all of the ordinances  
25 have been compared with the originals and that they are correct  
26 copies. After the ordinances are recorded, notice given, and the  
27 certificate of correction made, the ordinances so recorded shall  
28 take the place of the original record and shall be the valid and  
29 legal ordinances of the borough for the period covered by the  
30 new ordinance book.

1 (b) Enforcement

2 Section 3321. Fines and penalties.

3 An ordinance enacted by borough council pursuant to this act  
4 shall prescribe the fines and penalties which may be imposed for  
5 its violation and shall, unless otherwise specified in any other  
6 law of this Commonwealth, designate the method of its  
7 enforcement in accordance with the following:

8 (1) Except as provided in paragraph (2), when the  
9 penalty imposed for the violation of an ordinance enacted  
10 pursuant to the provisions of this act is not voluntarily  
11 paid to the borough, the borough shall initiate a civil  
12 enforcement proceeding before a magisterial district judge.  
13 The civil enforcement proceeding shall be initiated by  
14 complaint or by such other means as may be provided by the  
15 Pennsylvania Rules of Civil Procedure. An ordinance which is  
16 to be enforced through a civil enforcement proceeding may  
17 prescribe civil penalties not to exceed \$600 per violation. A  
18 borough shall be exempt from the payment of costs in any  
19 civil case brought by the borough to enforce an ordinance in  
20 accordance with this paragraph.

21 (2) For an ordinance regulating building, housing,  
22 property maintenance, health, fire, public safety, parking,  
23 solicitation, curfew, water, air or noise pollution, borough  
24 council shall provide that its enforcement shall be by action  
25 brought before a magisterial district judge in the same  
26 manner provided for the enforcement of summary offenses under  
27 the Pennsylvania Rules of Criminal Procedure. The municipal  
28 solicitor may assume charge of the prosecution without the  
29 consent of the District Attorney as required under  
30 Pa.R.Crim.P. No. 454 (relating to trial in summary cases).

1 Borough council may prescribe criminal fines not to exceed  
2 \$1,000 per violation and may prescribe imprisonment to the  
3 extent allowed by law for the punishment of summary offenses.  
4 Violations of the property maintenance code or ordinance may  
5 also be enforced pursuant to section 3204-A(c).

6 (3) All ordinances enacted prior to the effective date  
7 of this clause, other than those regulating building,  
8 housing, property maintenance, health, fire, public safety,  
9 parking, solicitation, curfew, water, air or noise pollution,  
10 shall be deemed automatically amended so that they shall be  
11 enforced through a civil enforcement proceeding in accordance  
12 with paragraph (1).

13 (4) In addition to or in lieu of enforcement of an  
14 ordinance through a civil action or as a summary offense, as  
15 provided in this section, boroughs may enforce ordinances  
16 through an action in equity brought in the court of common  
17 pleas of the county where the borough is situate.

18 (5) Ordinances, whether enforced through civil  
19 proceedings or as a summary offense, may provide that a  
20 separate offense shall arise for each day or portion of a day  
21 in which a violation is found to exist or for each section of  
22 the ordinance which is found to have been violated. In the  
23 event that such claims for fines and penalties exceed the  
24 monetary jurisdiction of a magisterial district judge as set  
25 forth in 42 Pa.C.S. § 1515(a) (relating to jurisdiction and  
26 venue), exclusive of interest, costs or other fees, the  
27 borough may bring such action in the court of common pleas or  
28 may, pursuant to 42 Pa.C.S. § 1515(a), waive that portion of  
29 fines or penalties that exceed the monetary jurisdictional  
30 limits so as to bring the matter within the monetary

1 jurisdiction of the magisterial district judge.

2 (6) Ordinances may provide that any person found guilty  
3 of violating an ordinance may be assessed court costs and  
4 reasonable attorney fees incurred by the borough in the  
5 enforcement proceedings.

6 (7) All fines, costs, penalties, and fees collected for  
7 the violation of any borough ordinance shall be paid to the  
8 borough treasurer.

9 (8) Borough council may delegate the initial  
10 determination of ordinance violation and the service of  
11 notice of violation to such officers or agents as the borough  
12 shall deem qualified for that purpose.

13 Section 351. Sections 3306 and 3307 of the act are  
14 renumbered and amended to read:

15 Section [3306] 3322. Commitments Pending Hearings.--Any  
16 person arrested for the violation of a borough ordinance that  
17 may be enforced as a summary offense may be committed to the  
18 borough lockup, pending a hearing or trial, but in case there is  
19 no suitable lockup in which to detain prisoners the person  
20 arrested may be committed to the county jail.

21 Section [3307] 3323. Commitments After Hearing.--Upon  
22 judgment against any person by summary conviction, or by  
23 proceedings by summons on default of the payment of the fine or  
24 penalty imposed and the costs, the defendant may be sentenced  
25 and committed to the borough lockup for a period not exceeding  
26 ten days or to the county jail [or workhouse] for a period not  
27 exceeding thirty days.

28 Section 352. Section 3308 of the act, amended March 2, 1988  
29 (P.L.103, No.18), is repealed:

30 [Section 3308. Collection of Penalties.--No fine or penalty

1 shall exceed one thousand dollars (\$1,000) for a violation of a  
2 building, housing, property maintenance, health, fire or public  
3 safety code or ordinance and for water, air and noise pollution  
4 violations, and shall not exceed six hundred dollars (\$600) for  
5 a violation of any other borough ordinance.]

6 Section 353. Section 3309 of the act, repealed in part April  
7 28, 1978 (P.L.202, No.53), is renumbered and amended to read:

8 Section [3309] 3324. Payment of Costs by Borough.--When a  
9 prisoner shall be committed to any county jail [or workhouse],  
10 either for the nonpayment of a fine or penalty imposed for the  
11 violation of any borough ordinance, or while awaiting a hearing  
12 upon any charge for the violation of any borough ordinance that  
13 is enforced as a summary offense, the expenses of maintaining  
14 [such] the prisoner during [his] the prisoner's confinement  
15 shall be paid by the borough, and the county shall not be liable  
16 for any such maintenance.

17 Section 354. Article XXXIV and subdivision (a) headings of  
18 the act are repealed:

19 [ARTICLE XXXIV  
20 ACTIONS BY AND AGAINST BOROUGHES  
21 (a) Municipal Claims]

22 Section 355. Section 3401 of the act, repealed in part April  
23 28, 1978 (P.L.202, No.53), is repealed:

24 [Section 3401. Collection of Municipal Claims.--In all  
25 proceedings for the recovery of municipal claims an attorney's  
26 commission of five percent may be included.]

27 Section 356. Article XXXIV subdivision (b) heading and  
28 section 3415 of the act are repealed:

29 [(b) Defenses by Taxpayers]

30 Section 3415. Liability in Bond Transfers.--All certificates

1 of loans, issued by a borough, shall be transferable by the  
2 legal owner thereof without any liability on the part of the  
3 transfer agents of the borough to recognize or see to the  
4 execution of any trust, whether expressed, implied, or  
5 constructive, to which such loans may be subject, unless such  
6 transfer agents of the borough shall have previously received  
7 notice in writing signed by or on behalf of the person for whom  
8 such loans appear by the certificate thereof to be held in  
9 trust, that the proposed transfer would be a violation of such  
10 trust.]

11 Section 357. Article XXXV heading of the act is reenacted to  
12 read:

13 ARTICLE XXXV

14 ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

15 Section 358. Section 3501 of the act is amended to read:

16 Section 3501. Acts of Assembly Repealed; Saving Clause.--(a)  
17 The following acts and parts of acts are hereby repealed as set  
18 forth:

19 (1) The act of May 4, 1927 [(P.L.519)] (P.L.519, No.336),  
20 known as "The Borough Code," and its reenactments and amendments  
21 are repealed, except that section 2, act of May 23, 1961  
22 [(P.L.210)] (P.L.210, No.109), shall not be construed to be  
23 repealed.

24 (2) The act of April 14, 1875 (P.L.55, No.58), entitled "An  
25 act authorizing the burgess and town council of each of the  
26 several boroughs throughout this commonwealth to levy and  
27 collect a gas, kerosene oil and water tax," absolutely.

28 (3) The act of April 18, 1877 (P.L.55, No.55), entitled "An  
29 act to provide through the courts of this commonwealth for the  
30 erection of boroughs out of territory now included in cities of



1 the third class that have been formed by joining together two or  
2 more boroughs," absolutely.

3 (4) The act of June 16, 1891 (P.L.302, No.232), entitled "A  
4 further supplement to an act approved the sixteenth of April,  
5 Anno Domini one thousand eight hundred and seventy-five,  
6 entitled 'An act authorizing the burgess and town council of  
7 each of the several boroughs throughout this Commonwealth to  
8 levy and collect a gas, kerosene oil and water tax,' amended by  
9 the act approved the eighth day of May, Anno Domini one thousand  
10 eight hundred and seventy-six, providing for a further amendment  
11 of section second, as amended by said last mentioned act, to  
12 authorize the use of the money so raised and collected for the  
13 purpose of illuminating said boroughs with electric light,"  
14 absolutely.

15 (5) The act of May 2, 1901 (P.L.120, No.87), entitled "An  
16 act to prevent burgesses and councilmen of the several boroughs  
17 within this Commonwealth from soliciting or receiving bribes,  
18 and to punish any person who may offer to bribe the same,"  
19 absolutely.

20 (6) The act of May 4, 1927 (P.L.673, No.337), entitled "An  
21 act relating to purchases by boroughs," absolutely.

22 (7) The act of April 26, 1929 (P.L.823, No.354), entitled  
23 "An act permitting boroughs to provide a method of assessment  
24 for borough taxes," absolutely.

25 (8) The act of April 11, 1931 (P.L.26, No.24), entitled "An  
26 act to validate certain proceedings for municipal improvements,  
27 municipal assessments, municipal claims, and municipal liens, in  
28 the several boroughs of this Commonwealth, and validating such  
29 improvements, assessments, claims, and liens; providing for the  
30 filing of claims and liens therefor; and the proceedings for the

1 collection of such assessments and claims," absolutely.

2 (9) The act of June 12, 1931 (P.L.559, No.192), entitled "An  
3 act to authorize boroughs to sue out writs of scire facias on  
4 certain municipal claims, where more than five years have  
5 elapsed since said claims were filed, and to reduce such claims  
6 to judgment; and providing for the revival and collection of  
7 such judgments," absolutely.

8 (10) The act of March 3, 1933 (P.L.8, No.5), entitled "An  
9 act validating, ratifying and confirming acts and municipal  
10 functions done, executed and performed, municipal works and  
11 improvements instituted and completed, and affairs regulated by  
12 boroughs in accordance with general borough laws, where such  
13 boroughs were incorporated under local law, and no official  
14 record of the acceptance of the general borough law is in  
15 existence or can be found," absolutely.

16 (11) The act of July 12, 1935 (P.L.721, No.282), entitled  
17 "An act authorizing boroughs to construct, reconstruct, and  
18 repair sidewalks, gutters, curbs, and grass plots, in cases  
19 where material is paid by the abutters, and labor is furnished  
20 without cost to the borough," absolutely.

21 (12) The act of July 18, 1935 (P.L.1305, No.408), entitled  
22 "An act authorizing boroughs to repay certain surcharges  
23 heretofore made against councilmen for the purchase of any fire  
24 apparatus where there was no fraud, corruption, or dishonesty,  
25 or profit to such councilmen, and where the borough is in  
26 possession of and uses such fire apparatus," absolutely.

27 (b) All other acts or parts of acts of Assembly supplied by,  
28 inconsistent with or appertaining to the subject matter covered  
29 by this act are hereby repealed. It is the intention that this  
30 act shall furnish a complete and exclusive system for the

government and regulation of boroughs, except as to the several matters enumerated in section 102 of article I of this act.

(c) Nothing contained in this act shall be construed to repeal:

(1) Any local or special law.

(2) Any of the provisions of the Public Utility [Law] Code.

(3) Any of the provisions of any law relating to the Navigation Commission for the Delaware River and its navigable tributaries.

(4) Any of the provisions of any law, the enforcement of which is vested in the Department of Health of the Commonwealth or of the [Sanitary Water Board] Department of Environmental Protection.

(5) Any of the provisions of any law the enforcement of which is vested in the Department of [Forests and Waters or the Water and Power Resources Board] Conservation and Natural Resources.

(6) Any of the provisions of the act of [June 25, 1947 (P.L. 1145)], entitled, as amended, "An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class to levy, assess, and collect or to provide for the levying, assessment and collection of certain additional taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers and employes to assess and collect such taxes; and permitting penalties to be imposed and enforced; providing an appeal from the ordinance or resolution levying

1 such taxes to the court of quarter sessions and to the Supreme  
2 Court and Superior Court," or of any of the amendments or  
3 supplements to the said act.] December 31, 1965 (P.L.1257,  
4 No.511), known as "The Local Tax Enabling Act."

5 (7) The act of February 14, 2008 (P.L.6, No.3), known as the  
6 "Right-to-Know Law."

7 (8) Any provision of 45 Pa.C.S. (relating to legal notices).

8 (9) Any provision of 65 Pa.C.S. (relating to public  
9 officers).

10 (d) Nothing contained in this act shall be construed to  
11 revive any act or part of an act heretofore repealed.

12 Section 359. The addition of section 1104(f) of the act  
13 shall apply to officials elected or appointed to fill a vacancy  
14 in an elected office after the effective date of this section.

15 Section 360. This act shall take effect in 60 days.