

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1702 Session of
2011INTRODUCED BY GINGRICH, ROSS, CREIGHTON, FREEMAN, SANTARSIERO
AND CALTAGIRONE, JUNE 21, 2011SENATOR EICHELBERGER, LOCAL GOVERNMENT, AS AMENDED, JANUARY 18,
2012

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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9 ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

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 Acts of Assembly Repealed; Saving Clause.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 The repeal by this act of any act of Assembly, or part thereof, shall not revive any act or part thereof heretofore repealed or superseded, nor affect the corporate existence of any borough heretofore incorporated.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.

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

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

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

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

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

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

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.

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

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

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

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

Section 241. Consolidation or merger.

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

Section 242. Change of corporate name.

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

(b) Petition.--Upon the presentation of the petition, the court shall fix a day for hearing of which notice shall be given as directed by the court. At the hearing, an inhabitant of the 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

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

ARTICLE IV

CHANGE OF BOROUGH LIMITS

(a) Annexation of Townships of First Class or Parts Thereof
Section 401. Petition For Annexation of a Township of the First Class or Parts Thereof.--Registered electors equal to at least ten percent of the registered electors in any township of the first class contiguous to a borough, or ten percent of the registered electors residing within any part of a township of the first class contiguous to a borough, may petition the council of such borough for the annexation of the township of the first class, or part thereof, as the case may be, to the 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

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

Section 602. [Signing Petition; Appointment of Commissioners; Report.--The petition referred to in the first paragraph of section 601 of this act shall be presented by the council of the borough pursuant to a resolution of the council, or by at least five percent of the registered electors of the borough, or in case of a proposal affecting only a portion of the borough by at least five percent of the registered electors of the ward or wards which would be affected by such proposal, as the case may be. The court shall thereupon consider and determine the matter and may appoint three impartial persons, none of whom shall be residents or property owners in the borough, as commissioners to inquire into the propriety of granting the prayer in the petition. The commissioners, or any two of them, shall make a report to the court, within sixty days after their appointment and shall accompany it with a plot, showing the boundaries of the proposed wards of the borough, or the wards before and after the proposed change, as the case may be, whenever the same cannot be fully designated by natural lines, and with information on the population and the number of registered electors in the borough and in all wards and proposed new wards with which such report is concerned.] Petition of Electors.--(a) At least five percent of registered electors of the borough or, in the case of a proposal affecting only a portion of the borough, at least five percent of the registered electors of the ward or wards which would be affected by the proposal may petition council to initiate proceedings under section 601 and may present to council a plot showing the boundaries of the proposed wards of the borough. Council shall, 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 submit 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 employees 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

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

2 [Section 1025. Salary of Mayor Limited.--The salary of the
3 mayor shall be established by ordinance and shall not exceed, in
4 boroughs with a population of less than five thousand, a maximum
5 of two thousand five hundred dollars (\$2500) a year; in boroughs
6 with a population of five thousand or more but less than ten
7 thousand, a maximum of five thousand dollars (\$5000) a year; in
8 boroughs with a population of ten thousand or more but less than
9 fifteen thousand, a maximum of seven thousand five hundred
10 dollars (\$7500) a year. In any borough with a population in
11 excess of fifteen thousand, the salary of the mayor shall not
12 exceed five hundred dollars (\$500) per annum per thousand
13 population or fraction thereof, the population to be determined
14 by the latest official census figures. Such salaries shall be
15 payable monthly or quarterly for the duties imposed by the
16 provisions of this act. Benefits provided to the mayor under
17 section 1202(37) shall not be considered pay, salary or
18 compensation, but payment for all or a part of the premiums or
19 charges for the benefits shall be in accordance with section
20 1202(37).]

21 Section 79. Section 1026 of the act is repealed:

22 [Section 1026. Salaried Mayor Not to Receive Fees.--Any
23 salary paid pursuant to an ordinance shall be in lieu of all
24 costs and fees allowed a mayor. Costs and fees shall be taxed
25 and collected by the mayor and turned into the borough treasury.
26 Any mayor, upon assuming office for any elective or appointive
27 term and at any time no sooner than two years thereafter, shall
28 be authorized to elect to be paid by the fees and costs
29 pertaining to his office or by the salary fixed by ordinance for
30 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)~~ PARAGRAPH (3), a portion ←
26 of reasonable attorney fees incurred by the officer in
27 connection with the 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)~~ PARAGRAPH (3), a portion of reasonable
4 attorney fees incurred by the borough, elector or taxpayer in
5 connection with 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,

independent auditor or controller for settlement.

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

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

Section 1107. Assistant Treasurer.--Any borough council may, by resolution, appoint an assistant treasurer, who shall not be a member of the council. Council may appoint the assistant treasurer as the assistant secretary provided that the assistant treasurer is not a member of council. The assistant treasurer shall assist the treasurer in the performance of [his] the treasurer's duties, and, in case of absence or disability of the treasurer, shall perform the duties and may exercise the powers of the treasurer.

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

(c) Secretary

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

Section 1111. Duties.--(a) The secretary shall attend all meetings of the borough council and shall keep full minutes of its proceedings[; he shall transcribe the bylaws, rules, regulations and ordinances adopted into a book kept for that purpose; he shall preserve the records and documents of the borough, and shall have custody of the corporate seal. He shall certify copies of any book, paper, record, bylaw, rule, regulation, resolution, ordinance or proceeding of the borough, under the seal thereof which copies, when so certified, shall be 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),
25 referred to as the "Municipal Police Pension Law," and OR the
26 act of February 1, 1974 (P.L.34, No.15), known as the
27 "Pennsylvania Municipal Retirement Law," shall govern any
28 borough police pension fund not established under the provisions
29 of this 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 DELIBERATIONS OF THE
2 COMMISSION, INCLUDING INTERIM RULINGS ON EVIDENTIARY OR
3 PROCEDURAL ISSUES, MAY BE HELD IN THE NATURE OF A CLOSED
4 EXECUTIVE SESSION. THE COMMISSION'S DISPOSITION OF THE MATTER
5 SHALL CONSTITUTE OFFICIAL ACTION WHICH SHALL OCCUR AT A PUBLIC
6 MEETING HELD PURSUANT TO 65 PA.C.S. CH. 7 (RELATING TO OPEN
7 MEETINGS). The decision of the commission shall be final.

8 Section 1184. Eligibility List and Manner of Filling
9 Appointments.--(a) At the completion of the testing process,
10 including any [background,] physical agility or other
11 examination, with the exception of any background investigation
12 to be conducted after the establishment of an eligibility list
13 and physical and psychological medical examination pursuant to
14 section 1189 [of this act], the commission shall rank the
15 candidates who have satisfied the minimum requirements for
16 appointment on an eligibility list. The eligibility list shall
17 contain the names of individuals eligible for appointment listed
18 from highest to lowest based on their scores on the examinations
19 administered by the commission and any points for which the
20 applicant was entitled by virtue of 51 Pa.C.S. Ch. 71 (relating
21 to veterans' preference). The eligibility list will be valid for
22 one year from the date the commission formally adopts the
23 eligibility list. Prior to expiration of the one-year period,
24 the commission may extend the validity of the eligibility list
25 for up to an additional twelve months by a majority vote of the
26 commission at a duly authorized commission meeting. In the
27 absence of a lawful extension by the commission, the list shall
28 expire.

29 (b) Except as provided in subsection (c), every original
30 position or employment in the police force or as paid operators

1 of fire apparatus, except that of chief of police or chief of
2 the fire department, or equivalent, shall be filled only in the
3 following manner: the council shall notify the commission of any
4 vacancy which is to be filled and shall request the
5 certification of an eligibility list. The commission shall
6 certify for each existing vacancy from the eligibility list, the
7 names of the three persons, or a lesser number where three are
8 not available, who have received the highest average. The
9 council shall make a conditional appointment from the three
10 names certified, based solely on the merits and fitness of the
11 candidates, unless borough council makes objections to the
12 commission regarding one or more of the certified persons for
13 any of the reasons stated in section 1183 [of this act]. Should
14 [such] the objections be sustained by the commission, as
15 provided in section 1183 [of this act], or if the conditional
16 appointee is determined to be unqualified in accordance with the
17 procedures set forth in section 1189 [of this act], the
18 commission shall strike the name of the person from the
19 eligibility list and certify the next highest name for each name
20 stricken from the eligibility list. As each subsequent vacancy
21 occurs in the same or another position precisely the same
22 procedure shall be followed.

23 (c) Any vacancy in an existing position in the police force
24 or as a paid operator of fire apparatus which occurs as a result
25 of retirement, resignation, disability or death may be filled by
26 council by the reappointment or reinstatement of a former
27 employe of the police force or fire department who had
28 previously complied with the provisions of this section. No
29 examination, other than a physical examination as directed by
30 the civil service commission, shall be required in any case of

1 reappointment or reinstatement.

2 (d) In the case of a vacancy in the office of chief of
3 police or chief of the fire department, or equivalent official,
4 the appointive power may nominate a person to the commission. It
5 shall [thereupon] then become the duty of the commission to
6 subject the person to a non-competitive examination, and if the
7 person shall be certified by the commission as qualified, he may
8 then be appointed to the position, and [thereafter] shall be
9 subject to all the provisions of this subdivision.

10 Section 142. Section 1185 of the act, amended June 16, 1972
11 (P.L.439, No.132), is amended to read:

12 Section 1185. Age, Applicant's Residence.--No person shall
13 be eligible to apply for examination unless [he] the person is
14 at least eighteen years of age at the date of application. An
15 applicant need not be a resident of the borough. The council of
16 the borough may authorize the commission, by rule or regulation,
17 to require [policemen and firemen] police officers and paid
18 operators of fire apparatus to become residents of the borough
19 after appointment to [such] the positions.

20 Section 143. Section 1186 of the act, amended October 27,
21 2010 (P.L.884, No.91), is amended to read:

22 Section 1186. Probationary Period.--All original
23 appointments to any position in the police force or as paid
24 operators of fire apparatus shall be for a probationary period
25 of not less than six months, and not more than one year, but
26 during the probationary period an appointee may be dismissed
27 only for a cause specified in section 1183 [of this act] or
28 because of incapacity for duty due to the use of alcohol or
29 drugs. If at the close of a probationary period the conduct or
30 fitness of the probationer has not been satisfactory to the

1 council, the probationer shall be notified in writing that [he]
2 the probationer will not receive a permanent appointment, and
3 the appointment shall cease. If the probationer is not notified
4 or dismissed in accordance with this section, [his] the
5 probationer's retention shall be equivalent to a permanent
6 appointment. The decision of a borough to suspend or discharge a
7 probationer shall be final and shall not be subject to the
8 hearing provisions of section 1191.

9 Section 144. Section 1187 of the act is amended to read:

10 Section 1187. Provisional Appointments.--Whenever there are
11 urgent reasons for the filling of a vacancy in any position in
12 the police force and there are no names on the [eligible]
13 eligibility list for [such] the appointment, the council may
14 nominate a person to the commission for noncompetitive
15 examination, and if [such] the nominee shall be certified by the
16 commission as qualified after [such] noncompetitive examination,
17 [he] the nominee may be appointed provisionally to fill [such]
18 the vacancy. [It shall thereupon become the duty of the
19 commissioner within three weeks to] Within three weeks of the
20 provisional appointment, the commission shall hold a competitive
21 examination and certify [a list of eligibles] an eligibility
22 list and a regular appointment shall then be made from the name
23 or names submitted by the commission[: Provided, That], provided
24 that nothing [herein contained] in this section shall prevent
25 the appointment, without examination, of persons, temporarily as
26 police officers in cases of riot or other emergency or as
27 operators of fire apparatus in emergency cases.

28 Section 145. Section 1188 of the act, amended October 27,
29 2010 (P.L.884, No.91), is amended to read:

30 Section 1188. Promotions.--Promotions shall be based on

1 merit to be ascertained by examinations to be prescribed by the
2 commission. All questions relative to promotions shall be
3 practical in character and [such as] will fairly test the merit
4 and fitness of persons seeking promotion. Borough council shall
5 notify the commission of a vacancy in the police force or as a
6 paid operator of fire apparatus in the borough which is to be
7 filled by promotion and shall request the certification of an
8 eligibility list. The commission shall certify for each vacancy
9 the names of three persons on the eligibility list who have
10 received the highest average in the last preceding promotional
11 examination held within a period of two years preceding the date
12 of the request for the eligibility list. If three names are not
13 available, the commission shall certify the names remaining on
14 the eligibility list. The borough council shall make an
15 appointment from the names certified, based solely on the merits
16 and fitness of the candidate, unless council makes objections to
17 the commission regarding one or more of the persons so certified
18 for any reason provided under section 1183 [of this act].

19 The council shall have power to determine in each instance
20 whether an increase in salary shall constitute a promotion.

21 Section 145.1. Section 1189 of the act, amended October 27,
22 2010 (P.L.884, No.91), is reenacted to read:

23 Section 1189. Physical and Psychological Medical
24 Examination.--(a) An applicant selected from the eligibility
25 list shall receive a conditional offer of employment. The offer
26 of employment shall be conditioned upon the conditional
27 appointee undergoing a physical and psychological medical
28 examination and a determination that the conditional appointee
29 is capable of performing all the essential functions of the
30 position. Physical medical examinations shall be under the

1 direction of a physician or other qualified medical
2 professional. Psychological medical examinations shall be under
3 the direction of a psychiatrist or psychologist.

4 (b) The physician or other qualified medical professional
5 and the psychiatrist or psychologist shall be appointed by
6 council and shall render an opinion as to whether the
7 conditional appointee has a physical or mental condition which
8 calls into question the person's ability to perform all of the
9 essential functions of the position for which the person was
10 conditionally appointed.

11 (c) If the opinion rendered by the physician, other
12 qualified medical professional, psychiatrist or psychologist
13 calls into question the conditional appointee's ability to
14 perform all essential functions of a position, a person
15 designated by council shall meet with the conditional appointee
16 for the purpose of having one or more interactive discussions
17 on whether the conditional appointee can, with or without
18 reasonable accommodation, perform all the essential functions of
19 the position.

20 (d) If, at the conclusion of the interactive discussion
21 under subsection (c), council determines that the conditional
22 appointee is not qualified, council shall give written notice to
23 the conditional appointee and the commission.

24 (e) Nothing in this act shall be construed to authorize
25 physical or psychological medical examinations prior to
26 conditional appointment.

27 (f) As used in this section, the following definitions shall
28 apply:

29 "Medical examination" shall mean any examination, procedure,
30 inquiry or test designed to obtain information about medical

1 history or a physical or mental condition which might disqualify
2 an applicant if it would prevent the applicant from performing,
3 with or without a reasonable accommodation, all of the essential
4 functions of the position.

5 "Physician" shall have the meaning given to it in 1 Pa.C.S. §
6 1991 (relating to definitions).

7 "Qualified medical professional" shall mean an individual, in
8 collaboration with or under the supervision or direction of a
9 physician, as may be required by law, who is licensed:

10 (1) as a physician assistant pursuant to the act of December
11 20, 1985 (P.L.457, No.112), known as the "Medical Practice Act
12 of 1985," or the act of October 5, 1978 (P.L.1109, No.261),
13 known as the "Osteopathic Medical Practice Act"; or

14 (2) as a certified registered nurse practitioner pursuant to
15 the act of May 22, 1951 (P.L.317, No.69), known as "The
16 Professional Nursing Law."

17 Section 146. Section 1190 of the act, amended May 31, 1984
18 (P.L.362, No.72), is amended to read:

19 Section 1190. Removals.--No person employed in any police or
20 fire force of any borough shall be suspended without pay,
21 removed or reduced in rank except for the following reasons:

22 (1) Physical or mental disability affecting [his] the
23 person's ability to continue in service, in which cases the
24 person shall receive an honorable discharge from service.

25 (2) Neglect or violation of any official duty.

26 (3) Violation of any law which provided that [such] the
27 violation constitutes a misdemeanor or felony.

28 (4) Inefficiency, neglect, intemperance, immorality,
29 disobedience of orders, or conduct unbecoming an officer.

30 (5) Intoxication while on duty.

1 (6) Engaging or participating in conducting of any political
2 or election campaign while on duty or in uniform or while using
3 borough property otherwise than to exercise [his] the person's
4 own right of suffrage.

5 (7) Engaging or participating in the conduct of a political
6 or election campaign for an incompatible office as provided in
7 section 1104(f).

8 A person so employed shall not be removed for religious,
9 racial or political reasons. A written statement of any charges
10 made against any person so employed shall be furnished to [such]
11 person within five days after the same are filed. The person so
12 employed shall have ten days from the date of receiving the
13 notice in which to submit a written request for a hearing to the
14 civil service commission under section 1191.

15 If for reasons of economy or other reasons it shall be deemed
16 necessary by any borough to reduce the number of paid employes
17 of the police or fire force, then [such] the borough shall
18 [apply the following procedure: (i) if there are any employes
19 eligible for retirement under the terms of any retirement or
20 pension law, if the party to be retired exceeds the maximum age
21 as defined in the act of October 27, 1955 (P.L.744, No.222),
22 known as the "Pennsylvania Human Relations Act," then such
23 reduction in numbers shall be made by retirement of such
24 employes, starting with the oldest employe and following in
25 order of age respectively, (ii) if the number of paid employes
26 in the police force or fire force eligible to retirement is
27 insufficient to effect the necessary reduction in numbers, or if
28 there are no persons eligible for retirement, or if no
29 retirement or pension fund exists, then the reduction shall be
30 effected by furloughing] furlough the person or persons,

1 including probationers, last appointed to the respective force.
2 Such removal shall be accomplished by furloughing in numerical
3 order commencing with the person last appointed until such
4 reduction shall have been accomplished. In the event the said
5 police force or fire force shall again be increased the employees
6 furloughed shall be reinstated in the order of their seniority
7 in the service. The provisions of this paragraph as to
8 reductions in force are not applicable to a chief of police.

9 Section 147. Section 1191 of the act, repealed in part June
10 3, 1971 (P.L.118, No.6), is amended to read:

11 Section 1191. Hearings on Dismissals and Reductions.--[If
12 the] (a) The person suspended, removed or reduced in rank
13 [shall demand a hearing by the commission, the demand shall be
14 made to the commission. Such person] may make written answers to
15 any charges filed against [him] the person not later than the
16 day fixed for hearing. The commission shall grant [him] the
17 person a hearing which shall be held within a period of ten days
18 from the filing of charges in writing, unless continued by the
19 commission for cause at the request of the council or the
20 accused. Notwithstanding this provision, the failure of the
21 commission to hold a hearing within ten days from the filing of
22 the charges in writing shall not result in the dismissal of the
23 charges filed.

24 (b) At any [such] hearing, the person against whom the
25 charges are made may be present in person and by counsel. The
26 council may suspend [any such] the person, without pay, pending
27 the determination of the charges against [him] the person, but
28 in the event the commission fails to uphold the charges, then
29 the person sought to be suspended, removed or [demoted] reduced
30 in rank shall be reinstated with full pay for the period during

1 which [he] the person was suspended, removed or [demoted]
2 reduced in rank, and no charges shall be officially recorded
3 against [his] the person's record. A stenographic record of all
4 testimony taken at [such] the hearings shall be filed with, and
5 preserved by, the commission, which record shall be sealed and
6 not be available for public inspection in the event the charges
7 are dismissed.

8 (c) All parties concerned shall have immediate right of
9 appeal to the court of common pleas of the county, and the case
10 shall there be determined as the court deems proper. No order of
11 suspension made by the commission shall be for a longer period
12 than one year. [Such] The appeal shall be taken within [sixty]
13 thirty days from the date of entry by the commission of its
14 final order and shall be by petition. Upon [such] the appeal
15 being taken and docketed, the court of common pleas shall fix a
16 day for a hearing and shall proceed to hear the appeal on the
17 original record and [such] additional proof or testimony as the
18 parties concerned may desire to offer in evidence. The decision
19 of the court affirming or revising the decision of the
20 commission shall be final, and the employe shall be suspended,
21 discharged, [demoted] reduced in rank or reinstated in
22 accordance with the order of court.

23 (d) The council and the person sought to be suspended,
24 removed or [demoted] reduced in rank shall at all times have the
25 right to employ counsel before the commission and upon appeal to
26 the court of common pleas. Unless the council or the person
27 sought to be suspended, removed or reduced in rank requests that
28 the proceedings before the commission be open to the public, the
29 proceedings before the commission pursuant to this section shall
30 be held in the nature of a closed executive session that shall

1 not be open to the public. Any such request shall be presented
2 to the commission before the civil service hearing commences.
3 The deliberations of the commission, including interim rulings
4 on evidentiary or procedural issues, may be held in private and
5 shall not be subject to a request for being open to the public,
6 the council or to the person sought to be suspended, removed or
7 reduced in rank. The commission's disposition of the
8 disciplinary action shall constitute official action which shall
9 occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7
10 (relating to open meetings).

11 Section 148. Sections 1192 and 1193 of the act are amended
12 to read:

13 Section 1192. Employees Exempted.--All appointments in the
14 police or fire forces of boroughs, including the chief of police
15 or equivalent official, prior to the creation of a commission,
16 shall continue to hold their positions and shall not be required
17 to take any examination under the provisions of this
18 subdivision, except [such as] that which may be required for
19 promotion[: Provided, That], provided that this section shall
20 not be construed to apply to persons employed temporarily in
21 emergency cases.

22 Section 1193. Discrimination on Account of Political or
23 Religious Affiliations.--No question in any form of application
24 for examination or in any examination shall be so framed as to
25 elicit information concerning the political or religious
26 opinions or affiliations of any applicant, nor shall inquiry be
27 made concerning [such] the opinion or affiliations and all
28 disclosures [thereof] of opinion or affiliation shall be
29 [discountenanced] ignored.

30 No discrimination shall be exercised, threatened or promised

1 by any person against or in favor of any applicant or employe
2 because of political or religious opinions or affiliations or
3 race, and no offer or promise or reward, favor or benefit,
4 directly or indirectly, shall be made to or received by any
5 person for any act done or duty omitted or to be done under this
6 subdivision [of this article].

7 Section 149. Section 1194 of the act, amended June 25, 2001
8 (P.L.651, No.56), is amended to read:

9 Section 1194. Penalty.--Any member of council who, by [his]
10 vote, causes to be appointed any person to the police force or
11 as a fire apparatus operator contrary to the provisions of this
12 subdivision, or any member of council or member of the
13 commission who wilfully refuses to comply with, or conform to,
14 the provisions of [subdivision (j) of this article] this
15 subdivision, shall be deemed guilty of a misdemeanor, and upon
16 conviction [thereof], shall be sentenced to pay a fine not
17 exceeding one hundred dollars (\$100), or suffer imprisonment not
18 exceeding [three months] ninety days, or both.

19 Section 150. Section 1195 of the act is reenacted to read:

20 Section 1195. Police Force and Fire Apparatus Operators
21 Defined.--Police force as used in subdivision (j) of this
22 article shall mean a police force organized and operating as
23 prescribed by law, the members of which devote their normal
24 working hours to police duty or duty in connection with the
25 bureau, agencies and services connected with police protection
26 work, and who are paid a stated salary or compensation for such
27 work by the borough. Police force as used in this subdivision
28 shall not include:

29 (1) Any special police appointed by the mayor to act in
30 emergencies,

1 (2) Any person appointed solely for parking meter
2 enforcement duties,
3 (3) Any special school police,
4 (4) Any extra police serving from time to time or on an
5 hourly or daily basis, or,
6 (5) Any auxiliary policeman appointed under the act of
7 January 14, 1952 (P.L.2016).

8 Fire apparatus operators as used in this subdivision (j) of
9 this article shall mean any person who operates fire apparatus
10 and devotes his normal working hours to operating any piece of
11 fire apparatus or other services connected with fire protection
12 work, and who is paid a stated salary or compensation for such
13 work done by the borough.

14 Section 150.1. Article XI subdivision (k) heading of the act
15 is repealed:

16 [(k) Independent Auditor]

17 Section 151. Section 1196 of the act, amended December 17,
18 1986 (P.L.1691, No.201), is repealed:

19 [Section 1196. General Powers and Duties of Independent
20 Auditor.--(a) The independent auditor shall annually examine,
21 audit and settle all accounts whatsoever in which the borough is
22 concerned and the audit shall consist of an examination in
23 accordance with generally accepted auditing standards and shall
24 include such tests of the accounting records and such other
25 auditing procedures as he considers necessary in the
26 circumstances.

27 (b) The independent auditor shall audit the accounting
28 records of the borough for the fiscal year and shall prepare a
29 report on the examination which shall set forth:

30 (1) The scope of his examination,

1 (2) His opinion of the fairness of the presentation of the
2 financial statement of the borough which shall show a complete
3 statement of the financial condition of the borough, giving in
4 detail the actual indebtedness, the amount of the funded debt,
5 the amount of the floating debt thereof, the valuation of
6 taxable property therein, the assets of the borough with the
7 character and value thereof, and the date of maturity of the
8 respective forms of funded debt thereof, and

9 (3) The amount of any balance or shortage or any expenditure
10 of any kind, or made in a manner, prohibited or not authorized
11 by a statute which came to his attention during the course of
12 his examination and which, in his opinion, causes a financial
13 loss to the borough which loss is material in relation to the
14 receipts and disbursements of the borough, and such amount shall
15 be a surcharge against any officer against whom such balance or
16 shortage shall appear.

17 (c) The amount of any balance or shortage, or of any
18 expenditure of a kind, or made in a manner, prohibited or not
19 authorized by statute, which causes a financial loss to the
20 borough, shall be a surcharge against any officer against whom
21 such balance or shortage shall appear, or who by vote, act, or
22 neglect, has permitted or approved such expenditure, but no
23 elected or appointed official of a borough shall be surcharged
24 for any act, error or omission in excess of the actual financial
25 loss sustained by the borough, and any surcharge shall take into
26 consideration as its basis the results of such act, error or
27 omission and the results had the procedure been strictly
28 according to law. The provisions hereof limiting the amount of
29 any surcharge shall not apply to cases involving fraud or
30 collusion on the part of officers, nor to any penalty enuring to

1 the benefit or payable to the Commonwealth.

2 (d) In any matter involving any financial transaction, any
3 official knowingly and wilfully acting contrary to law, or,
4 knowingly and wilfully failing to act as required by law, is
5 guilty of a misdemeanor, and on conviction thereof, may be
6 sentenced to a fine not exceeding one hundred dollars (\$100),
7 and his office may be forthwith declared vacant as may seem meet
8 and just to the court passing sentence.

9 (e) It shall be the duty of the independent auditor:

10 (1) To file a copy of the report with the secretary of the
11 borough and the clerk of the court of common pleas of the county
12 and the Department of Community Affairs not later than ninety
13 days after the close of the fiscal year, and

14 (2) To publish within ten days thereafter, by advertisement
15 in at least one newspaper of general circulation in the borough,
16 a concise financial statement setting forth the balance in the
17 treasury at the beginning of the fiscal year, all revenues
18 received during the fiscal year by major classifications, all
19 expenditures made during the fiscal year by major functions, and
20 the current resources and liabilities of the borough at the end
21 of the fiscal year, the gross liability and net debt of the
22 borough, the amount of the assessed valuation of the borough,
23 the assets of the borough with the character and value thereof,
24 the date of the last maturity of the respective forms of funded
25 debt, and the assets in each sinking fund. The independent
26 auditor shall make his report on the uniform form prepared
27 pursuant to article XIII of this act.

28 (f) The compensation of the independent auditor shall be
29 determined by council and paid out of borough funds.]

30 Section 152. Sections 1197, 1198 and 1199 of the act are

1 repealed:

2 [Section 1197. Appeals From Report of Independent Auditor.--
3 Appeals may be taken from the settlement and audit of the
4 independent auditor as shown in the independent auditor's report
5 to the court of common pleas of the county, by the same persons,
6 in the same manner, within the same time, subject to the same
7 conditions and procedure, and with like effect in every respect,
8 as in this act provided in the cases of appeals from the
9 settlement and audit of elected auditors.

10 Section 1198. Balances Due to be Entered as Judgments.--Any
11 balance, in any report of the independent auditor, against any
12 officer of the borough, shall constitute a surcharge against
13 such officer, as fully as if expressly stated in said report to
14 be a surcharge, and the amount of any such balance, and of any
15 express surcharge, shall, if no appeal is taken, or after an
16 appeal has been finally determined, be entered by the
17 prothonotary as a judgment, against such officer and in favor of
18 the borough, the clerk of the court of quarter sessions shall
19 certify the amount of every balance or surcharge, contained in
20 any such report, from which no appeal has been taken within time
21 herein provided, to the court of common pleas, for entry thereof
22 by the prothonotary as a judgment. Any taxpayer of the borough
23 may enforce the collection thereof, for the benefit of the
24 borough, by action or execution, upon filing in the court of
25 common pleas a bond, in the sum of five hundred dollars (\$500)
26 with one or more sureties, conditioned to indemnify the borough
27 from all costs which may accrue in the proceedings undertaken by
28 such taxpayer, subject, however, to all rights of appeal from
29 the report of independent auditors granted by this act. If any
30 person or persons have been, or shall be, surcharged for an

1 illegal purchase, and no fraud or collusion is shown and the
2 surcharge is paid to the borough, then the articles purchased
3 shall become the property of the person or persons surcharged.

4 Section 1199. Employment of Attorney, Compelling Attendance
5 of Witnesses, Administration of Oath, Penalties and Settlement
6 of Accounts.--(a) The independent auditor, with the consent of
7 the borough council, may employ an attorney whenever the same is
8 deemed advisable by him and the compensation of such attorney
9 shall be determined by the borough council and shall be payable
10 by the borough out of the general funds of the borough.

11 (b) The independent auditor of each borough shall have power
12 to issue subpoenas to obtain the attendance of the officers
13 whose accounts he is required to adjust, their executors and
14 administrators, and of any persons whom it may be necessary to
15 examine as witnesses, and to compel their attendance. If any
16 person shall refuse or neglect to appear or testify, the
17 independent auditor shall petition the court of common pleas of
18 the county to issue a subpoena to such person and to require him
19 to appear and to testify before the court. The court shall issue
20 such subpoena if it deems the testimony relevant to the issue.

21 (c) The independent auditor shall have power to administer
22 oaths and affirmations to all persons brought or appearing
23 before him, whether accountants, witnesses, or otherwise. All
24 persons guilty of swearing or affirming falsely on such
25 examination shall be liable to the pains and penalties of
26 perjury.

27 (d) If any person, appearing before such independent auditor
28 for examination, shall refuse to take such oath or affirmation,
29 or, after having been sworn or affirmed, shall refuse to make
30 answer to such questions as shall be put to him by the

1 independent auditor touching the accounts or the official
2 conduct of such public officers or any of them, then the
3 independent auditor may petition the court to issue its subpoena
4 as hereinbefore provided.

5 (e) Witnesses, other than officers of the borough, attending
6 before the independent auditor and persons or officers serving
7 subpoenas shall be paid out of the borough treasury, upon orders
8 drawn on the borough treasury, pursuant to authorization by the
9 independent auditor, the same fees as are payable for rendering
10 similar services in civil proceedings before a justice of the
11 peace, and the amount thereof shall be made a part of the charge
12 against any officer who shall be charged by the independent
13 auditor with any balance: Provided, that any such costs shall
14 have been incurred in establishing said balance. Upon collection
15 of any such costs from any officer, they shall be repaid into
16 the borough treasury.

17 (f) If any person in possession of books, vouchers, or
18 papers, relative to public accounts before independent auditor,
19 shall refuse to produce the same or, if any officer whose
20 accounts are to be settled and adjusted by such independent
21 auditor refuses to attend or submit to examination as is
22 hereinbefore directed, the independent auditor may proceed, by
23 the examination of witnesses and other evidence, to ascertain
24 and settle as near as may be, the amount of public money
25 received by such officer and its application to public purposes
26 or otherwise.]

27 Section 153. Article XII heading of the act is reenacted to
28 read:

29 ARTICLE XII

30 CORPORATE POWERS

Section 154. Section 1201 of the act, amended June 28, 2011 (P.L.66, No.12), is renumbered and amended to read:

Section 1201. General Powers.--A borough may:

(1) Have succession perpetually by its corporate name.

(2) Sue and be sued, and complain and defend in the courts of the Commonwealth.

(3) Make and use a common seal, and alter the same at pleasure.

(4) Purchase, exchange, acquire by gift, or otherwise, hold, lease, let and convey, by sale or lease, [such] real and personal property [as shall be] deemed to be to the best interest of the borough, subject to the [following] restrictions, limitations or exceptions[:

(i)] ~~as set forth in this article. Property may be acquired for any public purpose, including, but not limited to, greenways, greenbelts, recreational trails, buffer zones and natural areas, in addition to any recreation purpose authorized by this act.~~ ←

Section 1201.1. Real Property.--(a) No real estate owned by the borough [shall] may be sold except upon approval of council by resolution. Additionally, no real estate owned by the borough shall be sold for a consideration in excess of fifteen hundred dollars (\$1500), except to the highest bidder after due notice by advertisement for bids or advertisement of a public auction in one newspaper of general circulation [in the borough. Such]. The advertisement shall be published once not less than ten days prior to the date fixed for the opening of bids or public auction, and [such] the date for opening bids or public auction shall be announced in [such] the advertisement. The award of contracts shall be made only by public announcement at a regular

1 or special meeting of council or at the public auction. All bids
2 shall be accepted on the condition that payment of the purchase
3 price in full shall be made within sixty days of the acceptance
4 of bids. If no compliant bids are received after advertisement,
5 the applicable procedures in the act of October 27, 1979
6 (P.L.241, No.78), entitled, as amended, "An act authorizing
7 political subdivisions, municipality authorities and
8 transportation authorities to enter into contracts for the
9 purchase of goods and the sale of real and personal property
10 where no bids are received," shall be followed.

11 (b) The borough council shall have the authority to reject
12 all bids if [such] the bids are deemed to be less than the fair
13 market value of the real property. In the case of a public
14 auction, the borough council may establish a minimum bid based
15 on the fair market value of the real property.

16 (c) Real estate owned by a borough may be sold at a
17 consideration of fifteen hundred dollars (\$1500) or less without
18 advertisement or competitive bidding only after council
19 estimates the value thereof upon receipt of an appraisal by a
20 qualified real estate appraiser.

21 [(ii)] (d) (1) Notwithstanding the foregoing provisions of
22 this section, borough council shall have the authority to
23 exchange real property for real property of equal or greater
24 value without complying with the foregoing provisions of this
25 section, provided that the property being acquired by the
26 borough is to be used for municipal purposes. Municipal purposes
27 as used in this subsection include a subsequent sale or lease of
28 the property to any of the delineated entities listed in section
29 1201.3.

30 (2) Any conveyance of real property acquired in an exchange

1 to an entity listed in section 1201.3 may contain a clause
2 whereby the lands and buildings will revert to the borough if
3 they are no longer being used for the purposes of the entity.

4 (3) If borough council chooses to exercise its power of real
5 property exchange pursuant to this section, it shall be by
6 resolution adopted by council. Notice of the resolution,
7 including a description of the properties to be exchanged, shall
8 be published once in one newspaper of general circulation not
9 more than sixty days nor fewer than seven days prior to
10 adoption.

11 (4) Participation in a real property exchange shall not
12 prohibit the application of the requirements of the act of
13 October 4, 1978 (P.L.851, No.166), known as the "Flood Plain
14 Management Act."

15 Section 1201.2. Personal Property.--(a) (1) Except as
16 otherwise hereinafter provided in the case of personal property
17 of an estimated fair market value of less than one thousand
18 dollars (\$1,000), no borough personal property shall be disposed
19 of, by sale or otherwise, except upon approval of council, by
20 [ordinance or] resolution. In cases where council shall approve
21 a sale of [such] the property, it shall estimate the fair market
22 value of the entire lot to be disposed of. If council shall
23 estimate the fair market value to be one thousand dollars
24 (\$1,000) or more, the entire lot shall be advertised for sale
25 once, in at least one newspaper of general circulation [in the
26 borough], not less than ten days prior to the date fixed for the
27 opening of bids or public auction, and [such] the date of
28 opening of bids or public auction, shall be announced in [such]
29 the advertisement, and sale of the property so advertised shall
30 be made to the best responsible bidder.

1 (2) A public auction of personal property may be conducted
2 by means of an online or electronic auction sale. During an
3 electronic auction sale, bids shall be accepted electronically
4 at the time and in the manner designated in the advertisement.
5 During the electronic auction, each bidder shall have the
6 capability to view the bidder's bid rank or the high bid price.
7 Bidders may increase their bid prices during the electronic
8 auction. The record of the electronic auction shall be
9 accessible for public inspection. The purchase price shall be
10 paid by the high bidder immediately or at a reasonable time
11 after the conclusion of the electronic auction as determined by
12 council. In the event that shipping costs are incurred, they
13 shall be paid by the high bidder. A borough that has complied
14 with the advertising requirements of this section may provide
15 additional public notice of the sale by bids or public auction
16 in any manner deemed appropriate by council. The advertisement
17 for electronic auction sales authorized in this [subclause]
18 paragraph shall include the Internet address or means of
19 accessing the electronic auction and the date, time and duration
20 of the electronic auction.

21 (3) Council may reject any bids received if the bids are
22 believed to be less than the fair market value of the property.
23 If no bids are received after advertisement, the applicable
24 procedures in the act of October 27, 1979 (P.L.241, No.78),
25 entitled, as amended, "An act authorizing political
26 subdivisions, municipality authorities and transportation
27 authorities to enter into contracts for the purchase of goods
28 and the sale of real and personal property where no bids are
29 received," shall be followed.

30 (b) Council shall, by resolution, adopt a procedure for the

1 sale of surplus personal property, either individual items or
2 lots of items, of an estimated fair market value of less than
3 one thousand dollars (\$1,000) and the approval of council shall
4 not be required for any individual sale that shall be made in
5 conformity to [such] the procedure.

6 [(iii)] (c) The provisions of this [clause] section shall
7 not be mandatory where borough personal property is to be traded
8 in or exchanged for new [borough property] or used personal
9 property being acquired by the borough, except that the trade or
10 exchange shall be by resolution.

11 [(iv)] Section 1201.3. Exceptions.--(a) The provisions of
12 this [clause] article requiring advertising for bids or sale at
13 public auction and sale to the highest bidder shall not apply
14 where borough real or personal property is to be sold to:

15 [(A)] (1) a county, city, borough, town, township,
16 institution district, school district, volunteer fire company,
17 volunteer ambulance service or volunteer rescue squad located
18 within the borough;

19 [(A.1)] (2) a council of government, consortium, cooperative
20 or other similar entity created pursuant to 53 Pa.C.S. Ch. 23
21 (relating to intergovernmental cooperation);

22 [(B)] (3) an authority as defined in 53 Pa.C.S. § 5602
23 (relating to definitions);

24 [(C)] (4) a non-profit corporation engaged in community
25 development or reuse only upon entering into a written agreement
26 with the non-profit corporation that requires the property to be
27 used for industrial, commercial or affordable housing purposes.
28 This exemption shall not apply to property on which existing
29 governmental functions are conducted[;

30 (D) where real property is to be sold to]. This exemption

shall also not apply to property owned and operated by the
borough or subcontracted or operated on behalf of the borough in
order to conduct existing government functions;

(5) a person for [his] the person's exclusive use in an
industrial development program;

[(E) where real property is to be sold to] (6) a non-profit
corporation organized as a public library for its exclusive use
as a library;

[(F) where real property is to be sold to] (7) a non-profit
medical service corporation as authorized by clause [(76)] (50)
of section 1202;

[(G) where real property is to be sold to] (8) a non-profit
housing corporation as authorized by clause [(77)] (51) of
section 1202;

[(H) where real property is to be sold to] (9) the
Commonwealth or to the Federal Government; or

[(I) where real property is to be sold to] (10) a non-
profit museum or historical society for its exclusive use as a
non-profit museum or historical society.

[(v)] (b) When real property is to be sold to a non-profit
corporation organized as a public library for its exclusive use
as a library or to a non-profit medical service corporation or
to a non-profit housing corporation, council may elect to accept
[such] nominal consideration for [such] the sale as it shall
deem appropriate.

[(vi)] (c) Real property sold pursuant to this [clause]
section to a volunteer fire company, volunteer ambulance service
or volunteer rescue squad, non-profit medical service
corporation or to a non-profit housing corporation shall be
subject to the condition that when the property is not used for

1 the purposes of the company, service, squad or the corporation
2 the property shall revert to the borough.

3 [(vii) The exemption granted under subclause (iv)(C) shall
4 not apply to property owned and operated by the borough or
5 subcontracted or operated on the behalf of the borough in order
6 to conduct existing governmental functions.

7 (5) To invest in or purchase bonds of any municipal
8 authority or parking authority created solely by the borough,
9 for the purpose either of investment or of possible retirement
10 of such bonds and acquisition of authority projects at an
11 earlier date than originally contemplated, using for the purpose
12 either surplus funds of the borough or money appropriated in the
13 annual budget for the purpose.]

14 Section 155. Section 1202 of the act, amended or added
15 October 9, 1967 (P.L.399, No.181), November 24, 1967 (P.L.621,
16 No.283), December 14, 1967 (P.L.727, No.336), June 30, 1969
17 (P.L.111, No.43), June 27, 1974 (P.L.412, No.145), December 19,
18 1975 (P.L.561, No.158), June 23, 1978 (P.L.530, No.89), October
19 4, 1978 (P.L.962, No.189), October 5, 1979 (P.L.197, No.66),
20 November 1, 1979 (P.L.453, No.90), May 9, 1980 (P.L.119, No.46),
21 December 11, 1986 (P.L.1499, No.158), March 30, 1988 (P.L.309,
22 No.40), July 10, 1990 (P.L.383, No.90), December 16, 1992
23 (P.L.1215, No.158), December 14, 1995 (P.L.652, No.71), December
24 18, 1996 (P.L.1156, No.176), June 22, 2000 (P.L.325, No.34),
25 June 25, 2001 (P.L.699, No.67), July 5, 2005 (P.L.44, No.13) and
26 March 17, 2008 (P.L.48, No.8) and repealed in part November 26,
27 1978 (P.L.1399, No.330), is amended to read:

28 Section 1202. Specific Powers.--The powers of the borough
29 shall be vested in the [corporate authorities. Among the
30 specific powers of the borough shall be the following, and in]

1 borough council. In the exercise of any [of such] specific
2 powers involving the enactment of [any] an ordinance or the
3 making of any regulation, restriction or prohibition, the
4 borough may provide for [the] enforcement [thereof] and [may
5 prescribe] penalties for [the violation thereof or for the
6 failure to conform thereto] violations. The specific powers of
7 the borough shall include the following:

8 (1) Fees for service of officers. To prescribe reasonable
9 fees for the services of their officers and to enforce the
10 payment of the same. This paragraph shall not be applicable to
11 the services rendered by borough police officers in responding
12 to motor vehicle accidents pursuant to 53 Pa.C.S. § 1392
13 (relating to prohibition of fees for police services).

14 (2) Regulation of charges in the operation of its utilities,
15 parking meters, parking lots, recreational facilities or its
16 other facilities and services to the public. In the operation of
17 its utilities, parking meters, parking lots, recreational
18 facilities, and other facilities and services, to make and
19 regulate charges therefor for general borough purposes.

20 (3) Fines and forfeitures. To impose fines and penalties,
21 incurring partial or total forfeiture, or to remit the same.

22 (4) Nuisances and dangerous structures. [To prohibit and
23 remove any obstruction or nuisance in the streets of the
24 borough.

25 (5) Nuisances and dangerous structures.] To prohibit and
26 remove any nuisance or dangerous structure on public or private
27 grounds, including but not limited to accumulations of garbage
28 and rubbish [and], the storage of abandoned or junked
29 automobiles [and to prohibit and remove any dangerous structure
30 on public or private grounds, or to] and obstructions or

1 nuisances in the streets of the borough. The borough may require
2 the removal of any [such] nuisance or dangerous structure by the
3 owner or occupier of [such] the grounds, in default of which the
4 borough may cause the same to be done, and collect the cost
5 [thereof] of removal, together with a penalty of ten percent of
6 [such] the cost, in the manner provided by law for the
7 collection of municipal claims, or by action of assumpsit, or
8 may seek relief by bill in equity.

9 [(6)] (5) Health and cleanliness regulations. To make such
10 regulations as may be necessary for the health, safety, morals,
11 general welfare and cleanliness and the beauty, convenience,
12 comfort and safety of the borough.

13 [(7)] Burial of deceased persons. To prohibit, within the
14 borough limits, or within any described territory within such
15 limits, the burial or interment of deceased persons.

16 (8)] (6) Regulation of vaults, cesspools and drains. To make
17 regulations respecting vaults, cesspools and drains.

18 [(9)] (7) Manure and compost regulations. To make
19 regulations relative to the accumulation of manure, compost and
20 the like to the extent authorized by 3 Pa.C.S. Ch. 5 (relating
21 to nutrient management and odor management).

22 [(10)] Accumulations of garbage] (8) Garbage and other
23 refuse material. (i) To individually or jointly with other
24 municipal corporations pursuant to an agreement, prohibit
25 accumulations of garbage or other refuse material upon public
26 and private property and to [provide] make regulations for the
27 care, removal [of prohibited accumulations] and collection of
28 garbage or other refuse material[.], including:

29 (A) To provide for the collection and imposition of
30 reasonable fees and charges for the collection of garbage and

1 other refuse material.

2 (B) To erect, operate and maintain refuse disposal or
3 incineration facilities or sanitary landfills, either within or
4 without the limits of the borough, or provide other means for
5 the collection, destruction or removal of garbage and other
6 refuse material, and provide for the payment of the cost or
7 expense thereof, either in whole or in part, out of the funds of
8 the borough.

9 (C) To purchase real estate for the purpose of erecting,
10 operating and maintaining refuse disposal or incineration
11 facilities or sanitary landfills, provided, however, that prior
12 to any acquisition of property pursuant to this paragraph the
13 borough shall, individually or jointly, as the case may be,
14 obtain the approval of the court of common pleas for the
15 location of the facilities or landfill after a hearing and
16 subject to notice as the court shall require. If no objections
17 are heard at the hearing, the court shall approve the location.
18 If any objection is made, the court shall proceed to hear the
19 matter and determine whether the location is a detriment to
20 neighboring properties. The finding of the court shall be
21 conclusive, but in no way shall adjudicate any question relating
22 to damages for injury to property.

23 (D) To take and appropriate real estate for purposes of
24 refuse disposals or incineration facilities or sanitary
25 landfills in accordance with Article XV if a purchase price
26 cannot first be agreed upon, provided, however, that no real
27 estate located outside the limits of the borough, or outside the
28 limits of the joint municipal corporations in the case of a
29 joint effort, shall be taken and appropriated if the real estate
30 currently contains or is being used for a refuse disposal or

1 incineration facility or a sanitary landfill.

2 (ii) Regulations enacted pursuant to this section shall be
3 consistent with the act of July 7, 1980 (P.L.380, No.97), known
4 as the "Solid Waste Management Act," the act of July 28, 1988
5 (P.L.556, No.101), known as the "Municipal Waste Planning,
6 Recycling and Waste Reduction Act," and subject to any other
7 necessary Federal or State approval.

8 [(11) Removal of garbage and other refuse material. To make
9 regulations for the care and removal of garbage and other refuse
10 material, including the imposition and collection of reasonable
11 fees and charges therefor.

12 (12) Hogs. To prohibit the keeping of hogs within the
13 borough, or within any part of the borough.

14 (13)] (9) Dogs, cats and other pets. To the extent not
15 otherwise prohibited by the act of December 7, 1982 (P.L.784,
16 No.225), known as the "Dog Law," to destroy dogs found at large
17 contrary to laws of the Commonwealth; to prohibit or regulate,
18 by ordinance, the running at large of dogs, cats [and/or] or
19 other pets, and, in the enforcement of [such] the regulations,
20 to direct the killing of dogs, cats [and/or] or other pets, or
21 their seizure and detention, prescribing reasonable charges for
22 their seizure and detention, and to provide for their sale for
23 the benefit of the borough, in default of the redemption
24 [thereof] of the pet by their owners.

25 [(14)] (10) Livestock, fowls and [certain] all other
26 animals. To [prohibit and regulate, by ordinance,] enact
27 ordinances prohibiting or regulating the keeping or running at
28 large of livestock and fowls and any other animals not covered
29 in clause [(13) hereof] (9), and [to authorize] authorizing
30 their seizure [and], detention, [prescribing] or, in the case of

1 unowned pigeons, humane destruction. The borough may prescribe
2 reasonable charges [therefor, and to] for the seizure and
3 detention of the animals and provide for their sale for the
4 benefit of the borough, in default of the redemption [thereof]
5 of the animals by their owners. Ordinances enacted pursuant to
6 this clause shall not unreasonably interfere with any
7 agricultural operation to the extent prohibited by applicable
8 State law.

9 [(15) Pigeons. To authorize or provide for the destruction
10 or killing of unowned pigeons within the geographical limits of
11 the borough by any humane means.

12 (16)] (11) Smoke regulations. To regulate the emission of
13 smoke from chimneys, smokestacks and other sources to the extent
14 the regulation is not otherwise prohibited by applicable Federal
15 or State law. This clause shall not apply to locomotive
16 smokestacks.

17 [(17)] (12) Street and sewer regulations; obstructions. To
18 regulate the streets, sewers, public squares, common grounds,
19 sidewalks, curbs, gutters, culverts and drains, and the heights,
20 grades, widths, slopes and their construction [thereof;] and to
21 prohibit the erection or construction of any building or other
22 obstruction to the convenient use of the same.

23 [(18)] (13) Riding or driving on sidewalks. To prohibit or
24 regulate the riding [or], driving, parking or other passage of
25 [animals, or the passage of] any animal or vehicle, over, along
26 and across sidewalks. As used in this paragraph, the word
27 "vehicle" shall include any device in, upon or by which any
28 person or property may be transported, but not a self-propelled
29 wheelchair or an electrical mobility device operated by and
30 designed for the exclusive use of a person with a mobility-

1 related disability.

2 [(19) Stands for cabs and other vehicles for hire. To
3 establish stands for cabs and other vehicles for hire, to
4 establish charges therefor, and to enforce the observance and
5 use thereof.

6 (20)] (14) Disorderly conduct; disturbance of the peace;
7 ordinances. To adopt ordinances defining disorderly conduct
8 [and/or] or disturbing the peace within the limits of the
9 borough, and to provide for the imposition of penalties for
10 [such] the conduct in [such] amounts, without limitation except
11 as in this act provided, as council shall establish, and
12 notwithstanding any statutes of the Commonwealth upon disorderly
13 conduct [and/or] or disturbing the peace and the penalties
14 therefor.

15 (15) Construction code, property maintenance code, fire
16 prevention code and reserved powers. To adopt and enforce a
17 construction code, a property maintenance code, a fire
18 prevention code and exercise any additional reserved powers
19 pursuant to Article XXXII-A.

20 [(21) Fire regulations; fire prevention codes by reference.
21 To make regulations, within the borough, or within such limits
22 thereof as may be deemed proper, relative to the cause and
23 management of fires and the prevention thereof. To enact and
24 enforce suitable fire prevention codes, and to provide for the
25 enforcement thereof by a suitable fine, and by instituting
26 appropriate actions or proceedings, at law or in equity, to
27 effect the purposes of this provision and ordinances thereunder.
28 Such fire prevention code shall not be advertised by publication
29 of the full text thereof, and, in place of such complete
30 advertisement, an informative notice of intention to consider

1 such proposed fire prevention code, and a brief summary, setting
2 forth the principal provisions of such proposed fire prevention
3 code in such reasonable detail as will give adequate notice of
4 its contents and a reference to the place or places within the
5 borough where copies of such proposed fire prevention code may
6 be examined or obtained shall be published once in one newspaper
7 of general circulation in the borough at least one week and not
8 more than three weeks prior to the presentation of the proposed
9 fire prevention code to council. No further advertisement or
10 notice need be published following enactment of the fire
11 prevention code.

12 The fire prevention code may be adopted by reference to a
13 standard fire prevention code, or to parts thereof, determined
14 by council, or the provisions of the code may be supplied by
15 reference to a typed or printed fire prevention code, prepared
16 under the direction of or accepted by the council, or the
17 provisions may consist of a standard code, or parts thereof, and
18 also further provisions typed or printed as aforesaid. Copies of
19 the fire prevention code thus adopted by reference shall be made
20 available to any interested party at the cost thereof, or may be
21 furnished or loaned without charge. Such fire prevention code
22 need not be recorded in or attached to the ordinance book, but
23 it shall be deemed to have been legally recorded if the
24 ordinance by which such fire prevention code was adopted by
25 reference shall have been recorded, with an accompanying
26 notation stating where the full text of the fire prevention code
27 shall have been filed.

28 (22)] (16) Prohibition of fire producing devices [in certain
29 retail stores] and smoking. To prohibit and regulate the smoking
30 or carrying of lighted cigarettes, cigars, pipes or matches, and

1 the use of matches or fire-producing devices[, in retail stores
2 arranged to accommodate one hundred persons or more or which
3 employ ten or more persons]. Any ordinance enacted or regulation
4 or resolution adopted under this clause shall not [prohibit]
5 regulate smoking in [any restaurant, rest room, beauty parlor,
6 executive office or any room designated for smoking in such
7 store.] a manner that conflicts with the act of June 13, 2008
8 (P.L.182, No.27), known as the "Clean Indoor Air Act."

9 [(23) Dangerous and inflammable articles, substances and
10 materials. To prohibit the manufacture, sale or storage of
11 inflammable or otherwise dangerous articles, substances or
12 materials; to prescribe the quantities of any such articles,
13 substances or materials that may be kept in any location and/or
14 building; and to prescribe such other safeguards as may be
15 necessary.]

16 (17) Fireworks and inflammable articles.

17 (i) To, by ordinance, regulate and prohibit the manufacture
18 of fireworks or inflammable or dangerous articles.

19 (ii) To grant permits for supervised public displays of
20 fireworks and adopt rules and regulations governing the
21 displays.

22 (iii) To, by ordinance, adopt rules and regulations not
23 inconsistent with State regulations relating to the storage of
24 inflammable articles.

25 (iv) To, by ordinance, impose other safeguards concerning
26 inflammable articles as may be necessary.

27 [(24) Building, housing, property maintenance, plumbing and
28 other regulations. To enact and enforce ordinances relating to
29 buildings and housing, their construction, alteration,
30 extension, repair and maintenance and all facilities and

1 services in or about such buildings or housing, to require that,
2 before any work of construction, alteration, extension, or
3 repair of any building is begun, approval of the plans and
4 specifications therefor be secured; to provide for the
5 inspection of such work of construction, alteration, extension
6 and repair, including the appointment of one or more building
7 inspectors and/or housing inspectors; to prescribe limits
8 wherein none but buildings of noncombustible material and
9 fireproof roofs shall be erected, or substantially
10 reconstructed, or moved thereinto; to provide for enforcement of
11 such regulations by a reasonable fine, and by instituting
12 appropriate actions or proceedings at law, or in equity, to
13 effect the purposes of this provision and ordinances enacted
14 thereunder. Any building, housing or property, or part thereof
15 erected, altered, extended, reconstructed, removed or
16 maintained, contrary to any of the provisions of any ordinance
17 passed for any of the purposes specified in this clause is
18 declared to be a public nuisance and abatable as such.

19 Any such ordinance may be adopted by reference to a standard
20 building code, housing code or other standard codes, or to parts
21 thereof, determined by council, or the provisions of the
22 ordinance may be supplied by reference to a typed or printed
23 building code, housing code or other standard codes, prepared
24 under the direction of or accepted by council, or the provisions
25 may consist of a standard building code, housing code or other
26 standard codes, or parts thereof, and also further provisions
27 typed or printed as aforesaid. Such building code, housing code
28 or other standard codes shall not be advertised either in
29 advance of or following enactment, by publication of the full
30 text thereof, and, in place of such complete advertisement, an

1 informative notice of intention to consider such proposed
2 building code, housing code or other standard codes, and a brief
3 summary, setting forth the principal provisions of such proposed
4 building code, housing code or other standard codes in such
5 reasonable detail as will give adequate notice of its contents
6 and a reference to the place or places within the borough where
7 copies of such proposed building code, housing code or other
8 standard codes may be examined or obtained shall be published
9 once in one newspaper of general circulation in the borough at
10 least one week and not more than three weeks prior to the
11 presentation of the proposed building code, housing code or
12 other standard codes to council. No further advertisement or
13 notice need be published following enactment of the building
14 code, housing code or other standard codes. Copies of the
15 building code, housing code or other standard codes thus adopted
16 by reference shall be made available to any interested party at
17 the cost thereof, or may be furnished or loaned without charge.
18 Such building code, housing code or other standard codes need
19 not be recorded in or attached to the ordinance book, but it
20 shall be deemed to have been legally recorded if the ordinance
21 by which such building code, housing code or other standard
22 codes were adopted by reference shall have been recorded, with
23 an accompanying notation stating where the full text of such
24 building code, housing code or other standard codes shall have
25 been filed. The procedure set forth relating to the adoption of
26 the building code, housing code or other standard codes, by
27 reference, may likewise be adopted in amending, supplementing or
28 repealing any of the provisions of the building code, housing
29 code or other standard codes.

30 To enact suitable ordinances relating to property maintenance

1 and plumbing, in the same manner and to the same effect as
2 herein provided for building codes, housing codes or other
3 standard codes. The building code, the property maintenance
4 code, the housing code and the plumbing code may be combined or
5 separately enacted or combined with other standard codes.

6 Any ordinance previously enacted by a borough which provides
7 for the purposes authorized by this clause is hereby validated.

8 (25)] (18) Numbering buildings. To require and regulate the
9 numbering of buildings and lots.

10 [(26) Building lines. To establish and maintain uniform
11 building lines upon any or all streets of the borough.

12 (27)] (19) Party wall and fence regulations. To make
13 regulations respecting partition fences and the foundations and
14 party walls of buildings.

15 (20) Prohibition, licensing and regulation of business.

16 (i) In addition to licensing in accordance with Article
17 XXIX, council may prohibit, license and regulate by ordinance
18 the following:

19 (A) Noxious and offensive businesses. Council may prohibit,
20 within the borough, the carrying on of any manufacture, art,
21 trade or business which may be noxious or offensive and
22 therefore prejudicial to the public health or safety of the
23 inhabitants.

24 (B) Junk yards. Council may prohibit, regulate and license
25 the establishment and maintenance of junk yards, salvage yards
26 and other places used and maintained for the collection, storage
27 and disposal of used or second-hand goods and materials.

28 (C) Market places. Council may:

29 (I) regulate markets whether for individual use or for
30 resale;

1 (II) purchase and own ground;
2 (III) erect, establish and maintain market places for which
3 purposes parts of a street or sidewalk may be temporarily used;

4 (IV) contract with a person or association of persons,
5 companies or corporations for the erection, maintenance and
6 regulation of market places, on terms and conditions, and in a
7 manner, as the council may prescribe;

8 (V) provide and enforce suitable regulations respecting
9 market places;

10 (VI) provide for the payment of the cost or expense of
11 market places, either in whole or in part, out of the funds of
12 the borough; and

13 (VII) levy and collect a suitable license fee from every
14 person who may be authorized by council to occupy any portion of
15 market places, or any portion of the streets or sidewalks for
16 temporary market purposes.

17 (ii) Notwithstanding the enumeration in subparagraph (i),
18 boroughs may prohibit, license and regulate businesses unless
19 prohibited by law.

20 (21) Zoning and land use regulations; building lines. To
21 plan for and regulate the development of the borough by:

22 (i) establishing and maintaining uniform building lines upon
23 any or all borough streets pursuant to applicable law; and

24 (ii) utilizing powers delegated by the Pennsylvania
25 Municipalities Planning Code, and other applicable laws by
26 adopting zoning, subdivision and land use and development
27 regulations.

28 [(28) Noxious and offensive businesses. To prohibit, within
29 the borough, the carrying on of any manufacture, art, trade, or
30 business which may be noxious or offensive to the inhabitants.

1 (29) Junk yards. To prohibit, regulate and license the
2 establishment and maintenance of junk yards, salvage yards and
3 other places used and maintained for the collection, storage and
4 disposal of used or second-hand goods and materials.

5 (30) Regulating and prohibiting amusements. To regulate,
6 license, fix the time of opening and closing, or prohibit
7 theatrical exhibitions, amusements and dances, at which an
8 admission or other fee is charged, and other exhibitions; to
9 regulate, license and fix the time of opening and closing of
10 pool-rooms, billiard-rooms, shooting galleries, skating rinks
11 and bowling alleys.

12 (31) Markets, market houses and peddling. To regulate
13 markets and peddling, whether for individual use or for resale;
14 and to purchase and own ground for and to erect, establish and
15 maintain market houses and market places, for which latter
16 purposes, parts of any streets or sidewalks may be temporarily
17 used; to contract with any person or persons, or association of
18 persons, companies, or corporations, for the erection,
19 maintenance and regulation of market houses and market places,
20 on such terms and conditions, and in such manner, as the council
21 may prescribe; to provide and enforce suitable regulations
22 respecting said market houses and market places and to provide
23 for the payment of the cost or expense thereof, either in whole
24 or in part, out of the funds of the borough; and to levy and
25 collect a suitable license fee from every person who may be
26 authorized by council to occupy any portion of said market
27 houses or market places, or any portion of the streets or
28 sidewalks for temporary market purposes.

29 (32) Creation of special funds; investments. To set aside in
30 a separate fund any moneys received out of or from the sale,

1 lease, or other disposition of any borough property or received
2 from any source other than taxation, unless such money was
3 received or acquired for a particular purpose. Such fund shall
4 be controlled, invested and administered, and the income arising
5 therefrom expended, in such manner as may be determined by
6 action of the council pursuant to the ordinance creating the
7 fund. Such ordinance may provide that only the income from such
8 fund may be used or expended, and that neither principal, not
9 any part thereof, may be used or expended unless upon
10 authorization of a majority vote of the qualified electors of
11 the borough. All ordinances heretofore enacted and ordained by
12 any borough, creating and establishing such a separate fund as
13 is authorized by this clause, shall be deemed and taken as valid
14 and effectual for all purposes: Provided, That all other
15 requirements of law concerning the enactment of the same have
16 been complied with.

17 (33)] (22) Creation of capital reserve fund for anticipated
18 capital expenditures. To create and maintain a separate capital
19 reserve fund for anticipated legal capital expenditures. The
20 money in the fund shall be used, from time to time, for the
21 construction, purchase or replacement of or addition to
22 municipal buildings, equipment, machinery, motor vehicles or
23 other capital assets of the borough and for no other purpose.

24 Council may appropriate moneys from the general borough funds
25 to be paid into the capital reserve fund or place in the fund
26 any moneys received from the sale, lease or other disposition of
27 any borough property or from any other source, unless received
28 or acquired for a particular purpose. The fund shall be
29 controlled, invested, reinvested and administered and the moneys
30 expended for any of the purposes for which the fund is created

1 in [such] a manner as may be determined by council. The money in
2 the fund, when invested, shall be invested in securities
3 designated by [law] 53 Pa.C.S. Pt. VII Subpt. B (relating to
4 indebtedness and borrowing) as legal investments for sinking
5 funds of municipalities.

6 This clause shall not be construed to limit the powers of the
7 borough to the use of moneys in the capital reserve fund in
8 making lawful capital expenditures.

9 (23) Operating Reserve Fund. To create and maintain a
10 separate operating reserve fund from which appropriations may be
11 made to meet emergencies involving the health, safety and
12 welfare of the residents of the borough, to counterbalance
13 potential budget deficits resulting from shortfalls in
14 anticipated revenues or program receipts from whatever source,
15 or to provide anticipated operating expenditures related either
16 to the planned growth of existing projects or programs or to the
17 establishment of new projects or programs if for a project or
18 program appropriations have been made and allocated to a
19 separate restricted account established within the operating
20 reserve fund. Council may annually make appropriations from the
21 general fund to the operating reserve fund, but no appropriation
22 shall be made to the operating reserve fund if the effect of the
23 appropriation would cause the fund to exceed five per centum of
24 the estimated revenues of the borough's general fund in the
25 current fiscal year. The operating reserve fund shall be
26 invested, reinvested and administered in a manner consistent
27 with the provisions of section 1316 relating to investment of
28 funds.

29 [(34) Joint municipal agreements] (24) Intergovernmental
30 Cooperation. To enter into agreements with other political

1 subdivisions, in accordance with existing laws, in making joint
2 purchases of materials, supplies or equipment and in performing
3 governmental powers, duties and functions and in carrying into
4 effect provisions of [law relating to said subjects which are
5 common to such political subdivisions] 53 Pa.C.S. Ch. 23 Subch.
6 A (relating to intergovernmental cooperation), and agreements
7 with the proper authorities of municipal corporations, regional
8 police or fire forces, or other public safety or governmental
9 entities created by two or more municipal corporations pursuant
10 to 53 Pa.C.S. Ch. 23 Subch. A, either for mutual aid or
11 assistance in police and fire protection or any other public
12 safety services, or for the furnishing to or, receiving from the
13 municipal corporations or governmental entities, police and fire
14 protection or any other public safety services, and to make
15 appropriations for public safety services. In connection with
16 agreements for police or fire protection or any other public
17 safety services, it shall not be necessary to advertise for bids
18 or receive bonds as required for contracts under existing law.
19 When an agreement has been entered into, the police,
20 firefighters, fire police or any other public safety services of
21 the employing municipal corporation or governmental entity shall
22 have all the powers and authority conferred by law on police,
23 firefighters, fire police or any other public safety services in
24 the territory of the municipal corporation which has contracted
25 to secure the service.

26 [(35) Joint contracts for police and fire protection. To
27 enter into contracts with the proper authorities of near or
28 adjacent cities, boroughs, or townships, either for mutual aid
29 or assistance in police and fire protection, or for the
30 furnishing to or, receiving from, such cities, boroughs, or

1 townships, aid and assistance in police and fire protection, and
2 to make appropriations therefor: Provided, That in connection
3 with such contracts, it shall not be necessary to advertise for
4 bids or receive bonds as required for other contracts under
5 existing law. When any such contract has been entered into the
6 police, firemen or fire police of the employing city, borough or
7 township shall have all the powers and authority conferred by
8 law on city, borough or township police, firemen, or fire police
9 in the territory of the city, borough or township which has
10 contracted to secure such service.

11 (36)] (25) Insurance on property. To make contracts of
12 insurance, with any mutual or other fire insurance company,
13 association or exchange, duly authorized by law to transact
14 insurance business in the Commonwealth of Pennsylvania, on any
15 building or property owned or leased by the borough.

16 [(37)] (26) Other insurance. (i) Workers' compensation
17 insurance. To appropriate [such] an amount as may be necessary
18 to secure insurance or compensation in accordance with Article
19 VI of the act of June 2, 1915 (P.L.736, No.338), known as the
20 "Workers' Compensation Act," for:

21 (A) volunteer [firemen] fire fighters of companies duly
22 recognized by the borough, by motion or resolution, killed or
23 injured while going to, returning from, or attending fires, or
24 while performing their duties as special fire police[.]; and

25 (B) other borough employes as "employee" is defined in
26 section 601 of the "Workers' Compensation Act."

27 (ii) Life and health insurance. To make contracts of
28 insurance with any insurance company, association or exchange,
29 authorized to transact business in the Commonwealth, insuring
30 borough employes, or any class or classes of employes, or mayor

1 and council, [or any class, or classes thereof,] or their
2 dependents, under a policy or policies of insurance covering
3 life, health, hospitalization, medical and surgical service
4 [and/or] or accident insurance[, and to].

5 (iii) Pension contracts. To contract with [any such] an
6 insurance company, granting annuities or pensions, for the
7 pensioning of borough employees, or any class, or classes
8 [thereof] of employees, and to agree to pay part or all of the
9 premiums or charges for carrying [such] the contracts, and to
10 appropriate moneys from the borough treasury for such purposes.

11 (iv) Liability insurance. To make contracts with any
12 insurance company, association or exchange, authorized to
13 transact business in this Commonwealth, insuring any public
14 liability of the borough, and to appropriate moneys from the
15 borough treasury for such purpose.

16 (v) Nothing in this clause shall affect any contract, right
17 or coverage of insurance vested or existing on the effective
18 date of this clause. Contract, as used in this clause, includes
19 an annuity contract, provided that the option to renew continues
20 to provide the same rights to the annuitant that existed on the
21 effective date of this clause.

22 [(38) Contract with railways. To enter into contract with
23 any person or company, operating a street passenger railway,
24 surface, elevated, or underground, or furnishing motor
25 transportation, or leasing and operating the franchise and
26 property of such person or company, within the limits of the
27 borough, regulating the franchises, powers, duties and
28 liabilities of such persons or companies, and the respective
29 rights of the contracting parties. Such contracts may, inter
30 alia, provide for payments by the persons or companies to the

1 borough, in lieu of the performance of certain duties, or the
2 payment of license fees or charges imposed in favor of such
3 borough, or by the charters of any such companies, or by any
4 general law, or ordinances; for the appointment by the borough
5 of a certain number of persons to act as director of any such
6 company, in conjunction with the directors elected by the
7 stockholders of such company; and may further provide for the
8 ultimate acquisition by the borough, upon terms mutually
9 satisfactory, of the leaseholds, property and franchises of the
10 contracting persons or companies.

11 Subject to the approval of the Public Utility Commission, and
12 in order to secure the removal of any street railway tracks, or
13 to prevent the laying of any tracks authorized to be laid, or to
14 change the route of any street railway on any street to enter
15 into a contract with a street railway or motor power company,
16 owning, leasing, or operating such tracks, for a period not to
17 exceed fifty years, for such considerations and upon such
18 conditions as may be agreed upon.

19 Such contract may include a covenant providing that, during
20 the continuance thereof, municipal consent shall not be granted
21 to any other company to use, for street railway or passenger
22 transportation purposes, any streets covered by such contract.
23 Such covenant may be enforced by bill in equity against the
24 borough. The contract may also provide for the laying or
25 relaying of tracks, upon such terms and upon such conditions as
26 may be agreed upon.]

27 (27) Public transportation. To contract with a company
28 owning, leasing or operating a light rail or similar
29 transportation system, whether surface, elevated or underground,
30 within the limits of the borough, for the acquisition, leasing

or regulation of the franchises, property, powers, duties and liabilities of the company for the purpose of providing public transportation. A contract may provide that the companies may make payments to the borough in lieu of the performance of certain duties or may include a provision that municipal consent shall not be granted to any other company for the same services covered by the contract. A contract may also provide, subject to any required approval by the Public Utility Commission and consistent with the jurisdictional limits established under 49 U.S.C. (relating to transportation), for the laying, installation or removal of tracks or lines, to prevent the laying or installation of otherwise authorized tracks or lines, or to change the route of any tracks or lines, for the considerations and upon conditions as may be agreed upon. Borough council may acquire, maintain and operate any existing inclined plane passenger transportation facilities and may acquire or may establish vehicular feeder lines for those facilities.

[(39) Water supply. To provide a supply of water and to make regulations for the protection of the pipes, reservoirs and other constructions or apparatus; to prevent the waste of water so supplied, and to regulate the drilling of wells within the borough.

(40)] (28) Community buildings and public facilities. To acquire land or buildings by purchase [and own ground for, and], gift, exchange or eminent domain, to erect[, establish, or purchase] a building[, to be used] or to lease land or buildings, within the borough limits, for community purposes, or for public facilities such as comfort and waiting stations and drinking fountains, and to erect watering troughs, and to

1 maintain the [same] public facilities; to provide for the
2 payment of [the] their cost [thereof], and the expense of [such]
3 their maintenance either in whole or in part out of the funds of
4 the borough.

5 [(41)] (29) Lockup. To provide a lockup for the temporary
6 detention of persons.

7 [(42)] (30) Flags. To display the flag of the United States
8 of America, of the Commonwealth of Pennsylvania, the official
9 POW/MIA flag or the flag of any county, city, borough or other
10 municipality in the State, on the public buildings or grounds
11 and in public places of the borough.

12 [(43)] Comfort stations. To use land owned by the borough and
13 to acquire or lease land or land and buildings within the
14 borough limits, for the purposes of construction or of providing
15 comfort and waiting stations and drinking fountains and to
16 maintain such public facilities; to contribute to the
17 maintenance of any such public facilities which may be located
18 in or upon property not owned or leased by the borough. The
19 damages accruing to abutting properties, by reason of any such
20 improvements constructed or provided by the borough, shall be
21 ascertained and collected in the manner provided in the laws
22 governing eminent domain.

23 (44) Watering troughs. To erect and maintain watering
24 troughs.

25 (45) Garbage and refuse disposal facilities. To erect,
26 operate and maintain garbage plants, either within or without
27 the limits of the borough, or to provide other means for the
28 collection, destruction, or removal of garbage and other refuse
29 material, and to provide for the payment of the cost or expense
30 thereof, either in whole or in part, out of the funds of the

1 borough.

2 (46)] (31) Parking lots. To acquire by lease, purchase or
3 eminent domain any land which the [corporate authorities]
4 borough council may deem necessary or desirable for the purpose
5 of establishing and maintaining parking lots, and to regulate
6 the use [thereof] of parking lots, and to regulate parking and
7 provide parking accommodations so as to promote the convenience
8 and protection of the public and to establish or designate, at
9 the discretion of the [corporate authorities] borough council,
10 areas exclusively reserved for parking by handicapped
11 individuals and to post signs regulating [such] the areas. The
12 right to regulate the use of the lots shall include the right to
13 impose fines and fees for violation of any law or ordinance
14 regulating parking. Regulation of parking lots shall be
15 consistent with 75 Pa.C.S (relating to vehicles) and the act of
16 October 27, 1955 (P.L.744, No.222), known as the "Pennsylvania
17 Human Relations Act."

18 [(47) Inclined planes. To acquire by purchase, lease, or
19 otherwise, any existing inclined plane passenger and vehicular
20 traffic transportation facilities, and to maintain and operate
21 the same in the transportation of passengers and vehicles for
22 hire, and for the accommodation of the public, and in like
23 manner to acquire or to establish bus feeder lines, and to
24 maintain and operate the same in connection with such inclined
25 plane passenger and vehicular traffic transportation facilities.

26 (48)] (32) Historical property. To acquire by purchase, or
27 by gift, and to repair, supervise, operate and maintain ancient
28 landmarks, and other property of historical or antiquarian
29 interest and to make appropriations to nonprofit associations or
30 corporations organized for the purpose of acquiring and

1 maintaining historical properties. [Such] The appropriations
2 shall only be used by the association or corporation for the
3 acquisition, restoration and maintenance of the historical
4 properties.

5 [(49)] (33) Provisions against hazards of war, terrorism and
6 disasters. To [build or establish bomb shelters or assist in so
7 doing to] provide against all hazards of war, terrorism and
8 other disasters and their consequences; and for [all such] those
9 purposes, to have the power of eminent domain, to cooperate with
10 any other unit and agency of government, Federal, State or
11 local, in every lawful way, for purposes of defense against the
12 hazards of war and terrorism and to further provide against the
13 hazards of manmade or natural disasters in conjunction with the
14 powers applicable to boroughs in 35 Pa.C.S. Pt. V (relating to
15 Emergency Management Services).

16 [(50)] Street lighting. To provide street lights and to make
17 regulations for the protection thereof; and, upon the petition
18 of a majority of abutting property owners of the section
19 affected, to provide for the ornamental illumination of any
20 section of the borough and to collect the cost of the
21 installation of such illumination from the owners of property
22 fronting the streets upon which the same is installed by the
23 foot-front rule.

24 (51)] (34) Towing [equipment]. To purchase vehicles and
25 other equipment necessary for the towing of motor vehicles,
26 tractors, trailers, recreational trailers and other vehicles
27 from highways, roads, streets, and public property of the
28 borough and to impose fees [therefor] for towing whenever [such]
29 the towing equipment is used for the lawful removal of motor
30 vehicles, tractors, trailers, recreational trailers and other

1 vehicles from highways, roads, streets, and public property of
2 the borough [and/or] and to authorize or contract with [one or
3 more] commercial towers that agree to tow vehicles for a
4 negotiated price as the official towers for the borough for the
5 lawful removal of motor vehicles, tractors, trailers,
6 recreational trailers and other vehicles from highways, roads,
7 streets and public property of the borough in accordance with
8 Federal and State law and to impose fees in the same manner as
9 hereby authorized when the towing is performed with borough
10 vehicles and equipment. A commercial tower that agrees not to
11 charge in excess of the negotiated price and is otherwise
12 lawfully authorized to tow vehicles in accordance with Federal
13 and State law, shall be put on an official rotation list for the
14 borough if borough council provides for a list. This clause
15 shall apply only when the borough is requesting a vehicle to be
16 towed. In all other cases, the owner or operator of a vehicle
17 shall be permitted to select and pay for the tower.

18 [(52)] (35) Fire, rescue and life saving apparatus and
19 [houses] buildings. To purchase, or contribute to the purchase
20 of fire engines and fire apparatus, boats, rescue and life
21 saving equipment and supplies for the use of the borough[, and
22 to appropriate money to fire companies, rescue units and for the
23 construction, repair and maintenance of fire company and rescue
24 units houses, including the acquisition of land for such
25 purposes and, as set forth in this clause, for fire training
26 schools and centers.

27 The council may annually appropriate funds to fire companies
28 located within the borough for the training of its personnel,
29 and to lawfully organized or incorporated county or regional
30 firemen's associations or an entity created pursuant to the act

1 of July 12, 1972 (P.L.762, No.180), referred to as the
2 Intergovernmental Cooperation Law, to establish, equip, maintain
3 and operate fire training schools or centers] for fire, rescue
4 and life saving services including community ambulance service.
5 To appropriate money for fire companies and rescue units located
6 within the borough including for the construction, repair and
7 maintenance of buildings for fire companies and rescue units and
8 to acquire land for those purposes. Appropriations may include
9 funds to establish, equip, maintain and operate lawfully
10 organized or incorporated fire training schools within the
11 county or regional fire fighters' associations or an entity
12 created pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to
13 intergovernmental cooperation) for the purpose of giving
14 instruction and practical training in the prevention, control
15 and fighting of fire and related fire department emergencies to
16 the members of fire departments and volunteer fire companies in
17 any city, borough or town within this Commonwealth. Annual
18 appropriations may also be made to an ambulance service, or
19 borough council may enter into contracts for use in providing
20 community ambulance service.

21 [(53) Eminent domain for national guard purposes. To take,
22 by right of eminent domain, for the purpose of appropriating to
23 themselves for the use of the National Guard of Pennsylvania,
24 such public lands, easements, and public property, as may be in
25 their possession or control and used or held by them for any
26 other purpose. Such right, however, shall not be exercised as to
27 any street or wharf.

28 (54) Lands for armory purposes. To acquire, by purchase or
29 by gift or by the right of eminent domain, any land for the use
30 of the National Guard of Pennsylvania; to convey such lands so

1 acquired to the Commonwealth of Pennsylvania in order to assist
2 the Armory Board in the erection of armories. The power
3 conferred by this clause shall not be exercised to take any
4 church property, graveyard, cemetery, or any dwelling-house or
5 the curtilage of the same in the actual occupancy of the owner.

6 (55) Appropriation of money, et cetera, to assist in
7 erection of armories. To appropriate money or convey land,
8 either independently or in conjunction with any county, city,
9 town, borough, or other municipal division of the Commonwealth
10 of Pennsylvania for the purpose of assisting the Armory Board of
11 the Commonwealth in the erection of armories for the use of the
12 national guard; and to furnish water, sewer service, light, or
13 fuel, free of cost, to the Commonwealth for use in any armory of
14 the national guard; and to do all things necessary to accomplish
15 the purpose of this clause.

16 (56) Support of national guard units. To appropriate
17 annually a sum not exceeding seven hundred and fifty dollars
18 (\$750) for the support and maintenance, discipline and training
19 of any dismounted company or similar unit of the national guard,
20 and a sum not to exceed fifteen hundred dollars (\$1500) for the
21 support and maintenance of any mounted or motorized troop or
22 similar unit of the national guard. Where such units are
23 organized as a battalion, regiment or similar organization, the
24 total amount due may be paid to the commanding officer of the
25 battalion, regiment or similar organization. Any moneys so
26 appropriated shall be paid by warrant drawn to the order of the
27 commanding officer of such company, battalion, regiment or
28 similar organization, only when it shall be certified to the
29 borough, by the Adjutant General of the State, that the said
30 company or companies have satisfactorily passed the annual

1 inspection provided by law. The moneys so appropriated shall be
2 used and expended solely and exclusively for the support and
3 maintenance, discipline and training of the said company,
4 battalion, regiment, or similar organization; and the commanding
5 officer shall account, by proper vouchers to the said borough
6 each year, for the expenditure of the money so appropriated, and
7 no appropriation shall be made for any subsequent year until the
8 expenditure of the previous year is duly and satisfactorily
9 accounted for.

10 The accounts of such expenditures shall be subject to the
11 inspection of the Department of Military Affairs, and shall be
12 audited by the Auditor General in the manner provided by law for
13 the audit of accounts of State moneys.

14 (57) Appropriations to organizations of veterans and
15 American Gold Star Mothers. To appropriate annually a sum not
16 exceeding five hundred dollars (\$500) to be divided in such
17 amounts as council deems proper to organizations composed of
18 veterans of any war in which the United States was engaged or
19 the American Gold Star Mothers' Organization, to aid in
20 defraying the expenses of Memorial Day, Veterans' Day or any
21 similar day hereafter provided for by State or Federal law. Such
22 payments shall be made to defray actual expenses only. Before
23 any payment is made the organization receiving the same shall
24 submit verified accounts of its expenditures.

25 (58) Payment of rent for veterans' organizations. By a two-
26 thirds vote of the council, to appropriate annually a sum not
27 exceeding five hundred dollars (\$500) to be divided in such
28 amounts as council deems proper to incorporated organizations of
29 American veterans of any war in which the United States was
30 engaged, to be used in the payment of the rent of any building

1 or room or rooms in which such camps or post have their regular
2 meetings.

3 (59) Rooms for veterans' and children of veterans'
4 organizations. Upon application therefor, to furnish to each
5 organization composed of American veterans of any war in which
6 the United States was engaged and children of such veterans, a
7 room or rooms in any public building of such borough, sufficient
8 for the meeting of each of such organizations at least once each
9 month; and in the case of municipally owned utilities, to
10 furnish service without charge to such rooms, and also to
11 buildings occupied by organizations of veterans of any war in
12 which the United States was engaged.

13 (60) Care and erection of memorials. To take charge of, care
14 for, maintain and keep in good order and repair, at the expense
15 of the borough, any soldiers monument, gun, or carriage, or
16 similar memorial situated in the borough, and not in the charge
17 or care of any person, body, or organization, and not put up or
18 placed by the Government of the United States, the Commonwealth
19 of Pennsylvania, or the commissioners of the county, or by the
20 direction or authority of any other State of the Union, and to
21 receive from any person or organization any moneys or funds
22 which can be used for the maintenance of such memorials, and to
23 expend the same; and to erect or contribute to the erection of,
24 memorials in honor of those who served in any war in which the
25 United States was engaged and thereafter to properly and
26 adequately maintain the same.

27 (61) Appropriations for burial ground maintenance. To
28 appropriate annually, out of the general funds of the borough, a
29 sum not exceeding three thousand dollars (\$3000) for the care,
30 upkeep, maintenance and beautifying of cemeteries, burial

grounds and private roads therein or leading thereto, lying wholly or partly within the boundary limits of such borough, or in the territory immediately adjacent to the borough.

(62)] (36) Municipal music. To appropriate money for the expense of municipal music.

[(63)] (37) Purchase and planting of trees. To accept, purchase and plant, or contribute to the purchasing and planting of shade trees along the streets and sidewalks of the borough and to have the care, custody and control of shade trees pursuant to subdivision (d) of Article XXVII.

[(64)] (38) Hospital appropriations. To appropriate moneys for the support of any incorporated hospital which is engaged in charitable work and extends treatment and medical attention to residents of [such] the borough, but no [such] appropriation shall exceed in any year the cost of free service extended to residents of the borough which is in excess of any amount paid by the Commonwealth towards [such] free service.

[(64.1)] (39) Building hospitals. To appropriate [not exceeding one dollar (\$1) per borough resident per year] moneys toward the maintenance [and/or] and support of any medical center or hospital building and further appropriate from [such] the funds toward the purchase [and/or] and erection of medical or hospital facilities. Where the total cost of [such] the purchase or erection exceeds one hundred thousand dollars (\$100,000), it will necessitate approval by the appropriate health planning agency. [The number of residents shall be determined from the latest decennial Federal census.]

[(65)] (40) Community nurse services. To appropriate money annually for the expense of community nurse services to any nonprofit associations or corporations which provide community

1 nursing services for the elderly and other needy persons, the
2 control of communicable disease, the immunization of children,
3 the operation of child health centers (Well-Baby Clinics),
4 instructive visits to parents of new babies, beginning in the
5 prenatal period, and family health guidance, including
6 nutrition, detection and correction of defects all of which
7 relate to the responsibilities of local boards of health.

8 [(66) Community ambulance service. To appropriate money
9 annually towards ambulance service and to enter into contracts
10 relating thereto. All appropriations of money heretofore made
11 and contracts heretofore entered into by any borough for
12 ambulance service are hereby validated and confirmed.

13 [(67)] (41) Appropriation for civic purposes. To appropriate,
14 in any year out of the general funds of the borough for the
15 observance of holidays or centennials or other anniversaries or
16 for borough celebrations or other civic projects or programs.

17 [(68)] (42) Appropriations for handling, storage and
18 distribution of surplus foods. To appropriate from borough funds
19 moneys for the handling, storage and distribution of surplus
20 foods obtained through either a local, State or Federal agency.
21 All appropriations of moneys heretofore made by any borough for
22 the handling, storage and distribution of surplus foods obtained
23 through either a local, State or Federal agency are hereby
24 validated.

25 [(69)] (43) Appropriations for industrial promotions. To
26 make appropriations to an industrial development agency.

27 [(70)] (44) Appropriations to tourist promotion agencies. To
28 appropriate money annually[, such amount of money but not in
29 excess of ten cents (10¢) for each resident of the borough, as
30 determined by the latest official census, which may be deemed

1 necessary], to any "tourist promotion agency," as defined in the
2 act of [April 28, 1961 (P.L.111), known as the "Tourist
3 Promotion Law,"] July 4, 2008 (P.L.621, No.50), known as the
4 "Tourism Promotion Act," to assist [such] the agencies in
5 carrying out tourist promotional activities.

6 [(71)] (45) Appropriating money to assist [political
7 subdivisions and municipality] municipalities and municipal
8 authorities for airports. To appropriate moneys to assist any
9 [city, borough, town, township or other political subdivision or
10 municipality] municipality or municipal airport authority to
11 acquire, establish, operate and maintain any and all air
12 navigation facilities lying either within or without the limits
13 of [such] the borough.

14 [(72)] (46) Non-Debt revenue bonds. To issue non-debt
15 revenue bonds pursuant to provisions of [the Act of June 25,
16 1941 (P.L.159), known as the "Municipal Borrowing Law," and its
17 amendments,] 53 Pa.C.S. Pt. VII Subpt. B (relating to
18 indebtedness and borrowing) to provide sufficient moneys for and
19 toward the acquisition, construction, reconstruction, extension
20 or improvement of municipal facilities, including water systems
21 or facilities, sewers, sewer systems and sewage disposal systems
22 or facilities, systems for the treatment or disposal of garbage
23 and refuse, gas plants or gas distribution systems for its own
24 municipal purposes, electric light or power plants or power
25 distribution systems, aeronautical facilities including but not
26 limited to airports, terminals and hangars and park and
27 recreational facilities and parking lots and facilities to be
28 secured solely by the pledge of the whole or part of the rent,
29 toll or charge for the use or services of [such] the facilities.

30 Included in the cost of the issue may be any costs and

expenses incident to construction and financing the facilities and selling and distributing the bonds.

[(73)] (47) Rewards for apprehension of certain criminals. To offer rewards for the arrest and conviction of persons guilty of capital or other crimes within the borough.

[(73.1)] (48) Appropriations for Urban Common Carrier Mass Transportation. To appropriate funds for urban common carrier mass transportation purposes from current revenues and to make annual contributions to county departments of transportation or to urban common carrier mass transportation authorities to assist the departments or the authorities to meet costs of operation, maintenance, capital improvements, and debt service, and to enter into long-term agreements providing for the payment of the [said] contributions.

[(74)] General powers. To make and adopt all such ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth, as may be expedient or necessary for the proper management, care and control of the borough and its finances, and the maintenance of peace, good government, safety and welfare of the borough and its trade, commerce and manufactures.

(75)] (49) To undertake community development programs, including but not limited to urban renewal, public housing, model cities programs and neighborhood development projects.

[(76)] (50) Sale of real or personal property to non-profit medical service corporation. To sell to a non-profit medical service corporation borough-owned:

(i) real property [to a non-profit medical service corporation] for its exclusive use as a site for a medical service facility; and

1 (ii) personal property for use at the medical service
2 facility.

3 [(77)] (51) Sale of real or personal property to non-profit
4 housing corporation. To sell to a non-profit housing corporation
5 borough-owned:

6 (i) real property [to a non-profit housing corporation] for
7 its exclusive use for housing for the elderly; and

8 (ii) personal property for its use at the non-profit housing
9 corporation.

10 [(78)] (52) Grants to nonprofit art corporations. To make
11 grants annually[, not exceeding an amount equal to one mill of
12 the real estate tax] to nonprofit art corporations for the
13 conduct of their artistic and cultural activities. For the
14 purposes of this section nonprofit art corporation shall mean a
15 local arts council, commission or coordinating agency, or any
16 other nonprofit corporation engaged in the production or display
17 of works of art, including the visual, written or performing
18 arts. Artistic and cultural activities shall include the display
19 or production of theater, music, dance, painting, architecture,
20 sculpture, arts and crafts, photography, film, graphic arts and
21 design and creative writing.

22 [(79)] (53) Appropriations for neighborhood crime watch
23 programs. To appropriate annually[, solely at the discretion of
24 the borough officials,] an amount toward a neighborhood crime
25 watch program. Notwithstanding any other provision of law, no
26 borough or official thereof shall become subject to contractual,
27 tort or other liability as a result of having made an
28 appropriation pursuant to this clause.

29 [(80)] (54) Appropriations to Senior Citizens Organizations.
30 To appropriate funds for programs which benefit senior citizens,

1 or make grants to civic organizations which represent senior
2 citizens, provide services to senior citizens, or of which its
3 members are senior citizens.

4 [(81)] (55) Appropriations to watershed associations. To
5 appropriate money to nonprofit watershed associations for
6 watersheds serving the borough. [Such appropriations]
7 Appropriations may not be used to undertake litigation against
8 any [municipal corporation] municipality or to seek redress
9 against any individual landowner.

10 [(82)] (56) Emergency services. The borough shall be
11 responsible for ensuring that fire and emergency medical
12 services are provided within the borough by the means and to the
13 extent determined by the borough, including the appropriate
14 financial and administrative assistance for these services. The
15 borough shall consult with fire and emergency medical services
16 providers to discuss the emergency services needs of the
17 borough. The borough shall require any emergency services
18 organization receiving borough funds to provide to the borough
19 an annual itemized listing of all expenditures of these funds
20 before the borough may consider budgeting additional funding to
21 the organization.

22 (57) Appropriations to conservation district. To appropriate
23 money to the conservation district, as defined in the act of May
24 15, 1945 (P.L.547, No.217), known as the "Conservation District
25 Law," in which the borough is located.

26 (58) Mines and quarries. To require the owner, operator or
27 superintendent of every mine, colliery or quarry located wholly
28 or partially within the limits of the borough, to furnish to the
29 borough maps, plans and drawings of workings, excavations and
30 surface support as the council may require. In the case of coal

1 mines and collieries, the map or plan shall exhibit the workings
2 or excavations in every seam of coal on a separate sheet, and
3 the tunnels and passages connecting with the workings or
4 excavations. It shall show in degrees the general inclination of
5 the strata, with any material deflection in the strata in the
6 workings or excavations, and shall also show the tidal
7 elevations of the bottom of every shaft, slope, tunnel and
8 gangway, and of any other point in the mine or on the surface
9 where the elevation shall be deemed necessary by the borough.
10 The map or plan shall show the number of the last survey on the
11 gangways or the most advanced workings. Every owner, operator,
12 or superintendent, of a mine, colliery or quarry, shall update,
13 at least once every three months, the pertinent maps, plans and
14 drawings to reflect any extensions made in any mine, colliery or
15 quarry during the three preceding months, except those made
16 within thirty days immediately preceding the time of placing the
17 extensions upon the map or drawing. A borough engineer,
18 assistant or other person authorized by council may enter and
19 survey any mine, colliery or quarry within the limits of the
20 borough, at all reasonable times, but not so as to impede or
21 obstruct the workings of the mine, colliery or quarry. The
22 owner, operator or superintendent of the mine, colliery or
23 quarry, shall furnish the means necessary for the entry, survey
24 and exit.

25 (59) Assessment of benefits. To petition the court of common
26 pleas for the appointment of viewers to assess the total cost of
27 an improvement as set forth in Article XXI-A. The viewers shall
28 assess the total cost of the improvement, or so much of the cost
29 as may be just and reasonable, upon the lands or properties
30 peculiarly benefited.

1 (60) Authority to purchase natural gas wells. To authorize
2 any borough to purchase, own, use, operate and control any
3 natural gas well or wells for the purpose of supplying natural
4 gas for its own municipal purposes.

5 (61) Real estate registry. To establish, by ordinance, and
6 maintain a real estate registry for the purpose of procuring
7 accurate information in reference to the ownership of real
8 estate in the borough in a manner not inconsistent with the act
9 of October 9, 2008 (P.L.1400, No.110), known as the "Uniform
10 Municipal Deed Registration Act." Council shall designate a
11 person to have charge of the registry, who shall cause to be
12 made and carefully preserve all necessary books, maps and plans
13 as may show the location and ownership of every lot, piece of
14 real estate and subdivision thereof. For purposes of
15 establishing or maintaining the registry, the person in charge
16 of the registry shall have access to public records without
17 charge. Information contained within a real estate registry
18 shall not affect the validity of any municipal claim or tax
19 claim of the borough. Nothing in this paragraph shall prohibit a
20 borough from requiring owners to provide information relevant to
21 the enforcement of any borough ordinance in accordance with law.

22 (62) Authority to manufacture and supply electricity. To
23 manufacture, purchase or otherwise supply electricity pursuant
24 to Article XXIV-A, relating to manufacture and supply of
25 electricity.

26 (63) Authority to provide telecommunications and cable
27 television services. To provide the following:

28 (i) telecommunications services to the extent that provision
29 of services is not inconsistent with 66 Pa.C.S. Ch. 30 (relating
30 to alternative form of regulation of telecommunications

1 services); and

2 (ii) cable television services in a manner consistent with
3 Federal law.

4 (64) Underground conduits. To acquire, by purchase or
5 condemnation, or to construct, underground conduits within which
6 electrical, communication and other types of wires shall be
7 placed and to, by ordinance and subject to approval by the
8 Public Utility Commission, regulate the manner and terms and
9 conditions of the use of any underground conduits. Council may
10 define reasonable districts of the borough within which
11 underground conduits shall be used for the placement of wires
12 without the approval of the Public Utility Commission. The
13 powers reserved by this clause shall not be bartered away or
14 surrendered by the borough.

15 (65) Actions for municipal claims. In addition to the
16 remedies provided by law for the filing of liens for the
17 collection of municipal claims, including, but not limited to,
18 water rates, sewer rates and the removal of nuisances, to
19 proceed for the recovery and collection of claims by action of
20 assumpsit against the person or persons who were the owner or
21 owners of the property at the time of the completion of the
22 improvement, or at the time the water or sewer rates or the cost
23 of the removal of nuisances first became payable,
24 notwithstanding the fact that there was a failure on the part of
25 the borough, or its agents, to enter the municipal claim as a
26 lien against the property assessed for the improvement, or for
27 the furnishing of water or sewer services and for the removal of
28 nuisances and for the recovery of which the action of assumpsit
29 was brought. The action in assumpsit shall be commenced either
30 within six years after the completion of the improvement from

1 which the claim arises or within six years after the water or
2 sewer rates or the cost of abating a nuisance first became
3 payable.

4 Section 156. The act is amended by adding a section to read:

5 Section 1203. Reserved Powers.--The council may make and
6 adopt all ordinances, bylaws, rules and regulations not
7 inconsistent with or restrained by the Constitution of
8 Pennsylvania and laws of this Commonwealth as may be expedient
9 or necessary for the proper management, care and control of the
10 borough and its finances, and the maintenance of peace, good
11 government, safety and welfare of the borough and its trade,
12 commerce and manufactures.

13 Section 157. Article XIII heading and section 1301 of the
14 act are reenacted to read:

15 ARTICLE XIII

16 TAXATION AND FINANCE

17 Section 1301. Fiscal Year.--The fiscal year of every borough
18 shall coincide with the calendar year, beginning January 1 and
19 ending December 31.

20 Section 158. Section 1302 of the act, amended December 1,
21 2004 (P.L.1742, No.223), is amended to read:

22 Section 1302. Tax Levy.--(a) The council of the borough
23 shall have power, by ordinance, to levy and collect annually, a
24 tax, not exceeding thirty mills for general borough purposes,
25 unless the council by majority action shall, upon due cause
26 shown by resolution, petition the court of common pleas, in
27 which case the court may order a rate of not more than five
28 mills additional to be levied and in addition [thereto] any of
29 the following taxes:

30 (1) An annual tax sufficient to pay interest and principal

on any indebtedness incurred pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) or any prior or subsequent act governing the incurrence of indebtedness of the borough;

(2) To provide for pensions, retirement or the purchase of annuity contracts for borough employees, not exceeding one-half mill;

(3) To defray the cost and expenses of caring for shade trees as provided in section [2729 of this act] 2720.1, and the expense of publishing the notice referred to in such section, not exceeding one-tenth mill;

(4) For lighting and illuminating the streets, highways and other public places [with electric light, gas light or other illuminant], not exceeding eight mills;

(5) For gas, water and electric light, not exceeding eight mills, such additional millage permitted only following a favorable referendum on the matter held in accordance with the [act of April 16, 1875 (P.L.55), as amended] election laws of this Commonwealth;

(6) For the purchase of fire engines, fire apparatus and fire hose for the use of the borough, or for assisting any fire company in the borough in the purchase, renewal or repair of any of its fire engines, fire apparatus or fire hose, for the purposes of making appropriations to fire companies both within and without the borough and of contracting with adjacent municipalities or volunteer fire companies therein for fire protection, for the training of fire personnel and payments to fire training schools and centers or for the purchase of land upon which to erect a fire house, or for the erection and maintenance of a fire house or fire training school and center

1 or fire houses, not exceeding three mills.

2 (i) The borough may appropriate up to one-half, but not to
3 exceed one mill, of the revenue generated from a tax under this
4 clause for the purpose of paying salaries, benefits or other
5 compensation of fire suppression employees of the borough or a
6 fire company serving the borough.

7 (ii) If an annual tax for the purposes specified in this
8 clause is proposed to be set at a level higher than three mills,
9 the question shall be submitted to the voters of the borough,
10 and the county board of elections shall frame the question in
11 accordance with the election laws of the Commonwealth for
12 submission to the voters of the borough;

13 (7) For building a fire house, fire training school and
14 center, lockup [and/or] or municipal building, not exceeding two
15 mills, such additional millage permitted only following a
16 favorable referendum on the matter held in accordance with the
17 [act of May 4, 1927 (P.L.673)] election laws of this
18 Commonwealth;

19 (8) To establish [and/or] and maintain a local library or to
20 maintain or aid in the maintenance of a local library
21 established by deed, gift or testamentary provision, for the use
22 of the residents of the borough, in accordance with the act of
23 June 14, 1961 (P.L.324, No.188), known as The Library Code.

24 (9) For the purpose of supporting ambulance, rescue and
25 other emergency services serving the borough, not to exceed one-
26 half mill, except as provided in subsection (e). The borough may
27 appropriate up to one-half of the revenue generated from a tax
28 under this clause for the purpose of paying salaries, benefits
29 or other compensation of employees of the ambulance, rescue or
30 other emergency service.

1 (b) The [said] taxes shall be levied on the dollar on the
2 valuation assessed for county purposes, as now is or may be
3 provided by law. All real property, offices, professions and
4 persons, made taxable by the laws of this Commonwealth for
5 county rates and levies, may, in the discretion of council, be
6 taxed after the same manner for such purposes. No action on the
7 part of the borough authorities fixing the tax rate for any year
8 at a mill rate need include a statement expressing the rate of
9 taxation in dollars and cents on each one hundred dollars (\$100)
10 of assessed valuation of taxable property.

11 (c) Nothing [herein] contained in this section shall prevent
12 the application of moneys received from taxes levied for general
13 purposes to the purposes of paying interest and sinking fund
14 charges on indebtedness.

15 (d) The proceeds of all taxes for which additional millage
16 is hereby authorized shall be kept in a separate fund and used
17 only for the purposes hereby provided [therefor: Provided,
18 That], provided that the additional taxes authorized by
19 referendum shall continue to be levied annually for so long a
20 period as provided in the question submitted in [such] the
21 referendum, and, in the case of any [such] taxes for which the
22 question voted upon shall not have stated the duration of [such]
23 the tax, until [such] the tax shall be abolished by vote of the
24 electors in a subsequent referendum.

25 (e) The tax for supporting ambulance and rescue squads
26 serving the borough shall not exceed the rate specified in
27 subsection (a)(9) except when the question is submitted to the
28 voters of the borough in the form of a referendum which will
29 appear on the ballot in accordance with the election laws of the
30 Commonwealth, in which case the rate shall not exceed two mills.

1 The county board of elections shall frame the question to be
2 submitted to the voters of the borough in accordance with the
3 election laws of the Commonwealth.

4 Section 159. Section 1302.1 of the act, added November 24,
5 1998 (P.L.827, No.108), is amended to read:

6 Section 1302.1. Different and Separate Tax Levies.--(a) A
7 borough may in any year levy separate and different rates of
8 taxation for municipal purposes on all real estate classified as
9 nonfarmland, exclusive of the buildings thereon, and on all real
10 estate classified as either buildings on land or farmland. When
11 real estate tax rates are so levied:

12 (1) The rates shall be determined by the requirements of the
13 borough budget.

14 (2) A higher rate may be levied on real estate classified as
15 nonfarmland than on real estate classified as either buildings
16 on land or farmland if the respective rates on nonfarmland and
17 on buildings or farmland are so fixed as not to constitute a
18 greater levy in the aggregate than the levy to result from the
19 maximum rate allowed by law on all real estate.

20 (3) The rates shall be uniform as to all real estate within
21 the classification.

22 (b) For purposes of this section:

23 (1) "Farmland" shall include any tract of land that is
24 actively devoted to agricultural use, including, but not limited
25 to, the commercial production of "crops, livestock and livestock
26 products" as defined in section 3 of the act of June 30, 1981
27 (P.L.128, No.43), known as the "Agricultural Area Security Law."

28 (2) "Nonfarmland" shall include any tract of land that is
29 not farmland.

30 (c) [The] Notwithstanding section 104, the provisions of

1 this section are nonseverable. If any provision of this [act]
2 section or its application to any person or circumstance is held
3 invalid, the remaining provisions or applications of this [act]
4 section are void.

5 Section 160. Section 1303 of the act, repealed in part April
6 28, 1978 (P.L.202, No.53), is amended to read:

7 Section 1303. Special Levy to Pay Debts.--In addition to the
8 levies provided for in the preceding section, when it shall be
9 shown to the court that the [corporate authorities refuse or
10 neglect] borough council refuses or neglects to levy a
11 sufficient tax to pay the debts due by the borough, the court
12 may, after ascertaining the amount of [such] the indebtedness of
13 the borough, direct a writ of mandamus to the proper officers of
14 [such] the borough to collect by special taxation an amount
15 sufficient to pay the same in one or more annual [instalments]
16 installments, as may be adjudged reasonable by [said] the court,
17 during such years as may be required for the payment of the
18 same.

19 Section 161. Sections 1304 and 1305 of the act are amended
20 to read:

21 Section 1304. Special Road Fund Tax.--Any borough shall be
22 empowered, within its general power to levy taxes, to collect
23 annually a tax upon all property taxable for borough purposes
24 not to exceed five mills on the dollar in any one year, for the
25 purpose of creating and maintaining a special fund, to be used
26 by its borough in making permanent street improvements, and to
27 pay contract prices for paving and other permanent street
28 improvements, prior to the collection of the cost and expense or
29 any part thereof from the property owners adjoining or abutting
30 thereon by the borough under existing laws.

1 When the cost and expense, or any part [thereof,] of the cost
2 and expense of the construction of any permanent street
3 improvement, which has been made under existing laws, and which
4 has been aided in its construction from the [said] special fund
5 [hereby provided for] provided for under this section, shall
6 have been assessed and collected from the owners of the property
7 adjoining or abutting upon [such] the improvement, it shall be
8 applied to the credit of the [said] special fund, to the extent
9 of the withdrawal [therefrom for such] from the special fund for
10 that purpose.

11 Section 1305. Date Tax Duplicate to Issue.--[The corporate
12 authorities of the borough] Borough council shall, within thirty
13 days after adoption of the budget or within thirty days after
14 receipt of the assessment roll from the county, whichever is
15 later, issue their duplicate of taxes assessed to the collector
16 of taxes of the borough.

17 Section 162. Section 1306 of the act, amended July 22, 1970
18 (P.L.549, No.188), is amended to read:

19 Section 1306. Additions and Revisions to Duplicates.--
20 Whenever in any borough, there is any construction of a building
21 or buildings not otherwise exempt as a dwelling after the
22 borough council has prepared a duplicate of the assessment of
23 borough taxes and the building is not included in the tax
24 duplicate of the borough, the [authority responsible for
25 assessments in the borough] county assessment office shall, upon
26 the request of the borough council, direct the assessor in the
27 [borough] county assessment office to inspect and reassess,
28 subject to the right of appeal and adjustment provided by the
29 act of assembly under which assessments are made, all taxable
30 property in the borough to which major improvements have been

1 made after the original duplicates were prepared, and to give
2 notice of such reassessments within ten days to the authority
3 responsible for assessments, the borough and the property owner.
4 The property shall then be added to the duplicate and shall be
5 taxable for borough purposes at the reassessed valuation for
6 that proportionate part of the fiscal year of the borough
7 remaining after the property was improved. Any improvement made
8 during the month shall be computed as having been made on the
9 first of the month. A certified copy of the additions or
10 revisions to the duplicate shall be furnished by the borough
11 council to the borough tax collector, together with their
12 warrant for collection of the same, and within ten days
13 thereafter, the borough tax collector shall notify the owner of
14 the property of the taxes due the borough.

15 Section 163. Sections 1307 and 1308 of the act are amended
16 to read:

17 Section 1307. Preparation of Budget.--Beginning at least
18 thirty days prior to the adoption of the budget a proposed
19 budget or annual estimate of revenues and expenditures for the
20 ensuing year shall be prepared in a manner designated by the
21 council. [The budget shall be prepared on a uniform form
22 prepared and furnished as hereinafter provided.] The proposed
23 budget shall be kept on file with the borough secretary and [by
24 him] be made available for public inspection by the borough
25 secretary for a period of ten days.

26 Section 1308. Notice of Proposed Budget; Penalty.--(a)
27 Notice that the proposed budget is available for inspection
28 shall be published by the borough secretary in a newspaper of
29 general circulation [in the borough], except in boroughs where
30 the estimated budget receipts are less than [five thousand

1 dollars (\$5000)] fifty thousand dollars (\$50,000) in the year in
2 which this amendment is enacted, where in lieu of such newspaper
3 publications, notice may be conspicuously posted during the ten
4 day period, in a place readily viewable by the public at the
5 office of the borough secretary and with such further notice as
6 shall be prescribed by council.

7 (b) Failure to give the notice herein required shall not
8 invalidate the budget adopted or the tax ordinance. Any borough
9 secretary who shall fail or refuse to give the notice that the
10 proposed budget is available for inspection, as herein required,
11 shall, upon conviction [thereof] in a summary proceeding, be
12 sentenced to pay a fine not exceeding one hundred dollars (\$100)
13 and costs of prosecution.

14 Section 164. Section 1309 of the act is reenacted to read:

15 Section 1309. Revision and Completion of Budget.--After the
16 expiration of the said ten days, council shall make such
17 revision in the budget as shall be deemed advisable. The budget
18 shall be as comprehensive and exact as the information available
19 will admit. In addition to expenditures proposed for the current
20 fiscal year, council may include as proposed expenditures a sum
21 sufficient to pay any existing indebtedness and to pay the
22 ordinary operating expenses for the subsequent year until the
23 taxes of the subsequent year are received therefor, and may also
24 include a sum to provide in whole or in part for any deferred
25 maintenance, depreciation and replacements. Within the tax levy
26 and debt limitations, council may also include, in whole or in
27 part, expenditures for capital investments and purchases.
28 Expenditures of a legislative character shall be made,
29 authorized or ratified by ordinance. Other expenditures allowed
30 by law may be made or ratified by motion in council. Such

1 expenditures, whether by ordinance or motion, shall then be
2 considered as appropriations affecting the budget. Any balance
3 of revenues over expenditures may be expended in any subsequent
4 year for any lawful purpose.

5 Section 165. Section 1310 of the act, amended June 22, 2000
6 (P.L.325, No.34), is amended to read:

7 Section 1310. Adoption of Budget[; Tax Ordinance].--Upon
8 completion of the budget, containing the estimated receipts and
9 expenditures, [and its adoption] the borough council shall adopt
10 the budget by motion [in] of the borough council, which shall
11 not be later than December thirty-first[, it shall be the duty
12 of the council to adopt an ordinance levying the taxes referred
13 to in this act for the fiscal year for approval of the mayor or
14 passage over his veto].

15 Section 166. The act is amended by adding a section to read:

16 Section 1310.1. Tax Ordinance.--After borough council has
17 adopted the budget, it shall be the duty of the borough council
18 to enact an ordinance levying the taxes referred to in this act
19 for the fiscal year subject to approval of the mayor or
20 enactment over the mayor's veto pursuant to the procedure
21 established in section 3301.3(c).

22 Section 167. Section 1311 of the act, amended June 22, 2000
23 (P.L.325, No.34), is amended to read:

24 Section 1311. Amending Budget; Notice.--During the month of
25 January next following any municipal election the council of any
26 borough may amend the budget and the levy and tax rate to
27 conform with its amended budget. A period of ten days' public
28 inspection at the office of the borough secretary of the
29 proposed amended budget after notice by the borough secretary to
30 that effect is published once in a newspaper [as provided in

1 section 109 of this act] of general circulation, shall intervene
2 between the proposed amended budget and the adoption thereof.
3 Any amended budget must be adopted by council on or before the
4 fifteenth day of February.

5 Section 168. Sections 1312 and 1313 of the act are reenacted
6 to read:

7 Section 1312. Modification of Budget; Supplemental
8 Appropriations and Transfers.--The council in its reasonable
9 discretion may, in any year, by motion, modify the budget after
10 its final adoption. New appropriations, supplementary
11 appropriations and transfers from one appropriation to another
12 may be made during the fiscal year, either before or after the
13 expenditure is authorized or ratified after the expenditure is
14 made, provided it is within the current year's revenues, or the
15 money therefor promptly made available through borrowing as
16 allowed by law.

17 Section 1313. Payment from Borough Funds.--All payments made
18 by the council of any borough from the borough funds shall be
19 made by proper borough orders, drawn upon the treasurer; no
20 borough order shall be authorized by council or signed by the
21 president or secretary of any council unless there are
22 sufficient funds in the treasury of the borough to pay the same,
23 and no orders shall be made payable at any time in the future or
24 draw interest. A separate borough order shall be drawn for each
25 account or payment.

26 Section 169. The act is amended by adding a section to read:

27 Section 1313.1. Creation of Special Funds; Investments.--
28 Borough council may set aside in a separate fund any moneys
29 received out of or from the sale, lease or other disposition of
30 any borough property or received from any source unless such

1 money was received or acquired for a particular purpose. The
2 fund shall be controlled, invested and administered, and the
3 income arising therefrom expended, in the manner as may be
4 determined by action of the council pursuant to the ordinance
5 creating the fund. The ordinance may provide that only the
6 income from the fund may be used or expended, and that neither
7 principal, nor any part thereof, may be used or expended unless
8 upon authorization of a majority vote of the qualified electors
9 of the borough. All ordinances previously enacted by any
10 borough, creating and establishing a separate fund as is
11 authorized by this section, shall be deemed and taken as valid
12 and effectual for all purposes provided that all other
13 requirements of law concerning the enactment of the same have
14 been complied with.

15 Section 170. Section 1314 of the act, amended June 22, 2000
16 (P.L.325, No.34), is amended to read:

17 Section 1314. Uniform Financial Report; Forms.--The uniform
18 forms for the annual financial statement required to be made by
19 the auditors or the controller shall be prepared by a committee
20 consisting of four representatives from the Pennsylvania State
21 Association of Boroughs, [and] the Secretary of Community and
22 Economic Development, or [his agent] the secretary's designee
23 and any additional members appointed pursuant to statute.

24 [Such] The representatives of boroughs shall be appointed by
25 the president of the [organization. Such] Pennsylvania State
26 Association of Boroughs. The representatives shall be chosen
27 from among the finance officers or other officers of the borough
28 who have knowledge of their fiscal procedures. As far as
29 possible, they shall be chosen to represent boroughs in the
30 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 expenses incurred in attending meetings of the committee. The committee shall meet from time to time as conditions may warrant at the call of Secretary of Community and Economic Development, or [his agent] the secretary's designee, who shall serve as [chairman] chair of the committee.

It shall be the duty of the Secretary of Community and Economic Development, or [his agent] the secretary's designee, to see to it that the forms required by this article are prepared in cooperation with [such] the committee. In the event that the committee should for any reason fail to furnish such cooperation, the Secretary of Community and Economic Development, or [his agent] the secretary's designee, shall prepare the forms. After their preparation, [he] the secretary shall issue [such] the forms and distribute them annually, as needed to the proper officers of each borough.

Section 171. Section 1315 of the act is amended to read:

Section 1315. Capital Improvements to Certain Public Service Facilities.--(a) For the purpose of financing the cost and expense or its share of the cost and expense of capital improvements by altering, improving or enlarging (i) its sewer, sewer system or sewage treatment works, either singly or jointly, with other municipalities [or townships, or both], or (ii) its water works, either singly or jointly, with other municipalities [or townships, or both], or (iii) its electric light or power plant or power distribution system, or (iv) its

1 gas plant or gas distribution system for its own municipal
2 purposes, including the purchase and installation of machinery
3 and equipment, any borough owning any such plant or facility may
4 issue non-debt revenue bonds as provided in clause [(72)] (46)
5 of section 1202 of this act.

6 (b) Any borough issuing non-debt revenue bonds under the
7 authority of this section shall adjust and, where necessary,
8 increase the rates of rentals or charges pledged as security for
9 the bonds, in order to provide sufficient revenue which shall be
10 set aside as reserve funds to cover depreciation of the
11 properties involved, and for future improvements to the plant or
12 facility involved, as well as for the payment of the interest on
13 the bonds and the principal at the time of maturity.

14 Section 172. Section 1316 of the act, amended or added
15 November 2, 1979 (P.L.458, No.94) and December 13, 1982
16 (P.L.1145, No.261), is amended to read:

17 Section 1316. Investment of Funds.--(a) Council shall
18 invest borough funds consistent with sound business practice.

19 (b) Council shall provide for an investment program subject
20 to restrictions contained in this act and in any other
21 applicable statute and any rules and regulations adopted by
22 council.

23 (c) Authorized types of investments for borough funds shall
24 be:

25 (i) United States Treasury bills.

26 (ii) Short-term obligations of the United States Government
27 or its agencies or instrumentalities.

28 (iii) Deposits in savings accounts or time deposits, other
29 than certificates of deposit, or share accounts of institutions
30 insured by the Federal Deposit Insurance Corporation [or the

1 Federal Savings and Loan Insurance Corporation] or the National
2 Credit Union Share Insurance Fund [or the Pennsylvania Deposit
3 Insurance Corporation or the Pennsylvania Savings Association
4 Insurance Corporation] to the extent that such accounts are so
5 insured, and, for any amounts above the insured maximum,
6 provided that approved collateral as provided by law therefore
7 shall be pledged by the depository.

8 (iv) Obligations of the United States of America or any of
9 its agencies or instrumentalities backed by the full faith and
10 credit of the United States of America, the Commonwealth of
11 Pennsylvania or any of its agencies or instrumentalities backed
12 by the full faith and credit of the Commonwealth, or of any
13 political subdivision of the Commonwealth of Pennsylvania or any
14 of its agencies or instrumentalities backed by the full faith
15 and credit of the political subdivision.

16 (v) Shares of an investment company registered under the
17 Investment Company Act of 1940, whose shares are registered
18 under the Securities Act of 1933, provided that the only
19 investments of that company are in the authorized investments
20 for borough funds listed in (i) through (iv).

21 (vi) Certificates of deposit purchased from institutions
22 insured by the Federal Deposit Insurance Corporation [or the
23 Federal Savings and Loan Insurance Corporation] or the National
24 Credit Union Share Insurance Fund [or the Pennsylvania Deposit
25 Insurance Corporation or the Pennsylvania Savings Association
26 Insurance Corporation] to the extent that such accounts are so
27 insured. However, for any amounts above the insured maximum,
28 such certificates of deposit shall be collateralized by a pledge
29 or assignment of assets of the institution, and such collateral
30 may include loans (including interest in pools of loans) secured

1 by first mortgage liens on real property. Certificates of
2 deposit purchased from commercial banks shall be limited to an
3 amount equal to twenty percent of a bank's total capital and
4 surplus. Certificates of deposit purchased from savings and loan
5 associations or savings banks shall be limited to an amount
6 equal to twenty percent of an institution's assets minus
7 liabilities.

8 (vii) Any investment authorized by 20 Pa.C.S. Ch.73
9 (relating to fiduciaries investments) shall be an authorized
10 investment for any pension or retirement fund.

11 (viii) Bonds of a municipal authority or parking authority
12 created solely by the borough, for the purpose either of
13 investment or of possible retirement of the bonds and
14 acquisition of authority projects at an earlier date than
15 originally contemplated, using for the purpose either surplus
16 funds of the borough or money appropriated in the annual budget
17 for the purpose.

18 (d) In making investments of borough funds, council shall
19 have authority:

20 (i) To permit assets pledged as collateral under subsection
21 (c)(iii), to be pooled in accordance with the act of August 6,
22 1971 (P.L.281, No.72), relating to pledges of assets to secure
23 deposits of public funds.

24 (ii) To combine moneys from more than one fund under borough
25 control for the purchase of a single investment, provided that
26 each of the funds combined for the purpose shall be accounted
27 for separately in all respects and that the earnings from the
28 investment are separately and individually computed and
29 recorded, and credited to the accounts from which the investment
30 was purchased.

(iii) To join with one or more other political subdivisions and municipal authorities in accordance with [the act of July 12, 1972 (P.L.762, No.180), entitled "An act relating to intergovernmental cooperation,"] 53 Pa.C.S. Ch. 23 Subch. A (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

1 contracts and purchases. Any pre-qualification standards shall
2 be reasonably designed to assist council in determining the
3 ability of a bidder to successfully complete a contract or
4 purchase.

5 (c) A borough may permit the electronic submission of bids
6 and may receive bids electronically for competitively bid
7 purchases and contracts pursuant to 62 Pa.C.S. Ch. 46 (relating
8 to electronic bidding by local government units).

9 Section 176. Section 1402 of the act, amended or added
10 October 4, 1978 (P.L.1022, No.226), April 6, 1980 (P.L.95,
11 No.34), June 26, 1995 (P.L.63, No.12), December 20, 1996
12 (P.L.1497, No.193) and November 3, 2011 (P.L.381, No.92), is
13 amended to read:

14 Section 1402. Regulation of Contracts.--(a) All contracts
15 or purchases in excess of the base amount of eighteen thousand
16 five hundred dollars (\$18,500) subject to adjustment under
17 subsection (a.2), except those [hereinafter] mentioned[,] in
18 this section and except as provided by the act of October 27,
19 1979 (P.L.241, No.78), entitled "An act authorizing political
20 subdivisions, municipality authorities and transportation
21 authorities to enter into contracts for the purchase of goods
22 and the sale of real and personal property where no bids are
23 received," shall not be made except with and from the lowest
24 qualified and responsible bidder after due notice in one
25 newspaper of general circulation [in the borough], at least two
26 times at intervals of not less than three days where daily
27 newspapers of general circulation are available for [such]
28 publication, in case of weekly newspapers, [such] notice once a
29 week for two successive weeks. The first advertisement shall be
30 published not more than forty-five days and the second

1 advertisement not less than ten days prior to the date fixed for
2 the opening of bids. Advertisements for contracts or purchases
3 shall also be posted in a conspicuous place within the borough.
4 Advertisements for contracts and purchases shall contain the
5 date, time and location for opening of bids and shall state the
6 amount of the performance bond determined under subsection (c).
7 The amount of the contract shall in all cases, whether of
8 straight sale price, conditional sale, [bailment] lease, lease
9 purchase or otherwise, be the entire amount which the borough
10 pays to the successful bidder or his assigns in order to obtain
11 the services or property, or both, and shall not be construed to
12 mean only the amount which is paid to acquire title or to
13 receive any other particular benefit or benefits of the whole
14 bargain. [In awarding contracts, council shall have the right to
15 take into consideration such other factors as the availability,
16 cost and quality of service.]

17 (a.1) Written or telephonic price quotations from at least
18 three qualified and responsible contractors shall be requested
19 for all contracts in excess of the base amount of ten thousand
20 dollars (\$10,000) subject to adjustment under subsection (a.2)
21 but are less than the amount requiring advertisement and
22 competitive bidding or, in lieu of price quotations, a
23 memorandum shall be kept on file showing that fewer than three
24 qualified contractors exist in the market area within which it
25 is practicable to obtain quotations. A written record of
26 telephonic price quotations shall be made and shall contain at
27 least the date of the quotation, the name of the contractor and
28 the contractor's representative, the construction,
29 reconstruction, repair, maintenance or work which was the
30 subject of the quotation and the price. Written price

1 quotations, written records of telephonic price quotations and
2 memoranda shall be retained for a period of three years. Written
3 price quotations as used throughout this section shall include
4 electronic mail.

5 (a.2) Adjustments to the base amounts specified under
6 subsections (a) and (a.1) shall be made as follows:

7 (1) The Department of Labor and Industry shall determine the
8 percentage change in the All Items Consumer Price Index for All
9 Urban Consumers (CPI-U) for the United States City Average as
10 published by the United States Department of Labor, Bureau of
11 Labor Statistics for the twelve-month period ending September
12 30, 2012, and for each successive twelve-month period
13 thereafter.

14 (2) If the department determines that there is no positive
15 percentage change, then no adjustment to the base amounts shall
16 occur for the relevant time period provided for in this
17 subsection.

18 (3) (i) If the department determines that there is a
19 positive percentage change in the first year that the
20 determination is made under paragraph (1), the positive
21 percentage change shall be multiplied by each base amount and
22 the products shall be added to the base amounts, respectively,
23 and the sums shall be preliminary adjusted amounts.

24 (ii) The preliminary adjusted amounts shall be rounded to
25 the nearest one hundred dollars (\$100), to determine the final
26 adjusted base amounts for purposes of subsections (a) and (a.1).

27 (4) In each successive year in which there is a positive
28 percentage change in the CPI-U for the United States City
29 Average, the positive percentage change shall be multiplied by
30 the most recent preliminary adjusted amounts and the products

1 shall be added to the preliminary adjusted amount of the prior
2 year to calculate the preliminary adjusted amounts for the
3 current year. The sums thereof shall be rounded to the nearest
4 one hundred dollars (\$100) to determine the new final adjusted
5 base amounts for purposes of subsections (a) and (a.1).

6 (5) The determinations and adjustments required under this
7 subsection shall be made in the period between October 1 and
8 November 15 of the year following the effective date of this
9 subsection, and annually between October 1 and November 15 of
10 each year thereafter.

11 (6) The final adjusted base amounts and new final adjusted
12 base amounts obtained under paragraphs (3) and (4) shall become
13 effective January 1 for the calendar year following the year in
14 which the determination required under paragraph (1) is made.

15 (7) The department shall publish notice in the Pennsylvania
16 Bulletin prior to January 1 of each calendar year of the annual
17 percentage change determined under paragraph (1) and the
18 unadjusted or final adjusted base amounts determined under
19 paragraphs (3) and (4) at which competitive bidding is required
20 under subsection (a) and written or telephonic price quotations
21 are required under subsection (a.1), respectively, for the
22 calendar year beginning the first day of January after
23 publication of the notice. The notice shall include a written
24 and illustrative explanation of the calculations performed by
25 the department in establishing the unadjusted or final adjusted
26 base amounts under this subsection for the ensuing calendar
27 year.

28 (8) The annual increase in the preliminary adjusted base
29 amounts obtained under paragraphs (3) and (4) shall not exceed
30 three percent.

1 (b) (1) The award of contracts shall only be made by public
2 announcement at the meeting at which bids are received, or at a
3 subsequent meeting, the time and place of which shall be
4 publicly announced when bids are received. If for any reason one
5 or both of the above meetings shall not be held, the same
6 business may be transacted at any subsequent meeting if at least
7 five days' notice thereof shall be published in the newspaper of
8 general circulation aforesaid. At council's request, all bids
9 advertised for shall be accompanied by cash, money order, a
10 certified or cashier's good faith check, or other irrevocable
11 letter of credit drawn upon a bank authorized to do business in
12 this Commonwealth or by a bond with corporate surety in such
13 amount as council shall determine, and, when requested, no bid
14 shall be considered unless so accompanied.

15 (2) Notwithstanding clause (1), council may direct that a
16 committee of council, a member of council or a member of the
17 borough staff receive, open and review bids during normal
18 business hours and forward the information to council for
19 subsequent award at a public meeting. Bidders shall be notified
20 and other interested parties, upon request, shall be notified of
21 the date, time and location of the opening of bids and may be
22 present when the bids are opened.

23 (c) The successful bidder when advertising as required
24 herein may, at the discretion of council, be required to furnish
25 a bond or irrevocable letter of credit or other security with
26 suitable reasonable requirements guaranteeing the work to be
27 done with sufficient surety in an amount as determined by
28 council which shall be not less than ten percent nor more than
29 one hundred percent of the amount of the liability under the
30 contract within twenty days after the contract has been awarded,

1 unless council shall prescribe a shorter period of not less than
2 ten days, and upon failure to furnish such [bond] security
3 within such time the previous award shall be void. Deliveries,
4 accomplishment and guarantees may be required in all cases of
5 expenditures.

6 (d) The contracts or purchases made by council, which shall
7 not require advertising, bidding or price quotations as
8 hereinbefore provided, are as follows:

9 (1) Those for maintenance, repairs or replacements for
10 water, electric light or public works of the borough, provided
11 they do not constitute new additions, extensions or enlargements
12 of existing facilities and equipment, but [a bond] security may
13 be required by council, as in other cases of work done;

14 (2) Those made for improvements, repairs and maintenance of
15 any kind, made or provided by any borough, through its own
16 [employees: Provided, That] employees, provided that all materials
17 used for street improvement, maintenance [and/or] or
18 construction in excess of the amount specified or adjusted under
19 subsection (a.1) be subject to the relevant price quotation or
20 advertising requirements contained [herein] in this section;

21 (3) Those where particular types, models or pieces of new
22 equipment, articles, apparatus, appliances, computer software,
23 vehicles or parts thereof are desired by council, which are
24 patented and manufactured or copyrighted products;

25 (3.1) Those for used equipment, articles, apparatus,
26 appliances, vehicles or parts thereof being purchased from a
27 public utility[.];

28 (4) Those involving any policies of insurance or surety
29 company bonds; those made for [public] utility service [under
30 tariffs on file with the Pennsylvania Public Utility Commission]

1 for borough purposes, including, but not limited to, those made
2 for natural gas or telecommunications services; those made for
3 electricity with the entities set forth in clause 6(i), (ii),
4 (iii), (iv), (v), (vi) and (vii)(A); those made with another
5 political subdivision, or a county, or council of government,
6 consortium, cooperative or other similar entity created pursuant
7 to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
8 cooperation) or the Commonwealth of Pennsylvania, the Federal
9 Government, any agency of the Commonwealth or the Federal
10 Government, or any municipal authority, including the sale,
11 leasing or loan of any supplies or materials by the Commonwealth
12 or the Federal Government or their agencies. The price thereof
13 shall not be in excess of that fixed by the Commonwealth, the
14 Federal Government, or their agencies;

15 (5) Those involving personal or professional services[.];

16 (6) Those made relating to the purchase of electricity and
17 associated energy and related services by a borough owning or
18 operating electric generation or distribution facilities on the
19 effective date of this section with any of the following:

20 (i) A political subdivision.

21 (ii) Another state.

22 (iii) The Commonwealth or an agency thereof.

23 (iv) The Federal Government.

24 (v) A private corporation.

25 (vi) An electric cooperative corporation under 15 Pa.C.S.
26 Ch. 73 (relating to electric cooperative corporations).

27 (vii) A non-profit membership corporation. As used in this
28 subclause, the term "non-profit membership corporation" means an
29 entity, the membership of which:

30 (A) consists solely of Pennsylvania boroughs, such as a

1 consortium, buying group or municipal power agency under section
2 2471.2; or

3 (B) consists of Pennsylvania boroughs and political
4 subdivisions of another state or states.

5 (viii) An electric cooperative of another state.

6 Nothing in this clause shall prohibit council from engaging in
7 advertising, bidding or price quotations if the council
8 determines that the advertising, bidding or price quotations are
9 in the public interest.

10 (e) [Every contract for the construction, reconstruction,
11 alteration, repair, improvement or maintenance of public works
12 shall comply with the provisions of the act of March 3, 1978
13 (P.L.6, No.3), known as the "Steel Products Procurement Act."]
14 Council shall award contracts subject to the requirements of,
15 and may exercise any powers granted by, the following acts to
16 the extent applicable: the act of March 3, 1978 (P.L.6, No.3),
17 known as the "Steel Products Procurement Act," the act of
18 December 20, 1967 (P.L.869, No.385), known as the "Public Works
19 Contractors' Bond Law of 1967," the act of August 15, 1961
20 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage
21 Act," the act of January 17, 1968 (P.L.11, No.5), known as "The
22 Minimum Wage Act of 1968," the act of February 17, 1994 (P.L.73,
23 No.7), known as the "Contractor and Subcontractor Payment Act,"
24 the act of January 23, 1974 (P.L.9, No.4), referred to as the
25 Public Contract Bid Withdrawal Law and 62 Pa.C.S. Pt. II
26 (relating to general procurement provisions).

27 (f) No person, consultant, firm or corporation contracting
28 with the borough for purposes of rendering personal or
29 professional services to the borough shall share with any
30 borough officer or employee, and no borough officer or employee

1 shall accept, any portion of the compensation or fees paid by
2 the borough for the contracted services provided to the borough
3 except under the following terms or conditions:

4 (1) Full disclosure of all relevant information regarding
5 the sharing of the compensation or fees shall be made to the
6 council of the borough.

7 (2) The council of the borough must approve the sharing of
8 any fee or compensation for personal or professional services
9 prior to the performance of [said] the services.

10 (3) No fee or compensation for personal or professional
11 services may be shared except for work actually performed.

12 (4) No shared fee or compensation for personal or
13 professional services may be paid at a rate in excess of that
14 commensurate for similar personal or professional services.

15 Section 177. Section 1403 of the act, amended July 10, 1990
16 (P.L.383, No.90) and November 3, 2011 (P.L.381, No.92), is
17 amended to read:

18 Section 1403. Evasion of Advertising Requirements.--(a) No
19 member or members of council shall evade the provisions of
20 section 1402 hereof as to advertising for bids, by purchasing or
21 contracting for services and personal properties piecemeal for
22 the purpose of obtaining prices under the amount specified or
23 adjusted under section 1402(a) upon transactions, which
24 transactions should, in the exercise of reasonable discretion
25 and prudence, be conducted as one transaction amounting to more
26 than the amount specified or adjusted under section 1402(a).
27 This provision is intended to make unlawful the evading of
28 advertising requirements by making a series of purchases or
29 contracts, each for less than the advertising requirement price,
30 or by making several simultaneous purchases or contracts, each

1 below said price, when, in either case, the transactions
2 involved should have been made as one transaction for one price.
3 Any members of council who so vote in violation of this
4 provision and who know that the transaction upon which they so
5 vote is or ought to be a part of a larger transaction and that
6 it is being divided in order to evade the requirements as to
7 advertising for bids, shall be jointly and severally subject to
8 surcharge for ten percent of the full amount of the contract or
9 purchase. Whenever it shall appear that a member of council may
10 have voted in violation of this section but the purchase or
11 contract on which [he so] the member of council voted was not
12 approved by council, this section shall be inapplicable.

13 (b) Any council member who votes to unlawfully evade the
14 provisions of section 1402 and who knows that the transaction
15 upon which he so votes is or ought to be a part of a larger
16 transaction and that it is being divided in order to evade the
17 requirements as to advertising for bids commits a misdemeanor of
18 the third degree for each contract entered into as a direct
19 result of that vote. This penalty shall be in addition to any
20 surcharge which may be assessed pursuant to subsection (a).

21 Section 178. Section 1404 of the act, amended June 25, 2001
22 (P.L.651, No.56), is amended to read:

23 Section 1404. [Penalty for] Personal Interest in Contracts
24 or Purchases.--[Except as otherwise provided in this act, no
25 borough official either elected or appointed, who knows or who
26 by the exercise of reasonable diligence could know, shall be
27 interested to any appreciable degree either directly or
28 indirectly in any purchase made or contract entered into or
29 expenditure of money made by the borough or relating to the
30 business of the borough, involving the expenditure by the

1 borough of more than one thousand dollars (\$1000) in any
2 calendar year, but this limitation shall not apply to cases
3 where such officer or appointee of the borough is an employe of
4 the person, firm or corporation to which the money is to be paid
5 in a capacity with no possible influence on the transaction, and
6 in which he cannot be possibly benefited thereby either
7 financially or otherwise. But in the case of a member of council
8 or mayor, if he knows that he is within the exception just
9 mentioned he shall so inform council and shall refrain from
10 voting on the expenditure or any ordinance relating thereto, and
11 shall in no manner participate therein. Any official or
12 appointee who shall knowingly violate the provisions of this
13 section shall be subject to surcharge to the extent of the
14 damage shown to be thereby sustained by the borough and to
15 ouster from office, and shall be guilty of a misdemeanor, and
16 upon conviction thereof shall be sentenced to pay a fine not
17 exceeding one thousand dollars (\$1000), or not exceeding one
18 hundred eighty days' imprisonment, or both] Elected and
19 appointed borough officials and borough employes shall be
20 restricted from any interest in borough contracts and purchases
21 to the extent provided in 65 Pa.C.S. Ch. 11 (relating to ethics
22 standards and financial disclosure).

23 Section 179. Section 1404.1 of the act, added December 1,
24 1977 (P.L.245, No.80), is amended to read:

25 Section 1404.1. Purchase Contracts for Petroleum Products;
26 Fire Company, Etc., Participation.--The council of each borough
27 shall have power to permit, subject to such terms and conditions
28 as it may, and as hereinafter specifically provided, shall,
29 prescribe any paid or volunteer fire company, paid or volunteer
30 rescue company and paid or volunteer ambulance company in the

1 borough to participate in purchase contracts for petroleum
2 products entered into by the borough. Any such company desiring
3 to participate in [such] purchase contracts shall file with the
4 borough secretary a request that it be authorized to participate
5 in contracts for the purchase of petroleum products of the
6 borough and agreeing that it will be bound by [such] the terms
7 and conditions as the borough may, and as hereinafter
8 specifically provided, shall, prescribe and that it will be
9 responsible for payment directly to the vendor under each
10 purchase contract. Among [such] the terms and conditions, the
11 borough shall prescribe that all prices shall be F.O.B.
12 destination.

13 Section 180. Section 1405 of the act, amended November 3,
14 2011 (P.L.381, No.92), is amended to read:

15 Section 1405. Separate Bids for Plumbing, Heating,
16 Ventilating and Electrical Work.--In the preparation for the
17 erection, construction and alteration of any public building,
18 when the entire cost of [such] the work shall exceed the amount
19 specified or adjusted under section 1402(a), the architect,
20 engineer, or other person preparing [such] the specifications
21 may, if so requested by the borough council, prepare separate
22 specifications for the plumbing, heating, ventilating and
23 electrical work. The person or persons authorized to enter into
24 contracts for the erection, construction or alteration of [such]
25 the public buildings may, if [such] the separate specifications
26 shall have been proposed, receive separate bids upon each of the
27 [said] branches of work and shall [thereupon] award the contract
28 [for the same] to the lowest responsible bidder for each of
29 [said] the branches.

30 Section 181. Section 1406 of the act, amended October 9,

1 1967 (P.L.380, No.171), is amended to read:

2 Section 1406. Bonds for the Protection of Labor and
3 [Materialmen] Materials.--[It shall be the duty of every borough
4 to require any person, copartnership, association, or
5 corporation, entering into a contract with such borough for the
6 construction, erection, installation, completion, alteration,
7 repair of, or addition to, any public work or improvement of any
8 kind whatsoever, where the amount of such contract is in excess
9 of one thousand five hundred dollars (\$1,500), before commencing
10 work under such contract, to execute and deliver to such
11 borough, in addition to any other bond which may now or
12 hereafter be required by law to be given in connection with such
13 contract, an additional bond for the use of any and every
14 person, copartnership, association, or corporation interested,
15 in a sum not less than fifty percent and not more than one
16 hundred percent of the contract price, as such borough may
17 prescribe, having as surety thereon one or more surety companies
18 legally authorized to do business in this Commonwealth,
19 conditioned for the prompt payment of all material furnished and
20 labor supplied or performed in the prosecution of the work,
21 whether or not the said material or labor enter into and become
22 component parts of the work or improvement contemplated. Such
23 additional bond shall be deposited with and held by the borough
24 for the use of any party interested therein. Every such
25 additional bond shall provide that every person, copartnership,
26 association, or corporation, who, whether as subcontractor or
27 otherwise, has furnished material or supplied or performed labor
28 in the prosecution of the work as above provided, and who has
29 not been paid therefor, may sue in assumpsit on said additional
30 bond, in the name of the borough, for his, their or its use and

1 prosecute the same to final judgment for such sum or sums as may
2 be justly due him, them, or it and have execution thereof;
3 provided, the borough shall not be liable for the payment of any
4 costs or expense of any suit.] Before any contract exceeding ten
5 thousand dollars (\$10,000) is awarded to any prime contractor or
6 construction manager for the construction, erection,
7 installation, completion, alteration, repair of or addition to
8 any public work or improvement of any kind, the contractor shall
9 furnish to the borough a payment bond for the protection of
10 claimants supplying labor or materials to the prime contractor
11 to whom the contract is awarded, at one hundred percent of the
12 contract amount, conditioned for the prompt payment of all
13 materials furnished or labor supplied or performed in the
14 prosecution of the contract under the act of December 20, 1967
15 (P.L.869, No.385), known as the "Public Works Contractors' Bond
16 Law of 1967." This bond requirement shall be in addition to any
17 other bond requirement that may now or hereafter be required by
18 law to be given in connection with the contract.

19 Section 182. Section 1407 of the act is repealed:

20 [Section 1407. Minimum Wage Specifications in Contracts.--
21 The specifications upon which contracts are entered into by any
22 borough for the construction, alteration or repair of any public
23 work or improvement may, at the option of the borough council,
24 contain the minimum wage or wages which may be paid by the
25 contractor or his subcontractors for the work performed by
26 laborers and mechanics employed on such public work or
27 improvement, and such laborers and mechanics shall in such cases
28 be paid not less than such minimum wage or wages.

29 Every contract for the construction, alteration or repair of
30 any public work or improvement, founded on specifications

1 containing any such stipulation for minimum wage or wages, shall
2 stipulate a penalty of an amount equal to twice the difference
3 between the minimum wage contained in said specifications and
4 the wage actually paid to each laborer or mechanic for each day
5 during which he shall have been employed at a wage less than
6 that prescribed in said specifications.

7 Every officer or person designated as an inspector of or
8 having supervision over the work to be performed under any such
9 contract, in order to aid in enforcing the fulfillment thereof,
10 shall, upon observation or investigation, report to the borough
11 council or agency which let the contract, all violations of
12 minimum wage stipulations, together with the name of each
13 laborer or mechanic who has been paid a wage less than
14 prescribed by the specifications, and the day or days of such
15 violation.

16 All such penalties shall be withheld and deducted for the use
17 of the borough from any moneys due the contractor by the officer
18 or person whose duty it shall be to authorize the payment of
19 moneys due such contractor, whether the violation of the minimum
20 stipulation of the specifications was by the contractor or by
21 any of his subcontractors. If any such contractor or
22 subcontractor subsequently pays to all laborers and mechanics
23 the balance of the amounts stipulated in such contract, the
24 borough shall pay to the contractor the amounts so withheld as
25 penalties.]

26 Section 183. Section 1410 of the act is amended to read:

27 Section 1410. Acceptance by Contractor of [Workmen's]
28 Workers' Compensation Act.--All contracts executed by any
29 borough, or any officer [thereof] of a borough, which involves
30 the construction or doing of any work involving the employment

1 of labor, shall contain a provision that the contractor shall
2 accept, insofar as the work covered by [any such] the contract
3 is concerned, the provisions of the [Workmen's Compensation Act
4 of 1915,] act of June 2, 1915 (P.L.736, No.338), known as the
5 "Workers' Compensation Act," and the supplements and amendments
6 [thereto] to the act, and that the [said] contractor will insure
7 his or her liability [thereunder] under the act and will file
8 with the borough with which the contract is made a certificate
9 of insurance providing evidence of such coverage, or file with
10 the borough with which the contract is made a certificate of
11 exemption from insurance from the Bureau of [Workmen's] Workers'
12 Compensation of the Department of Labor and Industry. The
13 certificate of exemption from insurance may be issued on the
14 basis of either individual self-insurance or group self-
15 insurance. Additionally, a contractor shall file with the
16 borough with which the contract is made any applications to be
17 excepted by the provisions of the "Workers' Compensation Act" in
18 respect to certain employes on religious grounds if the
19 applications have been accepted by the Department of Labor and
20 Industry.

21 Any contract executed in violation of this section shall be
22 null and void.

23 Section 184. Section 1411 of the act, amended July 10, 1981
24 (P.L.247, No.80), is repealed:

25 [Section 1411. Architects and Engineers Employed Prohibited
26 From Bidding on Public Works; Penalty.--It shall be unlawful for
27 any architect or engineer, in the employ of any borough, and
28 engaged in the preparation of plans, specifications or
29 estimates, to bid or negotiate on any public work at any letting
30 of such work by the borough, except that any such architect or

1 engineer who shall have prepared preliminary plans only shall
2 not be prohibited from bidding or negotiating on the final
3 contract for such work.

4 It shall be unlawful for the officers of any borough charged
5 with the duty of letting any public work, to award a contract to
6 any such architect or engineer, in the employ of the borough to
7 be in any way interested in any contract for public work for the
8 borough or to receive any remuneration or gratuity from any
9 person interested in such contract except under the terms and
10 conditions as provided in section 1402(f).

11 Any person violating any of the provisions of this section
12 shall forfeit his office, and shall be guilty of a misdemeanor,
13 and on conviction thereof, shall be sentenced to pay a fine not
14 exceeding five hundred dollars (\$500), or to undergo
15 imprisonment for not more than six months, or both.]

16 Section 185. Article XV heading of the act is amended to
17 read:

18 ARTICLE XV

19 EMINENT DOMAIN; ASSESSMENT OF DAMAGES [AND
20 BENEFITS]; DAMAGES FOR INJURY TO PROPERTY

21 Section 186. Article XV subdivision (a) heading of the act
22 is reenacted to read:

23 (a) General Provisions Relating to Eminent Domain

24 Section 187. Sections 1501 and 1502 of the act are amended
25 to read:

26 Section 1501. Exercise of Eminent Domain.--In the laying
27 out, opening, widening, extending, vacating, grading, or
28 changing the grades or lines of streets; the construction of
29 bridges, and the piers and abutments therefor; the construction
30 of slopes, embankments, and sewers; the erection and extension

1 of [waterworks] water systems, wharves, and docks, public
2 buildings, public auditoriums, memorials, monuments, public
3 works, filtration plants, sewerage systems, sewage treatment
4 works, [garbage] refuse disposal or incineration plants,
5 sanitary landfills, gas plants, electric light plants and
6 libraries; the establishing of parks, playgrounds and recreation
7 places; the changing of watercourses; and for all other purposes
8 authorized by this act, a borough may enter upon, appropriate,
9 injure, or destroy, private lands, property or material, or
10 lands previously granted or dedicated to public use and which
11 are no longer used for the purpose for which the lands were
12 granted, according to the proceedings set forth in the law
13 governing eminent domain.

14 Section 1502. Restrictions as to Certain Property.--(a) In
15 addition to [the] any restrictions made by other provisions of
16 this act in particular cases, no borough shall exercise the
17 right of eminent domain as against land now occupied by any
18 building which was used during the Colonial or Revolutionary
19 period as a place of assembly by the Council of the Colony of
20 Pennsylvania, the Supreme Executive Council of the Commonwealth
21 of Pennsylvania, or the Congress of the United States; or as
22 against the land occupied by any fort, redoubt, or blockhouse
23 erected during the Colonial or Revolutionary period, or any
24 building used as headquarters by the Commander-in-Chief of the
25 Continental Army; or as against the site of any building, fort,
26 redoubt, blockhouse, or headquarters, which are preserved for
27 their historic associations and not for private profit. The
28 Colonial and Revolutionary period shall be taken as ended on
29 September 3, 1783.

30 (b) No land or property used for a cemetery, burying ground

or place of public worship may be taken or appropriated by
virtue of any power contained in this article.

Section 188. The act is amended by adding a section to read:

Section 1502.1. Declaration of Intention.--A borough shall
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

1 is reenacted to read:

2 (c) Damages for Injury to Property

3 Section 193. Section 1561 of the act is amended to read:

4 Section 1561. Right to Damage Given in Certain Cases.--The
5 right to damage against boroughs is given to all owners or
6 tenants of lands, property, or material, abutting on, or through
7 which pass, streets, injured by the vacating of [such] the
8 streets, or the vacation of bridges and piers, abutments and
9 approaches therefor.

10 Section 194. Sections 1562, 1563 and 1565 and Article XVI
11 heading of the act are repealed:

12 [Section 1562. Juries of View to Assess Damages and
13 Benefits.--All juries of view for assessing damages for taking,
14 using, occupying, or injuring land, property, or material, are
15 directed to assess the damages, provided for in the preceding
16 section, against boroughs, and the benefits in connection
17 therewith, and make a report thereof to the court.

18 Section 1563. Appeals from Viewers' Reports.--The right of
19 appeal to the court of common pleas, the right of trial by jury,
20 and the right to file exceptions are given to any party not
21 satisfied with such report.

22 Section 1565. Damages for Vacations.--Whenever viewers are
23 appointed to vacate any street, and the vacation of the same
24 takes no land from the owner abutting thereon, if, in the
25 opinion of the viewers, such vacation damages the property of
26 the abutting owner, they may award damages to such owner as
27 though land has been actually taken, and such damages shall be
28 ascertained as provided in the law governing eminent domain.

29 ARTICLE XVI

30 LAND SUBDIVISION]

1 Section 195. Article XVII heading and Article XVII
2 subdivision (a) heading of the act are reenacted to read:

3 ARTICLE XVII

4 STREETS

5 (a) General Provisions Relating to Streets

6 Section 196. Section 1701 of the act is amended to read:

7 Section 1701. Definitions.--The following words and terms,
8 as used in this article, shall be construed as follows:

9 (1) "Street" shall mean and include any street, [as defined
10 in section 111 of this act] road, lane, court, cul-de-sac,
11 alley, public way and public square, either for or intended for
12 public use, and shall include the cartway, sidewalk, gutter,
13 [and/or] and the right-of-way area, whether or not [such] the
14 street, or any part [thereof] of the street, is owned in fee by
15 others than the borough. Streets shall be of two classes, opened
16 and unopened.

17 (2) "Opened streets" shall mean and include all streets
18 within the borough used as public passageways.

19 (3) "Unopened streets" shall mean and include all streets
20 within the borough [not] neither used as a public passageway,
21 nor accepted or maintained, but [placed on the] plotted in one
22 of the following:

23 (i) a borough plan [for future or prospective use, or placed
24 on the plan of a real estate project, or referred to in
25 individual deeds.] or official map adopted in accordance with
26 the "Pennsylvania Municipalities Planning Code";

27 (ii) an ordinance laying out the street in accordance with
28 this article;

29 (iii) a subdivision or land development plan; or

30 (iv) an individual deed.

1 (4) "Laying out" shall mean and include the plotting of an
2 unopened street or portion [thereof] of the street on [the] a
3 borough plan [or on the plan of a real estate development] or
4 official map adopted in accordance with the "Pennsylvania
5 Municipalities Planning Code," on a subdivision or land
6 development plan or by the enactment of an ordinance adopted in
7 accordance with this article, and shall include the plotting of
8 an unopened street in any case where any of the lines of the
9 same are proposed to be revised, or in any case where the same
10 was never previously laid out, although [such] the street may
11 have been opened and used.

12 (5) "Opening a street" shall mean and include the
13 construction and grading of a street or portion thereof and the
14 act of physically taking possession of an area or laid-out
15 street for the purpose of making the same usable to the
16 traveling public.

17 (6) "Improving a street" shall mean and include any work
18 upon any street or portion thereof done or proposed to be done
19 in order to open the same, if [such] the street shall not
20 previously have been opened, or if previously opened, to make
21 the same more usable, or more suitable for use by the traveling
22 public or safer for such use, and shall include, but shall not
23 be limited to grading, paving, curbing and macadamizing.

24 (7) "Portion [thereof]" shall mean and include a portion
25 either of the width or of the length of a street and, therefore,
26 opening a portion of a street may mean extending or widening a
27 street, and vacating a portion of a street may mean closing or
28 narrowing a street.

29 (8) "Personal notice" shall mean and include notice upon the
30 owner of a premises either by personal service upon [such] the

1 owner or by certified mail to [such] the owner at [his] the
2 owner's last known address, or where service shall not have been
3 successfully made by either of the two methods first mentioned
4 herein, then by leaving such notice at or upon [such] the
5 premises.

6 (9) "Person" shall mean and include a natural person,
7 association, firm, corporation or political subdivision.

8 Section 197. Sections 1702 and 1703 of the act are repealed:

9 [Section 1702. Right of Borough to Take Over Streets.--Any
10 borough shall have the right at any time to take over, by laying
11 out and/or opening the same--

12 (1) Any street as it appears upon the borough plan;

13 (2) Any street, or portion thereof, which the borough shall
14 determine to acquire by the exercise of its rights under the
15 power of eminent domain, by following the procedure set forth in
16 the law governing eminent domain;

17 (3) Any street to which the public shall have acquired
18 rights by constant use over a period exceeding twenty-one years;

19 (4) Any street or portion thereof, laid out or constructed
20 by any person, which the borough shall see fit to take over or
21 accept as provided in this article.

22 Section 1703. Dedication of Streets Privately Constructed.--
23 No borough shall acquire any right in or responsibility for any
24 street privately constructed until dedication of such street
25 shall have been presented to and accepted by the borough and
26 until such dedication shall have been recorded in the county
27 office for the recording of deeds.]

28 Section 198. Section 1704 of the act is amended to read:

29 Section 1704. Streets Connecting With Street of Other
30 Municipality [or Township].--No action shall be taken under this

1 article that would result in the change of location or grade, or
2 the vacation of any street or portion thereof that connects with
3 a street of another municipality [or township], without approval
4 of the court of [quarter sessions] common pleas of the county in
5 which [such] the municipality [or township] is located, unless
6 [such] the municipality [or township] shall itself first file
7 with the borough secretary its approval of [such] the proposed
8 action.

9 Section 199. Sections 1705 and 1706 of the act are reenacted
10 to read:

11 Section 1705. Entry on Land to Maintain Marks and
12 Monuments.--The borough council, its agents and employes, may
13 enter upon any land or property, and maintain marks and
14 monuments, so far as the council may deem necessary, in carrying
15 out its powers and duties under this article.

16 Section 1706. Exclusive Nature of Provisions.--The
17 provisions in this article, as applicable to the dedication,
18 acceptance, laying out, opening and vacation of streets, shall
19 be exclusive, and no streets shall be acquired, laid out, opened
20 or vacated by any borough except under such provisions.

21 Section 200. The act is amended by adding sections to read:

22 Section 1707. Failure of Council to Hold Hearing.--If, after
23 the filing of a petition pursuant to this article, council fails
24 to hold a required hearing, any aggrieved party may file a
25 mandamus action in the court of common pleas requesting that a
26 hearing be held.

27 Section 1708. Street Lighting, Ornamental Lighting and
28 Traffic Control Signals and Devices.--Council may provide street
29 lights and ornamental lighting and make regulations for the
30 protection of lighting. Council may assess the costs for the

erection of lighting in accordance with Article XXI-A. Council
may provide for the erection, maintenance and operation of
traffic control signals and devices in accordance with 75
Pa.C.S. (relating to vehicles).

Section 201. Article XVII subdivision (b) heading of the act
is reenacted to read:

(b) Plan of Streets

Section 202. The act is amended by adding a section to read:

Section 1712. Borough Street Plan.--(a) A borough that has
not maintained an accurate plan of borough streets adopted in
accordance with this act prior to the effective date of this
section may only adopt a plan of streets pursuant to the
"Pennsylvania Municipalities Planning Code," governing the
adoption of an official map.

(b) If a borough maintains a plan of streets adopted prior
to the effective date of this section, or maintains an official
map containing opened and unopened streets, a street laid out in
accordance with this act by ordinance or by final approval of a
subdivision or land development plan shall be deemed an
amendment to the plan. Notwithstanding any other provision of
law, a deemed amendment as provided in this section and any
subsequent placement of the street on a plan shall not be
subject to public notice or public hearing, provided that the
street has been laid out in accordance with the requirements of
this article.

(c) The maintenance of a plan of streets or official map
shall not be required in order for a borough to lay out streets
in accordance with section 1721.2(b) or lay out and open a
street in accordance with section 1724.

Section 203. Article XVII subdivision (c) heading of the act

1 is reenacted to read:

2 (c) Laying Out Streets

3 Section 204. The act is amended by adding sections to read:

4 Section 1721.1. Power to Lay Out, Open, Etc.--(a) In
5 accordance with the provisions of this article, boroughs may,
6 with or without petition of abutting property owners, lay out,
7 open, widen, straighten, alter, extend and improve, and may
8 establish or reestablish the grades of, and keep in order and
9 repair and in safe passable condition, any street or portion of
10 a street within the borough limits, or may vacate the same
11 whenever deemed expedient for the public good and provide for
12 the costs of alteration.

13 (b) Boroughs may lay out or open:

14 (1) any street, or portion of a street, as it appears upon a
15 borough plan, or an official map adopted in accordance with the
16 "Pennsylvania Municipalities Planning Code," or is described in
17 an ordinance adopted in accordance with this article;

18 (2) any street, or portion of a street, which the borough
19 shall determine to acquire by eminent domain;

20 (3) any street to which the public shall have acquired
21 rights by constant use over a period exceeding twenty-one years;
22 or

23 (4) any street or portion of a street, laid out or
24 constructed by any person, which the borough shall see fit to
25 open or accept as provided in this article.

26 Section 1721.2. Laying Out Streets; Procedure.--(a) Any
27 street identified in a plan of streets, an official map adopted
28 in accordance with the "Pennsylvania Municipalities Planning
29 Code," or identified in a recorded subdivision or land
30 development plan shall be deemed to be laid out for purposes of

1 this act.

2 (b) Boroughs shall have the authority, by ordinance, to lay
3 out any area for future opening as a public street. The proposed
4 ordinance laying out such street shall be advertised in a
5 newspaper of general circulation once a week for two successive
6 weeks. On or before the publication of the first advertisement,
7 personal notice shall be provided to all owners of any property
8 abutting the proposed street or through which the proposed
9 street is to be laid out, and, if the proposed street will lead
10 into an adjacent municipality, a copy of the proposed ordinance
11 shall be sent to the adjacent municipality. The proposed
12 ordinance shall have appended to the ordinance or referenced a
13 map sufficient to apprise the public of the proposed location,
14 profile and dimensions of the street, and shall list the names
15 of the owners of any property through which the proposed street
16 has been laid out.

17 (c) Within ten days after the second publication of the
18 notice required in subsection (b), any interested party may
19 petition council for a hearing, which council shall hold within
20 sixty days after the date of the petition. Council shall give at
21 least fifteen days' notice of the hearing in a newspaper of
22 general circulation and by personal notice to persons entitled
23 to such notice under subsection (b). Council may enact the
24 ordinance no later than thirty days following the date of the
25 hearing, or, where no timely petition has been filed, within
26 thirty days of the second publication of the notice required by
27 subsection (b). The enactment of the ordinance shall constitute
28 public notice of the borough's intent to recognize the street
29 within the system of borough streets and the borough's rights in
30 the street. Within thirty days of the enactment of the

1 ordinance, any party aggrieved by council's action may appeal to
2 the court of common pleas.

3 (d) If, at the time of the enactment of an ordinance in
4 accordance with subsection (c), the lines of the laid out street
5 include property not subject to use as a public passageway, the
6 ordinance shall be filed with the recorder of deeds of the
7 county where the borough is located. The recorder of deeds shall
8 index the ordinance by name of borough, name of the property
9 owner, and, if applicable, parcel number, of the property
10 through which the proposed street is laid out.

11 (e) Whenever a street shall have been laid out by ordinance
12 as provided in this section, the owner or subsequent owner shall
13 have no right to damages for buildings or improvements placed on
14 streets after the date of enactment, and the buildings or
15 improvements shall be removed at the expense of the landowner
16 after the opening of the street in accordance with this act.

17 (f) The laying out of a street, without opening the street,
18 shall create no right to public use of the street and shall not
19 constitute the taking or acceptance of any property or obligate
20 the borough to improve or maintain the street or the property on
21 which the street has been laid out.

22 (g) Nothing in this section may affect the validity or legal
23 effect of a street laid out in accordance with law prior to the
24 effective date of this section.

25 Section 205. Section 1723 of the act is repealed:

26 [Section 1723. Effect of Laying Out Street Without Opening
27 Thereof.--The laying out of a street, without opening the same,
28 shall create no right to public use of such street.]

29 Section 206. Section 1724 of the act, amended April 28, 1978
30 (P.L.76, No.36) and repealed in part October 5, 1980 (P.L.693,

1 No.142), is amended to read:

2 Section 1724. Effect of [Failure to Open Street After its]
3 Laying Out Street.--(a) At any time after any street or portion
4 thereof shall have remained laid out but not opened for a period
5 of ten years or longer, any owner or owners of fifty percent of
6 the front feet of the land over which [such] the street or
7 portion thereof was laid out may petition the borough council to
8 [remove such street from the plan of streets and to] cancel the
9 laying out [thereof] of the street. Council shall thereupon,
10 following at least fifteen days' notice in a newspaper of
11 general circulation [in the borough], and at least fifteen days'
12 personal notice to the owners of all real estate abutting upon
13 the land over which [such] the street or portion [thereof] of
14 the street was laid out, hold a public hearing on the matter.
15 Council may, on motion, deny the petition, or, by ordinance,
16 grant [such] the petition and [remove such street or portion
17 thereof from the borough plan and] cancel the laying out
18 thereof. Any person aggrieved by the decision of the council,
19 either granting or denying [such] the petition, may appeal
20 therefrom. The ordinance providing for the cancellation of the
21 laying out of a street shall be filed with the recorder of deeds
22 in accordance with section 1721.2(d).

23 (b) Whenever any street shall have been laid out and shall
24 not have been opened to, or used by the public for a period of
25 twenty-one years, [such] the street shall not thereafter be
26 opened without the consent of at least fifty-one percent of the
27 number of owners of the abutting real estate and without the
28 consent of the owners of at least fifty-one percent of the
29 property abutting [such] the street, based on a front foot
30 basis.

1 Section 207. Article XVII subdivision (d) heading and
2 sections 1731, 1732, 1733, 1734 and 1735 of the act are amended
3 to read:

4 (d) Opening [and Acceptance of Streets]; Acceptance
5 and Vacation of Streets

6 Section 1731. Authority to Open and Vacate Streets;
7 Procedure.--[Any borough] (a) Council shall have authority, by
8 ordinance [(i)], to [open]:

9 (1) Open any street or portion thereof previously laid
10 out[;] or [(ii)] simultaneously to lay out and open any street
11 or portion thereof. Any street or portion [thereof] of a street
12 so opened shall be a public street of the borough. [No such
13 ordinance shall become effective until thirty days after the
14 enactment thereof. Within ten days after the enactment of any
15 such ordinance, the borough shall give personal notice to the
16 owners of all property abutting the street so proposed to be
17 opened. During such thirty-day period between the enactment and
18 taking effect of such ordinance, any interested party may
19 petition council for a hearing, which council shall hold within
20 thirty days after the date of such petition, and of which the
21 borough shall give at least fifteen days' notice in a newspaper
22 of general circulation in the borough. Any such petition shall
23 serve to stay the effective date of such ordinance, until
24 council shall have held such hearing and shall have acted upon
25 such petition by motion, or, in case of further appeal, until
26 the court shall have finally disposed of the matter. After such
27 hearing and within thirty days after action by council upon such
28 petition, any party aggrieved by council's action thereupon may
29 appeal to the court of quarter sessions.]

30 (2) Vacate or close any street or portion of a street

1 previously opened or laid out, provided that no street or
2 portion of a street providing the sole means of access to any
3 tract of land shall be vacated without the consent of those to
4 whom access would be denied. Vacation of a street shall
5 terminate all public right in or to the street but shall not
6 affect any private rights acquired by any of the owners of
7 abutting property.

8 (b) The proposed ordinance, opening or vacating any street
9 or portion of a street shall be advertised in a newspaper of
10 general circulation once a week for two successive weeks. On or
11 before the publication of the first advertisement, personal
12 notice shall be provided to all owners of any property abutting
13 the street proposed to be opened or vacated. The proposed
14 ordinance shall have appended to it or shall reference a map or
15 a survey sufficient to apprise the public of the proposed
16 location, profile and dimensions of the street, and shall list
17 the names of the owners of any property abutting the street.

18 (c) Within ten days after the second publication of the
19 notice required under subsection (b), any interested party may
20 petition council for a hearing, which council shall hold within
21 sixty days after the date of the petition. Council shall give at
22 least fifteen days' notice of the hearing in a newspaper of
23 general circulation and by personal notice to persons entitled
24 to notice under subsection (b). Council may enact the ordinance
25 no later than thirty days following the date of the hearing or,
26 where no timely petition has been filed, within thirty days of
27 the second publication of the notice required under subsection
28 (b). Within thirty days of the enactment of the ordinance, any
29 party aggrieved by council's action may appeal to the court of
30 common pleas.

Section 1732. Petition for Opening or Vacating Street;
Action Thereon.--(a) Any person or persons, constituting a
majority in number and interest of the owner of the real estate
abutting upon any area not opened as a street or abutting upon
an existing street or portion of a street, may petition the
council to [open];

(1) Open or lay out and open such area as a street or
portion thereof.

(2) Vacate a street or portion of a street.

(b) Council shall hold a hearing [upon such] after receiving
a petition filed with council in accordance with subsection (a),
following at least fifteen days' personal notice to all owners
of abutting real estate not joining in [such] the petition, and
following at least fifteen days' notice thereof in a newspaper
of general circulation [in the borough]. Following such hearing,
council shall either by motion deny [such] the petition or by
ordinance open, [or] lay out and open [such] or vacate the
street or portion [thereof] of the street. All provisions of
section 1731 [hereof] applicable to ordinances enacted by
authority of that section shall apply to ordinances enacted by
authority of this section.

(c) A petition for the vacation of any street or portion of
a street may release the borough from all damages sustained as a
result of the vacation if the petition is signed by the owners
of all the property abutting upon the street or portion of the
street and, where the release shall have been included in the
petition, no proceedings for award of damages may be had and no
damages as a result of the vacation shall under any conditions
be awarded to any abutting property owner.

Section 1733. [Procedure for Opening Street;] Action for

1 Damages and Benefits; Award [Thereof].--(a) Upon the effective
2 date of an ordinance enacted to open a street or portion of a
3 street by authority of section 1731 or 1732 [hereof], the
4 borough shall have authority to enter upon and take possession
5 of the street or portion thereof opened by [such] the ordinance,
6 if no structures are upon [such] the street. If any structure
7 shall have been located upon [such] the street or portion
8 [thereof] of the street so opened, prior to the laying out of
9 [such] the street or prior to the simultaneous laying out and
10 opening [thereof, such] of the street, the street shall not be
11 opened until the owner of [such] the structure shall have been
12 given sixty days' personal notice to vacate the same. [If any of
13 the parties cannot agree upon damages sustained by reason of the
14 opening of any street or portion thereof, such damages shall be
15 assessed by a jury of view under the provisions of the law
16 governing eminent domain.] Council shall not be required to file
17 any bond or security for the exercise of the right granted by
18 this section.

19 (b) All parties whose ground is taken in the opening of a
20 street or portion [thereof] of the street shall have three years
21 from and after the effective date of the ordinance opening
22 [such] the street or portion [thereof] of the street in which to
23 bring an action for damages resulting [therefrom] from the
24 opening of the street or portion of the street. In case of the
25 assessment of damages for the opening of any street or portion
26 [thereof] of the street, the award of damages, if any, shall
27 include all damages resulting from the grade at which [such] the
28 street or portion [thereof] of the street is to be opened; the
29 plan attached to the report of the viewers awarding the damages
30 shall [have therein] include a profile plan showing the existing

1 grade as well as the grade to which [such] the street or portion
2 [thereof] of the street is to be opened. Any costs and expenses
3 which cannot be assessed upon property benefited shall be paid
4 by the borough.

5 (c) If the parties cannot agree upon damages sustained by
6 reason of the opening or vacation of any street or portion of a
7 street, the damages shall be assessed by a jury of view under
8 the law governing eminent domain.

9 Section 1734. Acceptance and Dedication of Streets.--(a)
10 Any borough may, by ordinance, accept any opened street not
11 previously dedicated to or laid out by the borough, by following
12 the procedure set forth in section 1731 or 1732 [hereof], and
13 the effect of [such] the acceptance shall be the same as of
14 opening [such street: Provided, That no] the street. No street
15 may be accepted unless [such] the street connects with at least
16 one other previously opened street or State highway.

17 (b) No borough shall acquire any right in or responsibility
18 for any street privately constructed until dedication of the
19 street shall have been presented to and accepted by the borough
20 and until the dedication shall have been recorded in the county
21 office for the recording of deeds.

22 Section 1735. Streets Not to Be Constructed, or Dedicated or
23 Opened to Travel Without the Approval of Council.--(a) No
24 person shall construct, dedicate, or open to travel any street,
25 or any drainage facilities in connection [therewith] with the
26 street, for public use or travel or for the common use of
27 occupants of buildings abutting thereon in any borough, without
28 first submitting suitable plans [thereof] to the council [for
29 its approval. Such] and obtaining its approval. The plans shall
30 be prepared in accordance with [such] rules and regulations as

1 may be prescribed by the council, and shall show the profiles of
2 [such] the street, the course, structure and capacity of any
3 drainage facilities, and the method of drainage of the adjacent
4 or contiguous territory, and also any other or further details
5 that may be required under the rules or regulations adopted by
6 the council.

7 (b) The provisions of the "Pennsylvania Municipalities
8 Planning Code" shall govern the construction, security
9 requirements and dedication of streets and connected drainage
10 facilities when the streets proposed to be constructed are part
11 of a plan required by an ordinance adopted pursuant to the
12 "Pennsylvania Municipalities Planning Code."

13 (c) Before acting upon [any such] plans not subject to
14 review under subsection (b), [the] council may, at its
15 discretion, arrange for a public hearing after giving such
16 notice as it may deem desirable in each case. [The council is
17 authorized to] Council may alter [such] the plans, and [to]
18 specify [any] changes or modifications of any [kinds, which it
19 may deem necessary with respect thereto,] kind and may make its
20 approval of [such] the plans subject to [any such] alterations,
21 changes or modifications. Any plans, when so approved, shall be
22 signed on behalf of the borough by such officer as the council
23 may designate, and shall be filed where the same shall be
24 available to public inspection among the records of the borough
25 at all reasonable times. [No street, or any drainage facilities
26 in connection therewith, shall be constructed or dedicated for
27 public use or travel, except in strict accordance with plans so
28 approved by the council, or with further plans subsequently
29 approved by it in the same manner.

30 In any case where council has heretofore required or shall

1 hereafter require the construction or improvement of streets or
2 parts of streets, or of any drainage facilities in connection
3 therewith, or the posting of a bond or other security for so
4 doing, within any parts or subdivisions of a borough, as a
5 condition to approval of any plan thereof, and the materials or
6 other specifications for such construction or improvements are
7 required by the borough to be of better quality or type or
8 otherwise superior to and more costly than those of most of the
9 already existing streets and drainage facilities in connection
10 therewith of the borough, or of the particular zone of the
11 borough, in case it has a zoning ordinance, the cost of such
12 construction or improvement shall be allocated and paid in
13 accordance with the provisions of section 1761 of this act, and
14 the submission of a plan shall not be deemed a petition for the
15 construction or improvements so required, but if the borough
16 shall require substantially the same quality or type and
17 specifications of street and drainage facilities as generally
18 exists either in the borough, or, if the borough has a zoning
19 ordinance, in the particular zone involved, the submission of a
20 plan shall be deemed a petition therefor by a majority in the
21 number of feet assessable, properties abutting thereon, and the
22 cost of such constructions and improvements shall be paid in
23 accordance with the provisions of section 1761 of this act under
24 such circumstances: Provided, That council and the person or
25 persons submitting a plan may in all cases, by agreement,
26 provided otherwise as to such costs: And provided further, That
27 this section shall not authorize the recovery or avoidance of
28 any such costs heretofore agreed to or paid. Whenever council
29 requires the construction or improvement of streets or parts
30 thereof, it shall establish or cause to be established the

1 grades of such streets or parts, or shall approve the grades
2 indicated upon the plan submitted before such streets or parts
3 are improved or constructed. Council's approval of plans,
4 whether or not such plans are subject to any such conditions as
5 to streets, parts of streets, or drainage facilities in
6 connection therewith, shall constitute the streets as shown upon
7 the plans so approved as streets of the borough, any plan so
8 approved as filed and as recorded, indicate clearly all such
9 constructions and improvements required to be made, the grades
10 thereof, the materials and other specifications required, and
11 the allocation of cost thereof, as provided by law or as agreed
12 upon.] No approval of plans by council may obligate or require
13 the borough to construct, reconstruct, maintain, repair or grade
14 any street or drainage facilities associated therewith.

15 (d) In any case where the borough council shall refuse to
16 approve any plans submitted to it, any person aggrieved by the
17 action of council may, within thirty days after the action,
18 appeal from the action, by petition to the court of common pleas
19 of the county which court shall hear the matter de novo, and,
20 after hearing, may enter decree affirming, reversing or
21 modifying the action of the council as may appear just. The
22 court shall designate the manner in which notice of the hearing
23 of an appeal shall be given to all parties interested. The
24 decision of the court shall be final.

25 Any plan approved by the action of borough council or by the
26 court on appeal shall be recorded by the person applying for
27 approval in the office of the recorder of deeds in the county.

28 (e) If any street, or any drainage facilities in connection
29 with the street, shall be opened, constructed or dedicated for
30 public use or travel, except in strict accordance with plans

1 approved by the council, or the court on appeal, as provided in
2 this article, neither the borough council nor any other public
3 authority shall place, construct or operate any sewer, drain,
4 water pipe or other facilities, or do any work of any kind in or
5 upon the street; and neither borough council nor any other
6 public authorities shall have any responsibility of any kind
7 with respect to any such street, or drainage facilities,
8 notwithstanding any use of the same by the public, provided that
9 nothing in this article shall prevent the laying of trunk
10 sewers, drains, water or gas mains, if required by engineering
11 necessity for the accommodation of other territory.

12 (f) Any person who constructs, opens or dedicates any street
13 or any drainage facilities in connection with a street, for
14 public use or travel in any borough, without having first
15 complied with the provisions of this article shall be guilty of
16 a misdemeanor of the third degree and shall be subject to a suit
17 for all costs and damages incurred by the borough or property
18 owners in the course of correcting all substantive violations of
19 State law or borough ordinance resulting from or arising out of
20 the unlawfully constructed street or facilities. Nothing in this
21 section shall be construed to apply to the Department of
22 Transportation.

23 Section 208. Sections 1736 and 1737 and Article XVII
24 subdivision (e) heading of the act are repealed:

25 [Section 1736. Appeal From Refusal of Council.--In any case
26 where the borough council shall refuse to approve any plans
27 submitted to it, any person aggrieved by the action of such
28 council may, within thirty days after such action, appeal from
29 such action, by petition to the court of quarter sessions of the
30 county which court shall hear the matter de novo, and, after

1 hearing, may enter decree affirming, reversing or modifying the
2 action of the council as may appear just in the premises. The
3 court shall designate the manner in which notice of the hearing
4 of any such appeal shall be given to all parties interested. The
5 decision of the court shall be final.

6 The action of the borough council, or the court on appeal, in
7 approving any such plan, and such approved plan, shall be
8 recorded by the person applying for such approval in the office
9 of the recorder of deeds in the county.

10 Section 1737. Streets Opened Without Approval; Penalty.--If
11 any street, or any drainage facilities in connection therewith,
12 shall be opened, constructed or dedicated for public use or
13 travel, except in strict accordance with plans approved by the
14 council, or the court on appeal, as provided in this
15 subdivision, neither the borough council nor any other public
16 authority shall place, construct or operate any sewer, drain,
17 water pipe or other facilities, or do any work of any kind in or
18 upon such street; and neither borough council nor any other
19 public authorities shall have any responsibility of any kind
20 with respect to any such street, or drainage facilities,
21 notwithstanding any use of the same by the public: Provided,
22 however, That nothing herein contained shall prevent the laying
23 of trunk sewers, drains, water or gas mains, if required by
24 engineering necessity for the accommodation of other territory.

25 Any person who shall construct, open or dedicate any street
26 or any drainage facilities in connection therewith, for public
27 use or travel in any borough, without having first complied with
28 the provisions of sections 1735 and 1736 of this act, or of any
29 borough ordinance adopted pursuant thereto, shall be guilty of a
30 misdemeanor, and, upon conviction thereof, shall be sentenced to

1 pay a fine not exceeding one thousand dollars (\$1000), or suffer
2 imprisonment not exceeding two years, or both, in the discretion
3 of the court. Nothing herein contained shall be construed to
4 apply to the Department of Highways of the Commonwealth.

5 (e) Vacating Streets]

6 Section 209. Section 1741 of the act, amended June 28, 1979
7 (P.L.55, No.23), is repealed:

8 [Section 1741. Authority to Vacate Streets; Procedure.--Any
9 borough shall have authority, by ordinance, to vacate or close
10 any street or portion thereof previously opened or laid out, but
11 no street or portion thereof providing the sole means of access
12 to any lot or tract of land shall be vacated unless those to
13 whom access would be denied shall consent. No such ordinance
14 shall become effective until forty days after the enactment
15 thereof. Within ten days after the enactment of any such
16 ordinance, the borough shall give written notice by United
17 States certified mail return receipt requested to the personal
18 address to the owners of all property abutting on the street or
19 portion thereof so proposed to be vacated. If any street or
20 portion thereof proposed to be vacated shall be on a recorded
21 plan, the borough shall also give thirty days notice in a
22 newspaper of general circulation in the borough of the proposed
23 vacation directed to all the owners of property abutting on the
24 street or portion thereof proposed to be vacated by name and
25 directed generally to all other owners of property appearing on
26 such plan. In the event any owners of property abutting on the
27 street or portion thereof so proposed to be vacated cannot be
28 found a copy of the ordinance shall be posted on the premises of
29 such property owner within ten days after the enactment of any
30 such ordinance. During such forty-day period between the

1 enactment and taking effect of such ordinance, any interested
2 party may petition council for a hearing, which council shall
3 hold within thirty days after the date of such petition, and of
4 which the borough shall give at least fifteen days' notice in a
5 newspaper of general circulation in the borough. Any such
6 petition shall serve to stay the effective date of such
7 ordinance, until council shall have held such hearing and shall
8 have acted upon such petition by motion, or, in case of further
9 appeal, until the court shall have finally disposed of the
10 matter. After such hearing and within thirty days after action
11 by council upon such petition, any party aggrieved by council's
12 action thereupon may appeal to the court of common pleas.]

13 Section 210. Sections 1742, 1743 and 1744 of the act are
14 repealed:

15 [Section 1742. Petition for Vacating Street; Action
16 Thereon.--Any person or persons constituting a majority in
17 number and interest of the owners of the real estate abutting
18 upon any street or portion thereof may petition the council to
19 vacate such street or portion thereof. Council shall hold a
20 hearing upon such petition, following at least fifteen days'
21 personal notice to all owners of abutting real estate not
22 joining in such petition, and following at least fifteen days'
23 notice thereof in a newspaper of general circulation in the
24 borough. Following such hearing the council shall either by
25 motion deny such petition or by ordinance vacate such street or
26 portion thereof. All provisions of section 1741 hereof
27 applicable to ordinances enacted by authority of that section
28 shall apply to ordinances enacted by authority of this section:
29 Provided, That any petition for the vacation of any street or
30 portion thereof may release the borough from all damages

1 sustained as a result of such vacation, if such petition is
2 signed by the owners of all the property abutting upon such
3 street or portion thereof, and, where any such release shall
4 have been included in such petition, no proceedings for award of
5 damages shall be had and no damages as a result of such vacation
6 shall under any conditions be awarded to any abutting property
7 owner.

8 Section 1743. Action for Damages.--If the parties cannot
9 agree upon the damages sustained by reason of the vacation of
10 any street or portion thereof, such damages shall be assessed by
11 a jury of view under the law governing eminent domain.

12 Section 1744. Effect of Vacation.--When a street or portion
13 thereof shall have been vacated, all public right in or to such
14 street or portion thereof shall cease, but such vacation shall
15 not affect any private rights acquired by any of the owners of
16 abutting property.]

17 Section 211. Article XVII subdivision (f) heading of the act
18 is reenacted to read:

19 (f) Straightening and Relocating Streets

20 Section 212. Section 1751 of the act is amended to read:

21 Section 1751. Authority to Straighten and Relocate Streets;
22 Procedure.--[Any borough] Council may, by ordinance, provide for
23 straightening [and/or] or relocating any street previously
24 opened, involving the opening of a portion of [such] the
25 straightened [and/or relocate] or relocated street over land not
26 previously a portion of [such] the street [and/or] or the
27 vacation of a portion of such previously opened street no longer
28 to be used for street purposes. [In such cases, such] The
29 straightening [and/or] or relocation shall be considered as an
30 opening [and/or] or vacation and shall be effected in the same

manner and by the same procedure as provided in [prior sections of this article for opening or vacation of streets, as the case may be, but such opening and/or vacation] section 1731 but may be considered as a single proceeding, to be effected by enactment of a single ordinance[, and it shall not be necessary to enact one ordinance for vacation and another for opening].

Section 213. Article XVII subdivision (g) heading of the act is reenacted to read:

(g) Improvement of Borough Streets

Section 214. Section 1761 of the act is amended to read:

Section 1761. Proceedings With or Without Petition.--

Boroughs with petition or without petition may improve streets, or parts [thereof] of streets, or a particular width, or additional widths [thereof] of streets, with or without the assistance or contribution of the United States of America, the [State] Commonwealth, the county, or a corporation occupying the thoroughfare and may assess and collect the whole cost [thereof] of improvement, or the whole cost not thus aided or contributed, or any part [thereof] of the cost, from the owners of real estate abutting on the improvement [by an equal assessment on the foot-front basis or according to benefits as provided in article XV of this act including the expenses of the necessary drainage. The council may make equitable adjustments for corner lots or lots of irregular shape where an assessment for full frontage might be unjust. Property not otherwise assessable shall become assessable by the petition of the owner or the owners' representative. In all cases where the whole width of the highway is being paved without State or County aid and more than two-thirds of the total cost is proposed to be assessed on abutters the borough shall for this purpose be considered as

1 owner of non-assessable property, of street intersections and of
2 the deducted frontage on equitable adjustment. At the discretion
3 of the borough council, the total cost of the improvement or a
4 lesser amount, if the borough desires, may be assessed on the
5 assessable properties abutting without any deduction for non-
6 assessable property or street intersections, or for the
7 equitable adjustments aforesaid, if the petition states that the
8 total cost may be assessed on the abutters: Provided, if in
9 connection with such proceedings any street or sidewalk is so
10 graded or changed in grade that private property is damaged
11 thereby and the damages have not been released or agreed upon,
12 then the damages shall be awarded as provided in the law
13 governing eminent domain, and benefits, costs, and expenses in
14 connection with the improvement shall be assessed as provided in
15 article XV: Provided further, That owners of all real estate
16 abutting upon any such improvement shall be assessable for the
17 cost thereof, whether such property owner be a natural person,
18 partnership, association, firm or corporation, including but not
19 limited to any nonprofit corporation or association, and any
20 public utility corporation, or political subdivision, but not
21 including the Commonwealth of Pennsylvania or the United States
22 of America] in accordance with Article XXI-A.

23 Section 215. Sections 1762 and 1763 of the act are repealed:

24 [Section 1762. Notice of Assessments.--The borough secretary
25 of the borough shall cause thirty days' personal notice of the
26 assessment to be given to each party assessed.

27 Section 1763. Collection of Assessments.--If any assessment
28 shall remain unpaid at the expiration of the notice, it shall be
29 the duty of the borough solicitor to collect the same, with
30 interest from the time of completion of the improvement, by

1 action of assumpsit, or by a lien to be filed and collected in
2 the same manner as municipal claims. When an owner has two or
3 more lots, against which there is an assessment for the same
4 improvement, all of such lots may be embraced in one claim.]

5 Section 216. Article XVII subdivision (h) heading of the act
6 is reenacted to read:

7 (h) Improvement of Streets Outside or Partly
8 Outside Borough Limits

9 Section 217. Section 1771 of the act is amended to read:

10 Section 1771. [Agreements to Improve Boundary Streets.--]

11 Improvement of Streets Outside or Partly Outside Borough
12 Limits.--(a) Any borough may enter into a written agreement,
13 with any adjoining municipality [and/or township] for improving
14 streets which may be boundaries between [such] the borough and
15 municipality [or township], and may provide in [such] the
16 contract [that] for the division of the damages, costs, and
17 expenses of [such] the improvement [shall be divided between
18 such borough, municipality, and/or township in the proportion
19 agreed upon]. The borough may assess its share of [such] the
20 costs against the owner of property abutting upon the borough's
21 side of [such] the improvement, in the manner provided in
22 [sections 1761, 1762 and 1763 of this act] Article XXI-A or may
23 agree to pay any part of the costs, damages and expenses of the
24 improvements out of the general funds.

25 The portion of the damages, costs, and expenses agreed to be
26 paid by the borough, shall be ascertained as provided in the law
27 governing eminent domain[, and the benefits incident thereto
28 shall be assessed and collected in the manner provided in
29 article XV of this act; but the borough may agree to pay any
30 part of the costs, damages, and expenses of such improvements

1 out of the general funds].

2 (b) Whenever the center line of any street constitutes the
3 dividing line between any borough and a township located in the
4 same county, any agreement to improve and maintain the street
5 shall be made with the governing bodies of the township and, if
6 necessary, the county. The improvement shall be constructed and
7 subsequent repairs shall be made under the supervision of the
8 borough, and in compliance with plans to be agreed upon, in
9 writing, by the parties. One-half of the cost of the repairs
10 shall be borne by the borough. The borough may assess its share
11 of costs against the owners of property abutting on the
12 borough's side of the improvement, in the manner provided in
13 Article XXI-A.

14 (c) Whenever any street, more than one-half the width or the
15 entire width of which is within the limits of any borough, shall
16 divide the borough from any other municipality, the street may
17 be improved by the borough. The property abutting on the side of
18 the street, which is located outside the limits of the borough
19 making the improvements, may, for a depth of one hundred and
20 fifty feet, plus one-half the width of the street, from its
21 center line, be assessed for any and all municipal improvements
22 to or on the street in accordance with Article XXI-A.

23 (d) A borough may appropriate and expend moneys for the
24 improvement of a street, not to exceed one mile in length,
25 outside the limits of the borough for the purpose of connecting
26 improved streets in the borough with State highways, interstate
27 highways and county roads.

28 Section 218. Sections 1772, 1773, 1774 and 1775 of the act
29 are repealed:

30 [Section 1772. Proceedings to Improve Boundary Streets by

1 Agreement with Counties and Townships.--Whenever the center line
2 of any street constitutes the dividing line between any borough
3 and a township located in the same county, the borough may enter
4 into a contract with the commissioners of the county and the
5 commissioners or supervisors of the township, as the case may
6 be, to improve such street. Such improvement shall be
7 constructed and subsequent repairs shall be made under the
8 supervision of the borough, and in compliance with the plans to
9 be agreed upon, in writing, between such borough and the
10 commissioners of the county and the commissioners or supervisors
11 of the township. One-half of the cost of such repairs shall be
12 borne by the borough. The borough may assess its share of such
13 costs against the owners of property abutting on the borough's
14 side of such improvement, in the manner provided in section
15 1761, 1762 and 1763 of this act.

16 Section 1773. Streets More Than One-Half the Width of Which
17 Are Within the Borough.--Whenever any street, more than one-half
18 the width of which is within the limits of any borough, shall
19 divide such borough from any other municipality or township,
20 such street may be improved by the borough within which the
21 greater width is located, in the same manner as if such street
22 were entirely located within the limits of said borough. The
23 property abutting on the side of such street, which is located
24 outside the limits of the borough making such improvements,
25 shall, for a depth of one hundred and fifty feet, plus one-half
26 the width of such street, from its center line, be assessed for
27 any and all municipal improvements to or on the said street in
28 the same manner as such property would be assessed under the
29 laws of the Commonwealth if it were entirely located within the
30 limits of such borough.

1 Section 1774. Assessment on Property Outside Limits Where
2 Boundary Line Street Entirely Within Borough.--Wherever any
3 street, entirely within the limits of any borough, shall divide
4 such borough from any other municipality or township, located in
5 the same county, the property on the side of the street opposite
6 the line of the borough shall, for the depth of one hundred and
7 fifty feet, be assessed for municipal improvements on such
8 streets on which such property shall abut, in the manner
9 provided by this article for assessments by the foot-front rule;
10 and such improvements may be made, assessed, and collected in
11 accordance with the provisions of this article for assessments
12 by the foot-front rule.

13 Section 1775. Streets Outside Limits; Appropriations to
14 Improve Connecting Links.--Any borough may, singly, or jointly
15 with any other borough, city, township and/or county,
16 appropriate and expend moneys for the improvement of streets
17 outside the limits of such borough, for the purpose of
18 connecting improved streets in such borough with State highways.
19 No such street shall be improved which shall be more than one
20 mile in length.]

21 Section 219. Article XVII subdivision (i) heading of the act
22 is amended to read:

23 (i) Acquisition [and/or] or Use of Abutting
24 Lands [for Embankments, Slopes, Fills and
25 Culverts, or for Unobstructed View]

26 Section 220. Section 1781 of the act is repealed:

27 [Section 1781. Use of Abutting Lands for Embankments,
28 Slopes, Fills, and Culverts.--In the improvement of any street
29 or portion thereof, any borough may use as much of the land
30 abutting on the same for the construction of embankments,

1 slopes, fills and culverts, as may be necessary and proper for
2 the completion of the improvement; and the assessment of
3 damages, costs, and expenses, resulting thereby, shall be
4 regarded as other assessments of damages, costs, and expenses,
5 caused by the improvement of streets, in said borough, and shall
6 be assessed and paid, as is provided by the law governing
7 eminent domain.]

8 Section 221. Section 1782 of the act is amended to read:

9 Section 1782. Acquisition of Property for Unobstructed
10 View.--(a) Any borough may, singly or jointly with another
11 [borough, city, county or township] municipality, acquire, by
12 purchase or by the right of eminent domain, a free and
13 unobstructed view down and across [such] lands located at or
14 near the intersection of any two streets or highways or a street
15 or highway and a railroad or railway or at a curve in any street
16 or highway as may be necessary to assure a free and unobstructed
17 view in all directions at such crossings, and to so prevent the
18 use of [such] the lands for any purpose or in any manner which
19 may interfere with or obstruct the view of persons traveling
20 upon any such street or highway.

21 [Upon any such] (b) After condemnation, the borough [having
22 had such view condemned] may, from time to time, abate or remove
23 or cause to be abated or removed any obstruction to the view
24 over and across [such] the lands except poles used in furnishing
25 [telephone, telegraph or electric] service to the public.

26 (c) The proceedings for the condemnation of [such] the view
27 over and across [such] lands and for the assessment of damages
28 for property taken, injured or destroyed, or the portion thereof
29 agreed to be paid by the borough if the taking is jointly with
30 another [borough, city, county or township] municipality, shall

1 be taken in the manner provided in the law governing eminent
2 domain.

3 (d) Upon the purchase or condemnation of a view, the owner
4 of [such] the lands may make every [such use thereof] use of the
5 lands as will not interfere with a free and unobstructed view at
6 the dangerous crossing or curve [and, unless specially provided
7 for in such purchase or condemnation proceedings, such purchase
8 or condemnation shall be constructed to prevent the owner
9 thereof from using the land for pasture or the growing of grass,
10 oats, wheat or other crops which will not obstruct the vision
11 more than wheat].

12 Section 222. Article XVIII heading of the act is reenacted
13 to read:

14 ARTICLE XVIII

15 SIDEWALKS

16 Section 223. Sections 1801 and 1802 of the act are amended
17 to read:

18 Section 1801. Power to Lay Out[, Ordain] and Establish
19 Sidewalks and to Compel the Construction Thereof.--Any borough
20 may, by ordinance, lay out[, ordain] and establish sidewalks,
21 curbs, gutters and surface water drains along any street, and,
22 with the consent of the Secretary of [Highways] Transportation
23 of the Commonwealth, along any State highway, and may, with or
24 without petition, require owners of property abutting on any
25 street or State highway to grade, construct, drain, pave and
26 repave the sidewalk, curb or gutter and keep [the same] them in
27 repair, and in safe and usable condition along [such] the
28 property, at such grades and under such regulations and
29 specifications as council may prescribe[: Provided, That the].
30 The word "sidewalk" as used in this article, shall mean and

1 include the portion of a street located outside the cartway, and
2 may include paved footway, unpaved grassplot, curb and gutter.

3 Section 1802. Sidewalks on Land Abutting State Highways and
4 Along Roads Outside Borough.--Any borough may [ordain and], by
5 ordinance, lay out sidewalks, gutters, [and/or] and surface
6 water drains upon land abutting the sides of State highways, and
7 upon land abutting the sides of public roads, where such roads
8 are outside the borough limits, but the land upon which [such]
9 the sidewalks, gutters [and/or] and surface water drains are to
10 be laid out is within the borough limits.

11 Section 224. Sections 1803 and 1804 of the act are reenacted
12 to read:

13 Section 1803. Establishment of Grades.--Any borough may
14 establish a grade or grades for sidewalks, which grade or grades
15 may be separate and apart from the grade or grades established
16 for the cartway or roadway.

17 Section 1804. Boroughs May Pay All or Part of Cost of
18 Grading and Curbing.--The borough may pay all or any part of the
19 cost and expenses of grading and curbing any sidewalk.

20 Section 225. Section 1805 of the act is amended to read:

21 Section 1805. Borough May Do Work; Collection of Cost.--Upon
22 the [neglect] failure of any property owner to comply with any
23 of the requirements provided in the preceding sections of this
24 article, the borough may, after notice, cause the grading,
25 paving, repairing, curbing, [and/or] and guttering to be done at
26 the cost of [such] the owner, and may collect the cost [thereof]
27 of the work and ten percent additional, together with all
28 charges and expenses, from [such] the owner, and may file a
29 municipal claim [therefor] for the amounts or collect the [same]
30 amounts by action in assumpsit.

1 All [such] notices shall be served upon the owner of the
2 premises to which the notice refers, if [such] the owner is a
3 resident of the borough. If the owner is not a resident, then
4 the notice may be served upon the agent or tenant of the owner,
5 or upon the occupant of [such] the premises[, after such
6 premises, if]. If the owner has no agent or tenant or there is
7 no occupier of [such] the premises, then service shall be by
8 notice posted upon the premises. The notice required by this
9 section shall specify a period of time of not less than thirty
10 days for the owner to complete the specified work. If the work
11 has not been completed after the specified time has elapsed, the
12 owner shall be deemed to have failed to comply.

13 Section 226. Section 1806 of the act, amended December 21,
14 1988 (P.L.1413, No.171), is amended to read:

15 Section 1806. Emergency Repairs to Sidewalks.--In addition
16 to the remedies now vested in boroughs to make repairs to
17 sidewalks, any borough shall have power to make emergency
18 repairs to any sidewalks [thereon, where, in the opinion of the
19 officer or head of the department or committee lawfully having
20 charge of sidewalk repairs, a dangerous condition exists that
21 can be repaired by an expenditure of not more than five hundred
22 dollars (\$500)] within the borough if an inspection of the
23 sidewalk discloses that, and a certificate made by the officer
24 or head of the department or committee lawfully having charge of
25 sidewalk repairs specifies that, a dangerous condition exists
26 that can be repaired by an expenditure of not more than one
27 thousand dollars (\$1,000). Before [any such] repairs are made, a
28 notice to make the repairs within forty-eight hours shall be
29 served upon the owner of the [said] property. If the owner
30 cannot be served within the county, notice may be served upon

1 the agent of the owner or the party in possession, or if there
2 is no agent or party in possession, the notice may be served by
3 posting the same upon [such] the premises.

4 Upon the completion of the work, the cost [thereof] shall be
5 a charge against the owner of the property, and shall be a lien,
6 until paid, upon the abutting property, provided a claim is
7 filed [therefor] in accordance with the law providing for the
8 filing and collection of municipal claims. [Any such] The charge
9 may also be collected by action of assumpsit. This section is
10 intended to provide an additional remedy for boroughs in
11 connection with emergency repairs, where the actual cost of
12 doing the work does not exceed [five hundred dollars (\$500)] one
13 thousand dollars (\$1,000), and the certificate of the officer or
14 head of the department or committee in charge of repairs to
15 sidewalks shall be conclusive evidence of the existence of the
16 emergency justifying the repair under the terms of this section.

17 Section 227. Article XIX heading of the act is reenacted to
18 read:

19 ARTICLE XIX

20 BRIDGES, VIADUCTS AND UNDERGROUND

21 PASSAGEWAYS

22 Section 228. Sections 1901, 1902, 1903, 1904 and 1905 of the
23 act are amended to read:

24 Section 1901. Construction or Acquisition and Maintenance of
25 Bridges and Viaducts.--Any borough may locate and build, or
26 acquire by purchase, condemnation or otherwise, any bridge or
27 viaduct and the piers, approaches and abutments therefor, to be
28 used and thereafter improved and maintained as a street, over
29 any river, creek, stream, railroad or public or private property
30 or over and across a combination of any of them, whether [such]

1 the bridge or viaduct shall be wholly or partly within[, or
2 partly within and partly without] the borough limits. The
3 proceedings for laying out and opening [any such] a bridge or
4 viaduct shall be the same as provided by this act for the laying
5 out and opening of streets, and [any such] the bridge or viaduct
6 or portion [thereof] of the bridge or viaduct may thereafter be
7 vacated under the same procedure as provided in this act for the
8 relocation or vacation of streets or portions thereof.

9 Section 1902. Right to Appropriate Property; Assessment of
10 Damages.--In any case where the borough shall not have agreed
11 with the owner or owners for damages done, or likely to be done,
12 by the erection of [any such] a bridge or viaduct, the borough
13 may take and appropriate the land and property necessary, over
14 and across which to erect [such] the bridge or viaduct and the
15 damages caused by [such] the taking and appropriation shall be
16 assessed according to the law governing eminent domain.

17 Section 1903. Boundary Bridges.--Whenever a bridge or
18 viaduct shall cross the boundary line of a borough and another
19 municipality [or township], the borough may [unite] enter into
20 an intergovernmental cooperation agreement in accordance with 53
21 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
22 cooperation) with [such] the municipality [or township] in the
23 construction and maintenance of [such] the bridge, and shall
24 [pay an equal share of the expenses incident thereto] apportion
25 the costs as per the intergovernmental agreement.

26 Section 1904. Contracts With Railroads and Other Companies
27 and With Counties.--The borough may also enter into a contract
28 with the county commissioners, and also with railroads, street
29 railways, and other companies, or parties interested, for the
30 building and maintenance of [such] bridges or viaducts, and for

1 the payment of any damages caused by the location or erection
2 thereof. [Such] The contracts may stipulate that the borough,
3 county, railroad company, street railway, or other company or
4 party interested, shall pay a certain part of the contract price
5 of the work, including damages; or may stipulate that each shall
6 construct a certain portion of the work, and may provide
7 otherwise for the payment of damages.

8 When any railroad company, street railway, or other company
9 or party interested, shall agree to pay a certain portion of the
10 cost of [such] the work, it shall pay the same into the borough
11 treasury; and the borough treasurer shall pay the same over to
12 the contractor, as may be provided in the contract; but the
13 amount to be paid by the county shall be paid directly to the
14 contractor. The agreement may provide for the maintenance of the
15 bridges and viaducts after their erection. Nothing [herein
16 contained] in this section shall authorize any borough to
17 contract with a county for the maintenance of any bridge or
18 viaduct which does not cross a place over which the county is
19 authorized to build bridges; but [such] the bridge or viaduct
20 shall be maintained as a borough structure, and the borough may
21 contract with any party interested, except the county, for the
22 maintenance of the [same.] bridge or viaduct. Nothing in this
23 section shall affect the powers or duties of the Public Utility
24 Commission to the extent otherwise provided by law.

25 Section 1905. Overhead and Underground Passageways.--
26 Whenever the comfort and safety of the residents of any borough
27 and any adjoining municipality [or township] be enhanced by any
28 overhead or underground passageway connecting with adjoining
29 streets in either borough or municipality [or township], and
30 extending to any plant or place of business where residents of

1 [such] the borough are employed, [such] the borough may jointly
2 with each adjoining municipality [or township], construct and
3 maintain any [such] passageway or they may join with other
4 interests in the construction and maintenance [thereof] of the
5 passageway.

6 Section 229. Article XX heading of the act is reenacted to
7 read:

8 ARTICLE XX

9 SANITARY SEWERS

10 Section 230. Article XX subdivision (a) heading and sections
11 2001 and 2002 of the act are amended to read:

12 (a) Laying Out, [Ordaining and] Construction
13 and Operation of Sanitary Sewers and Construction
14 of Sewage Treatment Works

15 Section 2001. Power to Lay Out[, Ordain] and Construct.--
16 [Boroughs, with the consent and permit of the Sanitary Water
17 Board, and of the Water and Power Resources Board, where
18 requested,] (a) (1) Upon enactment of an ordinance, boroughs
19 may lay out[, ordain] and construct sanitary sewers and branches
20 of sanitary sewers in streets and on public or private property,
21 and may construct sewage treatment works on land owned or
22 acquired for such purposes[, and]. Boroughs may pay the costs
23 and expenses [thereof] of sanitary sewer systems and treatment
24 works out of borough funds, or may assess the costs and expenses
25 [of sanitary sewers as herein provided] pursuant to Article XXI-
26 A.

27 (2) Boroughs may determine the location and the manner in
28 which sanitary sewer systems shall be constructed. Sanitary
29 sewers laid and constructed in streets may be located in the
30 center of the street or [on either side of the cartway] in the

1 right-of-way or [of] the curb lines [thereof] of the street in
2 any street and may be for the service and use of properties on
3 both sides of the street or on only one side of the street in
4 which they are laid, as directed by the borough council[, and
5 the costs and expenses of such sanitary sewers may be assessed
6 against properties benefited, accommodated or improved thereby
7 regardless of the property line location, and regardless of
8 whether any portion of a property so benefited, accommodated or
9 improved shall physically abut upon such sanitary sewer. The
10 term "sanitary sewer,"]. Boroughs shall have the authority to
11 lay out and construct sanitary sewers in any street, any portion
12 of which is within the limits of the borough, and which forms a
13 portion of the boundary dividing the borough from any other
14 municipal corporation within the same county, in the same manner
15 and to the same extent as if the whole of the street was within
16 the limits of the borough.

17 (3) Whenever any borough is maintaining and operating a
18 sanitary sewer system and sewage treatment works, it shall be
19 lawful for the borough to supply sewerage service to
20 municipalities, persons and corporations outside the limits of
21 the borough and to enter into contracts for service at rates not
22 less than those required to be paid by persons and corporations
23 within the limits of the borough. This privilege shall not
24 conflict with the rights of any sewer company or the rights of
25 any other borough.

26 (b) (1) If required by other law, a borough shall obtain
27 the consent and permit of the Department of Environmental
28 Protection, or other Federal, State or county entity, including
29 the Pennsylvania Turnpike Commission, for the laying out and
30 construction of a sanitary sewer and treatment works.

1 (2) Where construction beyond the limits of the borough is
2 entirely within the limits of a State or county highway or the
3 turnpike, a sanitary sewer may be constructed in or under the
4 State or county highway, or turnpike, provided that written
5 notice is given to the Department of Transportation, county
6 commissioners or Pennsylvania Turnpike Commission, respectively,
7 and its consent obtained before construction is commenced.
8 Permission shall not be unreasonably withheld.

9 (c) Borough council may by ordinance make regulations
10 respecting the use and maintenance of the sanitary sewer system
11 and treatment works. The regulations may:

12 (1) specify materials and substances which may or may not
13 enter the public sewer or sewer system;

14 (2) require that certain types or classes of waste be
15 subjected to treatment or to grinding or other reduction in size
16 before entering into the sewer;

17 (3) restrict the quantity of waste material that may enter a
18 sanitary sewer from any premises within any time interval; and

19 (4) require that property owners provide means other than
20 the public sanitary sewers for disposal of storm, surface and
21 roof water originating or accumulating upon their property.

22 Violations of the ordinance may be enforced by penalties.

23 (d) (1) "Sanitary sewer" or "sanitary sewer system," as
24 used in this article, shall mean [and include] a sewer or sewers
25 used for receiving and collecting sewage matter and liquid waste
26 from the inside of buildings and structures[, and, in those
27 boroughs where there shall be what is known as "combined
28 sewers," receiving, in addition to such]. Storm water shall not
29 be permitted to enter into a sanitary sewer. A sanitary sewer or
30 sanitary sewer system shall not include a combined sewer.

1 (2) "Combined sewer" shall mean a sewer used for the
2 receiving and collecting of sewage and liquid waste from the
3 inside of buildings and structures, storm water, roof or surface
4 drainage [or any of them, the term "sanitary sewer," as used in
5 this article, shall include such combined sewers], sump pump
6 discharge and draining from foundation drains.

7 (3) "Sewer system," as opposed to a "sanitary sewer system,"
8 shall be either a sanitary sewer or a combined sewer and shall
9 include pump stations and force mains.

10 Section 2002. [Assessment According to Benefits.--Where a
11 borough constructs sanitary sewers and desires to assess the
12 costs and expenses upon property benefited, whether or not such
13 property abuts upon such sewer, then on petition, viewers shall
14 be appointed, as provided in article XV of this act, who shall
15 assess the damages, costs, and expenses of the sanitary sewer
16 upon the property benefited, accommodated or improved according
17 to benefits, if sufficient can be found, but if not, then the
18 deficiency when finally ascertained shall be paid by the
19 borough. The proceedings of the viewers and the proceedings of
20 their report shall be as provided in article XV of this act.]

21 Assessments.--Assessments, whether based according to benefits
22 conferred or by the front foot basis, and assessment awards, if
23 any, shall be calculated pursuant to Article XXI-A.

24 Section 231. Sections 2003, 2004 and 2005 of the act are
25 repealed:

26 [Section 2003. Assessment by Foot-front Rule.--Where a
27 borough constructs sanitary sewers and desires to assess the
28 costs and expenses thereof by the foot-front rule, it may by
29 ordinance provide that the expenses shall be assessed against
30 the property benefited, improved or accommodated by any sanitary

1 sewer, whether or not such property abuts upon such sewer, by
2 the foot-front rule and may provide for equitable assessments
3 and/or adjustments when special conditions exist where an
4 assessment for the full frontage would be unjust. The secretary
5 of the borough shall cause thirty days' notice of the assessment
6 to be given to each party assessed, either by service on the
7 owner or his agent, or left on the assessed premises.

8 Section 2004. Places and Manner of Construction.--The
9 borough shall fix the places along, where such sanitary sewer
10 and branches thereof, shall be laid down, and shall prescribe
11 the manner in which they shall be constructed.

12 Section 2005. Permit from Sanitary Water Board.--No contract
13 for the construction of any sewer system or treatment works
14 shall be entered into until a permit for the construction of the
15 same shall have been obtained from the Sanitary Water Board.]

16 Section 232. Section 2006 of the act, amended October 9,
17 1967 (P.L.399, No.181), is repealed:

18 [Section 2006. Assessments of Cost.--Whenever any borough
19 shall construct any sanitary sewer and assess the cost thereof
20 by the foot-front rule, the assessment, duly certified under the
21 seal of the borough, attested by the president of council and
22 secretary, shall be collectible from the owner of property
23 benefited, improved or accommodated thereby.

24 Such certificate of assessment shall be prima facie evidence,
25 in any suit for the recovery of same, of the correctness and
26 validity of such assessment.

27 The assessment herein referred to shall be computed under the
28 terms of the ordinance, but the individual assessments need not
29 be expressed therein.]

30 Section 233. Sections 2007 and 2008 of the act are repealed:

1 [Section 2007. Collections of Assessments.--If the owners of
2 property against which a foot-front assessment has been made
3 shall refuse to pay such assessment within thirty days after
4 notice of the same, it shall be the duty of the borough
5 solicitor to collect the same, with interest from the time of
6 completion of the improvement, by action of assumpsit, or by
7 lien to be filed and collected in the same manner as municipal
8 claims. When an owner has two or more lots against which there
9 is an assessment for the same improvement, all of such lots may
10 be embraced in one claim.

11 Section 2008. Regulations of Borough.--The borough may
12 enforce by penalties, such regulations as it may ordain with
13 reference to the use and maintenance of such sanitary sewerage
14 system and treatment works.]

15 Section 234. Sections 2009 and 2010 of the act are amended
16 to read:

17 Section 2009. Extensions Beyond Borough Limits; Eminent
18 Domain.--The borough may extend the necessary sewer mains, pipes
19 and outlets beyond the limits of [such] the borough, to a point
20 where [such] the sewage is to be disposed[;] or collected and
21 received and shall have power to enter upon and condemn [such
22 lands, property and materials] land for the construction of all
23 [such] sewer mains, outlets, and treatment works as may be
24 necessary for the disposal or the collection of [such] the
25 sewage provided that the extension is in conformity with 26
26 Pa.C.S. § 206 (relating to extraterritorial takings) and any
27 other applicable requirement of 26 Pa.C.S. (relating to eminent
28 domain).

29 Section 2010. Notice of Certain Ordinances.--No ordinance
30 for any construction of sewers or treatment works beyond the

1 limits of the borough, shall be [adopted] enacted until notice
2 [thereof] of the ordinance has been given, by publication of the
3 proposed ordinance, once a week for four weeks in one newspaper
4 of general circulation [in the borough], and also by serving
5 copies of [such] the proposed ordinance upon all land owners
6 through whose land [such] the sewer is to pass, or on whose
7 lands any treatment works are to be located, at least ten days
8 before [final action thereon. But no notice, as herein provided,
9 shall be required where such construction beyond the limits of a
10 borough is entirely within the limits of any street or State
11 highway. In such cases a written notice shall be given to the
12 corporate authorities of the municipality or township having
13 jurisdiction over such street and consent of the State
14 Department of Highways shall be obtained in the case of any
15 State highway, before construction is commenced] the enactment
16 of the ordinance.

17 Section 235. Section 2011 of the act is repealed:

18 [Section 2011. Security for Damages; Assessments.--Before
19 entry shall be made upon private property without the owner's
20 consent, for the purpose of laying any sewer or constructing any
21 treatment works, security for all damages which may be done
22 shall first be given to such owner in such form and in such
23 amount as the court of common pleas of the county may direct.
24 All damages caused by the construction of any such sewer or
25 works, or by the taking of lands and materials, shall be
26 ascertained in the manner provided in the law governing eminent
27 domain for property taken, injured, or destroyed, and shall be
28 paid out of the borough treasury.]

29 Section 236. Sections 2012 and 2013 of the act are amended
30 to read:

1 Section 2012. Unlawful to Build Within Right-of-Way of
2 Sanitary Sewers.--It shall be unlawful for any person to erect
3 any building or make any improvement, within the right-of-way of
4 any sanitary sewer laid out [or ordained to be laid out], after
5 due notice [thereof;] of the laying out of the sanitary sewer,
6 and, if any [such] erection or improvement shall be made, no
7 allowance shall be had [therefor] for the building or
8 improvement in the assessment of damages.

9 Section 2013. Opening Sanitary Sewers.--(a) If any borough
10 shall lay out [or ordain] any sanitary sewer, over or under
11 private property, located in whole or in part within the limits
12 of [such] the borough, and proceedings to open the same and to
13 assess the damage arising therefrom shall not be proceeded with
14 by the borough, within two years from the enactment of the
15 ordinance, the whole proceeding shall be void.

16 (b) If any borough has laid out a sanitary sewer without the
17 enactment of an ordinance prior to the effective date of this
18 subsection and shall have not opened the same, the proceedings
19 shall not be deemed to be void but the borough shall have two
20 years from the effective date of this subsection to open the
21 sanitary sewer or the whole proceeding shall be void.

22 Section 237. Article XX subdivision (b) heading and section
23 2021 of the act are amended to read:

24 (b) Joint Sanitary Sewers

25 Section 2021. [Building Joint Sewers.--(a) Boroughs may
26 jointly with other cities, boroughs or townships build and
27 construct sanitary sewers, including trunk line sewers or drains
28 and sewage treatment works, and may connect into such system
29 existing sanitary sewers, and may assess their respective
30 portions of the cost thereof, or so much thereof as may be

1 legally assessable, upon property benefited, improved, or
2 accommodated by the improvement, either by viewers or by the
3 foot-front rule as provided in this article. Any portion of the
4 cost of such improvement not assessed or not assessable shall be
5 paid by the respective cities, boroughs, and townships joining,
6 as may be agreed upon.] Joint Sanitary Sewer Systems.--(a)
7 Pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to
8 intergovernmental cooperation), boroughs may contract with other
9 municipal corporations providing for the joint construction or
10 maintenance of sanitary sewer systems and for the joint
11 construction onto existing sanitary sewer systems. The agreement
12 shall provide for the apportionment of costs among the municipal
13 corporations. The borough council may assess the borough's
14 respective portion of the costs, as may be legally assessable,
15 upon property benefited by the facilities pursuant to Article
16 XXI-A. Any portion of the cost not assessed or assessable shall
17 be paid by the respective municipal corporations under the
18 agreement.

19 (b) The [boroughs, cities and townships] municipal
20 corporations joining or contemplating joining in any [such]
21 improvement, in order to facilitate the building of the [same]
22 sanitary sewer system and in securing preliminary surveys and
23 estimates, may by ordinance provide for the appointment of a
24 joint sanitary sewer board composed of one representative from
25 each of the [boroughs, cities, and townships] municipal
26 corporations joining which shall act generally as the advisory
27 and administrative agency in the construction of [such] the
28 improvement[,] and its subsequent operation and maintenance.
29 [The members of such] Members of the joint sanitary sewer board
30 shall serve for terms of six years each from the dates of their

1 respective appointments and until their successors are
2 appointed. The joint sanitary sewer board shall organize by the
3 election of a [chairman] chair, secretary, and treasurer. The
4 secretary and treasurer may be the same person. The [several
5 boroughs, cities, and townships] municipal corporations may in
6 the ordinances creating the joint sanitary sewer board,
7 authorize the board to appoint an engineer, a solicitor, and
8 [such] other assistants as are deemed necessary, and agree to
9 the share of the compensation of [such] those persons each
10 [borough, city, and township,] municipal corporation is to pay.
11 The members of the joint sanitary sewer board shall receive
12 [such] compensation for attending board meetings [of the board]
13 as [shall be fixed] established in the budget[,] that is
14 prepared by the joint sanitary sewer board [for submission to,
15 and adoption by, the several boroughs, cities, and townships, as
16 hereinafter provided,] and submitted to and adopted by the
17 municipal corporations. The members shall be entitled to actual
18 expenses to be paid by the respective [boroughs, cities and
19 townships which such] municipal corporations the members
20 represent.

21 (c) The joint sanitary sewer board [shall have powers to]
22 may adopt rules and regulations consistent with the requirements
23 of this act to govern its proceedings, and shall prepare and
24 suggest any practical measures and plans by which the joint
25 improvement may be carried to successful completion[;] and plan
26 the future development of the system, so as to conform to a
27 general plan. It [shall have power to] may prepare a joint
28 agreement or agreements for submission to and adoption by the
29 [several boroughs, cities and townships] municipal corporations
30 defining the advisory and administrative powers of the joint

1 sanitary sewer board[;] and setting forth the consents of the
2 [several boroughs, cities and townships] municipal corporations
3 to the proposed improvement; the manner in which preliminary and
4 final plans, specifications and estimates for the proposed
5 improvement shall be prepared and adopted; how proposals for
6 bids shall be advertised and contracts let; the manner in which
7 the costs of the improvement and other incidental and
8 preliminary expenses in connection [therewith] with the
9 improvement, and the future cost of operation and maintenance
10 shall be equitably shared, apportioned and paid; and all [such]
11 other matters, including the preparation and submission of
12 annual and other budgets, as may be deemed necessary or required
13 by law[, to carry] to complete the proposed improvement [to
14 completion] and to assure future maintenance and operation
15 thereof. [But nothing herein contained shall authorize the board
16 to make any improvement or expend any public moneys which has
17 not first been authorized by all the boroughs, cities and
18 townships] The board may not make any improvement or spend any
19 public moneys which have not first been authorized by all of the
20 municipal corporations proceeding with the improvement.

21 (d) [In any case where it shall be] When it is necessary to
22 acquire, appropriate, injure, or destroy private property[,
23 lands, property, or material] to build [any such] a joint
24 sanitary sewer system or improvement[,] and the [same] property
25 cannot be acquired by purchase or gift, the right of eminent
26 domain shall vest in the [borough, city, or township] municipal
27 corporation where [such] the property is located. [In any case
28 where it shall be] When it is necessary to acquire, injure, or
29 destroy property in any territory not within the limits of any
30 of the [boroughs, cities, or townships] municipal corporations

1 joining in the improvement, then the right of eminent domain
2 shall be vested in [any borough, city, or township] the
3 municipal corporation adjacent to [such] the territory where
4 [such] the property is located subject to 26 Pa.C.S. § 206
5 (relating to extraterritorial takings). Damages for any property
6 taken, injured, or destroyed shall be assessed [as provided by
7 the general laws relating to the boroughs, cities and townships]
8 under laws relating to the municipal corporation exercising the
9 right of eminent domain[;] and shall be paid by the [several
10 boroughs, cities and townships] municipal corporations
11 joining[,] in the same proportion as other costs of the
12 [improvement] improvements.

13 (e) Each of the boroughs joining in [any such] the
14 improvement shall have power to incur or increase its
15 indebtedness, not exceeding the constitutional limits, for the
16 purpose of paying its share or portion of the cost of [such] the
17 improvement in the manner now provided by law for the incurring
18 of indebtedness.

19 Section 238. Section 2022 of the act is repealed:

20 [Section 2022. Approval of Sanitary Water Board.--No such
21 sewer or sewage treatment plant shall be constructed until plans
22 and specifications have been submitted to the Sanitary Water
23 Board, and approved in accordance with provisions of existing
24 laws.]

25 Section 239. Sections 2023, 2024 and 2025 of the act are
26 amended to read:

27 Section 2023. Connections with Sanitary Sewers of Adjacent
28 Municipalities.--Any borough may connect with an existing
29 sanitary sewer, owned by any adjacent municipality [or
30 township,] for sewerage purposes[,] in the manner prescribed in

1 [the following sections of this subdivision of this article]
2 sections 2024, 2025 and 2026.

3 Section 2024. Applications to Court.--Whenever any borough
4 shall desire to connect with the existing sanitary sewer of any
5 adjacent municipality [or township,] and no agreement, either
6 upon the basis of a rental payment for the use of an existing
7 sanitary sewer or a division of the cost of the construction or
8 maintenance [thereof] of the sanitary sewer, has been reached
9 between [such] the borough and the adjacent municipality [or
10 township], an application shall be made by council to the court
11 of [quarter sessions] common pleas of the county where the
12 proposed connection is to be located, setting forth that fact.

13 Section 2025. Appointment of Viewers.--If the court shall be
14 of the opinion that [such] the connection can be made without
15 impairing the usefulness of the existing sanitary sewer, it
16 shall appoint three viewers, who shall view the premises and
17 investigate the facts of the case, and shall assess the
18 proportionate part of the expense of building the original
19 sanitary sewer upon [such] the borough, and shall fix the
20 proportion of the expense for repairs which each municipality
21 [or township] shall thereafter bear, and determine all other
22 questions liable to arise in connection [therewith] with the
23 sanitary sewer.

24 Section 240. Section 2026 of the act, repealed in part June
25 3, 1971 (P.L.118, No.6), is amended to read:

26 Section 2026. Report of Viewers; Appeals to Court.--The
27 viewers shall report to the court the result of their
28 investigation, which report shall be confirmed within thirty
29 days unless exceptions [thereto be] are filed. After
30 confirmation of [such] the report, or the disposal of any

1 exceptions, any party interested may appeal from the decision of
2 the court of [quarter sessions] common pleas.

3 Section 241. Article XX subdivision (c) heading and sections
4 2031 and 2032 of the act are repealed:

5 [(c) Power to Supply Sewerage Service Outside Borough Limits

6 Section 2031. Power to Supply Service.--Whenever any borough
7 is maintaining and operating a sewerage system and sewage
8 purification or treatment works, it shall be lawful for such
9 borough to supply sewerage service to municipalities, townships,
10 persons and corporations, outside the limits of such borough,
11 and to enter into contracts for such service, at rates not less
12 than those required to be paid by persons and corporations
13 within the limits of such borough; but no such privilege shall
14 conflict with the rights of any sewer company, or the rights of
15 any other borough.

16 Section 2032. Power to Extend Lines and Condemn Property.--
17 For the purpose of supplying such sewerage facilities, any such
18 borough may extend the necessary sewer mains and pipes beyond
19 the limits of such borough, to the points where such sewage is
20 to be collected and received, and shall have the power to enter
21 upon and condemn such lands, property and materials for the
22 construction of such sewer mains, and pipes, as may be necessary
23 to the furnishing of such sewerage service.]

24 Section 243. Article XX subdivision (d) heading of the act
25 is amended to read:

26 (d) Acquisition of [Sewer] Community Collection
27 or Disposal Systems

28 Section 244. Section 2041 of the act is repealed:

29 [Section 2041. Power to Acquire Sewer Systems.--Any borough,
30 in which any person or persons, firm, or corporation are

1 maintaining sewers and culverts, with the necessary inlets and
2 appliances for surface, under surface and sewage drainage, or in
3 which any person or persons, firm or corporation are maintaining
4 a community sewage collection or disposal system as defined in
5 section 2043 of this act, may become the owner of such sewers,
6 culverts, inlets and appliances, or the owner of such community
7 collection or disposal system, by purchase or by the exercise of
8 the power of eminent domain, or by gift from the owner or owners
9 thereof.]

10 Section 245. The act is amended by adding a section to read:

11 Section 2041.1. Power to Acquire Community Collection or
12 Disposal Systems.--(a) A borough may, by ordinance, acquire
13 ownership of a community sewage collection or disposal system as
14 defined in section 2043 by purchase or by the exercise of
15 eminent domain pursuant to 26 Pa.C.S. (relating to eminent
16 domain), or by gift from the owner or owners.

17 (b) In eminent domain proceedings, the viewers shall assess
18 the costs and expenses of the community sewage collection or
19 disposal system acquired by the borough upon the property or
20 properties benefited according to benefits. Any deficiency that
21 is not assessed upon the benefited property or properties shall
22 be paid by the borough.

23 Section 246. Section 2042 of the act is repealed:

24 [Section 2042. Assessment of Damages.--In case of
25 disagreement, the amount to be paid shall be ascertained in the
26 manner provided in the law governing eminent domain. In the same
27 proceeding, the viewers shall assess the costs and expenses of
28 the sewer, culverts, inlets and appliances, or of the sewer
29 collection, or disposal system, acquired by the borough, upon
30 the property benefited, according to benefits, if sufficient can

1 be found; but, if not, then the deficiency when ascertained
2 shall be paid by the borough.]

3 Section 247. Section 2043 of the act is amended to read:

4 Section 2043. Community Sewage Collection or Disposal
5 Systems.--(a) For the purpose of this subdivision, a community
6 sewage collection or disposal system is all or part of a device
7 or devices installed on any privately or publicly owned parcel
8 of land, intended to treat or dispose of the sewage or
9 equivalent volume of domestic sewage from two or more
10 residences, buildings or occupied parcels of land, or any system
11 of piping used in collection and conveyance of sewage on private
12 or public property.

13 (b) After a community sewage collection or disposal system
14 has been acquired under the provisions of this subdivision by
15 the borough, the council shall have the power to enlarge [such]
16 the system if it deems it advisable. In such cases, the cost and
17 expenses of [such] the enlargement may be distributed or
18 assessed in the same manner as if the enlargement was a regular
19 sewer constructed by the borough under other provisions of this
20 act.

21 (c) Whenever a community sewage collection or disposal
22 system is [or shall have been] established or constructed within
23 a borough by a private owner or owners, and the borough council
24 is thereafter empowered by ordinance to acquire the ownership of
25 the sewage disposal system so established, or when [any such]
26 the system has been enlarged by the borough, [such] the
27 acquisition and ownership shall be subject to the following
28 provisions of this subsection:

29 (1) When the person or persons having established or
30 constructed a community sewage collection or disposal system, or

1 when more than one-half the number of the owners of properties
2 which are connected with, have a right to use and are using a
3 community collection or disposal system, enter into an agreement
4 with the borough for the acquisition of the system by the
5 borough, [such] the agreement shall be considered a valid
6 agreement by the owners of the sewage collection or disposal
7 system and a transfer of ownership to the borough.

8 (2) The borough shall operate and maintain any sewage
9 collection or disposal system acquired and any enlargement or
10 addition thereto for the use of persons having acquired from the
11 borough or from the former owner or owners the right to use the
12 system, and for the use of other owners of property accessible
13 thereto up to the capacity of the sewage collection or disposal
14 system.

15 (3) All persons whose property connects with the sewage
16 collection or disposal system acquired or constructed by the
17 borough shall pay to the borough treasurer, a monthly,
18 quarterly, semi-annual or annual charge prescribed by a
19 resolution of the council. The amount of the charges shall not
20 be in excess of the estimated amount necessary to maintain and
21 operate the system and to establish a reserve fund sufficient
22 for its future replacement.

23 (4) All sewer rentals or charges imposed by the council
24 against properties connected with a community sewage collection
25 or disposal system under the provisions of this section shall
26 constitute liens against the properties and may be collected in
27 the same manner as other sewer charges.

28 (5) All moneys received from the sewer charges shall be
29 deposited as a special reserve fund, and shall be used only for
30 the payment of the cost of operating and maintaining the sewage

1 collection or disposal system and the replacement [thereof] of
2 the collection or disposal system, if necessary and economically
3 desirable. If at any time after the acquisition or enlargement
4 of the community sewage system, a regular sewer system is made
5 available by the borough for connection with the properties
6 using the community sewage collection or disposal system, the
7 owners of [such] the properties shall be subject to the other
8 provisions of this act relating to sewers, and all money at that
9 time in the reserve fund which was received from charges for the
10 use of that particular sewage collection or disposal system, and
11 which is over and above the amount expended for the operation
12 and maintenance of that particular sewage collection or disposal
13 system, shall be used towards the payment of any sewer
14 assessments charged against [such] the properties under other
15 sections of this act.

16 (d) Nothing in this section may be construed to supersede
17 the requirements of the act of January 24, 1966 (1965 P.L.1535,
18 No.537), known as the "Pennsylvania Sewage Facilities Act."

19 Section 248. Article XX subdivision (e) heading and section
20 2051 of the act are amended to read:

21 (e) Connection and Use of Sanitary Sewers

22 Section 2051. Ordinances to Require Sanitary Sewer
23 Connections.--Any borough may, by ordinance, require any owner
24 of property, benefited, improved or accommodated by a sanitary
25 sewer, to make connections with [such] the sanitary sewer, in
26 [such] the manner as the borough may order, for the purpose of
27 discharge of [such] drainage or waste matter as the borough may
28 specify. All connections required shall be uniform. The owner
29 shall be given at least forty-five days' notice of any ordinance
30 requiring a sanitary sewer connection and, upon failure of the

1 owner to make the connection, the borough may make the
2 connection and collect the cost from the owner by a municipal
3 claim or by an action of assumpsit. The borough may by penalties
4 enforce any [regulation] ordinance it may [ordain] enact with
5 reference to any sanitary sewer connections.

6 Section 249. Section 2052 of the act is repealed:

7 [Section 2052. Notice of Ordinances; Failure to Comply With
8 Ordinance.--The owner shall be given at least forty-five days'
9 notice of any ordinance requiring such sewer connection, and,
10 upon failure of such owner to make such connection, the borough
11 may make the same, and collect the cost thereof from the owner
12 by a municipal claim or in an act of assumpsit. All connections
13 required shall be uniform.]

14 Section 250. Section 2053 of the act is amended to read:

15 Section 2053. Tapping Fees.--Any borough may by ordinance
16 provide for charging a tapping fee whenever the owner of any
17 property connects [such] the property with a sanitary sewer
18 system constructed or acquired by the borough provided that the
19 tapping fee is calculated in accordance with 53 Pa.C.S. § 5607
20 (relating to purposes and powers), which fee shall be in
21 addition to any charges assessed and collected against [such]
22 the property in the construction or acquisition of [such] the
23 sanitary sewer by the borough. Whenever a sanitary sewer system
24 or any part or extension [thereof] of a sanitary sewer system,
25 owned by a borough, has been constructed by the borough at the
26 expense of a private person or corporation or has been
27 constructed by a private person or corporation under the
28 supervision of the borough at the expense of the private person
29 or corporation, the borough shall have the right to charge a
30 tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and

1 refund [said] the tapping fee or any part [thereof] of the fee
2 to the person or corporation who has paid for the construction
3 of [said] the sanitary sewer system or any part or extension
4 [thereof] of the sanitary sewer system in accordance with 53
5 Pa.C.S. § 5607. The total of [said] the refunds shall never
6 exceed the cost of [said] the system or any part or extension
7 [thereof] of the system to the person or corporation paying for
8 the construction [thereof] of the system or any part or
9 extension of the system. In any case, where the property
10 connected or to be connected with the sanitary sewer system of
11 the borough is not equipped with a water meter the borough may
12 install [such] a meter at its own cost and expense. If the
13 property is supplied with water from the facilities of a public
14 water supply agency, the borough shall not install [such] a
15 meter without the consent and approval of the public water
16 supply agency.

17 Section 251. Section 2054 of the act is repealed:

18 [Section 2054. Regulations and Restrictions in Use of
19 Sanitary Sewers.--Any borough in which there is any public
20 sanitary sewer or sewer system shall have authority, by
21 ordinance, to make regulations and restrictions pertaining to
22 the use of such sewer or sewer system. Such regulations and
23 restrictions: (i) may specify materials and/or substances which
24 may or may not enter the public sewer or sewer system; (ii) may
25 require that certain types or classes of waste be subjected to
26 treatment or to grinding or other reduction in size before
27 entering into the sewer; (iii) may restrict the quantity of
28 waste material that may enter a sanitary sewer from any premises
29 within any time interval; and (iv) may require that property
30 owners provide means other than the public sanitary sewers for

1 disposal of storm, surface and roof water originating or
2 accumulating upon their property.]

3 Section 252. Article XX subdivision (f) heading of the act,
4 amended July 13, 1988 (P.L.521, No.91), is reenacted to read:

5 (f) Monthly, Quarterly or Annual Rentals

6 Section 253. Sections 2061, 2062 and 2063 of the act,
7 amended July 13, 1988 (P.L.521, No.91), are amended to read:

8 Section 2061. Ordinance for Monthly, Quarterly or Annual
9 Rental.--Whenever any borough shall have constructed any
10 sanitary sewer, sewer system or sewage treatment works, or shall
11 have acquired wholly or partially the same at public expense, as
12 authorized in this article, the [council of such] borough
13 council may provide, by ordinance, for the collection of a
14 monthly, quarterly or annual rental or charge or a fixed sum,
15 for the use of [such] the sanitary sewer, sewer system or sewage
16 treatment works, from the owner of property served by it. [The
17 council may, at its discretion, in lieu of such monthly,
18 quarterly or annual rental or charge, provide for the payment by
19 such owner of a fixed sum.]

20 Section 2062. How Rental Fixed.--[Such] The monthly,
21 quarterly or annual rental may include the amount expended
22 monthly, quarterly or annually by the borough in maintenance,
23 repair, alteration, inspection, depreciation, or other expense,
24 of [such] the sanitary sewer, sewer system or sewage treatment
25 works, and may include interest on money expended or borrowed by
26 the borough in the construction of the sanitary sewer, sewer
27 system or sewage treatment works, or in the acquisition,
28 enlargement or extension of the sanitary sewer or sewer system,
29 and may also include an amount sufficient for the amortization
30 of debt incurred by the borough for [any such] those purposes,

1 including the construction of sewage treatment works according
2 to law. The [said] monthly, quarterly or annual amount or fixed
3 sum shall be apportioned equitably among the [several]
4 properties served by the [said] sanitary sewers, sewer system or
5 sewage treatment works.

6 Section 2063. Collection of Rental.--[Such] The monthly,
7 quarterly or annual rental or charge, or [such] the fixed sum,
8 shall be authorized and collected as provided by general
9 ordinances, and, when so levied and charged, shall be a lien on
10 the properties charged[. The collection thereof shall be made
11 and enforced in the manner municipal claims are collected.] from
12 the date set forth in the ordinance. If the rental, charge or
13 fixed sum is not paid after thirty days' notice, it may be
14 collected by an action of assumpsit, in the name of the borough
15 against the owner of the property charged, or by a lien filed in
16 the nature of a municipal lien.

17 The borough council [of such borough] shall execute a warrant
18 or warrants, authorizing the collection of [such] the monthly,
19 quarterly or annual sewer rentals or charges, or [such] the
20 fixed sum, to the officer employed by council to collect the
21 same. [Such] The officer shall have the authority now vested by
22 law for the collection of borough taxes.

23 Section 254. Section 2064 of the act, amended July 13, 1988
24 (P.L.521, No.91), is repealed:

25 [Section 2064. Lien.--Such monthly, quarterly or annual
26 sewer rentals or charges, or such fixed sum, shall be a lien on
27 the properties charged with the payment thereof, from the date
28 set forth in the ordinance, and, if not paid after thirty days'
29 notice, may be collected by an action of assumpsit, in the name
30 of the borough against the owner of the property charged, or by

1 distress of personal property on the premises, or by a lien
2 filed in the nature of a municipal lien.]

3 Section 255. Article XX subdivision (g) heading, sections
4 2071 and 2072, Article XXI heading and sections 2101, 2102,
5 2103, 2104 and 2105 of the act are repealed:

6 [(g) Sewers on Boundary Streets

7 Section 2071. Power to Lay and Construct.--Boroughs shall
8 have authority to lay and construct sewers in any street, any
9 portion of which is within the limits of the borough, and which
10 forms a portion of the boundary dividing the borough from any
11 other city, borough, or township within the same county, in the
12 same manner and to the same extent as if the whole of said
13 street was within the limits of the said borough.

14 Section 2072. Assessment of Benefits.--The property
15 benefited, improved or accommodated, which is located outside
16 the limits of the borough constructing such sanitary sewers,
17 shall, for a depth of one hundred fifty feet, be assessed for
18 the cost of such sewer, in the same manner as such property
19 would be assessed, under the laws of the Commonwealth, if it
20 were entirely located within the limits of such borough, if such
21 property is given permission to use such sanitary sewer and is
22 not, at the time such sanitary sewer is constructed, provided
23 with sanitary sewer facilities.

24 ARTICLE XXI

25 COLLECTION BY INSTALMENT OF STREET

26 AND SEWER ASSESSMENTS

27 Section 2101. Authority for Instalment Payments.--Whenever
28 any borough shall authorize the construction or acquisition of
29 any sanitary sewer or system of sanitary sewers, or the
30 improvement of any street or portion thereof, and the entire

1 cost, or any part thereof, shall be assessed against the
2 properties benefited, improved or accommodated by such sewer or
3 system of sewers, or abutting upon such street or portion
4 thereof, such borough may authorize the payment of such
5 assessment in equal annual, or more frequent instalments. Such
6 instalment payments may be authorized by a general ordinance
7 applicable to all sanitary sewers or systems thereof and/or all
8 streets thereafter acquired, constructed or improved, as the
9 case may be, or by one or more specific ordinances applicable to
10 a specific sewer, system of sewers or street or portion thereof.
11 Every such ordinance shall specify the length of time over which
12 such instalments may be extended and whether payments are to be
13 made by annual or more frequent instalments. All such
14 instalments shall bear interest, as provided in the applicable
15 ordinance, at a rate not to exceed six percent, commencing at
16 such time as may be fixed or regulated by ordinance: Provided,
17 That where bonds shall have been issued and sold in the manner
18 provided by law, to provide for the payment of any street
19 improvement, such assessments shall be payable in equal
20 instalments during the term for which such bonds are issued, and
21 the expenditures for such improvements, and interest thereon to
22 the first day when interest is payable on such bonds, shall be
23 taken as the cost of such improvement to be assessed on the
24 property benefited.

25 Section 2102. Entry of Liens.--Claims to secure the
26 assessments shall be entered in the prothonotary's office of the
27 county at the same time and in the same form and shall be
28 collected in the same manner as municipal claims are filed and
29 collected, notwithstanding the provisions of this article on
30 instalment payments.

1 Section 2103. Assessments; Where Payable.--Such assessments
2 shall be payable at the office of the borough treasurer, or such
3 other place as the ordinance shall provide, in semi-annual or
4 annual instalments, with interest at the rate provided from the
5 date from which interest is computed on the amount of the
6 assessments.

7 Section 2104. Default in Payment of Instalment.--In case of
8 default in the payment of any instalment and interest for a
9 period of sixty days after the same shall become due, the entire
10 assessment and accrued interest shall become due; and the
11 borough solicitor shall proceed to collect the same under the
12 general laws relating to the collection of municipal claims.

13 Section 2105. Payments in Full.--Any owner of property,
14 against whom any such assessment shall have been made, may pay
15 the same in full, at any time, with interest and costs thereon
16 to the due date of the next instalment, and such payment shall
17 discharge the lien.]

18 Section 256. The act is amended by adding an article to
19 read:

20 ARTICLE XXI-A

21 ASSESSMENTS AND CHARGES FOR PUBLIC IMPROVEMENTS

22 Section 2101-A. Authority to assess.

23 (a) General rule.--Borough council shall have the power to
24 pay the cost, in whole or in part, of any and all public
25 improvements of all natures and descriptions, including, but not
26 limited to, the grading, building, paving, regrading, rebuilding
27 and repaving of streets as defined in section 1701, the
28 creation, extension, renovation or enlargement of water mains
29 and sewage collection, transmission, treatment and disposal
30 systems and the creation, extension and renovation of storm,

1 surface and subsurface drainage systems, the construction,
2 reconstruction and repair of wharves and docks, the installation
3 of ornamental street lighting, or the planting, removal,
4 maintenance and protection of shade trees by any of the
5 following methods:

6 (1) from general borough funds;

7 (2) from special borough funds created for that purpose;

8 or

9 (3) by assessment of costs against the benefited
10 properties either on the front foot or benefit conferred
11 method of assessment.

12 Except as provided in subsection (c), the costs and expenses of
13 sanitary sewers may be assessed against properties benefited,
14 accommodated or improved regardless of the property line
15 location and regardless of whether any portion of a property so
16 benefited, accommodated or physically improved abuts upon the
17 sanitary sewer.

18 (b) Payment of indebtedness.--

19 (1) If a borough that incurs authorized indebtedness
20 pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to
21 indebtedness and borrowing) for the purposes of funding the
22 cost and expense of making public improvements for which
23 assessments can be made in accordance with this article,
24 payments made on the assessment must be applied to pay the
25 debt service for the indebtedness incurred for funding the
26 cost and expense of making the public improvement.

27 (2) Notwithstanding section 2107-A, when bonds are
28 issued in a manner provided by law and an assessment is to be
29 paid in installments, the assessment shall be payable in
30 equal installments during the term for which the bond is

1 issued, and the cost of the improvement plus interest
2 beginning the first day when interest is payable on the bond
3 shall be the cost of the improvement to be assessed on a
4 property.

5 (c) Property outside borough.--Property benefited, improved
6 or accommodated which is located outside the limits of the
7 borough that constructed a sanitary sewer may, if located no
8 more than 150 feet from the sewer main, be assessed for the cost
9 of the sewer in the same manner as the property would be
10 assessed under the laws of this Commonwealth if it were entirely
11 located within the limits of the borough, if the property is
12 given permission to use the sanitary sewer and is not, at the
13 time the sanitary sewer is constructed, provided with sanitary
14 sewer facilities.

15 (d) Water mains.--Boroughs shall have power to assess the
16 whole cost or any part of the cost of construction of new water
17 mains built in connection with the establishment or extension of
18 a municipally owned water supply system, even if the mains are
19 located outside the limits of the borough, and that serve
20 abutting properties, against the properties abutting the
21 boundary line. The borough may provide that the assessment be
22 rebated to the owner of the assessed property out of rates
23 charged for water consumed in serving the assessed property. The
24 borough may also issue a negotiable credit memorandum in the
25 amount of the assessment which may be used for the payment of
26 any water service to the extent of the assessment.

27 Section 2102-A. Notice of assessments.

28 The borough secretary shall cause 30 days' personal notice of
29 the assessment to be served upon each property owner assessed.
30 If a certificate is required to be filed with council relating

1 to the public improvement as otherwise provided in this act,
2 then a copy of the certificate shall accompany the notice.
3 "Personal notice" as used in this article shall mean and include
4 notice upon the owner of a property either by personal service
5 upon the owner or by certified mail to the owner at the owner's
6 last known address, or where service, after a reasonable
7 attempt, shall not have been successfully made by either of
8 these two methods, then by leaving notice at or upon the
9 property.

10 Section 2103-A. Assessment based on front foot basis.

11 (a) General rule.--If borough council elects to collect the
12 cost, including any administrative fees, of any improvement on
13 the front foot basis, the cost to be collected shall be divided
14 by the total number of linear feet of street frontage of each
15 property benefited and there shall be assessed against each
16 property that portion of the cost which is determined by
17 multiplying the dividend of the prior calculation by the number
18 of linear feet for street frontage of that property.

19 (b) Certificate of assessment.--Council shall issue a
20 certificate of assessment when assessing on the front foot
21 basis, duly certified under the seal of the borough and attested
22 by the president of council and secretary. The certificate of
23 assessment shall be prima facie evidence in any suit for
24 recovery of the same of the correctness and validity of the
25 assessment.

26 (c) Adjustments in assessments.--Notwithstanding subsection
27 (a), council may make equitable adjustments for corner lots,
28 lots of irregular shape, or, where special conditions exist,
29 where an assessment for full frontage would be unjust.

30 Section 2104-A. Assessment of benefits conferred.

1 (a) General rule.--In lieu of the front foot basis, borough
2 council may elect to have the benefits of public improvements
3 assessed, in whole or in part, upon property benefited, improved
4 or accommodated by assessing an equal assessment on the
5 properties benefited, improved or accommodated in proportion to
6 the total cost of construction of the improvement. The amount of
7 the charge on each property shall be determined by borough
8 council.

9 (b) Certificate.--Council shall issue a certificate of
10 assessment when assessing benefits upon property benefited,
11 improved or accommodated, duly certified under the seal of the
12 borough and attested by the president of council and secretary.
13 The certificate of assessment shall be prima facie evidence in
14 any suit for recovery of the same of the correctness and
15 validity of the assessment.

16 Section 2105-A. Assessment awards.

17 In proceedings to assess benefits, if the land or property is
18 both benefited and damaged by the public improvements, the
19 excess of damages over benefits, or the excess of benefits over
20 damages, or nothing in case the benefits and damages are equal,
21 shall be awarded to or assessed against the owner of land and
22 property affected thereby. Damages shall be calculated pursuant
23 to 26 Pa.C.S. (relating to eminent domain).

24 Section 2106-A. Petition for viewers.

25 (a) Petition.--Taxpayers of the borough whose property is
26 being assessed for benefits for a public improvement may present
27 a petition to the court of common pleas stating that the
28 assessment insufficiently represents the benefits accruing to
29 abutting, benefited or accommodated properties and may include
30 in the petition a request for the appointment of viewers to

1 assess benefits provided that at least 50% of the taxpayers
2 whose parcels are abutting, benefited or accommodated by the
3 public improvement in question join the petition or provided
4 that taxpayers whose property valuation as assessed for taxable
5 purposes within the borough amounts to at least 50% of the total
6 property valuation of the properties being assessed for the
7 public improvement join the petition. The petition must be
8 presented within three months of the adoption of the resolution
9 or enactment of the ordinance levying the assessment.

10 (b) Viewers.--The court shall appoint three disinterested
11 viewers, none of whom shall be a resident of that portion of the
12 borough that is benefited or accommodated by the public
13 improvement in question, and the viewers shall proceed under
14 this act and 26 Pa.C.S. (relating to eminent domain) for the
15 assessment of damages and benefits by viewers. Upon the filing
16 of the petition by taxpayers for the appointment of viewers, any
17 assessment made by the borough council and any proceedings shall
18 be stayed pending the disposition of the petition by the court.
19 Section 2107-A. Payment of assessments in installments.

20 (a) Installments.--Whenever any ordinance is passed
21 providing for a public improvement the expense of which is to be
22 defrayed by an assessment against properties benefited by the
23 improvement, either by the front foot or benefit conferred
24 methods, the ordinance shall specify the length of time over
25 which the installments may be extended and whether payments are
26 to be made by equal annual or more frequent installments. If the
27 provisions of section 2101-A(b)(2) and this subsection conflict,
28 the provisions of section 2101-A(b)(2) shall prevail to the
29 extent of the conflict.

30 (b) Commencement of payments and rate of interest.--The

ordinance shall set a time when the installment payments shall commence and shall set forth the rate of interest for the installments which shall not be more than 6% per year.

(c) Installment agreement.--The borough shall enter into a written installment agreement with each property owner, subject to the requirements of the ordinance pertaining to such agreements and this article.

(d) Unpaid installments.--If any of the installments shall remain unpaid for 60 days after the same has become due and payable, the entire unpaid assessment, plus unpaid accrued interest and any costs, shall be due and payable and the borough solicitor shall proceed to collect the same by filing a lien in the same manner as municipal claims are filed or by action in assumpsit.

(e) Prepayment.--A property owner upon whom an assessment has been made may pay all or as many of the installments before the same are due, with interest and costs to the due date of the next installment.

Section 2108-A. Collection of assessments.

(a) Collection methods.--If any assessment remains unpaid at the expiration of the 30-day personal notice, and an installment agreement has not been entered into pursuant to section 2106-A, the borough solicitor shall collect the unpaid assessment, with interest from the time of completion of the improvement, or from the time of filing a certificate of assessment with council, plus costs, by filing a lien to be collected in the same manner as municipal claims or by action in assumpsit. When a property owner has two or more lots, against which there is an assessment for the same improvement, all of the lots may be embraced in one claim.

1 (b) Payment location.--Assessments, whether paid one time or
2 by installments, shall be payable at the office of the borough
3 treasurer or any other place as the applicable ordinance shall
4 provide.

5 Section 257. Article XXII heading of the act is reenacted to
6 read:

7 ARTICLE XXII

8 STORM SEWERS AND WATER COURSES

9 Section 258. Sections 2201, 2202, 2203 and 2204 of the act
10 are amended to read:

11 Section 2201. Authority of Boroughs.--Any borough may, by
12 ordinance, after [a permit shall have been obtained from the
13 Water and Power Resources Board, and from the Federal
14 Government, where required] obtaining any required permit from
15 the Department of Environmental Protection, or other Federal or
16 State entity, do the following:

17 (1) Widen and deepen any water course running through or
18 within the borough, erecting [such] dykes, retaining walls and
19 embankments along the [same] water course as may be necessary to
20 prevent the water from overflowing the banks [thereof];

21 (2) Confine and pave any water course or portion thereof,
22 other than a navigable stream;

23 (3) Engage in channel improvement through the construction
24 and maintenance of storm sewers and the accumulation and
25 discharge of water [thereinto] into storm sewers;

26 (4) Vacate or alter the course or channel of any water
27 course, other than a navigable stream;

28 (5) Acquire, operate and maintain areas for the
29 infiltration, detention or retention of storm water and for
30 other methods of storm water management authorized by the

1 Department of Environmental Protection.

2 For any of [such] these purposes, a borough may enter upon
3 and condemn [such] property and materials as may be necessary.
4 No borough may confine and pave, vacate or alter any water
5 course used by any municipality, municipal authority or water
6 company as a source of supply, unless [such] the municipality,
7 municipal authority or water company shall first consent to
8 [such] the confining and paving, vacation or alteration.

9 Section 2202. Right of Entry Upon Lands.--Any borough may
10 enter upon any land lying near any water course, and secure such
11 material as may be necessary for the purpose of making and
12 repairing the embankments along [such] the water course, when
13 the same cannot be obtained by contract at reasonable price.
14 [Such] The boroughs shall cause no unnecessary damage to the
15 owners of [such] the land, and shall repair any fences [which
16 they may injure], structures or damage to the land that is
17 caused by the borough, and shall compensate the owner, either by
18 agreement or in accordance with the law governing eminent
19 domain, for any materials obtained pursuant to this section.

20 Section 2203. Manner of Financing Work.--[The costs and
21 expenses of any work authorized under section 2201 of this act
22 may be paid wholly or in part by the borough from any moneys of
23 the borough available for the purpose, with or without the
24 assistance of the county, State or Federal Government, or the
25 whole or any part of such costs and expenses not thus aided may
26 be assessed, according to benefits as prescribed in article XV
27 of this act, against properties located within the drainage area
28 of such water course and benefited, improved or accommodated
29 thereby.] A borough may pay for the costs and expenses of any
30 work authorized under section 2201 wholly or in part from any

moneys of the borough available for the purpose. To the extent that a borough does not receive assistance from the Federal, State or county government for the costs and expenses of the work, the borough may assess the benefited properties located within the drainage area of the water course in accordance with Article XXI-A.

Section 2204. Proceedings to Assess Damages.--Any person aggrieved by [reason of] any ordinance [passed] enacted or action taken pursuant to the preceding sections of this article may [complain to] file a complaint with the court of common pleas[, and proceedings may be had in the court] to fix and determine the damages for property taken, injured or destroyed [in the same manner as provided in] pursuant to the law governing eminent domain.

Section 259. The act is amended by adding sections to read:

Section 2205. Unlawful to Build Within Right-of-Way of Storm Sewers.--It shall be unlawful for any person to erect any building or make any improvement within the right-of-way of any storm sewer laid out after due notice of the laying out of the storm sewer. If the erection or improvement is made, no allowance shall be had in the assessment of damages.

Section 2206. Power to Acquire Storm Sewer Systems.--(a) A borough may, by ordinance, acquire ownership of storm sewers, culverts and the necessary inlets and appliances for surface, under surface and storm sewer drainage by purchase, by the exercise of eminent domain pursuant to 26 Pa.C.S. (relating to eminent domain) or by gift from the owner or owners.

(b) In eminent domain proceedings, the viewers shall assess the costs and expenses of the storm sewer, culverts, inlets and appliances acquired by the borough, upon the property or

properties benefited, according to benefits. Any deficiency that
is not assessed upon the benefited property or properties shall
be paid by the borough.

Section 260. Article XXIII heading and sections 2301, 2302,
2303 and 2304 of the act are repealed:

[ARTICLE XXIII

UNDERGROUND CONDUITS

Section 2301. Powers of Boroughs.--Any borough may define,
by ordinance, a reasonable district within which electric light,
electric power, telephone, telegraph and other types of wires
shall be placed underground in conduits, owned and constructed
either by the borough or by corporations owning such wires, or
by corporations organized for the purpose of laying such
conduits and renting space therein.

Section 2302. Borough Regulations.--Whenever conduits are
owned by any person, firm, or corporation, the borough may
regulate, by ordinance, the manner in which conduits shall be
used, and the terms and conditions of such use.

Section 2303. Acquisition of Conduits; Assessment of
Damages.--Any borough may acquire existing conduits by purchase
or by condemnation, and, in the latter case, the proceedings for
the assessment of damages shall be the same as provided in the
law governing eminent domain.

Section 2304. Borough Not to Surrender Rights.--The borough
authorities shall not surrender or barter away the rights
reserved in this article.]

Section 261. Article XXIV and subdivision (a)(1) headings
and sections 2401, 2402, 2403 and 2404 of the act are amended to
read:

ARTICLE XXIV

[PUBLIC SERVICE] WATER SYSTEM

(a) [Water Supply and Waterworks

(1)] General Powers to Supply Water

Section 2401. Power to Supply Water and Make Regulations.--

(a) Boroughs may [provide a] supply [of] water for the use of the public within [such] the borough, by [erecting] constructing or purchasing and operating [waterworks, by purchasing and operating waterworks] a water system, by entering into contract with persons or corporations authorized to supply water within the limits of [such] the borough, or partly by [the erection or purchase and operation of waterworks] constructing or purchasing and operating a water system, and partly by entering into a contract.

(b) Borough council may make regulations for the protection of water pipes, reservoirs and other apparatus used in the supplying or storing of water, for the prevention of the waste of water supplied and for the drilling of water wells within the borough.

(c) Borough council shall fix the rates to be charged for the water furnished to individuals, partnerships, associations or corporations and shall provide for the collection of water rents from users of water supplied by the borough. The borough's provision of water to users outside the borough limits, as to character of service, extensions and rates, shall be subject to any applicable approval, regulation, or control imposed by 66 Pa.C.S. Pt. I (relating to Public Utility Code).

Section 2402. Contracts Not to Abridge Powers.--[No contract for the supply of water hereafter entered into by any borough with any person or corporation shall, in anywise, abridge the power of the borough to construct and operate waterworks as

provided in the preceding section of this article, but such] A
borough's power to construct and operate a water system as
provided in section 2401 shall not be abridged by the borough
entering into a contract with a person or corporation for the
supply of water, but the power shall remain in force as though
[such] the contract had not been made.

Section 2403. Issue of Bonds Where [Waterworks] Water System
Acquired.--Where the price and terms are agreed upon, a borough
may become the owner of and operate any water system owned and
operated by a corporation furnishing water within the acquiring
borough, and in nearby [townships or boroughs] municipal
corporations, and may pay [therefor] for the water system from
the revenues derived from general obligation bonds or utility
bonds issued in the manner provided by [the Municipal Borrowing
Law] 53 Pa.C.S. Pt. VII Subpt.B (relating to indebtedness and
borrowing).

Section 2404. Refunding Bonds.--[Where any borough has
heretofore acquired or shall hereafter acquire any waterworks
and the appurtenances thereto, subject to any existing lien or
liens, and at the time of such acquisition issues utility bonds
secured solely by liens on the property of such waterworks and
imposing no municipal liability; then the borough may, at the
time such utility bonds mature, or at any time prior thereto,
issue and sell utility bonds for the purpose of refunding such
outstanding bonds, which refunding bonds shall be issued as
utility bonds in the manner provided by the Municipal Borrowing
Law. Such bonds so issued,] (a) If a borough acquires a water
system, subject to any existing lien or liens and, at the time
of acquisition, issues utility bonds secured by the liens on the
water system and which imposes no municipal liability, then,

1 when the utility bonds mature or at any time prior, the borough
2 may issue and sell utility bonds for the purposes of refunding
3 the outstanding bonds. The refunding bonds shall be issued as
4 utility bonds pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating
5 to indebtedness and borrowing). The issued bonds shall not be
6 deemed to be the creation of new obligations but be deemed a
7 continuation of the bonds existing or created at the time of the
8 original acquisition of [said waterworks and the appurtenances
9 thereto] the water system.

10 [Such] (b) The bonds shall not be refunded for a longer
11 period than twenty years, and the refunding lien bonds issued
12 shall not bear interest at a rate exceeding six percent[, and
13 the]. The amount of the issued refunding lien bonds[, so
14 issued,] shall not exceed, in the aggregate, the amount of the
15 bonds to be refunded[: Provided, That], provided that any moneys
16 placed in any fund by the borough or by any commission of
17 [waterworks] the water system for the purpose of redeeming or
18 paying [such] the bonds at maturity, shall be first applied to
19 the payment, as far as applicable, of the principal of [such]
20 the bonds to be refunded, and the balance of [such] the bonds
21 only shall be refunded by the issue of new bonds.

22 Section 262. Section 2405 of the act is repealed:

23 [Section 2405. Rates in Particular Boroughs.--Whenever the
24 schedule of water rates in any borough, owning or controlling
25 waterworks, shall have been fixed or limited by special act of
26 Assembly, the borough may change the rates schedule or rates
27 from time to time.]

28 Section 263. Sections 2406, 2407, 2408 and 2409 of the act
29 are amended to read:

30 Section 2406. Contracts to Supply Water for Municipal

1 Purposes.--Boroughs may receive bids from water companies and
2 municipal authorities, authorized to do business within [such]
3 the borough, and from other municipalities operating [waterworks
4 or distributing water] a water system, for the supply of water
5 for fire protection and for other municipal purposes, and may
6 contract [therefor] for the supply of water with [such] the
7 company.

8 Section 2407. Power to Supply Water Beyond Limits of
9 Borough.--Whenever any borough is maintaining [waterworks] a
10 water system, it shall be lawful for [such] the borough to
11 supply water to persons and corporations outside the limits of
12 [such] the borough[; but no such], but shall be subject to any
13 applicable approval or regulation imposed by 66 Pa.C.S. Pt. I
14 (relating to Public Utility Code). The privilege shall not
15 conflict with the corporate rights of any water company, or the
16 rights of any other municipality or municipal authority.

17 Section 2408. Assessment for Water Mains.--Boroughs shall
18 have power to assess the whole cost, or any part of the cost, of
19 construction of new water mains, built in connection with the
20 establishment or extension of a municipally owned water supply
21 system in accordance with Article XXI-A, whether [such mains be]
22 the mains are located within or without the limits of the
23 borough[, and serving the properties abutting thereon, against
24 the properties abutting along the line thereof, by the foot-
25 front rule, and to collect such assessments as other municipal
26 claims are now by law collectible: Provided, That the assessment
27 may be rebated to the owner of the property assessed, out of
28 rates charged for water consumed in serving the property so
29 assessed: And provided further, That the borough may issue
30 negotiable credit memorandum to the amount of the assessment,

1 which may be used for the payment of any water service to the
2 extent of the said assessment].

3 Section 2409. Sale of [Waterworks.--] Water System.--(a) By
4 ordinance, a borough may sell all or part of its [waterworks
5 and/or water distribution] water system to a purchaser at [such]
6 an agreed upon price [as the parties may agree upon], and
7 thereafter for all purposes that price shall be deemed to be the
8 purchaser's original cost less accrued depreciation of the plant
9 at the date of purchase[: Provided, That no]. No such ordinance,
10 however, shall take effect until the expiration of ten days
11 following its enactment and if, within [such] that ten-day
12 period, a protest, signed by at least ten percent of the
13 registered electors of the borough [shall be] is filed with the
14 borough council, [such] the sale shall be stayed pending a
15 referendum on the ordinance.

16 (b) The borough secretary within five days following the
17 filing of [such] the protest, shall certify to the county board
18 of elections a copy of the ordinance and the fact of the
19 protest, together with the number of signers [thereof] of the
20 protest, and the county board of elections shall direct a
21 referendum to be held on the matter at a special election to be
22 held at the time of the next general or municipal or primary
23 election occurring not less than sixty days from the date of
24 [such] the certification by the borough secretary. [Such] The
25 referendum shall be conducted by the county board of elections
26 in the manner provided by the Pennsylvania Election Code for the
27 holding of special elections. The ballot used when voting upon
28 the question shall contain a question stating the nature and
29 purpose of the ordinance and providing that a "yes" vote shall
30 be to sustain the ordinance and a "no" vote shall be to reject

1 it. If more electors vote to sustain the ordinance than to
2 reject it, [such] the ordinance shall take effect immediately[;
3 if]. If more electors shall vote to reject the ordinance than to
4 sustain it, [such] the ordinance shall be null and void and
5 shall not take effect.

6 Section 264. Article XXIV subdivision (a)(2) heading of the
7 act is renumbered and amended to read:

8 [(2)] (a.1) Acquisition by Eminent Domain

9 Section 265. Sections 2411 and 2412 of the act are amended
10 to read:

11 Section 2411. Appropriation of Lands and Waters.--Any
12 borough desiring to [erect waterworks,] build a water system or
13 to improve its water supply[,] may appropriate springs, streams,
14 rivers, or creeks and lands, easements and rights of way, within
15 or without its limits[, and, for], provided that if the
16 appropriation is outside its limits, the appropriation shall be
17 in compliance with 26 Pa.C.S. § 206 (relating to
18 extraterritorial takings). For the purpose of conducting water
19 obtained outside [the] its limits [of the borough,] a borough
20 may lay pipes under and over any lands, rivers, streams,
21 bridges, highways and under railroads. No water appropriated
22 under the provisions of this section shall be used in [such] a
23 manner as to deprive the owner [thereof] of the water of the
24 free use and enjoyment of the same for domestic or farm
25 purposes. The exercise of the powers in this section shall be
26 subject to any required approvals or permits from the Department
27 of Environmental Protection or other Federal or State entity.

28 Section 2412. Agreements as to Damages; Bonds.--Prior to any
29 [such] appropriation pursuant to section 2411, the borough shall
30 attempt to agree with the owner as to the damage done, or likely

1 to be done[, and, if]. If the parties cannot agree, the borough
2 shall [file its bond in the court of common pleas, conditioned
3 for the payment to the owner of the property of the damages for
4 the taking thereof, when the same shall have been ascertained.
5 Upon the approval of the bond and filing thereof, the borough
6 may enter upon such property.] proceed pursuant to 26 Pa.C.S.
7 (relating to eminent domain).

8 Section 266. Section 2413 of the act is repealed:

9 [Section 2413. Appointment of Viewers; Proceedings.--Upon
10 petition of either the property owner or borough, at any time
11 thereafter, the court shall appoint three viewers from the
12 county board of viewers, who shall assess the damages for the
13 property or rights appropriated, and shall fix a time for their
14 meeting, of which notice shall be given to all parties
15 interested. The proceedings for the assessment of damages shall
16 be as provided in the law governing eminent domain.]

17 Section 267. Article XXIV subdivision (a)(3) heading of the
18 act is renumbered and amended to read:

19 [(3)] (a.2) Acquisition by Purchase after Appraisement

20 Section 268. Sections 2421, 2422 and 2423 of the act are
21 amended to read:

22 Section 2421. Petition to Court Expressing Desire to Acquire
23 [Waterworks] a Water System.--Whenever any person, firm, or
24 corporation [shall own] owns any [waterworks or] water system,
25 and a borough is desirous of owning and operating [such
26 waterworks or] the water system, [such] a borough may present
27 its petition to the court of common pleas of the county where
28 the water system is located, setting forth that the borough is
29 desirous of owning [such waterworks or] the water system, and
30 that it will be necessary to issue bonds, and that a value

1 should be placed upon [such waterworks or] the water system,
2 including all property, real and personal, used in connection
3 therewith.

4 Section 2422. Appointment of Engineers as Appraisers to Make
5 Valuation.--The court shall [thereupon] appoint three civil
6 engineers as appraisers, to value and appraise [such waterworks
7 or] the water system, and the property used in connection
8 [therewith] with the water system, and the contracts or
9 agreements with municipalities [or townships, who]. The civil
10 engineers shall file their report in the court within three
11 months after their appointment, unless [such] the time [be] is
12 extended by the court.

13 Section 2423. Powers of Appraisers.--The appraisers shall
14 have access to the books and records of the person, firm, or
15 corporation owning [such waterworks or] the water system, to
16 inform themselves as to the income and value [thereof] of the
17 water system. They shall have power to administer oaths and are
18 authorized to take the testimony of witnesses. Their report
19 shall be final if not appealed from.

20 Section 269. Section 2424 of the act, repealed in part June
21 3, 1971 (P.L.118, No.6), is amended to read:

22 Section 2424. Appeal from Appraisement.--Within ten days
23 after notice of the filing of any report in court, either party
24 may appeal from [such] the appraisement by filing a petition for
25 a hearing before the court, alleging an undervaluation or
26 overvaluation of the property[, and praying for a hearing before
27 the court]. The court shall [thereupon] fix a time when [such]
28 the appeal may be heard, [of which time at least ten days'
29 notice shall be given to the parties] giving at least ten days'
30 notice to the parties, and, upon such hearing, the court shall

1 have power to affirm or modify [such] the report as to it
2 appears just and proper.

3 Section 270. Sections 2425 and 2426 of the act are amended
4 to read:

5 Section 2425. Effect of Failure of Owner of Works to Accept
6 Price Fixed.--After the value is finally determined, the borough
7 is authorized to buy [such waterworks or] the water system at
8 the valuation so fixed[; and the]. The person, firm, or
9 corporation owning the [same] water system shall, within ten
10 days after notice, file in court its consent to sell and convey
11 its [waterworks or] water system and property to the borough at
12 the valuation fixed[;] and, in default [thereof, such] of the
13 filing of the consent, the person, firm, or corporation shall
14 cease to have any exclusive privilege of supplying the borough,
15 or the citizens [thereof] of the borough, with water, and the
16 borough may install [such waterworks or] the water system as may
17 be necessary for the accommodation of the public.

18 Section 2426. [Issue of Bonds] Bond Issue and Limitations.--
19 For the purpose of [such purchase] purchasing a water system,
20 the borough may issue utility bonds in the manner provided by
21 [the Municipal Borrowing Law.] 53 Pa.C.S. Pt. VII Subpt. B
22 (relating to indebtedness and borrowing). The bonds shall not
23 exceed in amount the value fixed by the appraisers or the court.
24 The proceeds of the sale of the bonds shall be used exclusively
25 for the purpose of paying for the property acquired.

26 Section 271. Section 2427 of the act is repealed:

27 [Section 2427. Limit of Bond Issue.--Such bonds shall not
28 exceed in amount the value fixed by the appraisers or the court.
29 The proceeds of the sale of such bonds shall be used exclusively
30 for the purpose of paying for the property acquired.]

Section 272. Article XXIV subdivision (a)(4) heading of the act is renumbered and amended to read:

[(4)] (a.3) Power to Lease [Waterworks] a Water System

Section 273. Sections 2431, 2432 and 2433 of the act are amended to read:

Section 2431. Lease of [Waterworks] a Water System.--The council of any borough may enter into a contract with any individual, [copartnership] partnership, association, or corporation, for the leasing of any water [supply, works, systems, and property, or both of such] system of the individual, [copartnership] partnership, association, or corporation.

Section 2432. Term of Lease; Rental.--[Such leasing] The lease term may be for [such] a term of years and at [such] a rental price, as shall be agreed upon by the borough and the individual, copartnership, association, or corporation.

Section 2433. Operation of Property.--[The property, so acquired, shall be operated in the same manner as if the same had been acquired by such borough by purchase or condemnation proceedings] A borough shall have the same powers in operating a leased water system as it would have in operating a purchased or condemned water system.

Section 274. Section 2434 of the act is repealed:

[Section 2434. Rates.--The council of the borough shall fix the rates to be charged for the water furnished without the limits of such borough to individuals, copartnerships, associations, or corporations.]

Section 275. Article XXIV subdivision (a)(5) heading of the act is renumbered and amended to read:

[(5)] (a.4) Joint [Waterworks] Water System

Section 276. Sections 2436, 2437 and 2438 of the act are amended to read:

Section 2436. Joint Acquisitions and Constructions.--[Two or more boroughs may unite, or any borough may unite with a city or township] A borough may join with one or more municipal corporations in the construction or acquisition and maintenance of [waterworks] a water system.

Section 2437. Permit of [Sanitary Water Board] Department of Environmental Protection.--The construction of [such waterworks] a water system shall be commenced only after plans for [such waterworks have] the water system has been filed with the Department of [Health and the Water and Power Resources Board] Environmental Protection and, if required by law, other Federal or State entities, and permits issued in accordance with law.

Section 2438. Joint Commission of [Waterworks] a Water System.--The [boroughs, cities and townships] municipal corporations joining in [any such] the construction or acquisition and maintenance of [waterworks, in order to facilitate the building, operation and maintenance of the same, and in securing preliminary surveys and estimates,] a water system may, by ordinance, provide for the appointment of a joint commission of [waterworks, composed of one representative from each of the boroughs, cities and townships joining, which] a water system in order to facilitate the construction, operation and maintenance of the water system and to secure preliminary surveys and estimates. The joint commission shall act generally as the advisory and administrative agency in the construction of [such] the improvement and its subsequent operation and maintenance and shall be composed of one representative from each of the joining municipal corporations. The members of [such

1 board] the commission shall serve for terms of six years each
2 from the dates of their respective appointments and until their
3 successors are appointed. The commission shall organize by the
4 election of a [chairman] chair, secretary and treasurer. The
5 secretary and treasurer may be the same person. The [several
6 boroughs, cities and townships] municipal corporations may in
7 the ordinances creating the commission authorize it to appoint
8 an engineer, a solicitor and [such] other assistants as are
9 deemed necessary and agree to share the compensation for
10 attending its meetings as shall be fixed in the budget prepared
11 by the commission and submitted to and adopted by the [several
12 boroughs, cities and townships] joining municipal corporations.
13 The budget item providing for the compensation to the members
14 for attending meetings shall not exceed five hundred dollars
15 (\$500) per year, but members in addition thereto shall be
16 entitled to actual expenses to be paid by the respective
17 [boroughs, cities and townships which such] municipal
18 corporations that the members represent. The fee for each
19 attendance at meetings shall be stipulated and no member shall
20 be paid a fee for any meeting [he] the member does not attend.

21 Section 277. Article XXIV subdivision (a)(6) heading of the
22 act is renumbered and amended to read:

23 [(6)] (a.5) Condemnation of Lands for Road Purposes
24 and to Prevent Contamination

25 Section 278. Sections 2441 and 2442 of the act are amended
26 to read:

27 Section 2441. [Overflowing Roads] Prevention of
28 Contamination of Water Supply; Acquisition of Lands to
29 Reconstruct Roads.--[Whenever any borough, in supplying water to
30 the public, shall find it necessary, in storing water] (a) If a

1 borough finds it necessary, when storing water for supply to the
2 public, to occupy and overflow [with water] portions of any
3 public road with water, or whenever any public road leads into
4 or crosses over any reservoir used for the storage of water, the
5 borough shall [cause such road to be reconstructed, at its own
6 expense, on a favorable location, and in as perfect manner as
7 the original road, and, for such purposes is authorized to
8 condemn land, whenever an agreement as to the price cannot be
9 had with the owners.], at its own expense, reconstruct or build
10 a road in a favorable location and it shall be in the same or
11 better condition as the original road. A borough is authorized
12 to condemn land for these purposes if an agreement as to price
13 cannot be reached with the landowner. A condemnation of land
14 outside the borough limits shall be in conformity with 26
15 Pa.C.S. § 206 (relating to extraterritorial takings).

16 (b) A borough may acquire, by purchase or condemnation, land
17 along and contiguous to streams of water or reservoirs from
18 which water is taken for public use if necessary to preserve the
19 water from contamination.

20 Section 2442. Filing Maps and Plans.--[After such] If a
21 change is made pursuant to section 2441(a), the borough shall
22 file in the court of [quarter sessions of the county] common
23 pleas a map or plan showing [such] the change of road, and if
24 the road is outside the limits of the borough, it shall furnish
25 to the [supervisors or other authorities of the township, or
26 municipal corporation] governing body of the municipal
27 corporation, a copy of [such] the map.

28 Section 279. Sections 2443 and 2444 of the act are repealed:

29 [Section 2443. Condemnation of Lands to Prevent
30 Contamination.--Any borough may acquire, by purchase or

1 condemnation, such land along and contiguous to the streams of
2 water or reservoirs from which water is taken for public use, as
3 may be necessary to preserve the same from contamination.

4 Section 2444. Condemnation Proceedings.--The damages
5 incurred in changing the location of any such public road, and
6 in condemning land to preserve water from contamination, shall
7 be ascertained in the manner provided in the law governing
8 eminent domain, and shall be paid by the borough.]

9 Section 280. Article XXIV subdivision(a) (7) heading of the
10 act is renumbered and amended to read:

11 [(7)] (a.6) Commission of [Waterworks] the Water System

12 Section 281. Sections 2451 and 2452 of the act, amended July
13 11, 1996 (P.L.549, No.97), are amended to read:

14 Section 2451. Commission May Be Established.--Whenever any
15 borough owns and maintains [waterworks] a water system, there
16 may be established in [such] the borough, by ordinance, a
17 commission of [waterworks] the water system, which shall have
18 the power of a nonprofit corporation, to be composed of either
19 three or five citizens of the borough, appointed by the borough
20 council who shall be known as commissioners of [waterworks] the
21 water system. At any time after three years from the first
22 appointment of the commissioners of [waterworks] the water
23 system, the borough may abolish [such] the commission by
24 repealing the ordinance establishing the same[, and therefore],
25 which shall terminate the terms of the commissioners then in
26 office [shall terminate].

27 Section 2452. Terms of Commissioners; Compensation.--(a)
28 [It] If a borough establishes a commission of the water system,
29 it shall be the duty of the borough council to appoint [such]
30 the commissioners of [waterworks] the water system. If there are

1 three commissioners, one shall be appointed to serve for one
2 year, one for two years, and one for three years[;], and
3 annually thereafter, the council shall appoint one commissioner
4 of [waterworks] the water system to serve a term of three years.
5 If there are five commissioners, one shall be appointed to serve
6 for one year, one for two years, one for three years, one for
7 four years and one for five years[;], and annually thereafter, the
8 council shall appoint one commissioner of [waterworks] the
9 water system to serve a term of five years. [The terms of
10 commissioners of waterworks in office on the effective date of
11 this act shall terminate on the effective date of this act.] In
12 case of a vacancy, the council shall fill the same for the
13 unexpired term. [Such] The commissioners of [waterworks] the
14 water system may receive a salary for their services and shall
15 be reimbursed by the borough for all expenses necessarily
16 incurred in the performance of their [duty] duties.

17 (b) The salary of the commissioners shall not exceed in
18 service areas with fewer than five thousand metered accounts a
19 maximum of one thousand eight hundred seventy-five dollars
20 (\$1875) per year or one hundred fifty-six dollars and twenty-
21 five cents (\$156.25) per month; in service areas with five
22 thousand but fewer than ten thousand metered accounts, a maximum
23 of two thousand five hundred dollars (\$2500) per year or two
24 hundred and eight dollars and thirty-three cents (\$208.33) per
25 month; in service areas with ten thousand but fewer than fifteen
26 thousand metered accounts, a maximum of three thousand two
27 hundred and fifty dollars (\$3250) per year or two hundred and
28 seventy dollars and eighty-three cents (\$270.83) per month; in
29 service areas with fifteen thousand but fewer than twenty-five
30 thousand metered accounts, a maximum of four thousand one

1 hundred and twenty-five dollars (\$4125) per year or three
2 hundred and forty-three dollars and seventy-five cents (\$343.75)
3 per month; in service areas with twenty-five thousand but fewer
4 than thirty-five thousand metered accounts, a maximum of four
5 thousand three hundred seventy-five dollars (\$4375) per year or
6 three hundred sixty-four dollars and fifty-eight cents (\$364.58)
7 per month; and in service areas with thirty-five thousand or
8 more metered accounts, a maximum of five thousand dollars
9 (\$5000) per year or four hundred and sixteen dollars and sixty-
10 seven cents (\$416.67) per month.

11 Section 282. Sections 2453, 2454, 2455, 2456, 2457 and 2458
12 of the act are amended to read:

13 Section 2453. Organization of Commissioners.--It shall be
14 the duty of the commissioners of [waterworks] the water system
15 to meet within ten days after their first appointment, and
16 annually thereafter, and organize by electing a president and
17 secretary.

18 Section 2454. Powers of Commission.--After organization, the
19 commissioners shall take charge and control of the [waterworks]
20 water system of [such] the borough. The commission shall have
21 power to appoint all necessary officers and agents, and take
22 from [them such] the officers and agents security for the
23 faithful performance of their [duty] duties as [they] the
24 commission shall deem proper[; and], to fix the salaries and
25 wages of [such] the officers and agents[;], to provide for the
26 repair, extension, improvement and maintenance of [such
27 waterworks] the water system, and the [erection] construction of
28 a new [waterworks;] water system, to collect water rents and to
29 make and establish the rates and conditions upon which water
30 will be furnished to applicants [therefor], subject to any

1 applicable approval, regulation or control imposed by 66 Pa.C.S.
2 Pt. I (relating to Public Utility Code) and to make bylaws and
3 regulations for the economic and efficient management of [such
4 waterworks] the water system, which shall not be inconsistent
5 with any of the laws of the Commonwealth, or the rules and
6 regulations of the [Sanitary Water Board or the Water and Power
7 Resources Board of the Commonwealth] Department of Environmental
8 Protection. No such bylaws or regulations shall become effective
9 until they have been approved by the borough council and enacted
10 as ordinances of the borough.

11 Section 2455. Issue of Bonds.--The borough may, upon the
12 request of the commissioners of [waterworks] the water system,
13 issue general obligation or non-debt revenue bonds for the
14 extension of the [waterworks] water system or the erection of a
15 new [waterworks. Such] water system. The bonds shall be
16 designated ["waterworks] "water system bonds" and shall be
17 issued and sold in the manner provided by [the Municipal
18 Borrowing Law] 53 Pa.C.S. Pt. VII Subpt. B (relating to
19 indebtedness and borrowing).

20 Section 2456. Plans and Specifications for the Improvements;
21 Contracts.--The commissioners shall prepare plans and
22 specifications of all work to be performed and materials
23 necessary for the repair, maintenance, and extension of [such
24 waterworks] the water system, or the [erection] construction of
25 a new [waterworks; and] water system. The commissioners shall,
26 after plans and specifications for the extension or the
27 [erection] construction of [waterworks have] a water system has
28 been submitted to and approved by the [Sanitary Water Board]
29 Department of Environmental Protection, and a permit granted
30 [therefor by the board] as may be required by law, invite

1 proposals for the performing of [such] the work and the
2 furnishing of [such] materials[;], and shall advertise for bids
3 as required by law, and shall let contracts [therefor] to the
4 lowest responsible bidder, and shall take adequate security for
5 the performance of all such contracts and for the payment of all
6 labor and materials.

7 Section 2457. Reports by Commission.--The commissioners
8 shall make a monthly report to the borough council of the
9 receipts and disbursements during the preceding month, and
10 annually make a detailed report of the condition of the
11 [waterworks, which shall be published or otherwise made
12 available by the council for the information of the public.]
13 water system. Both the monthly and annual reports shall be
14 deemed to be public records.

15 Section 2458. Care of Funds.--[The commissioners shall cause
16 all moneys collected to be deposited weekly, by the collectors,]
17 Collectors shall be appointed by the commissioners, pursuant to
18 section 2454, who shall collect all moneys for water rents. The
19 moneys collected shall be deposited weekly with the borough
20 treasurer, who shall return a receipt [therefor] to the
21 commissioners. All moneys [so] collected shall be kept in a
22 separate fund, and shall be used for the purpose of repairing,
23 maintaining and extending [such waterworks] the water system,
24 and the [erection] construction of a new [waterworks] water
25 system. All moneys remaining after [such] the expenditures shall
26 be used solely for the payment of any indebtedness on [said
27 waterworks] the water system and any indebtedness incurred by
28 the borough for constructing, maintaining, improving, enlarging
29 or extending [said waterworks] the water system. [Said moneys
30 shall be used for no purpose other than as provided in this

1 section.] No money shall be drawn from [such] the fund except
2 upon order countersigned by the president and secretary of the
3 commission.

4 Section 283. Article XXIV subdivision (a)(8) heading of the
5 act is renumbered and amended to read:

6 [(8)] (a.7) Water Connections

7 Section 284. Sections 2461, 2462 and 2463 of the act are
8 amended to read:

9 Section 2461. Ordinances to Require Water Connections.--[Any
10 borough supplying water for the use of the public within such
11 borough, in any manner mentioned in section 2401 of this act,]
12 (a) Borough council may, by ordinance, require any owner of
13 property [abutting upon any street in which there is a water
14 main constructed or acquired by the borough, to make connections
15 with such water line, for the purpose of conducting water to
16 such property. The borough may by penalties enforce any
17 regulation it may ordain with reference to such water
18 connections.] to connect with and use a water system of the
19 borough or municipal authority or a joint water board in either
20 of the following cases:

21 (1) Except as provided in subsection (b), if the property
22 owner's principal building is located within one hundred fifty
23 feet of a water system or any part or extension of the system.

24 (2) If the property owner's principal building has no supply
25 of water which is safe for human consumption.

26 (b) A property owner who, after the effective date of this
27 subsection, is subject to mandatory connection pursuant to
28 subsection (a)(1) shall not be required to connect to the water
29 system pursuant to that subsection if all of the following
30 conditions exist:

1 (1) The water system or part or extension of the system that
2 is within one hundred fifty feet of the principal building was
3 in existence on the effective date of this subsection.

4 (2) The principal building has its own supply of water which
5 is safe for human consumption.

6 (3) Prior to the effective date of this subsection, the
7 property owner was not required to connect to the existing
8 system.

9 (c) A borough may also require any owner of property to
10 install and maintain a backflow prevention device based on the
11 degree of potential hazard of the connected property in
12 accordance with the act of November 10, 1999 (P.L.491, No.45),
13 known as the "Pennsylvania Construction Code Act," and
14 regulations promulgated thereunder.

15 (d) A borough may assess penalties for the violation of
16 ordinances pertaining to water connections or backflow
17 prevention devices.

18 Section 2462. Notice of Ordinance; Failure to Comply With
19 Ordinance.--The owner shall be given at least forty-five days'
20 notice of any ordinance requiring [such] a water connection,
21 and, upon failure of [such] the owner to make [such] the
22 required connection, the borough may make the [same] connection,
23 and collect the cost [thereof] from the owner by a municipal
24 claim or in an action of assumpsit. All connections required
25 shall be uniform.

26 Section 2463. Water Main Tapping Fees.--Any borough may, by
27 ordinance, provide for charging a tapping fee calculated in
28 accordance with 53 Pa.C.S. § 5607 (relating to purposes and
29 powers) whenever the owner of any property connects [such] the
30 property with a water main constructed or acquired by the

1 borough[, which]. The tapping fee shall be in addition to any
2 charges assessed and collected against [such] the property in
3 the construction or acquisition of [such] the water main by the
4 borough. Whenever a water main or part or extension [thereof]
5 owned by a borough has been constructed by the borough at the
6 expense of a private person or corporation or has been
7 constructed by a private person or corporation under the
8 supervision of the borough at the expense of the private person
9 or corporation, the borough shall have the right to charge a
10 tapping fee calculated in accordance with 53 Pa.C.S. § 5607 and
11 refund [said] the tapping fee or any part [thereof] of the
12 tapping fee to the person or corporation who has paid for the
13 construction of [said] the water main or any part or extension
14 [thereof]. The total of [said] the refunds shall never exceed
15 the cost of [said] the system or any part or extension [thereof]
16 to the person or corporation paying for the construction
17 [thereof].

18 Section 285. Article XXIV subdivision (b) heading of the act
19 is repealed:

20 [(b) Manufacture and Supply of Electricity]

21 Section 286. Section 2471 of the act, amended December 16,
22 1992 (P.L.1215, No.158), is repealed:

23 [Section 2471. Manufacture and Purchase of Electricity.--Any
24 borough may manufacture or purchase electricity for the use of
25 the inhabitants of such borough. Any borough owning or operating
26 electric light plants may make contracts for supplying
27 electricity for commercial purposes outside the limits of such
28 borough, with the consent of the municipal and township
29 authorities. Nothing in this section shall conflict with the
30 corporate rights of any corporation empowered to supply

1 electricity in territory adjacent to such boroughs, or with the
2 rights of any other borough. No person, firm, or corporation
3 shall introduce electric current for light, heat, or power
4 purposes, without the consent of the borough authorities, into
5 the limits of any borough which is furnishing electric current
6 to the inhabitants: Provided, however, That this section shall
7 not apply to any person, firm, or corporation manufacturing
8 electricity exclusively for its own use: And provided further,
9 That any borough which constructs an electric light plant, or
10 purchases the property of any person, copartnership, or electric
11 light company, and incurs debt for any of such purposes, shall
12 incur such debt in accordance with and to the extent permitted
13 by the act of July 12, 1972 (P.L.781, No.185), known as the
14 "Local Government Unit Debt Act." Nothing in this act shall be
15 construed so as to disallow any borough from operating a cable
16 television system.]

17 Section 287. Sections 2471.1 and 2471.2 of the act, added
18 December 30, 1982 (P.L.1465, No.333), are repealed:

19 [Section 2471.1. Operation of Electric Plants.--(a) The
20 following words and phrases when used in this section shall
21 have, unless the context clearly indicates otherwise, the
22 meanings given to them in this subsection:

23 (1) "Project" means any electric plants, hydroelectric plant
24 works, system, facilities, or real or personal property,
25 together with all parts thereof and appurtenances thereto, used
26 or useful in connection with the generation, production,
27 transmission, purchase, sale, exchange or interchange of
28 electric power or energy, or any interest therein or right to
29 capacity thereof.

30 (2) "Revenue bond" means an instrument imposing an

1 obligation for the repayment of money borrowed, payable as to
2 both principal and interest exclusively from the income and
3 revenues derived from an interest in an electric light plant or
4 project.

5 (b) A borough may own, construct, acquire by lease, purchase
6 or otherwise gain an interest as co-owner or tenant in common
7 and operate and manage or cause to be operated and managed an
8 electric light plant or project located within or without this
9 Commonwealth jointly with any other borough, political
10 subdivision, subdivision of the Federal Government, State,
11 political subdivision of another state, private corporation
12 empowered to supply electricity, electric cooperative
13 corporation formed under the act of June 21, 1937 (P.L.1969,
14 No.389), known as the "Electric Cooperative Corporation Act," or
15 electric cooperative corporation in another state.

16 (c) A borough which jointly owns, constructs, leases,
17 purchases or otherwise gains an interest in an electric light
18 plant or project shall have the power to do and accomplish all
19 actions reasonably necessary and incident to the administration,
20 operation and management of the plant or project. This power
21 shall be vested in the corporate authorities: Provided, however,
22 That a borough shall not become a stockholder in, obtain or
23 appropriate money for or loan its credit to any corporation,
24 association, institution or individual or otherwise act contrary
25 to the provisions of section 9 of Article IX of the Constitution
26 of Pennsylvania. In addition to the powers enjoyed by all
27 boroughs, a borough which gains an interest in an electric light
28 plant or project under subsection (b) shall have the following
29 powers:

30 (1) to cooperate with private power companies, other

1 boroughs, electric cooperative corporations and other public or
2 private electric power entities, inside and outside of this
3 Commonwealth, in the development of electric power and energy;

4 (2) to make such studies as may be necessary to determine
5 the feasibility and cost of any additional sources and supplies
6 of electric power and energy;

7 (3) to contract for the purchase, sale, exchange,
8 interchange, wheeling, pooling or transmission of electric power
9 and energy or for the right to the capacity thereof, inside and
10 outside of this Commonwealth, to and from any public or private
11 power entities, private power companies, other boroughs and
12 electric cooperative corporations;

13 (4) to procure insurance against any losses in connection
14 with its property, operations or assets in such amounts and from
15 such insurers as the corporate authorities deem desirable;

16 (5) to contract for and to accept any gifts or grants or
17 loans of funds or property or financial or other aid in any form
18 from the United States of America or any agency or
19 instrumentality thereof, or from any other source;

20 (6) to grant the use, by lease or otherwise, and to make
21 charges for the use, of any property or facility owned or
22 controlled by it;

23 (7) to procure from the United States of America or any
24 agency or instrumentality thereof, or from any state or agency
25 or instrumentality thereof, any consents, authorizations or
26 approvals which may be requisite to enable ownership, operation,
27 construction or repair;

28 (8) to borrow money and from time to time to issue revenue
29 bonds, and to enter into agreements with the purchasers of such
30 revenue bonds; and

1 (9) to mortgage any property acquired or owned under
2 subsection (b) to secure the payment of its revenue bonds, or
3 other obligations issued to finance such acquisition, ownership
4 or repair.

5 (d) In the erection and extension of an electric light plant
6 or project under subsection (b) and for all other purposes
7 authorized by this act, a borough may enter upon, appropriate,
8 injure, or destroy private lands, property or material according
9 to the proceedings set forth in the law governing eminent
10 domain: Provided, however, That a borough shall not have the
11 power of condemnation with regard to any property of a private
12 or public retail electric supplier which geographically lies
13 beyond the boundaries of the corporate limits of the borough.

14 (e) A borough which gains an interest in an electric light
15 plant or project under subsection (b) may fix, establish,
16 maintain and collect or authorize by contract or otherwise the
17 establishment, levying and collection of such rates, fees,
18 rental or other charges, including connection charges, for the
19 services afforded by or in connection with any properties which
20 it constructs, erects, owns, acquires, operates or manages, and
21 for the sale or transmission of electric energy and power as it
22 may deem necessary, proper, desirable and reasonable.

23 (f) A borough which gains an interest in an electric light
24 plant or project under subsection (b) may pay all or part of the
25 cost therefor from the revenues derived from the sale of revenue
26 bonds issued in the manner provided by the act of July 12, 1972
27 (P.L.781, No.185), known as the "Local Government Unit Debt
28 Act."

29 (g) Interest and principal paid on revenue bonds issued by a
30 borough under subsection (f) shall be exempt from all State

1 taxes of whatsoever kind or nature.

2 Section 2471.2. Municipal Power Agencies.--(a) The
3 following words and phrases when used in this section shall
4 have, unless the context clearly indicates otherwise, the
5 meanings given to them in this subsection:

6 (1) "Municipal power agency" means a separate body politic
7 and corporate under the laws of the Commonwealth of Pennsylvania
8 created by agreement between or among two or more boroughs
9 pursuant to this section.

10 (2) "Project" means any electric plant or plants,
11 hydroelectric plant works, system, facilities or real or
12 personal property, together with all parts thereof and
13 appurtenances thereto, used or useful in connection with the
14 generation, production, transmission, purchase, sale, exchange
15 or interchange of electric power or energy, or any interest
16 therein or right to capacity thereof.

17 (3) "Revenue bond" means an instrument imposing an
18 obligation for the repayment of money borrowed, payable as to
19 both principal and interest exclusively from the income and
20 revenues derived from an interest in an electric light plant or
21 project.

22 (b) Any two or more boroughs may form a municipal power
23 agency by the execution of any agency agreement authorized by a
24 resolution of the corporate authorities of each borough. Such
25 agency agreement shall state:

26 (1) The name of the agency, which shall include the words
27 "municipal power agency."

28 (2) The names of the boroughs which have approved the agency
29 agreement and are initial members of the municipal power agency.

30 (3) That the municipal power agency is created pursuant to

1 the authority granted by this act.

2 (4) The names and addresses of the persons initially
3 appointed by the corporate authorities to act as representatives
4 to the municipal power agency from the member boroughs.

5 (5) The limitations, if any, placed on the powers or terms
6 of representatives appointed by the corporate authorities of the
7 member boroughs.

8 (6) The names and addresses of the initial board of
9 directors of the municipal power agency, if known by the time of
10 filing, which shall be constituted by not less than five persons
11 who are representatives of the member boroughs, selected by the
12 vote of a majority of such representatives.

13 (c) The agency agreement referred to in subsection (b) and a
14 certified copy of the resolution of the corporate authorities of
15 each borough shall be filed for record with the Secretary of the
16 Commonwealth. If the agency agreement meets the requirements of
17 this subsection, the Secretary of the Commonwealth shall record
18 it and issue and record a certificate of incorporation which
19 shall be conclusive proof of a substantial compliance with the
20 requirements of this subsection. The certificate shall state the
21 name of the municipal power agency and the fact and date of
22 incorporation. Upon the issuance of the certificate of
23 incorporation the existence of the municipal power agency as a
24 political instrumentality of the Commonwealth shall begin.

25 (d) The bylaws of the municipal power agency and any
26 amendments thereto, shall be proposed by the board of directors
27 and shall be adopted by a majority vote of the representatives
28 of the member boroughs, unless the agency agreement requires a
29 greater vote, at a meeting held after notice. Subject to the
30 provisions of the agency agreement, the bylaws shall state:

- 1 (1) the qualifications of member boroughs, and limitations,
- 2 if any, upon their number;
- 3 (2) conditions of membership, if any;
- 4 (3) manner and time of calling regular meeting of
- 5 representatives of member boroughs;
- 6 (4) manner and conditions of termination of membership; and
- 7 (5) such other provisions for regulating the affairs of the
- 8 municipal power agency as the representatives of the member
- 9 boroughs shall determine to be necessary.

10 (e) Every municipal power agency shall maintain an office in
11 this Commonwealth to be known as its registered office. When a
12 municipal power agency desires to change the location of its
13 registered office, it shall file with the Secretary of the
14 Commonwealth a certificate of change of location of registered
15 office, stating the new location by city, town or other
16 community and effective date of change. When the certificate of
17 change of location has been duly filed, the board of directors
18 may make the change without any further action.

19 (f) Each of the directors shall hold office for the term for
20 which he has been selected and until a successor has been
21 selected and has qualified. Directors shall discharge their
22 duties in good faith, and with that diligence and care which an
23 ordinary prudent person in a like position would exercise under
24 similar circumstances. The agency agreement, or the bylaws may
25 prescribe the number, term of office, powers, authority and
26 duties of directors, the time and place of their meetings and
27 other regulations concerning directors. Except where the agency
28 agreement or bylaws prescribe otherwise, the term of office of a
29 director shall be for one year. Except where the agency
30 agreement or bylaws prescribe otherwise, a meeting of the board

1 of directors may be held at any place, within the Commonwealth,
2 designated by the board, after notice, and an act of the
3 majority of the directors present at a meeting at which a quorum
4 is present is the act of the board. Except where the agency
5 agreement or bylaws prescribe otherwise, any vacancy occurring
6 on the board shall be filled by a person nominated by the
7 remaining members of the board and elected by a majority of
8 representatives of the member boroughs.

9 (g) Except where the agency agreement or bylaws prescribe
10 otherwise, the board of directors shall appoint a president from
11 its membership, and a secretary and treasurer, and any other
12 officers or agents deemed to be necessary, who may but need not
13 be borough representatives or directors. An officer may be
14 removed with or without cause by the board of directors.
15 Officers of the municipal power agency shall have the authority
16 and duties in the management of the business of the municipal
17 power agency that the agency agreement or bylaws prescribe, or,
18 in the absence of such prescription, as the board of directors
19 determines.

20 (h) Except as otherwise provided in the agency agreement or
21 the bylaws, the duly authorized representatives of each member
22 borough shall act as, and vote on behalf of, such borough.
23 Except where the agency agreement or bylaws provide otherwise,
24 representatives of the member boroughs shall hold at least one
25 meeting each year for the election of directors and for the
26 transaction of any other business. Except where the agency
27 agreement or bylaws prescribe otherwise, special meetings of the
28 representatives may be called for any purpose upon written
29 request to the president or secretary to call the meeting. Such
30 officer shall give notice of the meeting to be held between ten

1 and sixty days after receipt of such request. Unless the agency
2 agreement or bylaws provide for a different percentage, a quorum
3 for a meeting of the representatives of the member boroughs is a
4 majority of the total members and a quorum for meetings of the
5 board of directors is a majority of the membership of such
6 board.

7 (i) The agency agreement may be amended as proposed at any
8 meeting of the representatives of the members for which notice,
9 stating the purpose, shall be given to each representative and,
10 unless the agency agreement or bylaws require otherwise, shall
11 become effective when ratified by resolutions of a majority of
12 the corporate authorities of the member boroughs. Each amendment
13 and the resolutions approving it shall be filed for record with
14 the Secretary of the Commonwealth.

15 (j) Each member borough shall have full power and authority,
16 within budgetary limits applicable to it, to appropriate money
17 for the payment of expenses of the formation of the municipal
18 power agency and of its representative in exercising its
19 functions as a member of the agency.

20 (k) A municipal power agency may own, construct, acquire by
21 lease, purchase or otherwise gain an interest by itself or as
22 co-owner or tenant in common and operate and manage or cause to
23 be operated and managed an electric light plant or project
24 located within or without this Commonwealth jointly with any
25 political subdivision, subdivision of the Federal Government,
26 State, political subdivision of another state, private
27 corporation empowered to supply electricity, electric
28 cooperative corporation formed under the act of June 21, 1937
29 (P.L.1969, No.389), known as the "Electric Cooperative
30 Corporation Act," or electric cooperative corporation in another

1 state.

2 (1) All powers of a municipal power agency shall be
3 exercised by its board of directors, unless otherwise provided
4 by the agency agreement or bylaws. A municipal power agency
5 shall have the power to do and accomplish all actions reasonably
6 necessary and incident to the ownership, construction,
7 acquisition, administration, operation and management of an
8 electric light plant or project. Among the specific powers of a
9 municipal power agency shall be the following:

10 (1) to sue and be sued;

11 (2) to enter into contracts;

12 (3) to cooperate with private power companies, boroughs,
13 electric cooperative corporations and other public or private
14 electric power entities, inside and outside of this
15 Commonwealth, in the development of electric power and energy;

16 (4) to make such studies as may be necessary to determine
17 the feasibility and cost of any additional sources and supplies
18 of electric power and energy;

19 (5) to contract for the purchase, sale, exchange,
20 interchange, wheeling, pooling or transmission of electric power
21 and energy or for the right to the capacity thereof, inside and
22 outside of this Commonwealth, to and from any public or private
23 power entities, private power companies, other boroughs and
24 electric cooperative corporations;

25 (6) to procure insurance against any losses in connection
26 with its property, operations or assets in such amounts and from
27 such insurers as the board of directors deems desirable;

28 (7) to contract for and to accept any gifts or grants or
29 loans of funds or property or financial or other aid in any form
30 from the United States of America or any agency or

1 instrumentality thereof, or from any other source;

2 (8) to acquire, hold, use, operate and dispose of personal
3 property;

4 (9) to acquire, hold, use and dispose of its income,
5 revenues, funds and moneys;

6 (10) to acquire, own, use, lease, operate and dispose of
7 real property and interests in real property and to make
8 improvements thereon;

9 (11) to grant the use, by lease or otherwise, and to make
10 charges for the use, of any property or facility owned or
11 controlled by it;

12 (12) to procure from the United States of America or any
13 agency or instrumentality thereof, or from any state or agency
14 or instrumentality thereof, any consents, authorizations or
15 approvals which may be requisite to enable ownership, operation,
16 construction or repair;

17 (13) to borrow money and from time to time to issue revenue
18 bonds and to enter into agreements with the purchasers of such
19 revenue bonds;

20 (14) to invest funds not required for immediate use,
21 including but not limited to proceeds from the sale of revenue
22 bonds: Provided, however, That the power of a municipal power
23 agency to invest shall be the same as that of a borough, as
24 exercised by the borough council pursuant to clause (6) of
25 section 1005 and section 1316; and

26 (15) to mortgage any property acquired or owned to secure
27 the payment of its revenue bonds or other obligations issued to
28 finance such acquisition, ownership or repair.

29 (m) In the erection and extension of an electric light plant
30 or project, and for all other purposes authorized by this act, a

1 municipal power agency may enter upon, appropriate, injure or
2 destroy private lands, property or material according to the
3 proceedings set forth in the law governing eminent domain:
4 Provided, however, That a municipal power agency shall not have
5 the power of condemnation with regard to any property of a
6 private or public retail electric supplier which geographically
7 lies beyond the boundaries of the corporate limits of its member
8 boroughs.

9 (n) A municipal power agency which gains an interest in an
10 electric light plant or project may pay all or part of the cost
11 therefor from the revenues derived from the sale of revenue
12 bonds issued in the manner provided by the act of July 12, 1972
13 (P.L.781, No.185), known as the "Local Government Unit Debt
14 Act."

15 (o) A municipal power agency may make and enforce bylaws or
16 rules which it deems necessary or desirable and may establish,
17 fix, levy and collect or may authorize, by contract, franchise,
18 lease or otherwise, the establishment, levying and collection
19 of, rents, rates and other charges for the services afforded by
20 the municipal power agency, including connection for the
21 services afforded by the municipal power agency, including
22 connection charges or by or in connection with any project or
23 properties which it may construct, erect, acquire, own, operate
24 or control, or with respect to which it may have any interest or
25 any right to capacity thereof and for the sale of electric
26 energy or of generation or transmission capacity or services as
27 it may deem necessary, proper, desirable and reasonable. Rents,
28 rates and other charges shall be at least sufficient to meet
29 expenses thereof, including reasonable reserves, interest and
30 principal payments.

1 (p) Interest and principal paid on revenue bonds, issued by
2 a municipal power agency shall be exempt from all State taxes of
3 whatsoever kind or nature.]

4 Section 288. Section 2471.3 of the act, added October 27,
5 2010 (P.L.862, No.87), is repealed:

6 [Section 2471.3. Additional Contracting Authority for
7 Electric Power and Energy.--(a) In addition to the authority
8 provided under section 2471, a borough that, on the effective
9 date of this section, owns or operates electric generation or
10 distribution facilities and a borough that is a member of a non-
11 profit membership corporation may contract with the non-profit
12 membership corporation for the following:

13 (1) The development of electric power and associated energy,
14 including the conduct of investigations or studies necessary to
15 determine the feasibility and cost of additional sources and
16 supplies of electric power and associated energy.

17 (2) The purchase, sale, exchange, interchange, wheeling,
18 pooling or transmission of electric power and associated energy
19 or the right to the capacity from sources and projects in this
20 Commonwealth or another state for a period not to exceed fifty
21 years.

22 (b) A contract under subsection (a)(2) shall include the
23 purpose of the contract, the duration of the contract and
24 available procedures to terminate the contract subsequent to the
25 repayment of all indebtedness secured under the contract.

26 (c) If a borough is a member of a non-profit membership
27 corporation, a contract under subsection (a)(2) may, if
28 specifically set forth in the contract, obligate the borough to:

29 (1) take and pay for a minimum quantity of electric power
30 and associated energy if the power and energy is available for

1 delivery;

2 (2) in connection with a project owned by the non-profit
3 membership corporation or in which the non-profit membership
4 corporation obtains an undivided ownership interest, to take or
5 pay for a minimum amount of electric power and energy; or

6 (3) pay for electric power and energy only if utilized by
7 the borough.

8 (d) (1) The authority under subsection (c)(1) shall apply
9 whether or not the borough accepts delivery of the power and
10 energy.

11 (2) The authority under subsection (c)(2) shall apply
12 notwithstanding the suspension, interruption, interference or
13 reduction or curtailment of the output of the project or the
14 electric power and energy contracted for and whether or not:

15 (i) the electric power and energy is available for delivery
16 to the borough; or

17 (ii) the borough accepts delivery of the electric power and
18 energy.

19 (e) No borough may be obligated under a take-or-pay or take-
20 and-pay arrangement entered into with a non-profit membership
21 corporation in which the borough maintains membership unless
22 that obligation is expressly authorized by an act of the borough
23 council.

24 (f) A non-profit membership corporation shall not:

25 (1) condition membership in the non-profit membership
26 corporation on the inclusion of any take-or-pay or take-and-pay
27 obligations in a contract under subsection (a)(2); or

28 (2) except as set forth in subsection (g), require take-or-
29 pay or take-and-pay obligations in a contract with a borough
30 unless the contract meets the criteria of subsection (c)(1) or

1 (2) .

2 (g) A borough which is a member of a non-profit membership
3 corporation may enter into future power supply contracts,
4 contract renewals or contract extensions with the non-profit
5 membership corporation under subsection (c) (3):

6 (1) with no take-or-pay or take-and-pay obligations as
7 permitted by subsection (c) (1) and (2); and

8 (2) without prejudice or discrimination as compared to any
9 other borough which chooses to enter into contracts permitted by
10 subsection (c) (1) and (2) with the non-profit membership
11 corporation.

12 (h) In order to carry out subsection (g), a non-profit
13 membership corporation which provides or offers electric power
14 and associated energy to a member borough in this Commonwealth
15 under subsection (a) (2) shall offer, to all of its member
16 boroughs in this Commonwealth, future power supply contract
17 terms, contract renewals or contract extensions under subsection
18 (c) (3) on a comparable and nondiscriminatory basis and with
19 similar terms and conditions to future power supply contract
20 terms, contract renewals or contract extensions that would be
21 appropriate under subsection (c) (3) which the non-profit
22 membership corporation contemporaneously offers to its members
23 in other states.

24 (i) All obligations under a contract under subsection (a) (2)
25 shall be paid from revenues derived from the operation of the
26 borough's electric system, and payments shall be an operating
27 expense of the borough's electric system.

28 (j) If explicitly set forth in a contract under subsection
29 (a) (2), a borough may agree to assume, prorate or otherwise
30 become liable for the obligations of another borough of this

1 Commonwealth or of a political subdivision of another state that
2 is a member of the non-profit membership corporation if the
3 borough or other political subdivision defaults in the payment
4 of its obligations for the purchase of the electric power and
5 associated energy. The contract may include provisions to permit
6 a borough to succeed to the rights and interests of the
7 defaulting borough or political subdivision to purchase electric
8 power and associated energy. A borough's liability for the
9 obligations of a defaulting borough of this Commonwealth or a
10 political subdivision of another state shall not exceed twenty-
11 five percent of a borough's initial nominal entitlement to
12 electric power and associated energy under the contract.

13 (k) None of the obligations under the contract shall
14 constitute a legal or equitable pledge, charge, lien or
15 encumbrance on any property of the borough or on any of its
16 income, receipts or revenues, except revenues of its electric
17 system. The full faith and credit and the taxing power of the
18 borough shall not be pledged for the payment of an obligation
19 under the contract.

20 (l) The provisions of this section are intended to add to
21 the powers and rights of a borough, and nothing in this section
22 shall be construed to limit either the general or specific
23 powers or rights of a borough set forth in this act.

24 (m) As used in this section, the term "non-profit membership
25 corporation" means an entity the membership of which:

26 (1) consists solely of Pennsylvania boroughs, such as a
27 consortium, buying group or municipal power agency under section
28 2471.2; or

29 (2) consists of Pennsylvania boroughs and political
30 subdivisions of another state or states.]

1 Section 289. Sections 2472, 2473, 2474, 2475 and 2476 of the
2 act are repealed:

3 [Section 2472. May Regulate Use and Prices.--Any borough
4 furnishing electricity may regulate the use of electricity in
5 dwellings, business places, and other places in such borough,
6 and the rate to be charged for the same.

7 Section 2473. Sale of Electric Light Works.--By ordinance, a
8 borough may sell all or part of its electric light works to a
9 purchaser for such sale price as the parties may agree upon, and
10 thereafter for all purposes that price shall be deemed to be the
11 purchaser's original cost less accrued depreciation of the plant
12 at the date of purchase.

13 Section 2474. Purchase of Electric Light Works.--Whenever
14 any person, copartnership, or any electric light company
15 organized under the laws of the Commonwealth, is furnishing
16 light to any borough or the public within such borough, such
17 borough may purchase the works of such person, copartnership, or
18 corporation, at such price as may be agreed upon by the borough
19 and such person or copartnership, or a majority in value of the
20 stockholders of such corporation.

21 Section 2475. Petition for Viewers.--Upon failure so to
22 agree on purchase price the borough may present a petition to
23 the court of common pleas, asking for the appointment of viewers
24 to assess the value of the plant and works so proposed to be
25 purchased whereupon the court shall appoint three viewers from
26 the county board of viewers, neither of whom shall be interested
27 in such works, or be stockholders in such corporation, or
28 taxpayers in such borough, and shall appoint a time for their
29 meeting, of which ten days' notice shall be given to all parties
30 in interest.

1 Section 2476. Duty of Viewers.--The viewers, having been
2 sworn or affirmed justly and impartially to appraise the
3 property, and having viewed the premises and taken such
4 testimony as may be offered by any party touching the value of
5 the property and franchises, they shall determine the amount of
6 damages that such person, copartnership, or corporation will
7 sustain, and to whom payable, and make report thereof to the
8 court; which report shall be confirmed "nisi" by the court, and
9 if no appeal is taken as hereinafter provided, shall be
10 confirmed absolutely.]

11 Section 290. Section 2477 of the act, repealed in part June
12 3, 1971 (P.L.118, No.6), is repealed:

13 [Section 2477. Appeal from Report; Trial by Jury.--Either
14 party may, at any time within thirty days after the confirmation
15 "nisi" of any such report, appeal therefrom to the court of
16 common pleas of the county. After such appeal, either party may
17 put the cause at issue, in the form directed by the court, and
18 the same shall be tried before a jury.]

19 Section 291. Sections 2478 and 2479, Article XXIV
20 subdivision (c) heading, section 2481, subdivision (d) heading
21 and sections 2491, 2492 and 2493 of the act are repealed:

22 [Section 2478. Exceptions to Report.--If any exceptions are
23 filed with any appeal, they shall be speedily disposed of, and,
24 if allowed, a new view shall be ordered; but if disallowed, the
25 appeal shall proceed as before provided.

26 Section 2479. Notices.--The court shall have power to order
27 what notice shall be given in connection with any part of such
28 proceedings.

29 (c) Operation of Gas Wells; Gas Works

30 Section 2481. Authority to Purchase Natural Gas Well.--Any

1 borough shall have authority to purchase, own, use, operate and
2 control any natural gas well, or wells, for the purpose of
3 supplying natural gas for its own municipal purposes.

4 (d) Airports

5 Section 2491. Authority to Secure Lands for Airports.--Any
6 borough is hereby authorized and empowered to acquire, by lease
7 or purchase, any land, lying either within or without the limits
8 of such borough, which, in the judgment of the council thereof,
9 may be necessary and desirable for the purpose of establishing
10 and maintaining municipal airport facilities. The proceedings
11 for the condemnation of land under the provisions of this
12 subdivision, and for the assessment of damages for property
13 taken, injured or destroyed, shall be conducted in the manner
14 provided by the law governing eminent domain. The title acquired
15 by the borough exercising the power of condemnation shall be a
16 title in fee simple.

17 Section 2492. Authority to Establish Airports and Lease the
18 Same.--Any borough, acquiring land under the provisions of this
19 subdivision, is authorized and empowered to establish, equip,
20 condition, operate and maintain the same as a municipal airport,
21 and may lease the same, or any part thereof, to any individual
22 or corporation desiring to use the same for aviation purposes;
23 and any borough may enter into a contract, in the form of a
24 lease, providing for the use of said land, or any part thereof,
25 by the Government of the United States, for the use by said
26 Government of said land for aviation purposes upon nominal
27 rental or without consideration.

28 Section 2493. Joint Airports.--Any borough, acquiring land
29 under the provisions of this subdivision, is authorized and
30 empowered to acquire, by lease or purchase, land for aviation

1 purposes, as hereinbefore provided, jointly with any county,
2 city, borough, township, or political subdivision of this
3 Commonwealth, and is hereby authorized and empowered to operate
4 and maintain said airport, jointly, with any county, city,
5 borough, township, or other political subdivision of this
6 Commonwealth, upon such terms and conditions as may be agreed
7 upon between the proper authorities of the county, city,
8 borough, township, or other political subdivision of this
9 Commonwealth.]

10 Section 292. The act is amended by adding an article to
11 read:

12 ARTICLE XXIV-A

13 MANUFACTURE AND SUPPLY OF ELECTRICITY

14 Section 2401-A. Definitions.

15 The following words and phrases when used in this article
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Municipal power agency." A separate body politic and
19 corporate under the laws of this Commonwealth created by
20 agreement between or among two or more boroughs pursuant to
21 section 2404-A.

22 "Project." Electric plants, hydroelectric plant works,
23 system, facilities or real or personal property, together with
24 their parts and appurtenances, used or useful in connection with
25 the generation, production, transmission, purchase, sale,
26 exchange or interchange of electric power or energy, or any
27 interest therein or right to capacity thereof.

28 "Revenue bond." An instrument imposing an obligation for the
29 repayment of money borrowed, payable as to both principal and
30 interest exclusively from the income and revenues derived from

1 an interest in an electric plant or project.

2 Section 2402-A. General powers.

3 (a) Electric plants and projects.--A borough may, either
4 singly or jointly, manufacture or purchase electricity for the
5 use of its inhabitants, own, construct, acquire by lease,
6 purchase or otherwise gain an interest in, operate and manage or
7 cause to be operated and managed, an electric plant or project
8 located within or without this Commonwealth. In the exercise of
9 any of the foregoing powers, a borough may join with any other
10 borough, political subdivision, agency or instrumentality of the
11 Federal Government, State government, political subdivision of
12 another state, private corporation empowered to supply
13 electricity, electric cooperative corporation formed under 15
14 Pa.C.S. Ch. 73 Subchs. A (relating to preliminary provisions)
15 and B (relating to powers, duties and safeguards), or previously
16 formed under the act of June 21, 1937 (P.L.1969, No.389), known
17 as the Electric Cooperative Corporation Act (REPEALED 1990-198),
18 or electric cooperative corporation in another state.

19 (b) Contracts for supplying electricity.--A borough owning
20 or operating an electric plant may make contracts for supplying
21 electricity for commercial purposes outside the limits of the
22 borough, provided that the borough has received the consent of
23 the other municipal governing body and, if applicable, subject
24 to 66 Pa.C.S. Pt. I (relating to Public Utility Code).

25 (c) Additional sources.--A borough may conduct studies as
26 necessary to determine the feasibility and cost of any
27 additional sources and supplies of electric power and energy and
28 may cooperate with private power companies, other boroughs,
29 electric cooperative corporations and other public or private
30 electric power entities, within or without this Commonwealth, in

1 the development of electric power and energy.

2 (d) Consent of borough to supply electricity.--No person,
3 partnership or corporation may introduce electric current for
4 light, heat or power purposes, without the consent of the
5 borough council, into the limits of any borough that is
6 furnishing electric current to its inhabitants, provided,
7 however, that this subsection shall not apply to any person,
8 partnership or corporation manufacturing electricity exclusively
9 for its own use.

10 (e) Corporate rights.--Nothing in this article may conflict
11 with the corporate rights of any corporation empowered to supply
12 electricity in the territory adjacent to the borough, or with
13 the rights of any other municipality.

14 (f) Restrictions.--A borough shall not become a stockholder
15 in, obtain or appropriate money for or loan its credit to any
16 corporation, association, institution or individual or otherwise
17 act contrary to the provisions of section 9 of Article IX of the
18 Constitution of Pennsylvania.

19 (g) General powers.--A borough, through its governing body,
20 shall have the power to do and accomplish all actions reasonably
21 necessary and incident to the administration, operation and
22 management of a plant or project.

23 Section 2403-A. Specific powers.

24 (a) Specific powers enumerated.--In addition to exercising
25 its general powers under section 2402-A, a borough, through its
26 governing body, shall have the following powers:

27 (1) To contract for the purchase, sale, exchange,
28 interchange, wheeling, pooling or transmission of electric
29 power and energy or for the right to the capacity thereof,
30 inside and outside of this Commonwealth, to and from any

1 public or private power entities, private power companies,
2 other boroughs and electric cooperative corporations.

3 (2) To regulate the use of and the charge for
4 electricity furnished by the borough for use throughout the
5 borough. A borough may fix, establish, maintain and collect
6 or authorize by contract or otherwise the establishment,
7 levying and collection of the rates, fees, rental or other
8 charges, including connection charges, for the services
9 afforded by or in connection with any properties which the
10 borough constructs, erects, owns, acquires, operates or
11 manages, and for the sale or transmission of electric energy
12 and power as it deems necessary, proper, desirable and
13 reasonable.

14 (3) To procure insurance against any losses in
15 connection with its property, operations or assets in the
16 amounts and from such insurers as the governing body or
17 bodies deem desirable.

18 (4) To contract for and to accept any gifts, grants or
19 loans of funds or property, or financial or other aid in any
20 form from the United States of America or any agency or
21 instrumentality of the United States of America, or from any
22 other source.

23 (5) To lease, or otherwise grant the use of, and to make
24 charges for the use of any property or facility owned or
25 controlled by the borough.

26 (6) To procure from the United States of America or any
27 agency or instrumentality of the United States of America, or
28 from any state or agency or instrumentality of the State, any
29 consents, authorizations or approvals which may be requisite
30 to enable ownership, operation, construction or repair.

1 (7) To borrow money and from time to time to issue
2 revenue bonds, and to enter into agreements with the
3 purchasers of the revenue bonds. Any borough that incurs debt
4 for the construction or purchase of an electric plant, or
5 land on which to construct an electric plant, or gains an
6 interest in an electric plant or project under section 2402-A
7 shall incur the debt in accordance with and to the extent
8 permitted by 53 Pa.C.S. Pt. VII Subpt. B (relating to
9 indebtedness and borrowing). Interest and principal paid on
10 revenue bonds issued by a borough under this article shall be
11 exempt from all State taxes of whatsoever kind or nature.

12 (8) To mortgage any property acquired or owned under
13 section 2402-A to secure the payment of its revenue bonds or
14 other obligations issued to finance the acquisition,
15 ownership or repair.

16 (9) To sell, by ordinance, all or part of its electric
17 works to a purchaser for the sale price agreed upon by the
18 parties, and thereafter, for all purposes, that price shall
19 be deemed to be the purchaser's original cost less accrued
20 depreciation of the plant at the date of purchase.

21 (10) To purchase the electric works of any person,
22 partnership, or electric company organized under the laws of
23 this Commonwealth that is furnishing light to the borough or
24 the public within the borough. The borough and the person,
25 partnership or a majority in value of the stockholders of a
26 corporation, may agree upon the purchase price, but upon
27 failure of the parties to agree on the price, the borough may
28 proceed according to the laws of eminent domain.

29 (b) Eminent domain.--In the erection and extension of an
30 electric plant or project under this article, and for all other

1 purposes authorized by this act, a borough may enter upon,
2 appropriate, injure or destroy private lands, property or
3 material according to the proceedings set forth in 26 Pa.C.S.
4 (relating to eminent domain). A borough, however, shall not have
5 the power of condemnation with regard to any property of a
6 private or public retail electric supplier which geographically
7 lies beyond the boundaries of the corporate limits of the
8 borough.

9 Section 2404-A. Municipal power agencies.

10 (a) General rule.--Two or more boroughs may form a municipal
11 power agency by the execution of an agency agreement authorized
12 by an ordinance of the governing bodies of each borough. The
13 agency agreement shall state:

14 (1) The name of the agency, which shall include the
15 words "municipal power agency."

16 (2) The names of the boroughs which have approved the
17 agency agreement and are initial members of the municipal
18 power agency.

19 (3) That the municipal power agency is created pursuant
20 to the authority granted by this act.

21 (4) The names and addresses of the persons initially
22 appointed by the governing bodies to act as representatives
23 to the municipal power agency from the member boroughs.

24 (5) The limitations, if any, placed on the powers or
25 terms of representatives appointed by the governing bodies of
26 the member boroughs.

27 (6) The names and addresses of the initial board of
28 directors of the municipal power agency, if known by the time
29 of filing, which shall be constituted by not less than five
30 persons who are representatives of the member boroughs,

1 selected by the vote of a majority of the representatives.

2 (b) Certificate of incorporation.--The agency agreement
3 under subsection (a) and a certified copy of the ordinance of
4 the governing body of each borough shall be filed for record
5 with the Secretary of the Commonwealth. If the agency agreement
6 meets the requirements of this section, the Secretary of the
7 Commonwealth shall record the agreement and issue and record a
8 certificate of incorporation which shall be conclusive proof of
9 substantial compliance with the requirements of this section.
10 The certificate shall state the name of the municipal power
11 agency and the fact and date of incorporation. Upon the issuance
12 of the certificate of incorporation, the existence of the
13 municipal power agency as a political instrumentality of the
14 Commonwealth shall begin.

15 (b.1) Open meetings.--Regular and special meetings of the
16 representatives of member boroughs and the board of directors as
17 provided in this section shall be subject to 65 Pa.C.S. Ch. 7
18 (relating to open meetings).

19 (c) Bylaws.--The bylaws of the municipal power agency and
20 any amendments, shall be proposed by the board of directors and
21 shall be adopted by a majority vote of the representatives of
22 the member boroughs, unless the agency agreement requires a
23 greater vote at a meeting held after notice. Subject to the
24 provisions of the agency agreement, the requirements of this act
25 and the laws of this Commonwealth, the bylaws shall state:

26 (1) the qualifications of member boroughs, and
27 limitations, if any, upon their number;

28 (2) conditions of membership, if any;

29 (3) the manner and time of calling regular meetings of
30 representatives of member boroughs;

1 (4) the manner and conditions of termination of
2 membership; and

3 (5) such other provisions for regulating the affairs of
4 the municipal power agency as the representatives of the
5 member boroughs shall determine to be necessary.

6 (d) Registered office.--Every municipal power agency shall
7 maintain an office in this Commonwealth to be known as its
8 registered office. When a municipal power agency desires to
9 change the location of its registered office, it shall file with
10 the Secretary of the Commonwealth a certificate of change of
11 location of registered office, stating the new location by
12 address, including street and number, if any, and effective date
13 of change. When the certificate of change of location has been
14 duly filed, the board of directors may make the change without
15 any further action.

16 (e) Directors.--Each of the directors shall hold office for
17 the term for which the director has been selected and until a
18 successor has been selected and has qualified. Directors shall
19 discharge their duties in good faith, and with that diligence
20 and care which an ordinary prudent person in a like position
21 would exercise under similar circumstances. The agency agreement
22 or the bylaws may prescribe the number, term of office, powers,
23 authority and duties of directors, the time and place of their
24 meetings and other regulations concerning directors, in a manner
25 consistent with law. Except where the agency agreement or bylaws
26 prescribe otherwise, the term of office of a director shall be
27 for one year. Except where the agency agreement or bylaws
28 prescribe otherwise, a meeting of the board of directors may be
29 held at any place within this Commonwealth designated by the
30 board, after notice, and an act of the majority of the directors

1 present at a meeting at which a quorum is present is the act of
2 the board. Except where the agency agreement or bylaws prescribe
3 otherwise, any vacancy occurring on the board shall be filled by
4 a person nominated by the remaining members of the board and
5 elected by a majority of representatives of the member boroughs.

6 (f) Officers.--Except where the agency agreement or bylaws
7 prescribe otherwise, the board of directors shall appoint a
8 president from its membership, and a secretary, treasurer and
9 any other officers or agents deemed necessary who may, but need
10 not be, borough representatives or directors. An officer may be
11 removed with or without cause by the board of directors.

12 Officers of the municipal power agency shall have the authority
13 and duties in the management of the business of the municipal
14 power agency that the agency agreement or bylaws prescribe or,
15 in the absence of such prescription, as the board of directors
16 determines.

17 (g) Representatives of member boroughs.--Except as otherwise
18 provided in the agency agreement or the bylaws, the duly
19 authorized representatives of each member borough shall act as
20 and vote on behalf of that borough. Except where the agency
21 agreement or bylaws provide otherwise, representatives of the
22 member boroughs shall hold at least one meeting each year for
23 the election of directors and for the transaction of any other
24 business. Except where the agency agreement or bylaws prescribe
25 otherwise, special meetings of the representatives may be called
26 for any purpose upon written request to the president or
27 secretary to call the meeting. Such officer shall give notice of
28 the meeting to be held between ten and 60 days after receipt of
29 the request. Unless the agency agreement or bylaws provide for a
30 different percentage, a quorum for a meeting of the

representatives of the member boroughs is a majority of the
total members and a quorum for meetings of the board of
directors is a majority of the membership of the board.

(h) Amendment of agency agreement.--The agency agreement may
be amended as proposed at any meeting of the representatives of
the members for which notice stating the purpose shall be given
to each representative and, unless the agency agreement or
bylaws require otherwise, shall become effective when ratified
by ordinances of a majority of the governing bodies of the
member boroughs. Each amendment and the ordinances approving it
shall be filed for record with the Secretary of the
Commonwealth.

(i) Appropriations.--Each member borough shall have full
power and authority, within budgetary limits applicable to it,
to appropriate money for the payment of expenses of the
formation of the municipal power agency and of its
representative in exercising its functions as a member of the
agency.

(j) General powers.--A municipal power agency may own,
construct, acquire by lease, purchase or otherwise gain an
interest by itself or as co-owner or tenant in common and
operate and manage or cause to be operated and managed an
electric plant or project located within or without this
Commonwealth jointly with any political subdivision, subdivision
of the Federal Government, State government, political
subdivision of another state, private corporation empowered to
supply electricity, electric cooperative corporation 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.

1 (k) Specific powers.--All powers of a municipal power agency
2 shall be exercised by its board of directors, unless otherwise
3 provided by the agency agreement or bylaws. A municipal power
4 agency shall have the power to do and accomplish all actions
5 reasonably necessary and incident to the ownership,
6 construction, acquisition, administration, operation and
7 management of an electric plant or project. Among the specific
8 powers of a municipal power agency shall be the following:

9 (1) to sue and be sued;

10 (2) to enter into contracts;

11 (3) to cooperate with private power companies, boroughs,
12 electric cooperative corporations and other public or private
13 electric power entities inside and outside of this
14 Commonwealth in the development of electric power and energy;

15 (4) to make such studies as may be necessary to
16 determine the feasibility and cost of any additional sources
17 and supplies of electric power and energy;

18 (5) to contract for the purchase, sale, exchange,
19 interchange, wheeling, pooling or transmission of electric
20 power and energy or for the right to the capacity thereof
21 inside and outside of this Commonwealth, to and from any
22 public or private power entities, private power companies,
23 other boroughs and electric cooperative corporations;

24 (6) to procure insurance against any losses in
25 connection with its property, operations or assets in such
26 amounts and from such insurers as the board of directors
27 deems desirable;

28 (7) to contract for and to accept any gifts or grants or
29 loans of funds or property or financial or other aid in any
30 form from the United States of America or any agency or

1 instrumentality of the United States of America, or from any
2 other source;

3 (8) to acquire, hold, use, operate and dispose of
4 personal property;

5 (9) to acquire, hold, use and dispose of its income,
6 revenues, funds and moneys;

7 (10) to acquire, own, use, lease, operate and dispose of
8 real property and interests in real property and to make
9 improvements thereon;

10 (11) to grant the use, by lease or otherwise, and to
11 make charges for the use of any property or facility owned or
12 controlled by it;

13 (12) to procure from the United States of America or any
14 agency or instrumentality of the United States of America, or
15 from any state or agency or instrumentality of a state, any
16 consents, authorizations or approvals which may be requisite
17 to enable ownership, operation, construction or repair;

18 (13) to borrow money and from time to time to issue
19 revenue bonds and to enter into agreements with the
20 purchasers of such revenue bonds;

21 (14) to invest funds not required for immediate use,
22 including, but not limited to, proceeds from the sale of
23 revenue bonds, provided, however, that the power of a
24 municipal power agency to invest shall be the same as that of
25 a borough, as exercised by the borough council pursuant to
26 clause (6) of section 1005 and section 1316; and

27 (15) to mortgage any property acquired or owned to
28 secure the payment of its revenue bonds or other obligations
29 issued to finance the acquisition, ownership or repair.

30 (1) Eminent domain.--In the erection and extension of an

electric plant or project, and for all other purposes authorized
by this act, a municipal power agency may enter upon,
appropriate, injure or destroy private lands, property or
material according to the proceedings set forth in the law
governing eminent domain, provided, however, that a municipal
power agency shall not have 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 its member boroughs.

(m) Revenue bonds.--A municipal power agency which gains an
interest in an electric plant or project may pay all or part of
the cost from the revenues derived from the sale of revenue
bonds issued in the manner provided by 53 Pa.C.S. Pt. VII Subpt.
B (relating to indebtedness and borrowing).

(n) Bylaws.--A municipal power agency may make and enforce
bylaws or rules which it deems necessary or desirable and may
establish, fix, levy and collect or may authorize, by contract,
franchise, lease or otherwise, the establishment, levying and
collection of rents, rates and other charges for the services
afforded by the municipal power agency, including connection for
the services afforded by the municipal power agency, including
connection charges or by or in connection with any project or
properties which it may construct, erect, acquire, own, operate
or control, or with respect to which it may have any interest or
any right to capacity thereof and for the sale of electric
energy or of generation or transmission capacity or services as
it may deem necessary, proper, desirable and reasonable. Rents,
rates and other charges shall be at least sufficient to meet
expenses thereof, including reasonable reserves, interest and
principal payments.

1 (o) State tax exemptions.--Interest and principal paid on
2 revenue bonds issued by a municipal power agency shall be exempt
3 from all State taxes of whatsoever kind or nature.

4 Section 2405-A. Additional contracting authority for electric
5 power and energy.

6 (a) Additional contracting authority.--In addition to the
7 authority provided under section 2402-A, a borough that, on
8 October 27, 2010, owns or operates electric generation or
9 distribution facilities and a borough that is a member of a
10 nonprofit membership corporation may contract with the nonprofit
11 membership corporation for the following:

12 (1) The development of electric power and associated
13 energy, including the conduct of investigations or studies
14 necessary to determine the feasibility and cost of additional
15 sources and supplies of electric power and associated energy.

16 (2) The purchase, sale, exchange, interchange, wheeling,
17 pooling or transmission of electric power and associated
18 energy or the right to the capacity from sources and projects
19 in this Commonwealth or another state for a period not to
20 exceed 50 years.

21 (b) Contract requirements.--A contract under subsection (a)
22 (2) shall include the purpose of the contract, the duration of
23 the contract and available procedures to terminate the contract
24 subsequent to the repayment of all indebtedness secured under
25 the contract.

26 (c) Minimum quantity of electric power and energy.--If a
27 borough is a member of a nonprofit membership corporation, a
28 contract under subsection (a)(2) may, if specifically set forth
29 in the contract, obligate the borough to:

30 (1) take and pay for a minimum quantity of electric

1 power and associated energy if the power and energy is
2 available for delivery;

3 (2) in connection with a project owned by the nonprofit
4 membership corporation or in which the nonprofit membership
5 corporation obtains an undivided ownership interest, to take
6 or pay for a minimum amount of electric power and energy; or

7 (3) pay for electric power and energy only if utilized
8 by the borough.

9 (d) Applicability of minimum requirements.--

10 (1) The authority under subsection (c)(1) shall apply
11 whether or not the borough accepts delivery of the power and
12 energy.

13 (2) The authority under subsection (c)(2) shall apply
14 notwithstanding the suspension, interruption, interference or
15 reduction or curtailment of the output of the project or the
16 electric power and energy contracted for, and whether or not:

17 (i) the electric power and energy is available for
18 delivery to the borough; or

19 (ii) the borough accepts delivery of the electric
20 power and energy.

21 (e) Take-or-pay or take-and-pay arrangements.--No borough
22 may be obligated under a take-or-pay or take-and-pay arrangement
23 entered into with a nonprofit membership corporation in which
24 the borough maintains membership unless that obligation is
25 expressly authorized by an act of the borough council.

26 (f) Restrictions.--A nonprofit membership corporation shall
27 not:

28 (1) condition membership in the nonprofit membership
29 corporation on the inclusion of any take-or-pay or take-and-
30 pay obligations in a contract under subsection (a)(2); or

1 (2) except as set forth in subsection (g), require take-
2 or-pay or take-and-pay obligations in a contract with a
3 borough unless the contract meets the criteria of subsection
4 (c)(1) or (2).

5 (g) Future contracts.--A borough that is a member of a
6 nonprofit membership corporation may enter into future power
7 supply contracts, contract renewals or contract extensions with
8 the nonprofit membership corporation under subsection (c)(3):

9 (1) with no take-or-pay or take-and-pay obligations as
10 permitted by subsection (c)(1) and (2); and

11 (2) without prejudice or discrimination as compared to
12 any other borough which chooses to enter into contracts
13 permitted by subsection (c)(1) and (2) with the nonprofit
14 membership corporation.

15 (h) Future power supply contract terms.--In order to carry
16 out subsection (g), a nonprofit membership corporation which
17 provides or offers electric power and associated energy to a
18 member borough in this Commonwealth under subsection (a)(2)
19 shall offer, to all of its member boroughs in this Commonwealth,
20 future power supply contract terms, contract renewals or
21 contract extensions under subsection (c)(3) on a comparable and
22 nondiscriminatory basis and with similar terms and conditions to
23 future power supply contract terms, contract renewals or
24 contract extensions that would be appropriate under subsection
25 (c)(3) which the nonprofit membership corporation
26 contemporaneously offers to its members in other states.

27 (i) Payments.--All obligations under a contract under
28 subsection (a)(2) shall be paid from revenues derived from the
29 operation of the borough's electric system, and payments shall
30 be an operating expense of the borough's electric system.

1 (j) Obligations of other entities.--If explicitly set forth
2 in a contract under subsection (a)(2), a borough may agree to
3 assume, prorate or otherwise become liable for the obligations
4 of another borough of this Commonwealth or of a political
5 subdivision of another state that is a member of the nonprofit
6 membership corporation if the borough or other political
7 subdivision defaults in the payment of its obligations for the
8 purchase of the electric power and associated energy. The
9 contract may include provisions to permit a borough to succeed
10 to the rights and interests of the defaulting borough or
11 political subdivision to purchase electric power and associated
12 energy. A borough's liability for the obligations of a
13 defaulting borough of this Commonwealth or a political
14 subdivision of another state shall not exceed 25% of a borough's
15 initial nominal entitlement to electric power and associated
16 energy under the contract.

17 (k) Pledge of borough property prohibited.--None of the
18 obligations under the contract may constitute a legal or
19 equitable pledge, charge, lien or encumbrance on any property of
20 the borough or on any of its income, receipts or revenues,
21 except revenues of its electric system. The full faith and
22 credit and the taxing power of the borough shall not be pledged
23 for the payment of an obligation under the contract.

24 (l) Construction.--The provisions of this section are
25 intended to add to the powers and rights of a borough, and
26 nothing in this section may be construed to limit either the
27 general or specific powers or rights of a borough set forth in
28 this act.

29 (m) Definition.--As used in this section, the term "non-
30 profit membership corporation" means an entity the membership of

1 which:

2 (1) consists solely of Pennsylvania boroughs, such as a
3 consortium, buying group or municipal power agency under
4 section 2404-A; or

5 (2) consists of Pennsylvania boroughs and political
6 subdivisions of another state or states.

7 Section 293. Article XXV and subdivision (a) headings,
8 sections 2501, 2502, 2503, 2504 and 2505, Article XXV
9 subdivision (b) heading and sections 2511 and 2512 of the act
10 are repealed:

11 [ARTICLE XXV

12 PUBLIC BUILDINGS AND WORKS

13 (a) Eminent Domain; General Provisions

14 Section 2501. Exercise of Eminent Domain.--Any borough may
15 enter upon and appropriate private property, and also land
16 previously granted or dedicated to public use or other use, and
17 which is no longer used for the purpose for which the same was
18 granted or dedicated, and also land where the title may be
19 defective, disputed, or doubtful, for the erection thereon of
20 public auditoriums, public libraries, public memorial buildings
21 and monuments and such other public buildings and works as are
22 necessary for municipal purposes within the limits of such
23 borough.

24 Section 2502. Lands Excepted.--No land or property used for
25 any cemetery, burying-ground, or place of public worship, shall
26 be taken or appropriated by virtue of any power contained in the
27 preceding section of this article.

28 Section 2503. Declaration of Intention.--Whenever the
29 borough shall desire to acquire, enter upon, take, use and
30 appropriate any such private property or land, for any such

1 purposes, it shall declare such intention by an ordinance duly
2 enacted.

3 Section 2504. Proceedings.--The compensation and damages
4 arising from such taking, using and appropriating of private
5 property for the purposes aforesaid, shall be considered,
6 ascertained, determined, awarded and paid in the manner provided
7 in the law governing eminent domain.

8 Section 2505. Payment of Damages and Costs.--All damages
9 when ascertained, the costs of the viewers, and all court costs
10 incurred in such proceedings, including advertising, printing
11 and posting notices, shall be paid by the borough.

12 (b) Refuse Disposal Facilities

13 Section 2511. Power to Purchase Real Estate.--Any borough,
14 separately, or jointly, with another borough, city or township,
15 may purchase any real estate within or without the limits of
16 such borough or of any such other boroughs, cities, or
17 townships, as the case may be, upon which to erect and maintain
18 garbage or incinerating plants, or for sanitary landfill.

19 Section 2512. Approval of Site.--Boroughs desiring to locate
20 any garbage or incinerating plant or sanitary landfill, shall
21 first apply separately or jointly as the case may be to the
22 court of common pleas for its approval of the location thereof;
23 whereupon the court shall fix a date when objections to the
24 location will be heard and shall prescribe what notice of such
25 hearing shall be given. If at the time fixed for such hearing no
26 objections shall be made to such location, the same shall be
27 approved; but, if objection is made, the court shall proceed to
28 hear the matter and determine whether the location is a
29 detriment to neighboring properties. The finding of the court
30 shall be conclusive, but shall in no way adjudicate any question

1 relating to damages for injury to property.]

2 Section 294. Section 2513 of the act, amended December 21,
3 1984 (P.L.1263, No.239), is repealed:

4 [Section 2513. Authority to Take or Appropriate Real
5 Estate.--In case the borough or boroughs cannot agree with the
6 owner of such property as to the price, the borough or boroughs,
7 separately or jointly, may take and appropriate, for any of such
8 purposes, any real estate, after an ordinance or ordinances
9 shall have been enacted providing for such taking and
10 appropriating. Notwithstanding the provisions of this section,
11 no borough or boroughs, separately or jointly, may take or
12 appropriate any real estate that is located outside the limits
13 of the borough or boroughs and contains or is being utilized as
14 an existing garbage dump or sanitary landfill.]

15 Section 295. Section 2514 of the act is repealed:

16 [Section 2514. Proceedings.--The proceedings before the
17 viewers for the assessment of damages for property taken,
18 injured, or destroyed under this subdivision of this article and
19 the proceedings upon their report shall be as provided in the
20 law governing eminent domain.]

21 Section 296. The act is amended by adding an article to
22 read:

23 ARTICLE XXV-A

24 AIRPORTS

25 Section 2501-A. Authority to secure lands for airports.

26 Any borough is hereby authorized and empowered to acquire, by
27 lease, purchase or condemnation, any land lying either within or
28 without the limits of the borough which, in the judgment of the
29 council, may be necessary and desirable for the purpose of
30 establishing and maintaining municipal airport facilities. The

1 proceedings for the condemnation of land under the provisions of
2 this article and for the assessment of damages for property
3 taken, injured or destroyed, shall be conducted in the manner
4 provided by the law governing eminent domain. The title acquired
5 by the borough exercising the power of condemnation shall be a
6 title in fee simple.

7 Section 2502-A. Authority to establish and lease airports.

8 Any borough acquiring land under the provisions of this
9 article is authorized and empowered to establish, equip,
10 condition, operate and maintain the land as a municipal airport,
11 and may lease the land, or any part, to any individual or
12 corporation desiring to use the same for aviation purposes. Any
13 borough may enter into a contract, in the form of a lease,
14 providing for the use of the land, or any part, by the Federal
15 Government, for its use of the land for aviation purposes upon
16 nominal rental or without consideration.

17 Section 2503-A. Joint airports.

18 Pursuant to the powers in this article, any borough may,
19 jointly with another municipality, acquire land for aviation
20 purposes, and may jointly operate and maintain the airport on
21 the terms and conditions as agreed upon by the governing bodies
22 of the borough and other municipality.

23 Section 297. Article XXVI heading of the act is reenacted to
24 read:

25 ARTICLE XXVI

26 WHARVES AND DOCKS

27 Section 298. Section 2601 of the act is amended to read:

28 Section 2601. Power With Regard to Wharves and Docks.--[Any
29 borough may erect and repair wharves and docks, regulate and fix
30 the rate of wharfage for all public wharves and docks within its

limits, and enforce the collection of wharfage for the use of the same, and may also regulate the anchoring of vessels, boats, or rafts within the borough limits, and the depositing of freight on such public wharves.] (a) Boroughs shall have the power to construct and repair wharves and docks and may acquire, by purchase or condemnation, real estate along navigable waters and within the borough limits as needed for the construction. Prior to any condemnation, a borough shall enact an ordinance authorizing the same.

(b) Boroughs shall also have the following powers:

(1) To regulate, fix, and enforce the collection of the rate of wharfage for all public wharves and docks within its limits.

(2) To regulate the anchoring of vessels, boats or rafts within the borough limits.

(3) To regulate the depositing of freight on the public wharves.

Section 299. Section 2602 of the act is repealed:

[Section 2602. Purchase and Condemnation of Real Estate.--

Any such borough may acquire, by purchase or condemnation, such real estate as it may need for the construction of wharves and docks within the limits of the borough, along navigable waters.

No real estate for the erection of wharves and docks shall be so taken or appropriated until an ordinance authorizing the same shall have been enacted.]

Section 300. Section 2603 of the act is reenacted to read:

Section 2603. Proceedings.--The proceedings before the viewers for the assessment of damages for property taken, injured, or destroyed under this article, and the proceedings on their report shall be as provided in the law governing eminent domain. The costs of all proceedings, including the compensation

1 of the viewers, shall be paid by the borough.

2 Section 301. Sections 2604, 2605 and 2606 of the act are
3 amended to read:

4 Section 2604. How Damages Assessed.--The damages for the
5 taking or injury of any property for use as a wharf, pier, or
6 bulkhead, shall include full compensation for the value of the
7 property taken or injured[; and if]. If the property [so] taken
8 or injured shall constitute a part of a plant used as an
9 entirety, the damage to the owner or tenant shall be assessed by
10 taking the difference in market value of [such] the plant as a
11 whole, including buildings and all equipment installed and used
12 in [such] the plant, before and after taking or injury, and
13 notwithstanding that part of [such] the plant may be separated
14 by a street or highway.

15 Section 2605. Leases.--Any borough may lease any wharf or
16 part [thereof] and collect rent [therefor] by distress or
17 otherwise. No one term of [any such] a lease shall be for a
18 period longer than three years.

19 Section 2606. Market-Houses and Terminal Sheds.--Boroughs
20 may erect and maintain market-houses and terminal sheds on
21 wharves, for the receipt and distribution of freight and
22 express. Boroughs may also construct railroad and street railway
23 tracks, or other facilities, on wharves, to provide for the
24 convenient hauling of [such] freight or express matter and may
25 collect rents, tolls, or charges for the use of [such] market-
26 houses, terminal sheds, tracks and facilities. No permit other
27 than a license revocable at will shall be granted, and no
28 exclusive permit for the use of such facilities shall be
29 granted.

30 Section 302. Section 2607 of the act is reenacted to read:

1 Section 2607. Public Use Preserved.--No structure erected,
2 and no right granted under the powers conferred by any of the
3 preceding sections of this article, shall interfere with the
4 public use of wharves for water-borne commerce.

5 Section 303. Section 2608 of the act is amended to read:

6 Section 2608. Saving Clause.--Nothing contained in this
7 article shall be construed as conferring upon boroughs any power
8 conferred by existing law on the Navigation [Commissioners]
9 Commission for the Delaware River and its Navigable Tributaries,
10 or to permit boroughs to do any act, or to enact any ordinance,
11 inconsistent with the laws, rules and regulations relating to
12 [said board, or the rules and regulations of said board] the
13 commission.

14 Section 304. Article XXVII and subdivision (a) headings of
15 the act are reenacted to read:

16 ARTICLE XXVII

17 RECREATION PLACES, SHADE TREES, FORESTS

18 (a) Parks and Playgrounds, Et Cetera

19 Section 305. Sections 2701, 2702 and 2703 of the act are
20 amended to read:

21 Section 2701. Power to Maintain [and Improve], Improve and
22 Acquire.--(a) Any borough may provide, improve, maintain and
23 regulate public parks, parkways and playgrounds, playfields,
24 swimming pools, public baths, bathing places, indoor recreation
25 centers and gymnasiums, hereinafter called "recreation places,"
26 within the borough limits or in any adjacent [township or in any
27 city or other borough] municipal corporation if the other
28 [borough or city] municipal corporation shall, by ordinance,
29 signify its consent thereto. [Two or more boroughs may jointly
30 provide, improve, maintain and regulate such recreation places

1 within the limits of any township adjacent to any one of such
2 boroughs. All expenses relative thereto shall be borne by the
3 respective boroughs, in such proportion as may be agreed upon by
4 the councils thereof.

5 Section 2702. Power to Acquire.--Any] (b) Any borough may
6 enter upon, appropriate and acquire by gift, devise, purchase,
7 lease, or otherwise, private property [within the limits of the
8 borough, or in any adjacent township,] or [any borough] may
9 designate and set apart any lands or buildings, owned by the
10 borough and not dedicated or devoted to other public uses[; and
11 two or more boroughs may jointly appropriate and acquire by
12 gift, devise, purchase, lease, or otherwise, private property
13 within the limits of any township adjacent to any of such
14 boroughs,] for the purpose of making, enlarging and maintaining
15 recreation places. [All the costs and expenses relative to any
16 such property, acquired by two or more boroughs jointly, shall
17 be paid by the respective boroughs in such proportions as may be
18 agreed upon by the councils thereof.

19 Any]

20 (c) Any borough may join with one or more political
21 subdivisions to acquire, create, equip, improve, regulate,
22 maintain and operate any recreation place in accordance with 53
23 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
24 cooperation).

25 (d) No borough, acting individually or jointly, may
26 [likewise] acquire private property within the limits of another
27 [borough or city,] municipal corporation for the purposes
28 designated in this section, [if the other borough or city shall,
29 by ordinance, signify its consent thereto] without the consent
30 of the governing body of the municipal corporation in which the

1 property is located in accordance with the law governing eminent
2 domain.

3 (e) All expenses incurred in the maintenance, improvement,
4 acquisition or operation of recreation places, as provided in
5 this section, shall be payable from the treasury of the borough,
6 or the borough and other political subdivisions as may be
7 provided for by agreement of the governing bodies. The borough
8 council may annually appropriate, and cause to be raised by
9 taxation, an amount necessary for the purpose of maintaining and
10 operating recreation places, or for paying its share of such
11 amount.

12 Section 2703. Appropriations for Public Purposes.--The
13 appropriation of private property for the purpose of making,
14 enlarging and maintaining recreation places, is declared to be
15 the taking of private property for public use, and for all
16 damage suffered by the owners of any property so taken, the
17 funds of the borough raised by taxation shall be pledged as
18 security. The proceedings for the taking of private property and
19 the assessment of damages for private property taken, injured or
20 destroyed under this article shall be as provided in the law
21 governing eminent domain.

22 Section 306. Sections 2704 and 2705 of the act are repealed:

23 [Section 2704. Proceedings.--The proceedings before the
24 viewers for the assessment of damages for property taken,
25 injured or destroyed under this article and the proceedings upon
26 their report shall be as provided in the law governing eminent
27 domain.

28 Section 2705. Validation of Prior Acquisitions.--Whenever,
29 prior to June 1, 1911, any borough acquired land outside its
30 corporate limits for park purposes, such borough may own and

1 possess such land for park purposes, and is authorized to lay
2 out and maintain the same and to appropriate money to defray
3 expenses incident to such work.]

4 Section 307. Sections 2708, 2709 and 2710 of the act are
5 amended to read:

6 Section 2708. Creation of Recreation Board.--(a) The
7 authority to supervise and maintain recreation places, may be
8 vested in any existing body or board, including the borough
9 council, or in a recreation board, as the borough council shall
10 determine. The council of any such borough may equip, operate
11 and maintain the recreation places, as authorized by this
12 article, and may, for the purpose of carrying out the provisions
13 of this article, employ [play leaders, recreation directors,
14 supervisors, superintendents, or] any [other] officers or
15 employes, as it may deem proper.

16 (b) Notwithstanding subsection (a), a borough council shall
17 not delegate the power to maintain accounts or expend funds from
18 the borough treasury for the purposes authorized by this
19 subdivision to any existing or newly created body or board.

20 (c) Any borough may join or create, with one or more
21 municipalities, a joint recreation board in accordance with 53
22 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
23 cooperation). The composition of the board and its powers and
24 duties shall be as provided by agreement of the governing bodies
25 of the municipalities.

26 Section 2709. Composition of Board.--[(a)] If the borough
27 council shall determine that the power to equip, operate, and
28 maintain recreation places, shall be exercised by a recreation
29 board, it may, by ordinance, establish in [said] the borough
30 [such] a recreation board, which shall possess [all the powers,

1 and be subject to all the responsibilities, of the respective
2 authorities under this article. Such] those powers and duties as
3 may be delegated to it by ordinance. The board shall consist of
4 a minimum of five and a maximum of nine persons. Two of the
5 members may be members or appointees of the school board of the
6 school district in which the borough is located. If the board
7 [consist] consists of seven members, three of the members may be
8 members or appointees of [such] the school board. The borough
9 members of the board shall be appointed by the borough council,
10 and shall serve no longer than five years and the terms of the
11 members shall be staggered in such a manner that at least one
12 expires annually. Members of [such] the board shall serve
13 without pay. Vacancies in [such] the board, occurring otherwise
14 than by expiration of term, shall be filled for the unexpired
15 term in the same manner as original appointments.

16 [(b) In addition to the establishment of a borough
17 recreation board, the borough council may appoint persons to
18 serve as members of a school district recreation board
19 established by the school district wherein the borough is
20 located.]

21 Section 2710. Organization of Board; Employees.--The members
22 of a recreation board, established pursuant to this article,
23 shall elect their own [chairman] chair and secretary and select
24 all other necessary officers, to serve for a period of one
25 year[, and may employ such persons as may be needed, as
26 authorized by this article. Such] The recreation board may, with
27 the approval of council, establish employment positions and hire
28 employees to fill the approved positions. The board shall have
29 power to adopt rules and regulations for the conduct of all
30 business within its jurisdiction.

1 Section 308. Sections 2711 and 2712 of the act are repealed:

2 [Section 2711. Joint Ownership and Maintenance.--Any two or
3 more boroughs, or a borough with any city or township, or a
4 borough with a county, may jointly acquire property for, and
5 operate and maintain, any recreation places. Any borough or
6 boroughs shall have power to join with any school district in
7 equipping, operating and maintaining recreation places, and may
8 appropriate money therefor.

9 Section 2712. Maintenance and Tax Levy.--All expenses
10 incurred in the operation of such recreation places, established
11 as herein provided, shall be payable from the treasury of such
12 borough, or boroughs, township, city, county or school districts
13 as may be provided for by agreement of the corporate
14 authorities. The borough council may annually appropriate, and
15 cause to be raised by taxation, an amount necessary for the
16 purpose of maintaining and operating recreation places, or for
17 paying its share of such amount.]

18 Section 309. Section 2713 of the act is amended to read:

19 Section 2713. Lease for School Athletics.--Any borough
20 maintaining a recreation place, may lease [such] a recreation
21 place or [such] a portion [thereof] of a recreation place,
22 suitable for athletic sports and athletic games, to any school
23 board, or school athletic association organized by a school
24 board, and organized for the purpose of conducting amateur
25 athletic sports and games among pupils of the public school, and
26 may permit [such] a school board or school athletic association
27 to charge admission to [such] sports and games and to deny
28 persons refusing to pay admission access to the grounds where
29 [such] sports or games are being conducted, if [such] sports and
30 games are not conducted for individual profit.

1 Section 310. Article XXVII subdivision (b)(1) heading of the
2 act is amended to read:

3 (b) Shade Trees

4 (1) [Shade Tree Commission] Power of Boroughs
5 as to Shade Trees

6 Section 311. The act is amended by adding sections to read:

7 Section 2720. Care, Custody and Control of Shade Trees.--(a)
8 Council shall have exclusive care, custody and control of shade
9 trees in the borough. Council may plant, transplant, remove,
10 maintain and protect shade trees on the streets and highways in
11 the borough, employ and pay persons and make and enforce
12 regulations as may be necessary for the care and protection of
13 the shade trees of the borough.

14 (b) Council may, by ordinance, and with or without the
15 petition of a majority of the property owners upon any public
16 street in the borough, plant, transplant or remove shade trees.
17 Council may, with or without petition, require the planting and
18 replanting of suitable shade trees along and upon the sides of
19 the streets, upon such alignment and at such points as may be
20 designated by ordinance, by the owners of property abutting the
21 street at the points designated. Nothing in this act may
22 authorize council to plant or replant, or require the planting
23 or replanting, of trees at any point which may interfere with
24 the necessary or reasonable use of any street or abutting
25 property or the business conducted on the property. On failure
26 of any owner, after reasonable notice, to comply with the terms
27 of an ordinance requiring the planting or replanting of shade
28 trees, the borough may cause such trees to be planted or
29 replanted and assess the cost against the owner in accordance
30 with section 2720.2.

1 (c) Council may, upon notice as may be provided by
2 ordinance, require owners of property to cut and remove plants,
3 shrubs and trees afflicted with any disease that threatens to
4 injure or destroy plants, shrubs and shade trees in the borough
5 under regulations prescribed by ordinance. Upon failure of any
6 owner to comply with the notice, the borough may cause the work
7 to be done by the borough, and assess the cost against the owner
8 in accordance with section 2720.2.

9 Section 2720.1. Maintenance by Borough; Tax Levy.--(a) The
10 cost and expenses of caring for shade trees after having been
11 planted or transplanted and the expense of publishing any notice
12 required by this subdivision shall be paid by the borough.

13 (b) Council may levy a general tax, not to exceed the sum of
14 one-tenth of one mill on the dollar on the assessed valuation of
15 the property in the borough taxable for county purposes, for the
16 purpose of defraying the cost and expenses of caring for the
17 shade trees and the expense of publishing notices; or it may
18 provide for the expense of the caring for trees already planted
19 and of publishing the notice by appropriations.

20 Section 2720.2. Payment by Owners; Assessments.--The cost of
21 planting, transplanting or removing any shade trees or the
22 necessary and suitable guards, curbing or grading for their
23 protection and of the replacing of pavement or sidewalk
24 necessarily disturbed in the execution of the work shall be paid
25 by the owners of the real estate abutting the location of the
26 work. In the event that the borough undertakes the work
27 described in this section, costs shall be certified, assessed
28 against the abutting owners and collected in accordance with
29 Article XXI-A.

30 Section 2720.3. Notice of Work.--Whenever council proposes

1 to plant, transplant or remove shade trees on any street, notice
2 of the time and place of the meeting at which the work is to be
3 considered shall be given in one newspaper of general
4 circulation once a week for two weeks immediately preceding the
5 time of the meeting. The notice shall specify in detail the
6 streets or portions upon which trees are proposed to be planted,
7 transplanted or removed. In the event that a shade tree
8 commission is to undertake the work, the commission shall
9 provide the notice.

10 Section 2720.4. Penalties.--(a) To the extent provided by
11 ordinance, council may assess penalties for the violation of
12 regulations relating to shade trees or delegate the power to
13 assess such penalties to a shade tree commission. Any penalty so
14 assessed shall be a lien upon the real estate of the offender
15 and may be collected as municipal claims are collected.

16 (b) All penalties or assessments imposed under this
17 subdivision shall be paid to the borough treasurer, to be kept
18 in a separate fund and utilized only for the purposes authorized
19 by this subdivision.

20 Section 312. Article XXVII subdivision (b) of the act is
21 amended by adding a subdivision to read:

22 (2) Shade Tree Commission

23 Section 313. Section 2721 of the act is amended to read:

24 Section 2721. Shade Tree Commission.--[A borough] (a)
25 Council by ordinance may establish a commission to be known as
26 the shade tree commission, [but in boroughs where the council
27 shall not elect by ordinance a shade tree commission council may
28 exercise all the rights and perform the duties and obligations
29 imposed by this subdivision of this article upon the shade tree
30 commission.] and delegate to the commission the exclusive care,

1 custody and control of shade trees and authorization to plant,
2 transplant, remove, maintain and protect shade trees on the
3 streets and highways in the borough. The commission may make and
4 enforce regulations for the care and protection of shade trees.
5 No regulation may be in force until it has been approved by the
6 council and enacted as an ordinance.

7 (b) Whenever in any borough there exists a commission for
8 the care of public parks, the council may, by ordinance, confer
9 on the park commission all the powers and all the duties
10 prescribed by this article for the shade tree commission.

11 Section 314. Section 2722 of the act, amended April 17, 2002
12 (P.L.243, No.31), is reenacted to read:

13 Section 2722. Composition of Commission.--(a) Except as
14 provided in subsection (b), the commission shall be composed of
15 three residents of the borough, who shall be appointed by the
16 council and shall serve without compensation.

17 (b) The council, by ordinance, may provide that the
18 commission be composed of five members who shall be residents of
19 the borough, shall be appointed by the council and shall serve
20 without compensation.

21 (c) Whenever a shade tree commission of three members is
22 established by any borough, the council shall appoint one member
23 for a term of three years, one for a term of four years, and one
24 for a term of five years. On the expiration of the term of any
25 commissioner, a successor shall be appointed by the council to
26 serve for a term of five years.

27 (d) Whenever a shade tree commission of five members is
28 established by any borough, the council shall appoint members to
29 staggered terms so that one term expires every year. On the
30 expiration of the term of any commissioner, a successor shall be

1 appointed by the council to serve for a term of five years.

2 (e) Vacancies in the office of commissioner shall be filled
3 by the council for the unexpired term.

4 Section 315. Sections 2723 and 2724 of the act are repealed:

5 [Section 2723. Powers May Be Vested in Park Commission.--
6 Whenever in any borough there exists a commission for the care
7 of public parks, the council may by ordinance, confer on the
8 park commission all the powers and all the duties prescribed by
9 this article for the shade tree commission.

10 Section 2724. Powers of Commission.--The commission shall
11 have exclusive custody and control of the shade trees in the
12 borough, and is authorized to plant, remove, maintain and
13 protect shade trees on the streets and highways in the borough.

14 The commission may employ and pay such superintendents,
15 engineers, foresters, tree-wardens, or other assistants, as the
16 proper performance of the duties devolving upon it shall
17 require, and may make, and enforce regulations for the care and
18 protection of the shade trees of the borough. No such regulation
19 shall be in force until it has been approved by the council and
20 enacted as an ordinance.]

21 Section 316. The act is amended by adding a section to read:

22 Section 2724.1. Duties of Commission.--(a) The shade tree
23 commission shall annually report in full to the council its
24 transactions and expenses for the last fiscal year of the
25 borough.

26 (b) Whenever any shade tree commission proposes to plant,
27 transplant or remove shade trees on any street, notice of the
28 time and place of the meeting at which such work is to be
29 considered shall be given by the commission in accordance with
30 section 2720.3.

1 (c) The commission shall each year certify to council an
2 amount needed for the care of shade trees and for the
3 publication of notices required by this subdivision. The
4 commission shall use funds appropriated or raised by taxation in
5 accordance with section 2720.1 for any purpose authorized by
6 council.

7 (d) The commission shall ascertain and certify to council
8 and the borough treasurer the amount of any assessment imposed
9 in accordance with this subdivision for the planting,
10 transplanting or removal of plants, shrubs and trees.

11 Section 317. Sections 2725, 2726, 2727, 2728, 2729 and 2730,
12 Article XXVII(b)(2) heading and sections 2741, 2742 and 2743 of
13 the act are repealed:

14 [Section 2725. Report of Commission.--The shade tree
15 commission shall annually report in full to the council its
16 transactions and expenses for the last fiscal year of the
17 borough.

18 Section 2726. Notices by Commission.--Whenever any shade
19 tree commission proposes to plant, transplant, or remove shade
20 trees on any street, notice of the time and place of the meeting
21 at which such work is to be considered shall be given in one
22 newspaper of general circulation in the borough once a week for
23 two weeks immediately preceding the time of the meeting. The
24 notice shall specify in detail the streets or portions upon
25 which trees are proposed to be so planted, replanted, or
26 removed.

27 Section 2727. Payment by Owners.--The cost of planting,
28 transplanting, or removing any shade trees in and along the
29 streets and highways in the borough, of the necessary and
30 suitable guards, curbing or grading for the protection thereof,

1 and of the replacing of any pavement or sidewalk necessarily
2 disturbed in the execution of such work, shall be paid by the
3 owner of the real estate abutting which the work is done.

4 The amount each owner is to pay shall be ascertained and
5 certified by the commission to council and to the borough
6 treasurer.

7 Section 2728. Assessments; Liens.--Upon the filing of the
8 certificate with the council, the borough secretary shall cause
9 thirty days' written notice to be given to every person against
10 whose property an assessment has been made. The notice shall
11 state the amount of the assessment, and the time and place of
12 payment, and shall be accompanied with a copy of the
13 certificate.

14 The amount assessed against the real estate shall be a lien
15 from the time of the filing of the certificate with the council,
16 and if not paid within the time designated in the notice, a
17 claim may be filed and collected by the borough solicitor in the
18 same manner as municipal claims are filed and collected.

19 Section 2729. Maintenance by Borough; Tax Levy.--The cost
20 and expenses of caring for such trees after having been planted
21 and the expense of publishing the notice hereinbefore provided
22 for shall be paid by the borough.

23 The needed amount shall each year be certified by the
24 commission to the council and shall be drawn against, as
25 required by the commission, in the same manner as money
26 appropriated for borough purposes.

27 The council may levy a general tax, not to exceed the sum of
28 one-tenth of one mill on the dollar on the assessed valuation of
29 the property in said borough taxable for county purposes, for
30 the purpose of defraying the cost and expenses of caring for

1 such shade trees and the expense of publishing the notice; or it
2 may provide for the expense of the caring for trees already
3 planted and of publishing the notice by appropriations equal to
4 the amount certified to be required by the commission.

5 Section 2730. Penalties.--The commission, to the extent as
6 may be provided by ordinance of the borough, may assess
7 penalties for the violation of its regulations and of this
8 article so far as it relates to shade trees. 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 All penalties or assessments imposed under this article shall
12 be paid to the borough treasurer, to be placed to the credit of
13 the commission, subject to be drawn upon by the commission for
14 the purposes of the preceding sections of this subdivision of
15 this article.

16 (2) Power of Boroughs as to Shade Trees

17 Section 2741. Ordinances to Require Planting and
18 Replanting.--Any borough may, by ordinance, upon the petition of
19 a majority of the property owners upon any public street
20 thereof, require the planting and replanting of suitable shade
21 trees along and upon the sides of such streets, upon such
22 alignment and at such points as may be designated by such
23 ordinance, by the owners of property abutting the street at the
24 points designated. This section shall not authorize any borough
25 to require the planting or replanting of trees at any point
26 which may interfere with the necessary or reasonable use of any
27 street or abutting property or unreasonably interfere with any
28 business conducted thereon.

29 Section 2742. Power of Borough Where Owners Fail to
30 Comply.--On failure of any owner, after reasonable notice, to

1 comply with the terms of any such ordinance, the borough may
2 cause such trees to be planted or replanted at the expense of
3 the borough, and thereupon, in the name of the borough, collect
4 the cost of such work from the owners in default, as debts of
5 like amount are by law collectible.

6 Section 2743. Removal of Diseased Plants, Shrubs and
7 Trees.--The commission may upon such notice as may be provided
8 by ordinance, require owners of property to cut and remove
9 plants, shrubs and trees, afflicted with the Dutch elm or other
10 disease, which threatens to injure or destroy plants, shrubs and
11 shade trees, in the borough under regulations prescribed by
12 ordinance. Upon failure of any such owner to comply with such
13 notice, the borough may cause the work to be done by the
14 borough, and levy and collect the cost thereof from the owner of
15 the property. The cost of such work shall be a lien upon the
16 premises from the time of the commencement of the work, which
17 date shall be fixed by the borough engineer and shall be filed
18 with the borough secretary. Any such lien may be collected by
19 action in assumpsit or by lien filed in the manner provided by
20 law for the filing and collection of municipal claims.]

21 Section 318. Article XVII subdivision (c) heading of the act
22 is reenacted to read:

23 (c) Forests

24 Section 319. Section 2751 of the act is amended to read:

25 Section 2751. Acquisition of Land for Forest Purposes.--Any
26 borough may acquire, by purchase, gift, or lease, and hold
27 tracts of land covered with forest or tree growth or suitable
28 for the growth of trees, and administer the same[, under the
29 direction of the Department of Forests and Waters,] in
30 accordance with the practices and principles of scientific

1 forestry, for the benefit of the borough. Such tracts may be of
2 any size suitable for the purpose and may be located within or
3 without the borough limits.

4 Section 320. Section 2752 of the act is repealed:

5 [Section 2752. Approval of Department of Forests and
6 Waters.--Before the passage of any ordinance for the acquisition
7 of land to be used as a municipal forest, the borough shall
8 submit to the Department of Forests and Waters, and secure its
9 approval of, the area and location of such land.]

10 Section 320.1. section 2753 of the act is reenacted to read:

11 Section 2753. Ordinance Declaring Intention.--Whenever the
12 council of any borough deems it expedient to acquire any land
13 for the purposes of municipal forests, it shall so declare in an
14 ordinance wherein shall be set forth all facts and conditions
15 relating to the proposed action.

16 Section 321. Sections 2754, 2755, 2756 and 2757 of the act
17 are amended to read:

18 Section 2754. Appropriations of Money.--All moneys necessary
19 for the purchase of such tracts shall be appropriated in the
20 same manner as appropriations for borough purposes, and [such]
21 the funds may be provided from the current revenue or by the
22 proceeds of a sale of general obligation bonds in accordance
23 with existing law.

24 Section 2755. Rules and Regulations.--Upon the acquisition
25 of any municipal forest or land suitable [therefor] for
26 municipal forests, the council [shall notify the Department of
27 Forests and Waters, which shall] may make [such] rules for the
28 government and proper administration of the same as may be
29 deemed necessary[, and the council shall publish such rules,
30 declare the uses of the forest in accordance with the intent of

1 this subdivision of this article, and make such provision for
2 its administration, maintenance, protection and development as
3 shall be necessary or expedient]. The rules governing the
4 administration of [such] the forest shall have for their main
5 purpose the [producing of a] production of continuing borough
6 revenue by the sale of forest products.

7 Section 2756. Appropriations and Revenues.--All moneys
8 necessary to be expended for the administration, maintenance,
9 protection and development of [such] forests, shall be
10 appropriated and applied as is now done for borough purposes[;].
11 [all] All revenue and emoluments arising from [such] the forests
12 shall be paid into the borough treasury to be used for general
13 borough purposes.

14 Section 2757. Use of Forests.--Municipal forests may be used
15 by the public as general outing or recreation grounds subject to
16 the rules [of the Department of Forests and Waters governing
17 their administration as municipal forests and rules] adopted by
18 the council [of the borough not inconsistent with law or the
19 regulations of the department].

20 Section 322. Section 2758 of the act is reenacted to read:

21 Section 2758. Ordinance of Sale.--Whenever the council of
22 any borough deems it expedient to sell or lease any municipal
23 forest or part thereof, or products therefrom, it shall so
24 declare in an ordinance wherein shall be set forth all the facts
25 and conditions relating to the proposed action. No ordinance for
26 the sale of a municipal forest, or part thereof, shall be
27 enacted until the provisions of this act relative to the sale of
28 borough-owned real estate have been complied with.

29 Section 323. Section 2759 of the act is amended to read:

30 Section 2759. Pruning or Thinning Out; Sale of Products

1 Thereof.--In order to comply with the practices and principles
2 of scientific forestry, the council, by resolution, shall have
3 the power to prune or thin out any municipal forest or portion
4 [thereof] of a municipal forest, and shall have the right to
5 sell the products of [such] the pruning or thinning out without
6 complying with the provisions of this act relative to
7 advertising and bidding. In doing so, the borough may either use
8 its own personnel or hire or contract with skilled personnel,
9 and in [such] the hiring or contracting, council shall not be
10 required to obtain bids or to advertise.

11 Section 324. Article XXVIII heading of the act is reenacted
12 to read:

13 ARTICLE XXVIII

14 CEMETERIES

15 Section 325. The act is amended by adding sections to read:

16 Section 2800. Appropriations for Burial Ground
17 Maintenance.--Any borough may appropriate annually, out of the
18 general funds of the borough, a sum for the care, upkeep,
19 maintenance and beautifying of cemeteries, burial grounds and
20 private roads in or leading to those areas, lying wholly or
21 partly within the boundary limits of the borough or in the
22 territory immediately adjacent to the borough.

23 Section 2800.1. Burial of Deceased Persons.--Any borough may
24 prohibit, within the borough limits, or within any described
25 territory within the limits, the burial or interment of deceased
26 persons.

27 Section 326. Sections 2801 and 2802 of the act are amended
28 to read:

29 Section 2801. Management by Commission[; Transfer from
30 Borough to Company].--When the title and management of any

1 cemetery is vested in a borough, the council of [such] the
2 borough may [in its discretion], by ordinance, vest the care,
3 management and operation of [such] the cemetery in a commission
4 of three citizens to be appointed by the council[, such care,
5 management and operation, and the terms of the commissioners to
6 be as provided in the ordinance establishing such cemetery
7 commission. Upon petition of at least ten lot owners in such
8 cemetery, the council may, in its discretion, transfer such
9 cemetery and the management thereof to an incorporated cemetery
10 company in the manner hereinafter provided]. The ordinance shall
11 provide for the terms of the cemetery commissioners.

12 Section 2802. [Vesting Title.--] Transfer from Borough to
13 Company.--(a) Upon petition of at least ten per centum of
14 living cemetery lot owners, the council may, in its discretion,
15 transfer the cemetery and the management thereof to an
16 incorporated cemetery company.

17 (b) Upon the presentation to council of [such] the petition,
18 the council may enact an ordinance declaring that, upon the
19 acceptance of the provisions of [such] the ordinance by the
20 incorporated cemetery company, filed with the borough secretary,
21 the title and control of [such] the cemetery shall vest in
22 [such] the incorporated cemetery company.

23 (c) A copy of the ordinance and the acceptance thereof,
24 certified by the borough secretary, shall be recorded in the
25 office of the recorder of deeds of the county.

26 Section 327. Sections 2803 and 2804 of the act are repealed:
27 [Section 2803. Recording of Ordinance and Acceptance.--A
28 copy of the ordinance and the acceptance thereof, certified by
29 the borough secretary, shall be recorded in the office of the
30 recorder of deeds of the county.

1 Section 2804. Orders of Court as to Neglected Cemeteries.--

2 (a) Authority is vested in the court of quarter sessions to
3 make such orders for the regulation of cemeteries, situated in
4 or adjacent to boroughs, as the public good shall require; and
5 when any cemetery shall become so neglected as, in the opinion
6 of the court, to become a public nuisance, the court may direct
7 the removal of the dead therefrom by the borough authorities to
8 some other cemetery.

9 (b) When any cemetery situated in a borough shall become so
10 neglected as, in the opinion of the court of quarter sessions,
11 to become a public nuisance, such court, upon petition of the
12 borough council and after such notice as is required in
13 subsection (c) of this section, may authorize the borough
14 without the removal of any dead from the cemetery to improve and
15 maintain the cemetery by the restoration, improvement or removal
16 of some or all of the gravestones, posts, railings, fences or
17 other structures and improvements. If the court authorizes the
18 removal of gravestones, it shall direct the borough to erect and
19 maintain at a prominent location in the cemetery a suitable
20 memorial of stone, bronze or similar material having inscribed
21 thereon the available names and dates of all persons in the
22 cemetery the gravestones for whom have been authorized to be
23 removed. The petition filed by the council shall include such
24 facts as to the ownership of the cemetery as are known to the
25 borough and shall set forth the proposed plans of the borough
26 for the improvement of the cemetery including, if it proposes to
27 remove the gravestones, a description of the memorial it intends
28 to erect.

29 (c) Whenever the council shall file a petition as
30 hereinbefore provided, the court shall direct such notice of the

1 filing of the petition to be given in such manner as it shall
2 deem appropriate and shall afford the owner or owners of the
3 cemetery or the owners of any burial rights therein, if any
4 appear, an opportunity to be heard before making an order
5 authorizing the borough to improve and maintain the burial
6 ground.]

7 Section 328. Section 2805 of the act is amended to read:

8 Section 2805. Transfer from Company to Borough.--(a) Upon
9 the petition of any incorporated cemetery company and the owners
10 of a majority of the taxable real estate in any borough, the
11 court of [quarter sessions] common pleas may authorize the
12 transfer of any cemetery to any borough in which [such] the
13 cemetery may be located or [be adjacent thereto.] which is
14 adjacent to the borough. A copy of the court order authorizing
15 the transfer shall be filed with the recorder of deeds.

16 (b) The transfer shall be made without cost to the borough
17 and upon being made the borough shall exercise the powers and
18 privileges of the incorporated company, and may purchase land
19 within or adjacent to the borough limits, not to exceed thirty
20 acres, for the extension of the cemetery, and may raise the
21 means to pay for the same, by the sale of lots or otherwise, but
22 in no event by taxation. The borough may lay out lots so
23 purchased and alter the original plot of the cemetery, and may
24 dispose of such grounds in the same manner as the incorporated
25 company could have done.

26 (c) A deed for any lot, made by the borough, shall be of the
27 same validity as the deed of the incorporated cemetery company
28 and the borough may make deeds to those who theretofore
29 purchased lots, but had not been furnished with deeds by the
30 cemetery company.

1 Section 329. The act is amended by adding a section to read:

2 Section 2805.1. Neglected or Abandoned Cemeteries.--Borough
3 council shall have the power to direct the removal of weeds,
4 refuse and debris from an abandoned or neglected cemetery. To
5 exercise this power, council shall give personal notice to the
6 owner, if known, directing the removal of weeds, refuse and
7 debris from the cemetery within thirty days from the giving of
8 personal notice. Personal notice shall be by any of the
9 following means: (1) personal service on the owner, (2)
10 certified mail, addressee only, return receipt requested, to the
11 owner at the owner's last known address, or (3) posting notice
12 at or upon the property after reasonable attempts to give
13 personal notice pursuant to (1) or (2) has failed. If the
14 removal is not completed within thirty days after personal
15 notice was effected, borough council shall provide for the
16 removal to be done by employes of the borough or persons hired
17 for that purpose at the expense of the borough. The costs of
18 removal shall be assessed against the owner of the cemetery, if
19 known, and collected pursuant to Article XXI-A.

20 Section 330. Sections 2806 and 2807 of the act are repealed:

21 [Section 2806. Powers of Borough.--Such transfer shall be
22 made without cost to the borough and upon being made the borough
23 shall exercise the powers and privileges of such incorporated
24 company, and may purchase land within or beyond the borough
25 limits, not to exceed thirty acres, for the extension of such
26 cemetery, and may raise the means to pay for the same, by the
27 sale of lots or otherwise, but in no event by taxation; the
28 borough may lay out lots so purchased and alter the original
29 plot of such cemetery, and may dispose of such grounds in the
30 same manner as such incorporated company could have done.

1 Section 2807. Deeds to Lots.--A deed for any lot, made by
2 the borough, shall be of the same validity as the deed of such
3 incorporated cemetery company; and the borough is authorized to
4 make deeds to those who theretofore purchased lots, but had not
5 been furnished with deeds by the cemetery company.]

6 Section 331. Sections 2808 and 2809 of the act are amended
7 to read:

8 Section 2808. Removing Bodies to Alter Plots.--In altering
9 the plot of any [such] cemetery, the bodies may be removed and
10 reinterred in a suitable place, but without cost to surviving
11 relatives.

12 Section 2809. Removal of Bodies to Other [Cemeteries.--
13 Whenever any cemetery privately owned and in charge of no
14 person, or any cemetery in charge of any religious society or
15 church, has ceased to be used for interments, or has become so
16 neglected as to become a public nuisance; or when such cemetery
17 hinders the improvement and progressive interests of any
18 borough, or is desired by the borough as a site for any free
19 public library building, or for any other public purpose, the
20 court of quarter sessions of the county, upon petition of the
21 managers of such cemetery; or upon the petition of fifty
22 residents in the vicinity in case such cemetery is not in charge
23 of anyone, setting forth that the improvements and progressive
24 interests of such borough are hampered and the welfare of such
25 borough is injured; or upon the petition of such borough setting
26 forth that such cemetery is desired by the borough for the
27 erection thereon of a free public library building, or for use
28 as a recreation place, or the opening, laying out or extension
29 through said land of any street, or for any other public
30 purpose; and after three successive weeks of advertisement in a

1 newspaper of general circulation in the borough may direct the
2 removal of the remains of the dead from such cemetery.]

3 Cemeteries.--(a) The court of common pleas may, upon petition
4 and notice as set forth in this section, direct the removal of
5 the remains of the dead from a privately owned cemetery,
6 borough-owned cemetery, any cemetery affiliated with any
7 religious society or church or with any other organization, when
8 the cemetery has ceased to be used for interments, or has become
9 so neglected as to become a public nuisance, or when the
10 cemetery hinders the improvement and progressive interests of
11 the borough, or is desired by the borough as a site for any
12 public purpose.

13 (b) The petition to the court for the removal of the remains
14 of the dead shall be made in accordance with any of the
15 following:

16 (1) The managers of the cemetery in charge of a religious
17 society or church or any other organization, but only in
18 pursuance of the wishes of a majority of the members of the
19 society or church or any other organization, expressed at a
20 meeting held for that purpose after two weeks' public notice.
21 The managers' petition shall set forth that the cemetery has
22 ceased to be used for interments.

23 (2) Approval of fifty residents of the borough if the
24 cemetery is not in charge of anyone, setting forth 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.

28 (3) Borough council setting forth that the cemetery has
29 become so neglected as to become a public nuisance, or that the
30 improvements and progressive interests of the borough are

1 hampered and the welfare of the borough is injured by the
2 presence of the cemetery, or that the land is desired for a
3 public purpose.

4 (c) Prior to the court authorizing the removal of the
5 remains of the dead from a cemetery, notice shall be given by
6 advertisement in a newspaper of general circulation once a week
7 for three successive weeks.

8 (d) The removal shall be made by the managers of the
9 cemetery, or by the borough when the cemetery is in charge of no
10 one or is a borough-owned cemetery, in a careful manner, at the
11 expense of the party making the removal, to another cemetery as
12 may be selected, or if so desired by relatives or other
13 interested parties, to some cemetery in the vicinity.

14 (e) Relatives or other interested parties of the dead may
15 remove the remains, at any time during the proceedings, at their
16 own expense, before removal by the managers or the borough.

17 (f) All bodies, when so removed, shall be placed in separate
18 caskets and graves, and the markers placed over the remains of
19 the bodies shall be taken by the persons authorized to make the
20 removal, and placed as near as can be in the same relative
21 position as before removal.

22 (g) After the removal of all dead bodies from any such
23 cemetery, the land shall cease to be a cemetery or burial
24 ground, and may be acquired by the borough as other real estate
25 is acquired for borough purposes.

26 Section 332. Sections 2810, 2811, 2812, 2813, 2814 and 2815
27 of the act are repealed:

28 [Section 2810. Applications for Removal.--No application, as
29 provided in the preceding section, shall be made by the managers
30 of any cemetery, in charge of any society or church, except in

1 pursuance of the wishes of a majority of the members of such
2 society or church, expressed at a meeting held for that purpose
3 after two weeks' public notice.

4 Section 2811. Removals; How Made.--Such removal shall be
5 made by the managers of such cemetery, or by the borough when
6 such cemetery is in charge of no one, in a careful manner, at
7 the expense of the party making such removal, to such other
8 cemetery as may be selected; or if so desired by relatives or
9 friends, to some cemetery in the vicinity.

10 Section 2812. Notice of Removal.--The parties making such
11 removal shall publish, for two successive weeks, in a newspaper
12 of general circulation in the borough, a notice declaring their
13 intention to remove such remains.

14 Section 2813. Removal by Relatives and Friends.--Relatives
15 and friends of such dead may remove such remains, at any time
16 during such proceedings, at their own expense, before removal by
17 the managers.

18 Section 2814. Care in Removal.--All bodies, when so removed,
19 shall be placed in separate caskets and graves, and the markers
20 placed over the remains of such bodies shall be taken by the
21 persons authorized to make such removal, and placed as near as
22 can be in the same relative position as before removal.

23 Section 2815. Right to Use Property From Which Bodies
24 Removed.--After the removal of all dead bodies from any such
25 cemetery, the said land shall cease to be a cemetery or burial
26 ground for all and any purpose whatsoever; and may be acquired
27 by the borough as other real estate is acquired for borough
28 purposes.]

29 Section 333. Section 2816 of the act, amended October 4,
30 1978 (P.L.962, No.189), is amended to read:

1 Section 2816. Purchase of Plots for Burial of Deceased
2 Service Persons.--Any borough may purchase plots of ground, in
3 any cemetery or burial ground within its limits, for the
4 interment of [such] deceased members of the armed forces, as
5 have [heretofore] died before or shall [hereafter] die later
6 within [such] the borough, or shall die beyond [such] the
7 borough and shall have a legal residence within the borough at
8 the time of their death, and whose bodies are entitled to be
9 buried by the county under the provisions of existing law.
10 [Such] The plots of ground shall be paid for out of the treasury
11 of [such] the borough.

12 Section 334. Article XXIX heading of the act is reenacted to
13 read:

14 ARTICLE XXIX

15 LICENSES AND LICENSE FEES

16 Section 335. Sections 2901 and 2902 of the act are amended
17 to read:

18 Section 2901. Licensing Transient Retail Business.--[Every
19 borough shall have power] (a) Any borough may, by ordinance,
20 [to] regulate and license [each and every person, firm or
21 corporation] transient merchants engaged in any transient retail
22 business[,] within [such] the borough[,]. Transient merchants
23 shall include any person, partnership or corporation engaged in
24 any transient retail business for the sale of goods, wares, or
25 merchandise, whether [such] the business [shall be] is conducted
26 from a fixed location within the borough or by any person or
27 persons engaged in peddling, soliciting, or taking of orders
28 from house to house[, and to]. The ordinance may prohibit the
29 commencement or doing of any [such] transient retail business
30 [or] unless the license required by [such] the ordinance has

1 been procured from the proper authorities by the person, firm,
2 or corporation desiring to commence [such] the transient retail
3 business[, and to enforce such ordinances]. The ordinance may
4 provide for enforcement by penalties or [by] other appropriate
5 means. The amount of any [such] license fee shall bear a
6 reasonable relationship to the cost of administering [such] the
7 ordinance and regulating[, investigating,] and inspecting [and
8 supervising such] the transient retail business.

9 (b) No license fee shall be charged under this section to
10 the following transient merchants, unless such transient
11 merchant is also selling other goods, wares and merchandise not
12 excepted:

13 (i) [to farmers] Farmers selling their own produce[,].

14 (ii) [for the sale of] Persons selling goods, wares and
15 merchandise[, donated by the owners thereof,] if the proceeds
16 [whereof] of the sale are to be applied to any charitable or
17 philanthropic purpose[, or].

18 (iii) [to any manufacturer or producer] Manufacturers or
19 producers in the sale of bread and bakery products, meat and
20 meat products, or milk [or] and milk products, [but the]
21 provided that milk and milk products shall not include or apply
22 to ice cream or other frozen desserts.

23 (c) The ordinance may require [any person, partnership, firm
24 or corporation in any or all of these excepted categories to]
25 that the transient merchants excepted from payment of a license
26 fee in subsection (b) must register with the borough[, and
27 otherwise be subject to all other provisions of the ordinance
28 [except those pertaining to the payment of license fees:
29 Provided, the term "milk or milk products" shall not include or
30 apply to ice cream or other frozen desserts: And provided

1 further, That any transient retail business dealing in one or
2 more of the excepted categories and selling other goods, wares
3 and merchandise not excepted shall be subject to the license fee
4 fixed by the ordinance for its activities in connection with the
5 sale of goods, wares and merchandise not in any of the excepted
6 categories].

7 Section 2902. Commonwealth Licenses Saved.--Nothing
8 contained in [section 2901 of this act] this article shall be
9 construed to relieve any person, partnership, or corporation
10 from the duty of taking out a license, or from the payment of
11 any license tax or fee imposed or authorized by any other
12 statute of this Commonwealth, nor shall any Commonwealth license
13 tax or fee preempt the registration, license, or regulatory
14 powers of a borough in accordance with this article, unless the
15 preemption is expressly authorized.

16 Section 336. Section 2903 of the act, amended October 5,
17 1979 (P.L.197, No.66), is amended to read:

18 Section 2903. Licensing Parking Lots and Parking Garages
19 Operated for Profit.--Any borough may, by ordinance, regulate
20 the business of operating parking lots or parking garages for
21 profit within the borough and may require such lots or garages
22 to reserve areas exclusively for parking by handicapped
23 individuals. Ordinances shall be consistent with 75 Pa.C.S.
24 (relating to vehicles). Nothing in this section may be construed
25 to limit the protections and prohibitions contained in any law
26 or regulation relating to the rights of the disabled. License or
27 permit fees may be charged and collected from the operators of
28 [such] the parking lots or parking garages. Any borough adopting
29 such a regulatory plan shall require from each operator of
30 [such] a parking lot or parking garage a bond to be approved by

1 council for the protection of the public from loss of or damage
2 to vehicles parked, stored or placed under the jurisdiction of
3 [such] a parking lot or parking garage operator[: Provided,
4 That], provided that nothing in this section shall apply to
5 parking lots or parking garages operated by a municipal
6 authority or a parking authority.

7 Section 337. Sections 2904 and 2905 of the act are amended
8 to read:

9 Section 2904. Persons Taking Orders by Samples.--It shall be
10 unlawful for any borough to impose, levy or collect any license
11 fee or mercantile tax upon any persons taking orders for
12 merchandise by sample, from dealers or merchants[,] for
13 individuals or companies who pay a license fee or mercantile tax
14 at their chief places of business. Nothing in this section shall
15 authorize any such person, firm or corporation to sell by retail
16 to others than dealers or merchants without payment of a license
17 or permit fee.

18 Section 2905. Equality of Residents and Non-Residents.--It
19 shall be unlawful for any borough to impose, by ordinance, [or
20 exact] or collect under the provisions of any ordinance
21 [heretofore or hereafter enacted], any license [tax or] fee upon
22 or from any manufacturer, or the agent, representative or
23 employe of any manufacturer who is a resident of the
24 Commonwealth, for soliciting orders for, or for selling, any
25 goods, merchandise or wares manufactured within this
26 Commonwealth, that is not or cannot legally be imposed upon, [or
27 exacted,] or collected from, any manufacturer or dealer, or the
28 agent, representative, or employe of any manufacturer, who is a
29 non-resident of the Commonwealth, for soliciting orders for or
30 for selling any goods, merchandise, or wares manufactured

1 [without the] outside this Commonwealth.

2 Section 338. Section 2906 of the act is reenacted to read:

3 Section 2906. Insurance Business.--It shall be unlawful for
4 any borough to impose or collect any license fee upon any
5 insurance company or its agents, or insurance broker, authorized
6 to transact business under the laws of the Commonwealth.

7 Section 339. The act is amended by adding an article to
8 read:

9 ARTICLE XXIX-A

10 VETERANS' AFFAIRS

11 (a) Pennsylvania National Guard

12 Section 2901-A. Eminent domain for National Guard purposes.

13 Borough council may take, by right of eminent domain, for the
14 purpose of appropriating to the borough for the use of the
15 Pennsylvania National Guard, public lands, easements and public
16 property, as may be in its possession or control and used or
17 held by the borough for any other purpose. The right, however,
18 shall not be exercised as to any street or wharf.

19 Section 2902-A. Lands for armory purposes.

20 Borough council may acquire, by purchase or by gift or by the
21 right of eminent domain, any land for the use of the
22 Pennsylvania National Guard, to convey the lands so acquired to
23 the Commonwealth in order to assist the State Armory Board in
24 the erection of armories. The power conferred by this section
25 shall not be exercised to take any church property, graveyard,
26 cemetery or any dwelling-house or the curtilage of the same in
27 the actual occupancy of the owner.

28 Section 2903-A. Appropriation to assist in erection of
29 armories.

30 Borough council may appropriate money or convey land, either

independently or in conjunction with any municipality for the purpose of assisting the State Armory Board in the erection of armories for the use of the Pennsylvania National Guard and to furnish water, sewer service, light or fuel, free of cost, to the Commonwealth for use in any armory of the Pennsylvania National Guard, and to do all things necessary to accomplish the purpose of this section.

Section 2904-A. Support of Pennsylvania National Guard units.

Borough council may appropriate annually a sum to be used and expended exclusively for the support and maintenance, discipline and training of any company, battalion, regiment or similar unit of the Pennsylvania National Guard. Where the units are organized as a company, battalion, regiment or similar organization, the total amount due may be paid to the commanding officer of the company, battalion, regiment or similar organization. Any moneys so appropriated shall be paid by warrant drawn to the order of the commanding officer of the company, battalion, regiment or similar organization, only when it shall be certified to the borough, by the Adjutant General, that the company or companies have satisfactorily passed the annual inspection provided by law. The commanding officer shall account, by proper vouchers to the borough each year, for the expenditure of the money appropriated, and no appropriation shall be made for any subsequent year until the expenditure of the previous year is duly and satisfactorily accounted for. The accounts of the expenditures shall be subject to the inspection of the Department of Military and Veterans Affairs, and shall be audited by the Auditor General in the manner provided by law for the audit of accounts of State moneys.

(b) Support of Veterans' Organizations

1 Section 2911-A. Appropriations to organizations of veterans and
2 American Gold Star Mothers.

3 Borough council may appropriate annually a sum to be divided
4 in amounts as council deems proper to organizations composed of
5 veterans of any war in which the United States was engaged or
6 the American Gold Star Mothers' Organization, to aid in
7 defraying the expenses of Memorial Day, Veterans' Day or any
8 similar day hereafter provided for by Federal or State law. The
9 payments shall be made to defray actual expenses only. Before
10 any payment is made, the organization receiving the
11 appropriation shall submit verified accounts of its
12 expenditures.

13 Section 2912-A. Payment of rent for veterans' organizations.

14 Borough council may appropriate annually a sum as council
15 deems proper to incorporated organizations of American veterans
16 of any war in which the United States was engaged, to be used in
17 the payment of the rent of any building or room or rooms in
18 which the post, branch, camp, detachment or lodge has its
19 regular meetings.

20 Section 2913-A. Rooms for veterans' and children of veterans'
21 organizations.

22 Borough council may furnish without charge to each
23 organization composed of American veterans of any war in which
24 the United States was engaged and children of such veterans, a
25 room or rooms in any public building of the borough.

26 Section 2914-A. Care and erection of memorials.

27 Borough council may take charge of, care for, maintain and
28 keep in good order and repair, at the expense of the borough,
29 any soldiers' monument, gun or carriage or similar memorial
30 situated in the borough, and not in the charge or care of any

person, body or organization, and not put up or placed by the
Government of the United States, the Commonwealth of
Pennsylvania, or the commissioners of the county, or by the
direction or authority of any other state. Borough council may
also receive and expend any moneys or funds from any person or
organization to be used for the maintenance of the memorials.
Additionally, borough council may contribute to the erection of
memorials in honor of those who served in any war in which the
United States was engaged and thereafter to properly and
adequately maintain the same.

Section 340. Article XXX heading and sections 3001, 3002,
3003, 3004 and 3005 of the act are repealed:

[ARTICLE XXX

REAL ESTATE REGISTRY

Section 3001. Real Estate Registry Established.--For the
purpose of procuring accurate information in reference to the
ownership of real estate the council of any borough may provide
by ordinance for a registry thereof.

Section 3002. Maintenance of Real Estate Registry.--The
borough council in any borough in which a registry shall be
established shall appoint or designate any officer of the
borough or any other person to have charge of the real estate
registry, who shall, under the direction of the council, cause
to be made all necessary books, maps and plans, as will show the
situation and dimensions of each property thereon; which books,
maps, or plans shall be so prepared as to show the location and
the name of the owner or owners thereof, with blank spaces for
the name of the owner of each lot, and with provision for the
names of future owners and the dates of future transfers of
title.

1 Section 3003. Access to Public Records.--For the purpose of
2 establishing such registry, the person in charge of the real
3 estate registry of any borough shall have access without charge
4 to any public records wherein the necessary information may be
5 obtainable, and may also cause a search to be made in other
6 places for any muniments or evidences of title, not reported to
7 him as herein provided, and requisite for the completion of such
8 books, maps, or plans.

9 Section 3004. Keeping of Records.--The registry, books, maps
10 and plans shall be carefully preserved, and shall be so kept, by
11 additions from time to time, as to show the ownership of every
12 lot, or piece of real estate, or subdivision thereof, within the
13 limits of the borough, with the succeeding transmissions of
14 title from the time of the commencement of such plans, but
15 nothing contained therein shall, at any time, invalidate any
16 municipal or tax claim by reason of the fact that the same is
17 not assessed or levied against the registered owner.

18 Section 3005. Duties of Owners of Real Estate.--It shall be
19 the duty of all owners of real estate within the limits of the
20 borough, within one month after the date of the enactment of any
21 ordinance establishing such registry, and of every subsequent
22 purchaser, devise, or other owner, within one month after
23 acquiring title in any manner whatsoever to any real estate in
24 such borough, to furnish to the person in charge of the real
25 estate registry, at his office, descriptions of their respective
26 properties upon blanks to be furnished by the borough, and at
27 the same time to present their conveyances to be stamped as
28 evidence of the registry thereof.]

29 Section 341. Section 3006 of the act, amended October 9,
30 1967 (P.L.360, No.158), is repealed:

1 [Section 3006. Registry Required Before Recording.--The
2 sheriffs of the respective counties in which any such borough is
3 situated shall present for registry the deeds of all properties
4 within such borough sold by them at judicial sales; and the
5 recorders of deeds of such counties shall not admit for record
6 any deed of any property in such borough, bearing dates
7 subsequent to the enactment of an ordinance providing for the
8 establishment of such registry, unless the same shall first have
9 been duly stamped as herein provided.]

10 Section 342. Article XXXI heading of the act is reenacted to
11 read:

12 ARTICLE XXXI

13 HEALTH AND SANITATION

14 Section 343. Sections 3101 and 3102 of the act are amended
15 to read:

16 Section 3101. Establishment of Board of Health; Health
17 Officers.--[The administration of the health laws and ordinances
18 in boroughs shall be enforced by a board of health, or by a
19 health officer or officers, as the case may be, appointed by the
20 borough council.

21 Where the borough council elects to appoint a health officer
22 or officers the said health officer or officers] (a) Borough
23 council may, by ordinance, appoint a board of health, or a
24 health officer or officers in lieu of a board of health, to
25 administer and enforce the health laws and related ordinances of
26 the borough. Health officers appointed by borough council shall
27 have the same powers and duties, and exercise the same
28 authority, as is prescribed for boards of health in boroughs.
29 All health officers, whether appointed by boards of health
30 pursuant to section 3106(b) or by the borough council, shall

1 have had some experience or training in public health work [in
2 accordance with rules and regulations established by the
3 Advisory Health Board of the State] and shall be, or within six
4 months of taking the oath of office, shall become certified for
5 the office of health officer by the Department of Health. [Such
6 health officers shall not enter upon the performance of their
7 duties until they are certified so to do by the State Department
8 of Health.]

9 (b) All expenses incurred by the board of health, its
10 officers or employees in the performance of the duties required
11 by law or by ordinance, shall be paid by the borough where the
12 duties are performed, in the same manner as other expenses of
13 the borough are paid.

14 (c) A borough may, by ordinance, dissolve a board of health
15 and decide to become subject to the jurisdiction of a county
16 department of health or joint county department of health in
17 accordance with the act of August 24, 1951 (P.L.1304, No.315),
18 known as the "Local Health Administration Law."

19 Section 3102. Members of Board of Health.--(a) Where the
20 borough council decides to appoint a board of health [such], the
21 board shall be composed of three or five members, appointed by
22 borough council, at least one of whom shall be a [physician]
23 professional health care provider of not less than two years'
24 experience in the practice of [his] the respective profession.
25 [The members of the board shall be appointed by the borough
26 council.] If no professional health care provider can be
27 identified to serve on the board, council may, instead, appoint
28 an individual who has experience in or is knowledgeable of
29 public health issues. At the first appointment one member shall
30 be appointed to serve for one year, one for two years, one for

1 three years, and, in the case of boards with five members, one
2 for four years, and one for five years; and thereafter one
3 member shall, in like manner, be appointed each year to serve
4 for three years or, in the case of boards with five members,
5 five years. The members of the board of health shall serve
6 without compensation, but if any member of the board shall be
7 elected to the office of secretary of the board of health, [he]
8 the member shall be entitled to receive a salary fixed by the
9 board for that office.

10 (b) "Professional health care provider" as described in this
11 section shall mean an individual who is approved, licensed,
12 certified or otherwise regulated to practice or operate in the
13 health care field under the laws of this Commonwealth,
14 including, but not limited to, a physician, a dentist, a
15 podiatrist, a chiropractor, an optometrist, a psychologist, a
16 pharmacist, a registered or practical nurse, a physical
17 therapist, a physician's assistant, a paramedic, an
18 administrator of a hospital, nursing or convalescent home or
19 other health care facility or individuals licensed to practice
20 veterinary medicine under the laws of this Commonwealth.

21 Section 344. Section 3103 of the act, amended June 25, 2001
22 (P.L.651, No.56), is amended to read:

23 Section 3103. Oaths of Members, Secretary and Health
24 Officer; Organization; Bonds.--The members of the board shall
25 severally take and subscribe to the oath prescribed for borough
26 members of council [together with such loyalty oath as is
27 prescribed and required by law;] and shall annually organize by
28 electing a president from among the members of the board, a
29 secretary who may or may not be a member of the board, and a
30 health officer. The secretary and the health officer shall

1 receive such salary as may be fixed by the board, and ratified
2 by the borough council, and shall serve [for a period] until
3 such time as their successors may be elected and qualified. If
4 the borough council shall so require, they shall severally give
5 bond to the borough in such sums as council shall prescribe for
6 the faithful discharge of their duties. They shall take and
7 subscribe to the oaths required of members of the board.

8 Section 345. Sections 3104, 3105, 3106, 3107, 3108, 3109,
9 3110 and 3111 of the act are amended to read:

10 Section 3104. Duties of Secretary.--The secretary of the
11 board shall [keep]:

12 (1) Keep and maintain, in accordance with 53 Pa.C.S. Ch. 13
13 Subch. F (relating to municipal records), the minutes of the
14 proceedings of the board[; shall] and keep accurate accounts of
15 the expenditures of the board[; shall draw].

16 (2) Draw all requisitions for the payment of moneys on
17 account of the board of health from appropriations made by the
18 borough council [of] to the board, and [shall] present the same
19 to the president of the board for [his] the president's
20 approval[; shall render].

21 (3) Render statements of the expenditures to the board at
22 each stated meeting, or as frequently as the board may require[;
23 shall prepare,].

24 (4) Prepare, under the directions of the board, the annual
25 report to the borough council together with the estimate of
26 appropriation needed for the ensuing year. [He shall report]

27 (5) Report to the State Department of Health at such
28 intervals as shall be specified by [the State] law or
29 regulation, the cases of communicable disease reported to the
30 board of health, on the form provided for that purpose by [such]

1 the department[;] and [shall also] make an annual report to
2 [such] the department[; and shall make].

3 (6) Make such other reports and perform such other duties as
4 the board may require.

5 Section 3105. Powers and Duties of Health Officer.--It shall
6 be the duty of the health officer to attend all [stated] regular
7 and special meetings of the board of health, and at all times be
8 ready and available for the prompt performance of [his] the
9 officer's official duties[. He shall perform], including such
10 duties as are vested in local health officers by State laws and
11 regulations. [He] The health officer shall make sanitary
12 inspection and shall execute the orders of the board of health
13 and shall, in the performance of [his] the health officer's
14 duties, have the power and authority [of a policeman] to issue
15 citations for the violation of applicable laws and ordinances.

16 Section 3106. Powers of Board of Health.--(a) The board of
17 health shall have the power, and it shall be its duty to
18 [enforce]:

19 (1) Enforce the laws of the Commonwealth, the regulations of
20 the State Department of Health, and all ordinances of the
21 borough enacted to promote public health and prevent the
22 introduction and spread of infectious or contagious disease[; to
23 abate].

24 (2) Abate and remove all nuisances [which] that the board
25 shall deem [prejudicial] detrimental to the public health[;] and
26 to mark infected houses or places[; to recommend].

27 (3) Recommend rules [for the construction and maintenance of
28 house-drains, wash-pipes, soil-pipes and cesspools; and to
29 recommend all such other rules] and regulations as shall be
30 deemed necessary for the preservation of the public health and

1 for carrying into effect the powers and functions of the board.

2 [Such] The rules and regulations shall not become effective
3 until they have been approved by the borough council and enacted
4 as ordinances of the borough. [The board shall also have power,
5 with the consent of council, in case of a prevalence of any
6 contagious or infectious disease to establish one or more
7 emergency hospitals, and to make provisions and regulations for
8 the maintenance and management of the same.

9 The board shall also have the power to recommend to council
10 all necessary rules and regulations not inconsistent with law,
11 for carrying into effect the powers and functions with which the
12 board is invested by law, and the power and authority relating
13 to the public health conferred on boroughs. Such rules and
14 regulations shall not become effective until they have been
15 approved by the borough council and enacted as ordinances of the
16 borough.]

17 (b) The board of health may appoint a health officer or
18 officers.

19 Section 3107. Entry Upon Premises.--(a) The board of health
20 as a body, or by committee, as well as the health officer,
21 together with their assistants, subordinates, and [workmen]
22 employees, under and by order of the [said] board, shall have the
23 power to enter at [any time] a reasonable time and in a
24 reasonable manner upon any premises in the borough upon which
25 there is suspected to be any infectious or contagious disease,
26 or nuisance detrimental to the public health, for the purpose of
27 examining and abating the same.

28 (b) In the event that entry upon any premises is refused by
29 an owner, an agent of an owner or a tenant, the board of health
30 or health officer shall obtain an administrative search warrant

1 from any magisterial district judge within the judicial district
2 where the premises to be inspected is located.

3 (c) It shall be sufficient to support the issuance of a
4 warrant for the board of health or health officer to provide to
5 the magisterial district judge evidence of any of the following:

6 (1) Reasonable standards and an administrative plan for
7 conducting inspections.

8 (2) The condition of the premises or general area and the
9 passage of time since the last inspection.

10 (3) Facts, supported by oath or affirmation, alleging that
11 probable cause exists that a law, regulation or ordinance
12 subject to enforcement by the board of health or health officer
13 has been violated.

14 Section 3108. Inspections; Abatement of Nuisances.--The
15 board of health [may inspect house-drains, waste and soil-pipes,
16 cesspools, water-closets, slaughter-houses, hog-pens, stable-
17 yards and] shall have the power to inspect any conditions or
18 places [whatsoever] in the borough which may constitute a
19 nuisance or a menace to public health[; and whenever]. Whenever
20 any condition or place in the borough is found by the board to
21 be a nuisance or a menace to the health of the people of the
22 borough it shall issue a written order of abatement, directed to
23 the owner, or agent of the owner, of the premises, stating that
24 the conditions specified [therein] in the premises constitute a
25 nuisance or a menace to health, and ordering an abatement
26 thereof within [such] reasonable time as may be specified by the
27 board in [such] the order. [In case such] If the order of
28 abatement is not obeyed within the time specified [therein], the
29 board shall [thereupon] issue a further written order to the
30 health officer, directing [him] the health officer to remove or

1 abate the same[; which]. The order shall be executed by [him and
2 his] the health officer and subordinates and [workmen] agents,
3 and the expense [thereof] of execution with a penalty of ten
4 percent [thereof added thereto], shall be recoverable from the
5 owner of the premises upon or from which the nuisance or menace
6 to health is abated or removed, in the same manner as debts of
7 like character are now collected by law[; or the said board of
8 health may proceed to enforce such other remedy, or inflict such
9 penalty, as may be provided by ordinance of the borough]. In
10 lieu of, or in addition to the above procedure, borough council
11 may seek relief from a nuisance or threatened nuisance by an
12 action at law or in equity. Council may seek the guidance of the
13 board of health or the health officer in determining the nature
14 of the relief requested.

15 Section 3109. Estimates of Expenditures; Report.--It shall
16 be the duty of the board of health or of the health officer or
17 officers appointed by borough council to submit annually to the
18 council, before the commencement of the fiscal year, an estimate
19 of the probable expenditures of the board or the health officer
20 or officers during the ensuing year; and council shall then
21 proceed to make [such] appropriations as may be deemed
22 necessary. The board of health, or the health officer or
23 officers, shall, in the month of January of each year, submit a
24 report, in writing, to council of its appropriation and
25 expenditures for the preceding year, together with such other
26 information on subjects relative to the sanitary conditions or
27 requirements of the borough as may be necessary.

28 Section 3110. Cooperation With Other Units.--Any borough may
29 cooperate with the county or counties in which it is located, or
30 with any [city, borough, or township] municipal corporation, as

well as with the State Department of Health, in the
administration and enforcement of health laws.

Section 3111. Powers of [Secretary of Health.--Whenever, in
the opinion of the Secretary of Health, conditions found by him
to exist in any borough shall constitute a menace to the lives
and health of people living outside the corporate limits of such
borough or if it be known by him that any borough is without an
existing or efficient board of health, he or his agents may take
full charge of and administer the health laws, regulations and
ordinances in such borough; and may continue in charge thereof
until he shall decide that a competent and efficient board of
health, or health officer or officers, has been appointed and
qualified for such borough and is ready, able and willing to
assume and carry into effect the duties imposed upon it by law.]

Department of Health to Administer Health Laws; Expenses.--(a)
Nothing in this act may be construed as to limit any power or
duty of the Department of Health, including the power to take
full charge of the administration of health laws, regulations
and ordinances in a borough and collect any costs associated
therewith in accordance with Article XXI of the act of April 9,
1929 (P.L.177, No.175), known as "The Administrative Code of
1929."

(b) Any expenses of the Department of Health for which the
borough is liable shall be paid by the borough where the
expenses have been incurred, in the same manner as other
expenses of the borough are paid. All expenses incurred by the
Department of Health, when paid or when collected, shall be
returned by the department to the State Treasurer, who shall
credit the amount so received to the appropriation made to the
Department of Health.

1 (c) Whenever expenses incurred in accordance with the
2 provisions of subsection (b) shall remain unpaid by a borough
3 for a period over three months after a statement of the expense
4 has been rendered to the borough and demand for payment is made,
5 the Secretary of Health shall, with the approval of the
6 Governor, institute, in the name of the Commonwealth as
7 plaintiff, an action of assumpsit against the borough for the
8 collection of the expense from the borough in the same manner as
9 debts of like amount are collected by law. Upon the trial of the
10 action, the reasonableness of the expenditures made by the
11 secretary shall be submitted to the jury for its determination.

12 Section 346. Sections 3112, 3113 and 3114 and Article XXXIII
13 heading of the act are repealed:

14 [Section 3112. Expenses of Board or Secretary of Health.--
15 All expenses incurred by any local board of health, its officers
16 or employes, in the performance of the duties imposed upon it by
17 law, and all expenses incurred by the Secretary of Health or his
18 agents in accordance with the provisions of this article shall
19 be paid by the borough wherein such duties are performed, in the
20 same manner as other expenses of such borough are paid.

21 Section 3113. Failure to Pay Expenses Incurred by State
22 Secretary.--Whenever expenses incurred by the Secretary of
23 Health or his agents in the administration of health laws in any
24 borough in accordance with the provisions of this article, shall
25 remain unpaid by said borough for a period over three months
26 after a statement of such expense has been rendered by him to
27 such borough and demand for payment by him made, he shall, with
28 the approval of the Governor, institute, in the name of the
29 Commonwealth as plaintiff, an action of assumpsit against such
30 borough for the collection of such expense from the borough in

1 the same manner as debts of like amount are collected by law:
2 Provided, That upon the trial of any such action of assumpsit,
3 the reasonableness of the expenditures made by the Secretary of
4 Health shall be submitted to the jury for its determination.

5 Section 3114. Disposition of Collected Funds.--All expenses
6 incurred by the Secretary of Health in the administration of
7 health laws in any borough, when paid to him by such borough, or
8 when collected by him, shall be returned by him to the State
9 Treasurer, who shall credit the amount so received to the
10 appropriation made to the Department of Health.

11 ARTICLE XXXII

12 ZONING]

13 Section 347. The act is amended by adding an article to
14 read:

15 ARTICLE XXXII-A

16 UNIFORM CONSTRUCTION CODE, PROPERTY MAINTENANCE

17 CODE AND RESERVED POWERS

18 Section 3201-A. Primacy of Uniform Construction Code.

19 (a) General rule.--The act of November 10, 1999 (P.L.491,
20 No.45), known as the Pennsylvania Construction Code Act, and the
21 Uniform Construction Code adopted under section 301 of the
22 Pennsylvania Construction Code Act shall apply to the
23 construction, alteration, repair and occupancy of all buildings
24 and structures within a borough.

25 (b) Primacy.--This section and any ordinance, rule or
26 regulation adopted pursuant to this section shall not supersede
27 or abrogate the Pennsylvania Construction Code Act or the
28 Uniform Construction Code and shall be construed and read in
29 pari materia with them.

30 Section 3202-A. Changes in Uniform Construction Code.

1 A borough may propose and enact an ordinance to equal or
2 exceed the minimum requirements of the Uniform Construction Code
3 in accordance with and subject to the requirements of section
4 503 of the act of November 10, 1999 (P.L.491, No.45), known as
5 the Pennsylvania Construction Code Act. Any ordinance exceeding
6 the provisions of the Uniform Construction Code shall be
7 required to meet the standards provided in section 503(j)(2) of
8 the Pennsylvania Construction Code Act.

9 Section 3203-A. Public nuisance.

10 Any building, housing or property, or part of any building,
11 housing or property erected, altered, extended, reconstructed,
12 removed or maintained, contrary to any of the provisions of any
13 ordinance passed for any of the purposes specified in this
14 article may be declared, by a court of law, a public nuisance,
15 and may be abatable as such, provided, however, that a violation
16 of the Uniform Construction Code or any ordinance that equals or
17 exceeds the Uniform Construction Code shall be subject to the
18 provisions of the Pennsylvania Construction Code Act and the
19 regulations adopted thereunder by the Department of Labor and
20 Industry relating to enforcement for noncompliance.

21 Section 3204-A. Property maintenance code.

22 (a) Property maintenance codes.--Notwithstanding the primacy
23 of the Uniform Construction Code, a borough may enact a property
24 maintenance ordinance, and it may incorporate any standard or
25 nationally recognized property maintenance code, or any
26 variations or changes or parts of the code, published and
27 printed in book form, without incorporating the text of the code
28 in the ordinance, or a borough may enact any standard or
29 nationally recognized property maintenance code or any changes
30 or variations or parts, as its ordinance. In either event, the

ordinance, or any changes or variations or parts, need not be
advertised after passage, but notice of its consideration, in
reasonable detail, shall be published as will give adequate
notice of its contents and a reference to the place or places
within the borough where copies of the proposed property
maintenance code may be examined or obtained. The notice
required by this subsection shall be published once in one
newspaper of general circulation at least one week and not more
than three weeks prior to the presentation of the proposed
property maintenance code to council. No fewer than three copies
of the ordinance adopted by council shall be made available for
public inspection and use during business hours or be made
available to any interested party at the cost of the copies, or
may be furnished or lent without charge. A property maintenance
code adopted by reference need not be recorded in or attached to
the ordinance book, but shall be deemed to have been legally
recorded if the ordinance by which the code was adopted by
reference shall have been recorded, with an accompanying
notation stating where the full text of the code shall have been
filed. The ordinance may provide for reasonable property fines
and penalties for violations of the ordinance. The procedure
under this section relating to the adoption of the ordinance may
likewise be utilized in amending, supplementing or repealing any
of the provisions of the ordinance.

(b) Property maintenance inspectors.--Council may appoint
property maintenance inspectors who shall have the right to
enter upon, subject to constitutional standards in a similar
manner as provided in section 3107, and inspect any premises at
all reasonable hours and in a reasonable manner for the
administration and enforcement of the borough's property

1 maintenance code or ordinance incorporating a standard or
2 nationally recognized property maintenance code. Any fees
3 payable to property maintenance inspectors under the ordinance
4 shall be paid by the property maintenance inspectors to the
5 borough treasurer for the use of the borough as promptly as may
6 be.

7 (c) Legal actions.--In addition to the penalties provided by
8 the property maintenance ordinance, the borough may institute
9 appropriate actions or proceedings at law or in equity to
10 prevent or restrain property maintenance violations.

11 (d) Construction.--The powers of a borough as provided in
12 this section shall be in addition to, but not limited to, the
13 powers provided in the act of November 26, 2008 (P.L.1672,
14 No.135), known as the Abandoned and Blighted Property
15 Conservatorship Act, and 53 Pa.C.S. Ch. 61 (relating to
16 neighborhood blight reclamation and revitalization).
17 Section 3205-A. Reserved powers.

18 If, as a result of legislative action or final order of court
19 for which the time for appeal has expired and no appeal has been
20 taken or from which there is no pending appeal, the Uniform
21 Construction Code or any replacement code is no longer
22 applicable in boroughs, a borough may:

23 (1) Enact and enforce ordinances to govern and regulate
24 the construction, reconstruction, alteration, extension,
25 repair, conversion, maintenance, occupation, sanitation,
26 ventilation, heating, egress, lighting, electric wiring,
27 water supply, toilet facilities, drainage, plumbing, fire
28 prevention, fireproofing, including prescribing limitations
29 wherein only buildings of noncombustible material and
30 fireproofed roofs are used in construction, erection or

1 substantial reconstruction, use and inspection of all
2 buildings and housing or parts of buildings and housing and
3 the roofs, walls and foundations of buildings and housing,
4 and all facilities and services in or about the buildings or
5 housing constructed, erected, altered, designed or used, in
6 whole or in part, for any use or occupancy, and the
7 sanitation and inspection of land appurtenant to the
8 buildings or housing. The codes may be combined or separately
9 enacted or combined with the property maintenance code. A
10 borough may adopt, amend or incorporate by reference any
11 standard or nationally recognized code or any variations or
12 changes or parts of the code as its ordinance in the manner
13 provided in section 3204-A. The ordinance may provide for
14 reasonable fines and penalties for violations of the
15 ordinance in compliance with Article XXXIII.

16 (2) Require that before any work of construction,
17 reconstruction, alteration, extension, repair or conversion
18 of any building is begun, approval of the plans and
19 specifications be secured.

20 (3) Council may appoint building inspectors, housing
21 inspectors, property maintenance inspectors, fire prevention
22 inspectors, electrical inspectors and plumbing inspectors,
23 and fix their compensation. The inspectors shall have the
24 right to enter upon, subject to constitutional standards in a
25 similar manner as provided in section 3107, and inspect any
26 premises at all reasonable hours and in a reasonable manner,
27 for the administration and enforcement of the borough's
28 adopted codes or ordinances incorporating standard or
29 nationally recognized codes. Any fees payable to inspectors
30 under the ordinances shall be paid by them to the borough

1 treasurer for the use of the borough as promptly as may be.

2 (4) In addition to the penalties provided by ordinances,
3 the borough may institute appropriate actions or proceedings
4 at law or in equity to prevent or restrain the unlawful
5 construction, reconstruction, alteration, extension, repair,
6 conversion, maintenance, use or occupation of property
7 located within the borough, to restrain, correct or abate the
8 violation and to prevent the use or occupancy of the
9 building, housing or structure.

10 Section 348. Article XXXIII heading of the act is amended to
11 read:

12 ARTICLE XXXIII

13 [ENFORCEMENT OF] ORDINANCES

14 Section 349. Section 3301 of the act, amended October 9,
15 1967 (P.L.399, No.181) and repealed in part April 28, 1978
16 (P.L.202, No.53), is repealed:

17 [Section 3301. Prosecution of Ordinance Violators;
18 Disposition of Fines, Penalties and Costs.--Any violation or
19 failure to comply with any provision of any borough ordinance
20 shall constitute a summary offense and prosecution for every
21 such offense shall be according to the practice in the case of
22 summary convictions.]

23 Section 350. The act is amended by adding subdivisions to
24 read:

25 (a) General Provisions

26 Section 3301.1. Ordinances; resolutions.

27 (a) General rule.--Borough council shall enact ordinances in
28 accordance and not inconsistent with the provisions of this act
29 and with the laws of this Commonwealth, in which general or
30 specific powers of the borough shall be exercised as it shall

1 deem beneficial to the borough and to provide for the
2 enforcement of the same. Borough council may amend, repeal or
3 revise existing ordinances by the enactment of subsequent
4 ordinances.

5 (b) Legislative acts.--Every legislative act of council
6 shall be by ordinance and these legislative acts shall include,
7 but not be limited to, tax ordinances, general appropriation
8 ordinances, capital expenditures not payable out of current
9 funds, and all legislation exercising the police power of the
10 borough, regulating land use, development and subdivision,
11 imposing building, plumbing, electrical, property maintenance,
12 housing and similar standards, and otherwise regulating the
13 conduct of persons or entities within the borough and imposing
14 penalties for the violation thereof.

15 (c) Resolutions.--Borough council shall adopt resolutions in
16 accordance and not inconsistent with the provisions of this act
17 and the laws of this Commonwealth. The purposes for which
18 resolutions may be adopted shall include, but not be limited to,
19 ceremonial or congratulatory expressions of the good will of the
20 council, statements of public policy of the council, approval of
21 formal agreements of the borough, other than agreements arising
22 under an established purchasing system of the borough, the
23 approval, when required, of administrative rules, regulations
24 and bylaws arising under State statutes or borough ordinances
25 and the filling of borough-appointed positions and of vacancies
26 of elected officials unless otherwise provided.

27 (d) Real and personal property matters.--Borough council's
28 approval of the acquisition, disposition and leasing of real or
29 personal property shall be by adoption of a resolution in a
30 manner consistent with this act.

1 Section 3301.2. Publication of proposed ordinances.

2 (a) Publication requirements.--Except where otherwise
3 provided in this act or in other law, borough council shall
4 publish every proposed ordinance once in one newspaper of
5 general circulation no more than 60 days nor fewer than seven
6 days prior to enactment, which the seventh day shall fall on the
7 day prior to the day when council shall vote on the proposed
8 ordinance. Publication of any proposed ordinance shall include
9 either the full text or the title and a brief summary prepared
10 by the borough solicitor setting forth all the provisions in
11 reasonable detail and a reference to a place within the borough
12 where copies of the proposed ordinance may be examined.

13 (b) Publication of summary.--If the full text is not
14 included in the publication of the proposed ordinance, the
15 following shall apply:

16 (1) The newspaper in which the proposed ordinance is
17 published shall, upon request, be furnished a copy of the
18 full text.

19 (2) An attested copy of the full text shall be filed in
20 the county law library or other county office designated by
21 the county commissioners who may impose a fee no greater than
22 that necessary to cover the actual costs of storing the
23 proposed ordinance.

24 (3) The date of the filing with the county, as provided
25 in paragraph (2), shall not affect the effective date of the
26 ordinance and shall not be deemed a defect in the process of
27 the enactment of the ordinance.

28 (c) Notice of amendments.--In the event substantial
29 amendments are made in the proposed ordinance, before voting
30 upon enactment, council shall within ten days readvertise in one

1 newspaper of general circulation, a brief summary setting forth
2 all the provisions in reasonable detail together with a summary
3 of the amendments.

4 Section 3301.3. Enactment, approval and veto of ordinances;
5 effective date.

6 (a) Approval by mayor.--

7 (1) Every ordinance enacted by council shall be
8 presented to the mayor for the mayor's approval. As a matter
9 of law, presented to the mayor shall be deemed to mean
10 delivery to the mayor by hand delivery or certified mail,
11 addressee only, to the mayor at the mayor's last known
12 address. Delivery shall be deemed complete upon depositing in
13 the mail, postage or charges prepaid, as evidenced by a
14 certificate of mailing.

15 (2) If the mayor approves the ordinance, he or she shall
16 sign it. If the mayor does not approve the ordinance, the
17 mayor shall return it with his or her objections which shall
18 be entered upon the minutes, to the council at its next
19 scheduled meeting occurring at least ten days after the
20 meeting at which the ordinance was enacted by council.
21 Council shall proceed to a reconsideration of the ordinance
22 either at the meeting at which the vetoed ordinance was
23 returned or no later than ten days thereafter at any other
24 scheduled meeting. If, after reconsideration, a majority of
25 all elected council members plus one votes to override the
26 mayor's veto, the ordinance shall have full force and effect
27 as if it had received the approval of the mayor. The vote
28 shall be determined by yeas and nays, and the names and votes
29 of the members shall be entered upon the minutes. A scheduled
30 meeting, as used in this section, may be either a regular,

1 special or reconvened meeting.

2 (3) If any ordinance shall not be returned by the mayor
3 at council's next scheduled meeting occurring at least ten
4 days after its presentation to the mayor, the ordinance shall
5 have full force and effect as if it had been approved by the
6 mayor.

7 (b) Effective date.--The effective date of an enacted
8 ordinance, except as otherwise provided in the ordinance, shall
9 be the date when the mayor shall approve it or the date of
10 enactment by the council over the veto of the mayor, or in the
11 case of any ordinance not returned by the mayor at the next
12 scheduled meeting of council occurring at least ten days after
13 the meeting at which the ordinance was enacted by the council,
14 the date of enactment shall be the date of the succeeding
15 scheduled meeting of council.

16 (c) Tax ordinance.--When council shall present the mayor
17 with the annual tax ordinance referred to in section 1310.1, the
18 mayor shall, within ten days of receiving the tax ordinance
19 approve or return the tax ordinance to the borough secretary
20 with a statement setting forth the mayor's objections. Council
21 shall proceed to a reconsideration at any scheduled meeting held
22 no later than ten days after the mayor has returned the tax
23 ordinance to the secretary with the mayor's objections. The
24 mayor's objections shall be entered upon the minutes of the
25 meeting. A veto of the tax ordinance of the borough may be
26 overridden by a vote of a majority of all elected council
27 members plus one. After that action, the ordinance shall have
28 full force and effect as if it had received the approval of the
29 mayor. If the mayor neither approves the tax ordinance nor
30 returns it with objections, the date of enactment of the tax

ordinance shall be the date of the adoption of the tax ordinance
by council.

Section 3301.4. Recording, advertising and proof of ordinances.

All borough ordinances shall, within 30 days after (1)
approval by the mayor, or (2) council's override of the mayor's
veto or (3) council's next scheduled meeting after its
presentation to the mayor, be recorded by the borough secretary
in a book provided for that purpose, which shall be open to the
inspection of citizens during normal business hours. All
ordinances may be proved by the certificate of the borough
secretary, under the corporate seal. When printed or published
in book or pamphlet form by the authority of the borough, the
ordinances shall be read and received as evidence in all courts
and places without further proof. The entry of the borough
ordinance in the ordinance book shall be sufficient, without the
signature of the president of council, mayor or member of
council. Any and all borough ordinances or portions thereof, the
text of which, prior to the effective date of this act, shall
have been attached to the ordinance book, shall be considered in
force just as if the ordinances or portions thereof had been
recorded directly upon the pages of the ordinance book, provided
that all other requirements of this act applicable to the
enactment, approval, advertising and recording of the ordinances
or portions of ordinances were complied with within the time
limits prescribed by this act.

Section 3301.5. Codification of ordinances.

(a) Consolidation, codification and revision.--When a
borough has prepared a consolidation, codification or revision
of the general body of borough ordinances, or the ordinances on
a particular subject, the borough council may adopt the

consolidation, codification or revision as an ordinance of the
borough in accordance with section 3301.1(a), except as
hereinafter provided.

(b) Enactment.--Any consolidation, codification or revision
of borough ordinances to be enacted as a single ordinance shall
be introduced in the borough council at least 30 days before its
final enactment. At least 15 days before its final enactment,
notice of the introduction of any consolidation, codification or
revision, specifying its general nature and listing its table of
contents, shall be given by advertisement in a newspaper of
general circulation.

(c) Notice.--When any consolidation, codification or
revision has been enacted as an ordinance, it shall not be
necessary to advertise the entire text, but it shall be
sufficient to publish a notice stating that the consolidation,
codification or revision, notice of the introduction of which
had previously been given, was finally enacted.

(d) Contents of notice.--In the course of preparing a
consolidation, codification or revision of ordinances, a borough
may utilize the procedure set forth in subsections (a), (b) and
(c) to enact a complete group or body of ordinances, repealing
or amending existing ordinances as may be necessary. In such
cases, the advertisement giving notice of the introduction shall
list, in lieu of a table of contents, the titles only of each of
the ordinances in a complete group or body of ordinances, as was
finally enacted.

Section 3301.6. Appeals from ordinances.

Complaint as to the legality of any ordinance or resolution
may be made to the court of common pleas. In cases of ordinances
laying out streets over private lands, the court shall have

jurisdiction to review the propriety as well as the legality of the ordinance.

Section 3301.7. Lost ordinance books to be replaced; recording ordinances.

(a) Lost ordinance books.--Whenever any ordinance book or books are lost, destroyed or become unserviceable, the borough council may provide by ordinance for a new ordinance book or books into which shall be recorded by the secretary all of the ordinances contained in the lost, destroyed or unserviceable ordinance book or books. The secretary, in recording the ordinances, shall make complete copies of the ordinances, including the date of enactment and approval and the names of the officers who signed the same, and, after notice given, as provided in this section, and corrections made, shall certify each ordinance as a correct copy of the original.

(b) Recording ordinances.--The ordinance providing for the recording of ordinances shall be recorded in the ordinance book, immediately following the ordinances so recorded and it shall provide that the secretary of the borough, upon the completion of the recording, shall publish once, in one newspaper of general circulation, a notice stating that ordinances of the borough contained in lost, destroyed or unserviceable ordinance book or books, and that the old books and records of borough ordinances and the new ordinance book are open to public inspection for the purpose of verification and correction for a period of 30 days from the date of the notice.

(c) Certification by secretary of borough.--The secretary of the borough, at the expiration of the notice, shall make all corrections, and shall then certify that all of the ordinances have been compared with the originals and that they are correct

1 copies. After the ordinances are recorded, notice given, and the
2 certificate of correction made, the ordinances so recorded shall
3 take the place of the original record and shall be the valid and
4 legal ordinances of the borough for the period covered by the
5 new ordinance book.

6 (b) Enforcement

7 Section 3321. Fines and penalties.

8 An ordinance enacted by borough council pursuant to this act
9 shall prescribe the fines and penalties which may be imposed for
10 its violation and shall, unless otherwise specified in any other
11 law of this Commonwealth, designate the method of its
12 enforcement in accordance with the following:

13 (1) Except as provided in paragraph (2), when the
14 penalty imposed for the violation of an ordinance enacted
15 pursuant to the provisions of this act is not voluntarily
16 paid to the borough, the borough shall initiate a civil
17 enforcement proceeding before a magisterial district judge.
18 The civil enforcement proceeding shall be initiated by
19 complaint or by such other means as may be provided by the
20 Pennsylvania Rules of Civil Procedure. An ordinance which is
21 to be enforced through a civil enforcement proceeding may
22 prescribe civil penalties not to exceed \$600 per violation. A
23 borough shall be exempt from the payment of costs in any
24 civil case brought by the borough to enforce an ordinance in
25 accordance with this paragraph.

26 (2) For an ordinance regulating building, housing,
27 property maintenance, health, fire, public safety, parking,
28 solicitation, curfew, water, air or noise pollution, borough
29 council shall provide that its enforcement shall be by action
30 brought before a magisterial district judge in the same

1 manner provided for the enforcement of summary offenses under
2 the Pennsylvania Rules of Criminal Procedure. The municipal
3 solicitor may assume charge of the prosecution without the
4 consent of the District Attorney as required under
5 Pa.R.Crim.P. No. 454 (relating to trial in summary cases).
6 Borough council may prescribe criminal fines not to exceed
7 \$1,000 per violation and may prescribe imprisonment to the
8 extent allowed by law for the punishment of summary offenses.
9 Violations of the property maintenance code or ordinance may
10 also be enforced pursuant to section 3204-A(c).

11 (3) All ordinances enacted prior to the effective date
12 of this clause, other than those regulating building,
13 housing, property maintenance, health, fire, public safety,
14 parking, solicitation, curfew, water, air or noise pollution,
15 shall be deemed automatically amended so that they shall be
16 enforced through a civil enforcement proceeding in accordance
17 with paragraph (1).

18 (4) In addition to or in lieu of enforcement of an
19 ordinance through a civil action or as a summary offense, as
20 provided in this section, boroughs may enforce ordinances
21 through an action in equity brought in the court of common
22 pleas of the county where the borough is situate.

23 (5) Ordinances, whether enforced through civil
24 proceedings or as a summary offense, may provide that a
25 separate offense shall arise for each day or portion of a day
26 in which a violation is found to exist or for each section of
27 the ordinance which is found to have been violated. In the
28 event that such claims for fines and penalties exceed the
29 monetary jurisdiction of a magisterial district judge as set
30 forth in 42 Pa.C.S. § 1515(a) (relating to jurisdiction and

1 venue), exclusive of interest, costs or other fees, the
2 borough may bring such action in the court of common pleas or
3 may, pursuant to 42 Pa.C.S. § 1515(a), waive that portion of
4 finances or penalties that exceed the monetary jurisdictional
5 limits so as to bring the matter within the monetary
6 jurisdiction of the magisterial district judge.

7 (6) Ordinances may provide that any person found guilty
8 of violating an ordinance may be assessed court costs and
9 reasonable attorney fees incurred by the borough in the
10 enforcement proceedings.

11 (7) All fines, costs, penalties, and fees collected for
12 the violation of any borough ordinance shall be paid to the
13 borough treasurer.

14 (8) Borough council may delegate the initial
15 determination of ordinance violation and the service of
16 notice of violation to such officers or agents as the borough
17 shall deem qualified for that purpose.

18 Section 351. Sections 3306 and 3307 of the act are
19 renumbered and amended to read:

20 Section [3306] 3322. Commitments Pending Hearings.--Any
21 person arrested for the violation of a borough ordinance that
22 may be enforced as a summary offense may be committed to the
23 borough lockup, pending a hearing or trial, but in case there is
24 no suitable lockup in which to detain prisoners the person
25 arrested may be committed to the county jail.

26 Section [3307] 3323. Commitments After Hearing.--Upon
27 judgment against any person by summary conviction, or by
28 proceedings by summons on default of the payment of the fine or
29 penalty imposed and the costs, the defendant may be sentenced
30 and committed to the borough lockup for a period not exceeding

1 ten days or to the county jail [or workhouse] for a period not
2 exceeding thirty days.

3 Section 352. Section 3308 of the act, amended March 2, 1988
4 (P.L.103, No.18), is repealed:

5 [Section 3308. Collection of Penalties.--No fine or penalty
6 shall exceed one thousand dollars (\$1,000) for a violation of a
7 building, housing, property maintenance, health, fire or public
8 safety code or ordinance and for water, air and noise pollution
9 violations, and shall not exceed six hundred dollars (\$600) for
10 a violation of any other borough ordinance.]

11 Section 353. Section 3309 of the act, repealed in part April
12 28, 1978 (P.L.202, No.53), is renumbered and amended to read:

13 Section [3309] 3324. Payment of Costs by Borough.--When a
14 prisoner shall be committed to any county jail [or workhouse],
15 either for the nonpayment of a fine or penalty imposed for the
16 violation of any borough ordinance, or while awaiting a hearing
17 upon any charge for the violation of any borough ordinance that
18 is enforced as a summary offense, the expenses of maintaining
19 [such] the prisoner during [his] the prisoner's confinement
20 shall be paid by the borough, and the county shall not be liable
21 for any such maintenance.

22 Section 354. Article XXXIV and subdivision (a) headings of
23 the act are repealed:

24 [ARTICLE XXXIV
25 ACTIONS BY AND AGAINST BOROUGHS
26 (a) Municipal Claims]

27 Section 355. Section 3401 of the act, repealed in part April
28 28, 1978 (P.L.202, No.53), is repealed:

29 [Section 3401. Collection of Municipal Claims.--In all
30 proceedings for the recovery of municipal claims an attorney's

1 commission of five percent may be included.]

2 Section 356. Article XXXIV subdivision (b) heading and
3 section 3415 of the act are repealed:

4 [(b) Defenses by Taxpayers

5 Section 3415. Liability in Bond Transfers.--All certificates
6 of loans, issued by a borough, shall be transferable by the
7 legal owner thereof without any liability on the part of the
8 transfer agents of the borough to recognize or see to the
9 execution of any trust, whether expressed, implied, or
10 constructive, to which such loans may be subject, unless such
11 transfer agents of the borough shall have previously received
12 notice in writing signed by or on behalf of the person for whom
13 such loans appear by the certificate thereof to be held in
14 trust, that the proposed transfer would be a violation of such
15 trust.]

16 Section 357. Article XXXV heading of the act is reenacted to
17 read:

18 ARTICLE XXXV

19 ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

20 Section 358. Section 3501 of the act is amended to read:

21 Section 3501. Acts of Assembly Repealed; Saving Clause.--(a)
22 The following acts and parts of acts are hereby repealed as set
23 forth:

24 (1) The act of May 4, 1927 [(P.L.519)] (P.L.519, No.336),
25 known as "The Borough Code," and its reenactments and amendments
26 are repealed, except that section 2, act of May 23, 1961
27 [(P.L.210)] (P.L.210, No.109), shall not be construed to be
28 repealed.

29 (2) The act of April 14, 1875 (P.L.55, No.58), entitled "An
30 act authorizing the burgess and town council of each of the

several boroughs throughout this commonwealth to levy and collect a gas, kerosene oil and water tax," absolutely.

(3) The act of April 18, 1877 (P.L.55, No.55), entitled "An act to provide through the courts of this commonwealth for the erection of boroughs out of territory now included in cities of the third class that have been formed by joining together two or more boroughs," absolutely.

(4) The act of June 16, 1891 (P.L.302, No.232), entitled "A further supplement to an act approved the sixteenth of April, Anno Domini one thousand eight hundred and seventy-five, entitled 'An act authorizing the burgess and town council of each of the several boroughs throughout this Commonwealth to levy and collect a gas, kerosene oil and water tax,' amended by the act approved the eighth day of May, Anno Domini one thousand eight hundred and seventy-six, providing for a further amendment of section second, as amended by said last mentioned act, to authorize the use of the money so raised and collected for the purpose of illuminating said boroughs with electric light," absolutely.

(5) The act of May 2, 1901 (P.L.120, No.87), entitled "An act to prevent burgesses and councilmen of the several boroughs within this Commonwealth from soliciting or receiving bribes, and to punish any person who may offer to bribe the same," absolutely.

(6) The act of May 4, 1927 (P.L.673, No.337), entitled "An act relating to purchases by boroughs," absolutely.

(7) The act of April 26, 1929 (P.L.823, No.354), entitled "An act permitting boroughs to provide a method of assessment for borough taxes," absolutely.

(8) The act of April 11, 1931 (P.L.26, No.24), entitled "An

1 act to validate certain proceedings for municipal improvements,
2 municipal assessments, municipal claims, and municipal liens, in
3 the several boroughs of this Commonwealth, and validating such
4 improvements, assessments, claims, and liens; providing for the
5 filing of claims and liens therefor; and the proceedings for the
6 collection of such assessments and claims," absolutely.

7 (9) The act of June 12, 1931 (P.L.559, No.192), entitled "An
8 act to authorize boroughs to sue out writs of scire facias on
9 certain municipal claims, where more than five years have
10 elapsed since said claims were filed, and to reduce such claims
11 to judgment; and providing for the revival and collection of
12 such judgments," absolutely.

13 (10) The act of March 3, 1933 (P.L.8, No.5), entitled "An
14 act validating, ratifying and confirming acts and municipal
15 functions done, executed and performed, municipal works and
16 improvements instituted and completed, and affairs regulated by
17 boroughs in accordance with general borough laws, where such
18 boroughs were incorporated under local law, and no official
19 record of the acceptance of the general borough law is in
20 existence or can be found," absolutely.

21 (11) The act of July 12, 1935 (P.L.721, No.282), entitled
22 "An act authorizing boroughs to construct, reconstruct, and
23 repair sidewalks, gutters, curbs, and grass plots, in cases
24 where material is paid by the abutters, and labor is furnished
25 without cost to the borough," absolutely.

26 (12) The act of July 18, 1935 (P.L.1305, No.408), entitled
27 "An act authorizing boroughs to repay certain surcharges
28 heretofore made against councilmen for the purchase of any fire
29 apparatus where there was no fraud, corruption, or dishonesty,
30 or profit to such councilmen, and where the borough is in

1 possession of and uses such fire apparatus," absolutely.

2 **(b)** All other acts or parts of acts of Assembly supplied by,
3 inconsistent with or appertaining to the subject matter covered
4 by this act are hereby repealed. It is the intention that this
5 act shall furnish a complete and exclusive system for the
6 government and regulation of boroughs, except as to the several
7 matters enumerated in section 102 of article I of this act.

8 **(c)** Nothing contained in this act shall be construed to
9 repeal:

10 (1) Any local or special law.

11 (2) Any of the provisions of the Public Utility [Law] Code.

12 (3) Any of the provisions of any law relating to the
13 Navigation Commission for the Delaware River and its navigable
14 tributaries.

15 (4) Any of the provisions of any law, the enforcement of
16 which is vested in the Department of Health of the Commonwealth
17 or of the [Sanitary Water Board] Department of Environmental
18 Protection.

19 (5) Any of the provisions of any law the enforcement of
20 which is vested in the Department of [Forests and Waters or the
21 Water and Power Resources Board] Conservation and Natural
22 Resources.

23 (6) Any of the provisions of the act of [June 25, 1947 (P.L.
24 1145), entitled, as amended, "An act empowering cities of the
25 second class, cities of the second class A, cities of the third
26 class, boroughs, towns, townships of the first class, townships
27 of the second class, school districts of the second class,
28 school districts of the third class and school districts of the
29 fourth class to levy, assess, and collect or to provide for the
30 levying, assessment and collection of certain additional taxes

1 subject to maximum limitations for general revenue purposes;
2 authorizing the establishment of bureaus and the appointment and
3 compensation of officers and employees to assess and collect such
4 taxes; and permitting penalties to be imposed and enforced;
5 providing an appeal from the ordinance or resolution levying
6 such taxes to the court of quarter sessions and to the Supreme
7 Court and Superior Court," or of any of the amendments or
8 supplements to the said act.] December 31, 1965 (P.L.1257,
9 No.511), known as "The Local Tax Enabling Act."

10 (7) The act of February 14, 2008 (P.L.6, No.3), known as the
11 "Right-to-Know Law."

12 (8) Any provision of 45 Pa.C.S. (relating to legal notices).

13 (9) Any provision of 65 Pa.C.S. (relating to public
14 officers).

15 (d) Nothing contained in this act shall be construed to
16 revive any act or part of an act heretofore repealed.

17 Section 359. The addition of section 1104(f) of the act
18 shall apply to officials elected or appointed to fill a vacancy
19 in an elected office after the effective date of this section. A ←
20 POLICE OFFICER OR FIREFIGHTER HOLDING AN ELECTIVE OFFICE IN THE
21 BOROUGH ON THE EFFECTIVE DATE OF THIS SECTION SHALL BE SUBJECT
22 TO THE RESTRICTIONS IN SECTION 1104(F) OF THE ACT FOR ANY TERM
23 BEGINNING, OR VACANCY OCCURRING, AFTER THE EFFECTIVE DATE OF
24 THIS SECTION.

25 Section 360. This act shall take effect in 60 days.